S. HRG. 108–364

REVIEW OF THE GENERAL ACCOUNTING OFFICE REPORT ON FEMA'S ACTIVITIES AFTER THE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

HEARING

BEFORE THE

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

AND THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

SEPTEMBER 24, 2003

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REVIEW OF THE GENERAL ACCOUNTING OFFICE REPORT ON FEMA'S ACTIVITIES AFTER THE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

WEDNESDAY, SEPTEMBER 24, 2003

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:02 a.m. in room 406, Senate Dirksen Building, the Hon. George V. Voinovich (chairman of the subcommittee) presiding.

Present: Senators Voinovich, Jeffords, Clinton, and Carper.

OPENING STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO

Senator VOINOVICH. The subcommittee will come to order.

Good morning all. Today's hearing continues our ongoing oversight of the Federal Emergency Management Agency. This oversight has long been a priority for the Environment and Public Works Committee. It is my intention as chairman of this subcommittee to continue this strong oversight.

Today's hearing is also the first FEMA oversight hearing we have held since the Agency was transferred into the Department of Homeland Security. The attacks of September 11 were unprecedented in scope and have served as a catalyst for major reform within the Federal Government in its ability to prevent and respond to such events in the future.

Also unprecedented was our Nation's response to the attacks. Thousands of workers and volunteers from around the country responded to those in need at the World Trade Center and the Pentagon, including 74 Ohioans who arrived in New York City within 24 hours of the attacks as part of Ohio Task Force One, one of FEMA's urban search and rescue teams.

The attacks of September 11 were the most costly disaster in U.S. history. President Bush pledged $20 billion in aid, and approximately $7.4 billion of it is being distributed through FEMA's Public Assistance Program. The Public Assistance Program is used throughout the country to provide grants to State and local governments to respond and to recover from disasters.

In order to ensure that FEMA was properly carrying out its obligations in response to the attacks, Chairman Inhofe, Senator Jef-

fords, Senator Clinton, and I requested that GAO look into the three aspects of FEMA's response:

No. 1, what activities the Agency supported in New York through its Public Assistance Program; No. 2, how this response differed from their approach to providing public assistance in past disasters; and, No. 3, what implications this approach may have on the delivery of public assistance should other major terrorist attacks occur.

I understand that GAO has completed its review and analysis of FEMA's actions. I look forward to hearing from GAO about what they found. Also, in response to the attack, members of the committee on both sides of the aisle, including myself, worked with the Administration to create the Department of Homeland Security and move several administrative agencies, including FEMA, into that department.

Members of this committee have also worked with the Administration to ensure that they have all the tools necessary to prevent events of this magnitude from happening again. To this date, this has not been an issue where we have kept partisanship in check. There is no questioning the fact that we must be able to prevent a repeat of that terrible day and hope that we will be able to keep politics away from this issue as we look back at those events and our response to them.

As members of this subcommittee know, the Homeland Security Act of 2002 created the Department of Homeland Security, established a directorate of emergency preparedness and response, and transferred the functions, personnel, assets, and liabilities of FEMA, along with several other administration systems and offices, into that directorate. The Act also defined the homeland security role of FEMA, maintains FEMA as the lead agency for Federal response established by Executive Order, and requires that the FEMA Director revise the plans to reflect the establishment of the Department of Homeland Security.

The creation of the Department of Homeland Security is the largest reorganization of Federal agencies and activities since the creation of the Department of Defense back in 1947. I have commented that it was much more difficult because of the connectivity of the departments than the 1947 reorganization. We are pretty clear. Some of these agencies that thread was rather thin.

Any reorganization will need more time to be fully implemented and will take even longer before all of the structural stresses in the new department can be identified, let alone resolved. I can tell you that as a former mayor and Governor who undertook reorganizations, they are not done overnight. It takes a long time in order to get them done properly.

We are interested, though, that in the process of going through this reorganization that FEMA continues to perform its duties adequately during the transition period. In other words, it is not good enough to just have a reorganization. Everybody is in limbo. The agencies within Homeland Security that were functioning before should continue to function so that they provide the services that they are supposed to perform.

During the debate on the Homeland Security Act, I included the first government-wide workforce reform since the Civil Service Re-

form Act of 1978, 25 years ago. I am hopeful that these new flexibilities which all Federal agencies now will use will complement the specific human capital authorities granted to the department which is still in the process of establishing its personnel system.

I have been very pleased to hear from union leadership that the work of the Department of Homeland Security personnel system design team has been inclusive and collaborative. They have taken their time. They have not rushed this thing through.

I would be interested in hearing any observations the witnesses may have on how these workforce flexibilities are helping FEMA manage its critically important part of the Homeland Security team. I think when Joe Allbaugh was here testifying before us he talked about the human capital crisis that they were experiencing in FEMA where many of the people who participated in 9/11 afterwards reevaluated their relationship with their families and decided that those eligible retire.

Finally, at a hearing conducted by the subcommittee on the attacks last year, I learned that members of the FEMA teams that responded to the call for assistance to Ground Zero have been denied health coverage. In response, I sent letters to former FEMA Director, Joe Allbaugh and Secretary of Labor Elaine Chao asking them to develop a process for providing these workers the health care coverage they need and deserve. I would like to know what process has been put in place to prevent such denials of coverage and eliminate any confusion surrounding the filing process if it happens again.

It is extremely important that we take care of these individuals. Whether people want to be first responders in the future depends on how first responders from the World Trade Center are treated. In order to ensure that those brave souls that respond to, as well as those who live and work in the area of a disaster, are protected, monitored, and informed of risks.

Senator Clinton and I have introduced the Disaster Area Health and Environmental Monitoring Act of 2003. This important legislation was reported out of committee on July 30. I would like to hear any comments that our witnesses may have in regard to that legislation.

Our first witness today is the Under Secretary of Emergency Preparedness and Response, Department of Homeland Security, Michael D. Brown.

On the second panel we have JayEtta Hecker, Director of Physical Infrastructure Issues, General Accounting Office; and Rick Skinner, Deputy Inspector General, Department of Homeland Security.

The third panel consists of Dale Shipley, executive director, Ohio Emergency Management Agency, on behalf of the National Emergency Management Association. I worked with Dale while I was Governor of Ohio. He has done an outstanding job for our State. We also have Bud Larson, associate director, New York City Office of Management and Budget.

I thank each of our witnesses for coming here to discuss these issues today. I look forward to their testimony.

Mr. Brown, we are looking forward to your testimony this morning. You may begin.

[The prepared statement of Senator Voinovich follows:]

STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO

The Hearing will come to order. Good morning.

Today's hearing continues our ongoing oversight of the Federal Emergency Management Agency (FEMA). This oversight has long been a priority for the Environment and Public Works Committee, and it is my intention as chairman of this subcommittee to continue this strong oversight. Today's hearing is also the first FEMA oversight hearing we have held since the Agency was transferred into the Department of Homeland Security.

