

DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY

STATEMENT OF

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FEMA

on

“Stafford Act Reform: Sharper Tools for a Smarter Recovery”

before the

SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

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Good afternoon, Madam Chairwoman, Ranking Member Graham, and other distinguished Members of the Subcommittee. I am Craig Fugate, Administrator for the Federal Emergency Management Agency (FEMA). I appreciate the opportunity to appear before this Subcommittee to discuss FEMA's policy and program changes that have been implemented to improve the delivery of disaster assistance.

As the former director of the Florida Division of Emergency Management, I have been a customer of FEMA's services and programs, and I have focused much of my attention as Administrator on improving the way FEMA does business with other levels of government.

Part of that focus has been on simplifying the perceived complexity of FEMA's program guidelines. We are examining our policies and how they have been interpreted and implemented to ensure that the goals of the Stafford Act and the Post-Katrina Emergency Management Reform Act (PKEMRA) are being met.

We have established an internal working group, comprised of senior Recovery Directorate program staff who possess vast institutional knowledge and have experience with the intricacies of FEMA's programs and policies. The working group is responsible for reviewing our policies and proposing changes to them to ensure we are maximizing the flexibility of the Stafford Act. This initiative is the first step to better serve our customers by providing more consistent and timely direction and assistance.

Internal Policy Review

The Recovery Directorate includes the Individual Assistance Division, which administers assistance provided to individuals and households, and the Public Assistance Division, which administers the assistance provided to affected states, local governments, Indian tribes, and certain private nonprofit organizations. As a standard practice, all Recovery Directorate disaster assistance policies are reviewed on a three-year cycle to ensure the program addresses the needs of applicants and states, and captures lessons learned from previous disasters.

To better meet the needs of grant applicants and states, FEMA recently completed an aggressive review of all disaster assistance policies in the Individual Assistance (IA) and Public Assistance (PA) Divisions apart from the three-year cyclical review, to ensure that we are providing these entities with the most appropriate and effective guidance. We also sought to identify policies that may be more restrictive than the law and regulations require and to ensure that none of the policies maintain this restrictiveness or are in conflict with each other. In addition, an effort was made to identify any current policies that provide procedural information that could be better provided in a different form, such as a Standard Operating Procedure (SOP). Today, based on this review, what is currently written in the form of a policy that contains solely procedural elements may be revised, rescinded, or converted to an SOP or other nonpolicy guidance document.

Just since January, we have reviewed and evaluated 84 disaster assistance policies. More specifically:

- The Individual Assistance Division reviewed 29 policies and determined that:
 - four policies should be converted into SOPs
 - two policies should be converted into regulations

- The Public Assistance division reviewed 55 policies and determined that:
 - four policies should be converted into SOPs
 - one policy should be converted into a fact sheet
 - four policies should be converted into regulations
 - eight policies should be revised

Additionally, the PA policy review identified several changes within existing statutory authority to streamline and enhance implementation of the PA program.

This disaster assistance review also addressed the policy-making process as a whole. We have revised the policy review and issuance process to increase public involvement and ensure that all FEMA staff apply guidelines in a consistent fashion. Now, new and revised policies go through an extensive internal development process that includes the participation of program staff in the regional offices and headquarters staff offices, such as the Office of Chief Counsel and the Office of Policy and Program Analysis. In addition, except in emergent situations, all revised Recovery Directorate disaster assistance policies are posted in the Federal Register for a 5- to 30-day public comment period to give key stakeholders an opportunity to provide their input. Following that period, comments are adjudicated and policies are updated accordingly. A notice of the final policy is also published in the Federal Register, and the effective date of the policy may be delayed, as appropriate, should training or changes in equipment utilized to implement the program be needed to properly implement the changes. The end result of this process is a set of policies that are clear, concise, and understandable by both applicants and FEMA employees.

It should be noted that the public comment process is not the only opportunity for key stakeholders to provide input regarding FEMA's policies and guidelines. We routinely receive feedback from state and local governments, members of Congress, federal advisory committees, and individual Americans through a variety of channels. We make every effort to take that feedback into consideration when performing a review of our policies.

I will now briefly describe both the recommendations of several reports to improve the public assistance program, and FEMA's responses.