The attacks of September 11 were unprecedented in scope and have served as a catalyst for major reform within the Federal Government and its ability to prevent and respond to such events in the future.

Also unprecedented was our nation's response to the attacks. Thousands of workers and volunteers from around the country responded to those in need at the World Trade Center and the Pentagon, including 74 Ohioans, who arrived in New York City within 24 hours of the attacks as part of Ohio Task Force One one of FEMA's Urban Search and Rescue Teams.

The attacks of September 11 were the most costly disaster in U.S. history. President Bush pledged $20 billion in aid and approximately $7.4 billion of it is being distributed through FEMA's public assistance program. The public assistance program is used throughout the country to provide grants to State and local governments to respond to and recover from disasters.

In order to ensure that FEMA was properly carrying out its obligations in response to the attacks, Chairman Inhofe, Senator Jeffords, Senator Clinton, and I requested that the GAO look into three aspects of FEMA's response:

- What activities the Agency supported in New York through its public assistance program;
- How this response differed from the approach to providing public assistance in past disasters; and
- What implications this approach may have on the delivery of public assistance should other major terrorist attacks occur.

I understand that GAO has completed its review and analysis of FEMA's actions and I look forward to hearing from GAO about what they have found.

Also in response to the attacks, members of this committee on both sides of the aisle including myself worked with the Administration to create the Department of Homeland Security and move several Administration agencies including FEMA into the Department.

Members of this committee have also worked with the Administration to ensure that they have all of the tools necessary to prevent events of this magnitude from ever happening again. To date, this has been an issue where partisanship has been kept in check because there is no questioning the fact that we must be able to prevent a repeat of that terrible day. I hope that we will be able to keep politics away from this issue as we look back at those events and our response to them.

As members of this subcommittee know, the Homeland Security Act of 2002 created the Department of Homeland Security, established a Directorate of Emergency Preparedness and Response, and transferred the functions, personnel, assets and liabilities of FEMA (along with several other Administration Systems and Offices) into that Directorate. The Act also defined the homeland security role of FEMA, maintains FEMA as the lead agency for the Federal Response Plan established by Executive Order, and requires the FEMA director to revise the Plan to reflect the establishment of DHS.

The creation of the Department of Homeland Security is the largest reorganization of Federal agencies and activities since the creation of the Department of Defense in 1947. Any reorganization of this magnitude will need some time to be fully implemented and will take even longer before all of the structural stresses in the new Department can be identified, let alone resolved. I along with my colleagues on the committee am interested in making sure that FEMA continues to perform its duties adequately during this lengthy transition period.

During debate on the Homeland Security Act, I included the first government-wide workforce reforms since the Civil Service Reform Act of 1978 25 years ago. I am hopeful that these new flexibilities, which all Federal agencies now may use, will complement the specific human capital authorities granted to the Department, which is still in the process of establishing its personnel system. I have been pleased to hear from union leadership that the work of the DHS personnel system design team has been inclusive and collaborative. I would be interested in hearing any ob-

servations the witnesses might have on how these workforce flexibilities are helping FEMA manage its critically important part of the Department of Homeland Security team.

Finally, at a hearing conducted by this committee on the attacks last year, I learned that members of the FEMA teams that responded to the call for assistance at Ground Zero had been denied health coverage. In response, I sent letters to former FEMA Director Joe Allbaugh and Secretary of Labor Elaine Chao asking them to develop a process for providing these workers the health coverage they need and deserve. I would like to know what process has been put in place to prevent such denials of coverage and eliminate any confusion surrounding the filing process from happening again.

It is extremely important that we take care of these individuals because whether people want to be first responders in the future depends on how first responders from the World Trade Center are treated. In order to ensure that those brave souls that respond to as well as those that live and work in the area of a disaster are protected, monitored, and informed of risks, Senator Clinton and I have introduced the Disaster Area Health and Environmental Monitoring Act of 2003 (S. 1279). This important legislation was reported out of the committee on July 30, and I would like to hear any comments that our witnesses have on it.

Our first witness today is the Under Secretary for the Emergency and Response Directorate in the Department of Homeland Security, Michael Brown.

On the second panel, we have JayEtta Hecker from the General Accounting Office and Rick Skinner who is the Deputy Inspector General of the Department of Homeland Security.

On the final panel, we will hear from Bud Larson from New York City and the executive director of the Ohio Emergency Management Agency, Dale Shipley.

I thank each of our witnesses for coming here to discuss these issues today, and I look forward to their testimony.

STATEMENT OF MICHAEL D. BROWN, UNDER SECRETARY OF EMERGENCY PREPAREDNESS AND RESPONSE, DEPARTMENT OF HOMELAND SECURITY

Mr. BROWN. Thank you, Mr. Chairman. Thank you for having me here today. I certainly appreciate your comments about having gone through the reorganization in Cleveland and all the things you had to do to do that. I know you appreciate some of the challenges that we have as we put this together.

Since becoming a part of the Department of Homeland Security, the Federal Emergency Management Agency has continued its traditional role of leading the Nation to prepare for, respond to, recover from, and mitigate against disasters of all types and of all hazards.

Over the last 2 weeks, we have worked closely with the State and our Federal partners to effectively prepare for and respond to Hurricane Isabel—all within the structure of the Department of Homeland Security. DHS brought its resources to bear in response to Hurricane Isabel in order to protect the public. We deployed two new assets, including the National Disaster Medical Systems teams, in response to Hurricane Isabel. The U.S. Coast Guard also deployed its assets to assist us in the response effort. All of our response efforts have been coordinated department-wide through Homeland Security and through its Emergency Operations Center.

Prior to joining Homeland Security, the focus of our disaster programs at FEMA was that of an all-hazards approach. This focus remains today. It fact, it benefits more from a global perspective of the Department of Homeland Security and its related components. I am proud of our response to Hurricane Isabel because it clearly demonstrates our steady improvement in coordinating and leading Federal, State, and local response efforts to protect life and property in times of disasters.

There was a seamless collaboration of different response elements in the Department, as well as those in other Federal departments and agencies, which allowed for an effective and rapid prepositioning of disaster assets and capabilities throughout the Eastern United States to quickly provide any assistance needed by States and communities to protect the life and property of those citizens.

At FEMA, we are proud to be a part of the Department of Homeland Security in doing our part to secure the homeland. I am proud to lead this organization. On behalf of the Secretary and President Bush, it is made up of so many really good individuals, such as, the urban search and rescue teams and others, who put their lives on the line daily to protect this country and to make it more secure.

FEMA's greatest asset is, indeed, our people. As we have transitioned into Homeland Security, we have continued our efforts to ensure that our workforce remains one of the finest in the Federal Government through the development of a comprehensive strategic Human Capital Plan.

We have also continued to work to integrate the new missions into FEMA's existing structure. The good work that FEMA continues to do after being incorporated into Homeland Security is a commentary on how well the transition has gone to date. Since the March 1 transition into Homeland Security, FEMA has provided disaster relief in over 50 presidentially declared disasters and emergencies in 32 different States and two Territories, ranging from Alaska to New York to American Samoa.

When I have traveled to disaster areas, I have had the opportunity to meet some of the victims. Secretary Ridge, the President, and I just did that over the past 3 or 4 days. The victims' lives have been totally devastated. They have lost family members. They have lost things that they will never be able to replace. They have lost their homes. I truly cannot adequately describe in words the impact of looking into the eyes of people who have simply lost everything.

But when things are at their absolute worst, I believe that our people in FEMA and the Homeland Security Department are at their best. I am extremely proud to be a part of this organization. I am constantly impressed with the Agency's ability to quickly and efficiently put individuals on the ground, to provide assistance to those in need, and to get the process of disaster recovery underway immediately.

But we cannot rest on our past achievements. The key to our continued improvement is to take these lessons and incorporate them into our planning, our doctrine, and our procedures so that we do even better the next time. The transition into Homeland Security offers new opportunities to make such improvements. FEMA is actively participating in the effort to develop the National Response Plan and the framework for the National Incident Management System.

As directed by the President, the goal is to establish a single comprehensive National Incident Management System that provides for the integration of separate Federal response plans into a single all-discipline, all-hazards, national response plan.

We are also consolidating and integrating our existing and our new disaster response assets, our new teams, our current systems, new programs, and responsibilities to create a more unified and comprehensive all-hazards disaster response capacity. We are looking into new approaches that can result in greater efficiencies and effectiveness in our disaster response activities.

I am really confident that over time we will be able to introduce a new response culture, one that will enable us to elevate our operational response capabilities to a higher level of proficiency and ensure better protection of and service to the American people.

Homeland Security also remains committed to helping firefighters improve their effectiveness and to stay safe. The responsibilities of the fire service have increased since 9/11, and as you know very well, Senator, include planning for and responding to possible terrorist attacks. So far, just this year, Homeland Security has awarded over $250 million of $745 million appropriated by Congress to fire departments through the Assistance to Firefighters Grant Program.

I will digress for just a second. As I met with some of those firefighters, and as we have given those grants out, it is absolutely incredible how important the grants are to those firefighters and those fire departments. In some places they actually have to borrow boots and personal protective gear from other departments to do their job. To me, that is just not acceptable.

When we have to respond to a terrorist attack or a natural disaster, and people start backfilling from department-to-department, it is absolutely essential that all departments in this country be equipped to respond to anything. That program helps us do that. I just want to thank you, Senator, for helping us in that regard.

With the formation of Homeland Security, we have the opportunity to better serve our State and local governments and our first responders by bringing together the various terrorism and emergency preparedness grant programs that were scattered throughout the Federal Government.

The Secretary has announced plans to centralize these programs within a single office in Homeland Security to make them even more accessible to its customers. State and local authorities will now have a single point of contact for both terrorism and emergency preparedness efforts, one access point to obtain critical grant funding.

With regard to today's hearing, the committee has expressed interest in the GAO report on the public assistance program as implemented in New York following the September 11 attacks. While the GAO report does not address FEMA's performance or provide specific recommendations, it does note some differences in the delivery of assistance that I would like to take this opportunity to emphasize.

FEMA implemented the Public Assistance Program, which provides State and local governments reimbursement for debris removal, emergency protective measures, or the repair or replacement of damaged public facilities. However, the Consolidated Appropriations Resolution of 2003 provided some additional flexibility that allowed recovery operations to move more quickly.

The Resolution directed FEMA to fund non-Stafford Act related projects with any remaining funds from the appropriation they received for the September 11 terrorist attacks after all eligible projects have been funded. But this flexibility did not forfeit the accountability or detract from the effectiveness of the programs.

In summary, as part of the Department of Homeland Security, FEMA has continued to carry out its mission to prepare for, respond to, recover from, and mitigate against disasters and emergencies caused by all hazards. We will continue to do so.

Again, Senator, I appreciate the opportunity to testify before your subcommittee today. I would be happy to answer any questions that you or Senator Jeffords might have. I would ask that my written statement be placed in the record in its entirety.

Senator VOINOVICH. Thank you.

We have been joined by Senator Jeffords, the ranking member of this committee. Senator Jeffords, do you have any remarks that you would like to make?

OPENING STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Senator JEFFORDS. No, I do not want to interfere with the proceedings. I would just as soon have them made a part of the record.

Senator VOINOVICH. Thank you.

Without objection, so ordered.

[The prepared statement of Senator Jeffords follows:]

STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Mr. Chairman, thank you for holding this hearing today.

It is a little disturbing for me to see the words "General Accounting Office Report", which often precede what some might consider to be a mundane financial disclosure statement, preceding the words "September 11th" which was such an emotional, traumatic moment in our nation's history for everyone in our country, and particularly for the people directly affected by it.

I will never forget my visit to Ground Zero.

I hope that September 11 is an event that will never be repeated, on any scale, in our country. However, I believe that it is critical for us to be prepared, should such an event occur. I want to do everything I can to ensure that our level of preparedness goes up, not down, as we move into the future.

One of the best ways is to evaluate our performance on September 11, and find ways that we can improve.

That is why I asked for this GAO report with my colleagues, Senator Smith of New Hampshire, Senator Clinton of New York, and Senator Voinovich.

Since Senator Inhofe became Chairman of this committee, we have continued working on this issue with the same bi-partisan rapport I enjoyed with Senator Smith, and I appreciate that.

The GAO report finds that there were multiple activities performed by FEMA at the World Trade Center that were outside of the norm.

Congress explicitly authorized many of these activities.

The GAO report also finds that due to the departure from standard emergency response and recovery operations, there is some uncertainty about what the Federal response to another terrorist attack would be, should one occur.

It is imperative that this committee, with jurisdiction over the nation's emergency preparedness and response activities, consider whether any changes to FEMA's legislative authorities are required to ensure that the nation's ability to respond to a terrorist attack improves after September 11th.

I look forward to hearing more detail on the conclusions of the GAO.

The EPA Inspector General raising questions about the government's response to the World Trade Center collapse.

In addition to troubling revelations about the White House's Council on Environmental Quality influencing EPA's public communications, the report questions the extent and adequacy of the post-September 11 indoor air cleanup program.

This program was funded, in part, by FEMA, and I believe that we need to examine whether there are additional steps that FEMA, in conjunction with other governmental agencies, should take today to protect the health of all New Yorkers.