The National Advisory Council's (NAC) Stafford Act Recommendations

The NAC, which is comprised of state and local emergency managers, as well as subject matter experts from the private sector and non-governmental organizations in related fields, was created in the PKEMRA legislation. It serves as an advisory board and develops recommendations highlighting potential areas of improvement and recognizing best practices that can be implemented.

Since first forming subcommittees shortly after establishment, the NAC has had a group that is dedicated to reviewing Stafford Act issues. In 2008, the NAC solicited input from a wide variety of stakeholder organizations on regulatory, policy or statutory changes they would like to see made in the statute. In addition to providing input and recommendations on key public and individual assistance issues identified by FEMA, the NAC's Response & Recovery Subcommittee, which has a dedicated Stafford Act Working Group, continues to work through the many diverse issues identified by these stakeholder groups as they consider future recommendations. The NAC has placed priority on identifying areas where changes in the PKEMRA-implementing regulations and policy can most quickly and directly result in greater flexibility in providing assistance.

The NAC's recommendations are routinely reviewed by FEMA program policy staff when performing a policy or process-related review. Although NAC members are experts in their field, FEMA staff is routinely invited to attend NAC meetings to provide clarity on FEMA's programs and policies and updates on ongoing activities to ensure that the NAC has the latest and most relevant information on any topic being discussed.

The U.S. Conference of Mayors' Report of the Stafford Act Reform Taskforce (Mayors' Report)

The Mayors' Report provides dozens of recommendations regarding potential improvement to the flexibility and timeliness of FEMA's programs and policies, many of which have been or are currently under consideration in this policy review, and are consistent with some of the recommendations submitted previously by this Subcommittee. I have listed some of the recommendations presented in the Mayors' Report, along with the status of our current consideration of that recommendation.

- **Allow grantees and subgrantees to be reimbursed for insurance deductibles as an eligible cost, thus rescinding a policy change that limited deductible recovery to a one-time event** – FEMA has revised its policy (Fact Sheet 9580.3, *Insurance Considerations for Applicants*) to state that following a second disaster of the same type that caused previous damage to the facility, FEMA will not reimburse the applicant for the deductible up to the amount of eligible damages incurred in a previous disaster. However, if the state insurance commissioner certifies that insurance with a smaller deductible is not reasonably available, FEMA will reimburse the deductible following the second disaster.
- **Permit removal of slabs and foundations on grade as an eligible demolition expense** – FEMA is reviewing this recommendation and potential revisions to current policy (Recovery Policy RP9523.4, *Demolition of Private Structures*).
- **Cover increased operating costs associated with the disaster** – FEMA is reviewing this recommendation and potential revisions to current policy (Recovery Policy RP9525.4, *Emergency Medical Care and Medical Evacuations*).

- **Develop timely, neutral, separate third-party appeals process** - The American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5, established an option for arbitration under the PA program in lieu of the standard appeals process for award determinations related to Hurricanes Katrina and Rita. FEMA will review the results of the arbitration process for Hurricanes Katrina and Rita to determine whether it accelerated applicants' recovery and would be appropriate to implement in other disasters.

DHS Inspector General (IG) Report 10-26: Assessment of FEMA's Public Assistance (PA) Program

The IG's review of FEMA's PA programs and policies as performed in IG Report 10-26 provides insight into specific items that may merit potential further clarification or development. FEMA is currently implementing many of the recommendations included in the report. The PA Division is:

- Developing guidance for use during transition between program staff in the field to ensure consistency and maintenance of project documentation.
- Finalizing the PA Operations Manual to provide staff with comprehensive guidance on the implementation of the PA Program, from response operations and Preliminary Damage Assessments through monitoring and closeout.
- Reviewing recent disaster data, through which FEMA will develop metrics to assess timeliness of PA funding and closeouts by magnitude of disaster, so that metrics for large-scale events can be assessed specifically.
- Evaluating the Hurricanes Katrina and Rita arbitration process later this year to determine if it accelerates applicants' recovery and whether it would be appropriate to implement that process in other disasters.

PA has also established a system for tracking appeals, both at headquarters and in the Regions.