In reviewing the activities of FEMA in September 2001, we will be reviewing the activities of a robust agency, with extensive experience in all-hazards planning, preparing, response, and recovery, and with a tradition of providing quick response to people in immediate need.

Vermont has a long history with emergency management my colleague and friend, Senator Bob Stafford of Vermont, served as chairman of this committee for many years and ushered the Stafford Act through this committee and the legislative process in 1974.

The Stafford Act gave structure to an emergency response process where virtually none existed in the past.

As Chairman of this committee during the 107th Congress, I expressed grave concerns since the proposal to incorporate FEMA into the Department of Homeland Security first came to my attention.

I was concerned at that time that the robust agency we saw jumping every hurdle after September 11, 2001 to provide assistance to World Trade Center and the Pentagon, and to hundreds of natural disasters each year, would give way under the pressure of the enormous bureaucracy of the Department of Homeland Security and lose its ability to respond quickly and effectively to disasters.

I remain concerned today.

However, the Administration prevailed in this situation and incorporated FEMA in DHS with the enactment of the Homeland Security Act of 2002.

Since the formation of DHS, FEMA has administered aid for 50 major disasters, 16 emergency declarations, and 33 fire management assistance declarations all natural disasters.

That is 109 communities, in less than 1 year, that have received emergency assistance from the Federal Government.

One would think that this type of mission would deserve significant focus from the Administration.

However, while FEMA performed all of this activity, the Administration managed to allow the Disaster Relief Fund to dip dangerously low, with FEMA cutting off benefits for all but two of the seven categories of public assistance in declared disaster areas.

On July 9, the Administration finally asked Congress for $1.5 billion in emergency funding to refill the Disaster Relief Fund.

This week, the Congress may consider the conference report for the legislative branch appropriations, which contains just $441.7 million for the Disaster Relief Fund.

We are still in the early days of this disaster, and I have heard some concerns raised by local communities about FEMA's responsiveness.

I hope that as we work our way through the effects of this disaster, we find that even with FEMA's insertion into DHS and the lack of focus the Agency has received, it has lived up to its reputation of a quick responder that provides critical assistance.

I have two goals for today's hearing.

First, I want to hear what lessons can be learned from FEMA's activities in New York following September 11th, and what changes, if any, you believe this committee should consider to ensure that our nation's emergency response capabilities improve, not degrade into the future.

Second, I want to hear from each of our witnesses how things have changed since FEMA became part of DHS specifically, if being a part of the Department of Homeland Security is improving or degrading FEMA's ability to respond to disasters of all types, whether manmade or natural.

It is imperative that in seeking to improve our capability to respond to terrorism, we do not lose our capability to respond to natural disasters, which, thankfully, happen much more frequently.

Thank you, Mr. Chairman.

Senator VOINOVICH. Mr. Brown, in your testimony you seem to indicate that being placed into the new Department of Homeland Security has actually helped response to disasters.

I would like for you, as carefully as you can, outline how going into the Department of Homeland Security has been enhanced. I think in your testimony you mentioned something about the Coast Guard. Could you give us a little bit more on that?

Mr. BROWN. Hurricane Isabel unfortunately has given us a grand opportunity to really test some of the new equipment and some of the new resources that we have at our disposal. Commandant Collins was absolutely insistent that they provide whatever assistance they could to FEMA and DHS as we responded to the hurricane. They were just outstanding.

There is nothing better than being able to sit at a table where you have your partners right there with you at the table and to be able to say, "Well, what is it that you can offer?" They can explain to us, and as we understand our response efforts we can say, "Oh, yes, we can use that equipment."

Commandant Collins and I spoke yesterday after an Under Secretary's meeting. What we intend to do now, following the hurricane, and once our recovery is finished, is to go through and to actually formulate MOUs and understandings of how we are going to operate together. But being that close together in the Department with those kinds of assets just gives us the capability to respond that we never had before.

I would actually take it one step further.

Senator VOINOVICH. In other words, the Coast Guard had never been part of the consideration when you had other events?

Mr. BROWN. They would be part of the consideration, but it would be almost after the fact. It would be looking around the room saying, "We need to do 'x.' Who could help us do that? Oh, let us reach out to the Coast Guard."

Now the Coast Guard is actually reaching out to us and saying,

> "By the way, because we are going to be doing x,y,z, moving certain assets because of the approach of the hurricane, we can make these things available to you. Will that help you respond more quickly?"

So, we were able to tie our missions together, then protecting our assets by getting them out of the way, with us having to move certain materials and supplies into the affected area. It worked out great.

I think it is the willingness of the team, too, to sit down and say, "We are all part of the Department now. What do you bring to the table? How can we make them work better together?"

I think someone actually coined a phrase for it, but it is "FEMA on steroids". It gives us the chance to reach out to partners within the Department and say, "We want you now to be a part of our response mechanism."

Senator VOINOVICH. Mr. Brown, I have a question that is specifically rated to my home State of Ohio. As you know, the Northeast and Midwest, including Ohio, experienced massive electrical power outages beginning on August 14. Governor Taft requested Federal assistance to deal with the aftermath of this situation. I wrote a letter to the Administration in support of a major disaster declaration for the State of Ohio. I am going to insert this letter to the President in the record.

Without objection, so ordered.

[The referenced letter follows:]

United States Senate
WASHINGTON, DC 20510

August 21, 2003

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing in support of a request submitted by Governor Bob Taft to the Federal Emergency Management Agency, requesting a major disaster declaration for the State of Ohio as a result of catastrophic electrical power outages on Thursday, August 14 through Sunday, August 17, 2003 throughout the northern half of the state.

At this time, the state is seeking an emergency disaster declaration for emergency protective measures through the FEMA Public Assistance (PA) Program for Cuyahoga County. However, the widespread power outages have also negatively impacted the following counties: Ashtabula, Crawford, Delaware, Erie, Geauga, Huron, Lake, Lucas, Knox, Lorain, Marion, Morrow, Ottawa, Portage, Richard, Sandusky, Seneca, Summit, and Stark.

The state is also conducting an ongoing investigation into the financial effects of the blackout on businesses. Based on the outcome of this investigation, the state may seek assistance from the U.S. Small Business Administration to assist the business community with financial recovery.

As you know, the state is currently administering the FEMA PA Program for two presidentially declared disasters, which impacted 39 counties and totaled over $52 million dollars. Along with the two PA programs, the state is assisting with the administration of three presidentially declared disasters for FEMA Individuals and Household Programs.

Due to the multiple severe disasters Ohio has experienced throughout the past year, we encourage your support of Governor Taft's request for emergency assistance. Thank you for your attention to this matter of great importance to the people of Ohio.