With regard to FEMA personnel and staffing issues, in 2008, FEMA initiated an effort to develop standardized credentialing plans for all of the agency's cadres, consistent with the IG recommendation. While Regions generally deploy disaster workers from within their own Regions, FEMA's intention is to memorialize this practice in nationwide policy. FEMA has also launched a Strategic Workforce Planning Initiative to define the objective for the size, structure and composition of the agency's workforce. Additionally, FEMA has developed a draft SOP to provide guidance on how to efficiently hire staff locally to augment the Disaster Assistance Employee workforce for longer-term PA operations.

Lastly, with regard to Environmental and Historic Preservation (EHP) issues, FEMA will provide guidance to field staff to encourage use of an EHP Management Plan in each disaster to provide the general strategy and approaches for addressing a disaster's EHP compliance and to

identify opportunities to streamline EHP reviews. FEMA is revising and updating EHP training to incorporate elements of the EHP SOP. FEMA will continue to explore working with other agencies on the establishment of time limits for EHP reviews where those opportunities are available; further, FEMA will continue its efforts to establish performance metrics as a way to provide transparency for the EHP review process, including the time it is taking for review. As suggested in the IG report, FEMA will make its EHP programmatic agreements more transparent by posting them on FEMA's website, www.fema.gov, and referring to them in FEMA guidance documents.

Pilot Programs

Sections 689i and 689j of PKEMRA authorized FEMA to establish and conduct pilot programs under the PA program to reduce federal costs of providing assistance to state and local governments; increase flexibility in grant administration; and expedite the provision of assistance to states and local governments.

We received positive feedback from stakeholders on the pilot program regarding simplified estimates for projects, increased flexibility in rendering assistance, debris management incentives for planning, and increased cost-share.

In addition, FEMA conducted a pilot program under the IA program as well, the terms of which were consistent with recommendations provided by this Subcommittee. Section 690i of PKEMRA authorized FEMA to establish and conduct this pilot program to fund repairs to existing multi-family rental housing units in order to provide timely and cost-effective temporary housing to individuals and households affected by a disaster.

FEMA determined that a repair project was cost-effective if the total federal contribution to the project was less than the cost of providing manufactured housing. We used the acquisition costs of manufactured homes (the acquisition cost of the manufactured home was apportioned to the number of months of the potential contract), the installation costs of manufactured homes at a private site distributed over the term of the contract, and the estimated monthly maintenance costs of the manufactured homes in the cost effectiveness analysis. FEMA compared the total projected cost for providing manufactured homes to the total projected cost for repairing the multi-family units and providing the owner with an operating payment.

FEMA implemented the pilot program in two disasters of different incident types, for two properties that provided housing for a total of 39 households. The total estimated cost for the Iowa pilot project was \$76,854. The estimated cost of providing seven manufactured homes for an equal period of time was \$439,376. The total estimated savings to the government is \$362,522, or 83 percent less than the cost of providing manufactured housing. The total estimated cost for the Texas pilot project was \$897,358. The estimated cost to provide 32 manufactured homes for an equal period of time was \$2,650,624. The total estimated savings to the Government is \$1,753,266, or 66 percent less than the cost of providing manufactured housing.

Since the implementation of the pilot, we have learned that damaged apartments can be repaired quickly. After a disaster, before we move too far into a full direct housing operation, we are now taking a more critical look at the available existing resources and potential rental resources in and around the disaster area. During the pilot, we learned that owners of multi-family units can be motivated to do repairs if they see that there is a demand for rental units and that there are renters anxiously awaiting the units to come online. We also learned that if we stop to do an analysis of the available existing resources, we may be able to bring existing resources online more quickly and less expensively than implementing a full direct housing mission, thereby supporting the local housing market and economy, but most importantly, meeting the housing needs of the disaster survivors.

Conclusion

FEMA's process of reviewing and adjusting—or even eliminating—policies is an ongoing process. Due to the evolving and unique circumstances of each major disaster, we must continuously work to ensure that our policies are consistent with the Stafford Act, and maximize the tools available to us under the Stafford Act in order to effectively respond to the needs of individuals and states following a major disaster.

Thank you for the opportunity to testify on the effectiveness of FEMA's policies under the Stafford Act. I look forward to answering any questions you may have.