Very respectfully yours,

Mike DeWine

MIKE DeWINE
United States Senator

George V. Voinovich

GEORGE V. VOINOVICH
United States Senator

Senator VOINOVICH. While I understand that New York also requested Federal assistance and has received it, if you pardon the reference, Ohio remains in the dark about its request.

First, why has it taken so long? Can we expect a response soon? Second, what is the reason for the delay? Is it a result of being transferred into the Department or is it some other factor?

Mr. BROWN. I will tell you it is not because of the transfer into the Department. That request crossed my desk yesterday. We have made the recommendation to the President. So that has been moved.

I will tell you what part of the delay was. As we work very closely with our State and local partners to make the assessments—and this is not to pick on Ohio or anyone else—but sometimes we have to go and really dig to get information about the damage sustained, what the needs are, and how can we help.

Although I think Dale Shipley does an incredibly good job, in some States—not Ohio—but in some States it takes longer to get that kind of information. I do not know why Ohio took longer. I am going to try to find out, Senator.

Senator VOINOVICH. I would like to know it because your response to New York was swift.

Mr. Brown, I would like to give you an opportunity to respond to the GAO report that we released today on FEMA's actions and financial allocations in New York after the September 11 attacks.

The first question is: The report states that both FEMA and New York City officials agreed that FEMA's public assistance approach to the New York City area creates uncertainties regarding the delivery of public assistance in the event of another major terrorist event. What are some of those specific uncertainties?

Second, the report states that FEMA officials claim that the Public Assistance Program worked well. New York City officials argue that major revisions are needed. FEMA said, "We did it." New York said, "no." Can you elaborate on the Agency's position on this issue?

Mr. BROWN. I think, Senator, that generally the response to New York was incredibly good. The President authorized and asked us to spend $8.8 billion in assistance in New York. We have done that, and we have done it with incredible flexibility. There is no doubt that we have a learning curve on some of those issues—mortgage and rental assistance, for example. How far out do we take that in terms of economic damage as opposed to physical damage?

FEMA has traditionally dealt with physical damage. There is something that you can point to that you can say is broken, and because that is broken, you can no longer do your job. You no longer have a job to go to because it does not exist. We were always accustomed to dealing with economic damage where the thing which your job was tied to, the location was still there, but the job was no longer there. The airlines were shut down, or they cut back, or something. We had to deal with that.

For example, in terms of dealing with mortgage and rental assistance, how far out do we go? Do we draw a geographic line? Do we figure out if there is some economic line by which we draw those boundaries?

It was a challenge for us. It truly was a challenge. But I think we worked very closely with the State and with the city to figure out how to draw those lines, and upon what basis we drew the lines. At the end, I would say that we had agreement on the drawing of the lines. So I think we did pretty good in that regard.

We still have some outstanding issues, for example, on debris removal and the liability insurance. We have allocated the $1 billion for that. As we like to say in Washington, we are really down in the weeds trying to figure out exactly what liabilities that $1 billion will cover.

Congress was good to us and gave us flexibilities on the money that was left over after the $8.8 billion had been allocated to meet the unmet budget needs in New York City. We actually turned to the city and the State and said,

> "You tell us what your priorities are. Tell us how you want to spend those moneys. Once we do all the eligible costs, whatever money is left over, we will let you figure out where that needs to go and give you the maximum flexibility to use that where you need it."

So I think in that regard it worked very well also.

There are flexibilities in terms of FEMA figuring out what its primary role is. For example, rebuilding some of the subways or some of the highways. I do not believe that FEMA has that expertise. FEMA, instead, turns to the Federal Transit Administration and says, "If you will take over this project for us, we will fund that." It is clearly an eligible funding for us to do, but we do not have the expertise within FEMA to deal with the environmental issues, to deal with the engineering issues. That is for the FTA to do. I think that worked very well also.

Senator VOINOVICH. One of the things that I would be interested in, and I am sure somebody is working on it, if it is not already done, is lessons learned.

Mr. BROWN. Absolutely.

Senator VOINOVICH. You are right. This is a brand new deal. You had some things I do not think the Agency was ever confronted with in the past in terms of standards of how far do you go in reimbursing people, for example. When I was Governor, I went through several floods. Sometimes it is not as clear as it should be. But I think in your case it would be interesting to say, if we had one of these, what kind of standards would we be using so that you have something. You would have learned from your experience there. I would be interested in seeing that information.

Mr. BROWN. We will share that with you. We are in the process of doing that now.

Senator VOINOVICH. Senator Jeffords.

Senator JEFFORDS. This is an issue I have raised before, but one that I am concerned about. Since I witnessed some of the challenges faced by the first responders after September 11, in interoperable communications, I am aware of some of the actions taken by the Department of Homeland Security to improve inter-operability, but I am not satisfied with the progress. I do not seem to have any evidence of what has changed on the ability for communications.

I was at the Pentagon. I talked with the first responders there. I asked them, "What was your main problem?" They answered,

"Well, we all arrived from Nebraska and every place else, but nobody could talk to anybody."

Is there any improvement?

Mr. BROWN. I think there is significant improvement. We are on the track to continue to make improvements, Senator. There are two things I would offer. First and foremost is that we have started defining what inter-operability means. It meant different things to different people. Some thought that it meant that everyone should be able to talk with everyone else. If you did that, we would get nowhere.

We have defined inter-operability as a command and control in a national incident management system whereby we define who is going to talk with the one in charge, and who takes orders from whom. That is No. 1.

The second thing that we have done is that Congress allocated approximately $25 million for us to do what we call demonstration projects. We are actually making the distribution of those grants on a competitive basis. We just started doing those grants this week. We have, on a competitive basis, said to the States,

> "Come to us with some of your best practices. We will give you planning and money to put those projects together in your States. We will take the best practices and try to use those nationwide."

Those grants are going out this week to actually start doing those projects.

Senator JEFFORDS. Thank you.

I understand that in response to the low balance in the Disaster Relief Fund that you have adopted a policy of funding only Categories A and B of public assistance for federally declared disasters. Can you explain this policy, why it was adopted, and what types of and how many requests for assistance are being delayed?

Mr. BROWN. Senator, when the DRF got down to a level of $700 million or less, we had projects in the pipeline that were basically public assistance projects—rebuilding of roads and bridges, or the rebuilding of a library, or something to that effect.

I made the critical decision at that point that we would fund only individual needs, and make sure that individuals got the money and the assistance they needed until we had some resolution of where we were going to be. I was more concerned about making sure that people were taken care of and that buildings became secondary.

So while we did not stop any projects that were already ongoing, those that were in the pipeline, we did put a halt on until we got the appropriation.

Senator JEFFORDS. Using lessons that you have learned since September 11, what changes, if any, to FEMA's authorities do you believe are necessary to allow the Agency to improve your response to terrorist attacks?

Mr. BROWN. Quite honestly, Senator, I do not think there are any at this stage. I think the Stafford Act is so well designed and it has so well withstood the test of time, that we have the flexibilities that we need to be able to respond.

I think the chairman is correct in that what we need to do post-9/11 is to take our lessons learned about where those flexibilities need to be better defined and incorporate those into our regulations

and our policies. But the act itself gives us broad discretion and broad flexibility to do what we need to do.

Senator JEFFORDS. The GAO reports that FEMA determined that the testing of air quality and cleaning were eligible for public assistance funding where the collapse of the World Trade Center buildings, resulting fires, and subsequent debris removal caused potential health issues related to air quality. FEMA entered into an interagency agreement with EPA and partnered with the New York Department of Environmental Protection to execute testing and cleaning.

I have two questions in that regard. First, what role did FEMA play in providing information to the public on the results of the air quality testing that was connected at the site and in the surrounding areas?

Mr. BROWN. We did not really differ from what we do in a traditional disaster. If we need expertise elsewhere, we mission-assign another department or agency with that expertise. In this case, it was EPA and the New York Department of Health who came in and did that monitoring for us.

Our people on the ground continue to work with those people day-in and day-out: "What are you doing? How are you doing it? What are the results? What additional assistance do you need from us?" We do not have that expertise in-house.

Senator JEFFORDS. Selecting which buildings or areas of the city would be eligible for public assistance funding, did FEMA include all the areas impacted by the dust cloud resulting from the collapse of the buildings?

Mr. BROWN. We attempted to. Again, that goes back to my point earlier of where we draw the line. We always worked very closely with the State and local officials to define where that line should be drawn. If you take Manhattan, for example, do you draw it at 53rd? Do you draw it at 82nd? Do you include Staten Island? Do you not include Staten Island?

You do all those kinds of deliberations solely in concert with State and locals to get their input. Again, they are the experts. They are the ones on the ground who are coming to us asking for the assistance. That is how we make those kinds of decisions.

Senator JEFFORDS. Thank you.

Thank you, Mr. Chairman.

Senator VOINOVICH. Senator Clinton.

OPENING STATEMENT OF HON. HILLARY RODHAM CLINTON, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator CLINTON. Thank you very much, Mr. Chairman.

I welcome Secretary Brown. I had the great pleasure and privilege of working with him over the last 2 years. I thank you for holding this hearing. I particularly appreciate all of FEMA's staff, including Brad Gair, who has been the FEMA person on the ground in New York. He has done a remarkable job.

I also want to acknowledge and welcome Bud Larson, the Associate Director of New York City's Office of Management and Budget who will be testifying on the third panel.

Mr. Chairman, I just want to briefly comment on the GAO report that has come out just over 2 years since the horrible attacks we

suffered. I suppose for the average person going through that report the numbers and dollars associated with Federal assistance can seem quite large when it comes to our needs in New York. There was over $20 billion in total, including some $5 billion in tax incentives and about $8.8 billion in FEMA assistance alone.

I know that the support that New York received from the Administration and the Congress has been extremely important. There are different estimates that have come forward about what the actual economic loss to New York was. It ranges from about $80 billion to $110 billion. Even today, 2 years after the event, there are those who still remain still displaced from their homes and their jobs. Economic repercussions continue.

As I am sure Mr. Larson will testify later, we have had a continuing reassessment of what our needs have. As the GAO report points out, FEMA aid to New York has been capped at a fixed amount which has required very difficult efforts to prioritize needs and allocate dollars, even before we fully knew what the costs were.

In the case of the horrible Oklahoma City bombing, or the North Ridge earthquake, so many other previous disasters, as long as the need was tied to the disaster, the dollars have continued to flow from FEMA's Disaster Relief Fund. In fact, sometimes it has taken 4, 5, 6 years, and even longer after the event to take care of all of the needs that were catalogued. In almost single case, the State where the disaster took place was eligible for hazard mitigation grants in an amount equal to 15 percent of the dollars that FEMA sent on disaster recover.

In New York's case, FEMA disaster aid was capped at a predetermined amount that I think we are realizing has little connection to the actual need. I am not saying that to in any way suggest that the amount is too low, but just that it is probably too early to tell. I am very grateful for the support that we have received.

In this instance where we know there is so much that needs to be done to prepare for and prevent against a future similar event, we have had hazard mitigation funding capped at 5 percent versus the traditional 15 percent.

One specific example I wanted to bring to the committee's attention is with the mental health services provided under New York's Project Liberty. FEMA allocated $132 million. When I went to the Ground Zero Commemorative services on September 11, a few weeks ago, a number of firefighters and the top leadership of the fire department, including the Commissioner, expressed very serious concerns that there is a December 31 scheduled termination of these mental health services.

We have seen counseling services provided to more than 7,000 firefighter victims. I think that we have provided counseling not only to active members, but also to family members, retired members, paramedics, and others.

In the original fire department proposal to FEMA, the Counseling Unit requested 7 years of funding for Tier 1 victims. This is, in large measure, based on the experience in Oklahoma City which showed clearly that it took a while for these men to come forward. It was not something that they did lightly or easily. It is only now that some of them are feeling ready to go into counseling and to

seek help. What we learned from Oklahoma City is that it literally took years. Different things triggered the need or the motivation to go into counseling.

I would hope, Mr. Secretary, that we can look at a way to try to extend these resources. They are going to run out at the end of this year if we do not extend it. The close out date is something that concerns me greatly. The GAO goes through specific reasons as to why that is the case.

I think that we really have to look at these closeout dates for these various services. It is important that we know how well we used our dollars, but I think we have to recognize also that there are continuing needs. Perhaps some of the priorities that were set because of the capped amount and the deadlines that were set are just not reflective of the human and other needs that we continue to confront.

Mr. Secretary, could you update me on the status of the mental health and crisis counseling services provided through Project Liberty?

Mr. BROWN. I could not agree with you more about the importance of that program. I went to New York. We made that $132 million announcement because it is the largest that we have ever expended on crisis counseling. I was just absolutely amazed at the people and the job they are doing. The dedication is just overwhelming. As you so eloquently put it, there are many first responders who are macho and they are not going to do it until they crash and have to do it.

In coordination with the State, we made the decision to keep that program open into 2004. I will continue to work very closely with the State to do what we need to do to make it work.

Senator CLINTON. Thank you very much.

Senator VOINOVICH. Mr. Brown, there are a couple of issues I would like to discuss. One is after 9/11 the members of our team in Ohio that responded to 9/11 had a dickens of a time getting their compensation.

No. 1, I would like to know what you have done to improve that situation so that other first responders are not going to go through the line as our people did in the State of Ohio to have their claims processed through the Department of Labor for compensation and for health care as a result of their being at 9/11.

No. 2, gets into something that both Senator Clinton and I are interested in. I am going to quote a couple things that were said at hearings here.

On March 12, 2002, Joe Allbaugh was here. He said,

> "I, too, am deeply concerned about what everyone was exposed to in New York City. On the first of February I put together a task force representing all the agencies. We are working through those issues. There was a followup yesterday that we will be sharing information that we have gleaned from all the agencies as quickly as possible as we can. I am trying to find out what these people were exposed to."

Then at another hearing in September 2002, more than a year after the attacks, I asked more questions of EPA. Again, Director Allbaugh went on about what people were exposed to and if they were getting the information out. Allbaugh stated,

"We are looking for our guidance from HHS. They have been very successful providing that leadership. Every bit of information they share with us from a scientific standpoint we give to every FEMA employee, every USAR employee, and those volunteers that came to help us at Pier 94. We are sharing as much information as we possibly can. It is all based on science.

"EPA and ASTAR is keeping a health registry. They are working with the city of New York on this. They are collecting data now and will be keeping the people information through websites. That is obviously something that they are very dedicated to make sure that people understand what the exposure was."

The fact of the matter is that the evaluation of what people were exposed to was a complete disaster among Federal agencies. I will never forget Allbaugh being before this committee. It was awful.

Senator Clinton and I have introduced a bill, a first responders bill, that is going to give the President authority after one of these things happen again—God forbid—that will allow them to immediately go in there and get this information.

I would like for you to comment on both of these things. They are very, very important to, first of all, for the people that are there that are the victims, but then the first responders. If we have other disasters like this, these people are going to want to know that it is a different deal than it was before.

I can tell you that the people in Dayton, OH are not going to be exited about doing another one of these things because of the way they have been treated. As a matter of fact, it was a year afterwards that we finally got screening for them. In New York City, you were able to get your screening. We opened up a screening center in Cincinnati at the University of Cincinnati to finally get them in there to be screened for what they were exposed to.

I would like you to comment on both those issues.

Mr. BROWN. Well, first let me go back to the Ohio team. We talked first with Life Care. We made certain that they were doing what they were supposed to be doing and reaching out. We had them reach out two or three times. As I understand it, there are no unpaid claims at this point.

But what it has taught us, Senator, is that we need to go back and look more closely at our contracts and our relationship with the folks who do that contracting for us and the payment of those bills to make sure it gets done more efficiently. That is just unacceptable to me.

Senator VOINOVICH. From another perspective, you might look at whether or not they could be better done by the Agency itself than to farm it out to somebody else. In terms of this whole competitiveness, the thing that bothers me is that we always talk about competing out commercial services, but we never look at either services that maybe ought to be brought back into those agencies. We have dedicated people that will get the job done for the folks that need the help.

Mr. BROWN. Absolutely. I could not agree more that the primary concern should be how to get the job done most effectively and most efficiently for the first responders. That is my priority. To me, it is just unacceptable that we ask these men and women to go out and put their lives on the line. Then we dally around with getting them reimbursed or paid for what they should be paid for. It is just unacceptable.

That is why we have looked at all the contracts. We did go back to Life Care and talked with them to make sure it was getting done right. I have asked my response team to go back and look at what caused those glitches. I do not try to presuppose how we are going to fix the glitches. I want my team to come and tell me what the glitch is and then figure out how we are going to fix it. That falls wherever it may fall just to get it done.

Senator VOINOVICH. I would like to know the procedure that if this happens again, how it gets done. I would also like to have you evaluate the people that were doing the work for you. You farmed out the work to screen the people that worked at TSA. The people that did it, in my opinion, did a lousy job. The rumor was that about 2,000 of them could not pass the FBI's list.

In terms of the administration, I think that so often you get the idea, "Well, we will just farm it out to some firm. They are going to get the job done." The question is: Do you have the people in-house that can find out whether the firm that it has been farmed out to are able to do the job? Really. I think Secretary Ridge ought to start looking at some of this stuff that you have going on all over to find out whether or not it is working or not and whether you are better off bringing it in-house.

Mr. BROWN. That is a very legitimate point. I do not want to repeat myself. But I think we should always look at how do we best get the job done and let those chips fall where they may—if that is in-house or if that is contracting. It needs to be done efficiently to take care of the customer.

From my point of view, the customer is always either the first responder, the people who are asking to go out and deal with the disaster, and/or it is the disaster victim, and how we best take care of those victims and/or the people who are doing that job for us. That is just my philosophy.

Senator VOINOVICH. How about the issue of letting people know immediately what they are exposed to? Let the Administration explain it. It happened. There was stuff there. Senator Clinton has made an issue of the fact. The word on the street was to go back. I am sure they were trying to get the stock exchange going. They were trying to get the country moving. We were in an awful situation.

But the fact is that we did not know what we were talking about at the time that we made those comments. What are you going to do to make sure that does not happen again?

Mr. BROWN. Well, I think one of the good things is this. Again, going back to the transition of FEMA into the Department of Homeland Security, I intend to fully utilize the Science and Technology Group that we have at the Department. I have gone to Under Secretary McQueary and said, "Chuck, listen. I do not even understand some of the questions I should be asking you." FEMA has never really had what I would call a Research and Development Department. We now have that within Homeland Security.

I want to work closely with them. We have actually assigned some of his folks into FEMA to watch all of our response activities and tell us where they can provide us the kind of expertise, whether it is technological expertise or human capital expertise, to answer these kinds of questions.

Again, I think it is one of the grand benefits of the creation of the Department that a small organization like FEMA now has that kind of talent that we can turn to and say,

> "Our first responders are facing these kinds of things. What can you develop for us? Where can you lead us to give us the technology or the human capital to provide them with the protection they need."

Senator VOINOVICH. Again, I would like to have you come in and specify exactly how you are getting it done. Allbaugh was saying, "I am looking for EPA. EPA was looking at HHS." Who knows who is on first base. It was just awful.

Hopefully we are going to get this legislation passed by Congress. I would like to know if it is passed what entity you are going to put in place so that we know that if it does happen we are ready to go. We would expect also that the Agency would anticipate possibly something that could happen. What are all of the options out there in terms of what people could be exposed to? Then start anticipating possibly what kind of equipment individuals would need if they were going to go in there to deal with the issue.

Mr. BROWN. I will do.

Senator VOINOVICH. Senator Clinton.

Senator CLINTON. I want to thank the chairman for his incredible attention to this issue. He has long been a champion of making sure that we have the right work for us and they know what their mission is. I think we all learned some very difficult lessons coming out of 9/11 about what our first responders needed and they information they could or should have had. It is equivalent to a military after action review. We have to know the right questions. We have to be unafraid to ask them. We have to be unafraid of getting the answers.

I just had a few more issues. In following up on what the chairman said, the GAO report refers to FEMA providing funding to cities from the Department of Environmental Protection for the exterior cleaning of buildings, and the interior cleaning of residences. The EPA, through interagency agreements, would sample and test the air quality in the New York City area.

One of the things we learned is that the city just did not have the expertise to do this assignment. There was a lot of confusion initially about who is responsible for indoor air. Some of us believed that EPA should have been responsible for indoor air. They went to the city. The city accepted the responsibility, but by February when I held a hearing in lower Manhattan, I asked the representative from the city Department of Environmental Protection, "How did you get this responsibility? What are you doing with it?" He was very honest. He said, "You know, we know about water. We do not know about air."

This was something that the ball fell in the cracks. I think the legislation that Senator Voinovich and I are putting forward is to try to get everybody on the same page. Who has responsibility? What is the chain of command? Who is held accountable? We hope that the Administration will really strongly support this legislation. We think it is needed.

But as you know, there has been a lot of scrutiny in recent days over the information that EPA provided to citizens and workers in lower Manhattan. Can you give me some more information on what

specifically EPA was provided resources for, and the level of accountability required under the interagency agreement?

Mr. BROWN. No, Senator, I cannot right today. But I will get that to you. I just know when our Emergency Support Team mission tasks an agency to do something, they will spell out in that mission assignment exactly what it is that they want the Agency to do and the requirements. I will get that mission assignment and provide it to you.

Senator CLINTON. That would be very helpful.

Let me also ask you two other questions. On the issue of hazard mitigation funding, and again you probably cannot do it sitting here, but as soon as possible can you provide me with a history of what disasters in the past have received 15 percent versus 5 percent caps.

Also, has Governor Pataki submitted his request for hazard mitigation grants? If so, where is FEMA in the process of funding them?

Mr. BROWN. We will get you the background on who has received what in terms of the 15 and 5 percent. We will provide you that completely.

The Governor has requested some mitigation projects which we have funded, some of which went to the Indian Point Nuclear Power Plant. But he has not expended all of those funds. He has used part of it for that program.

Senator CLINTON. Thank you.

Finally, Mr. Secretary, there is a new issue that has come to light which has very serious implications. As you know, earlier this year Congress specifically directed that $1 billion of the 9/11 related FEMA funds be used to create a captive insurance company to cover claims arising from the debris removal and cleanup of Ground Zero.

The accompanying conference report said that this captive insurance company should not cover, and I quote, "claims arising from the terrorist-related aircraft crashes of September 11, 2001." The conference report said that because Congress had taken care of liability for those attacks in Section 408 of the Air Transportation Safety and System Stabilization Act.

Section 408 is in the title concerning the Victim Compensation Fund. It provides that if someone is injured by terrorist attacks and does not seek compensation under the Victims Compensation Fund, they can sue the airlines or the city of New York. But the liability of the airlines and the city would be limited. There was a specific provision for that limitation. In the case of New York City, the limitation was $350 million.

I think the clear language of Section 408 makes it absolutely crystal clear that it was not meant to cover litigation arising out of the cleanup. That was a post-terrorist event. The terrorists attacked. If the people do not want to go to the Victims Compensation Fund, they have a right to sue. But then we had the aftermath—the cleanup of the debris.

The cleanup was completed in August 2002. I think that we have a problem here because of a recent court decision in a case called "In Re: World Trade Center Disaster Site Litigation: *Hickey* v. *City of New York.*"

I would ask unanimous consent, Mr. Chairman, to put in the record the specifics about this question. I think this raises an issue that the committee will have to address.

This judge recently determined that Section 408, which the Congress specifically said was related to terrorist attacks, capped liability for airlines and for the city, will apply to debris removal cases that stem from the period when the contractors and the workers were on the pile.

I know that FEMA is recently considering concluding that all debris removal cases would be handled under Section 408 rather than under this Captive Insurance Company. I hope that is not the case. I think the explicit legislative purpose of the Captive Insurance Company was to deal with these debris removal cases.

I know this is complicated. I know you are currently negotiating with contractors and the city of New York about the specifics about the Captive Insurance Company, but this is a very important issue. It would be just unbelievable if we had set money aside, allocated this Captive Insurance Company's responsibility, and all of a sudden we throw them into Section 408 which I think would be a nightmare for everybody.

The city of New York has told me there are over 1,000 debris removal cases that were filed, with the vast majority of them going after the contractors. Everybody remembers what it was like there in those first weeks and months. Everybody knows people were just working as hard as they could, literally, around the clock. The debris cleanup was done before the scheduled deadline and under budget. It was a great tribute to the contractors and the workers, the city, and others who were involved.

This is a very significant issue. I just do not think that we want to go outside the clear intention of Congress because one judge somewhere misreads the statute and end up using that as an excuse for dumping all these cases into that Section. I hope we can resolve this in line with what the congressional intent was, and the clear language of the statute intended.

Mr. BROWN. I am happy to say, Senator, that issue has not crossed my desk yet. I am sad to say it is about to cross my desk. Now I know. I will certainly take that into consideration. I do understand the issue.

Senator CLINTON. My office was intimately involved in drafting these sections along with the city. We stand ready to work with you and to try to resolve this in a way that we think reflects the language and the intent of the two different provisions.

Mr. BROWN. It is frustrating because it has taken so long. We have finally gotten to this final point now. Captive is ready. We have all that ready to go. We just need to resolve this.

Senator CLINTON. It would make no sense. I look forward to resolving this with you.

Thank you, Mr. Chairman.

Senator VOINOVICH. We have had a couple of rounds of questions. We have been joined by Senator Carper.

Senator Carper, before we excuse Mr. Brown from his work here this morning, do you have any questions or a statement?

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Yes, I do. Thank you very much.

Mr. Brown, it is good to see you. I appreciate very much the chance to talk with you last week.

Mr. Chairman, and my colleagues, this obviously is a very important hearing. FEMA's responses in New York after 9/11 were unprecedented. We hope that your Agency is never going to have to do anything like that again.

I think we would not be doing our jobs, however, if we did not take some time to look back over the last 2 years and see what went well and what did not, what we can learn, and what we might want to change.

I really want to applaud FEMA for starting this process on your own through the Public Assistance Program. We designed the project. We look forward to working with you and others on this committee to see what kind of reforms ought to be carried out.

Mr. Chairman, I spoke with Mr. Brown last week on the heels of Hurricane Isabel, a freak storm that visited us several days earlier as the remnants of tropical storm Henri, called by some as Henry. The storm caused heavy rains not so much in northern Delaware, but more in Southeastern Pennsylvania of anywhere from 8 to 10 inches within about a 3-hour period.

It led to flooding, not so much in Pennsylvania, but in Northern Delaware because of the confluence of the Red Clay and White Clay Creeks. It washed out a community of about 200 homes called Glenville, which you were good enough to talk with me about. It is almost 4 years to the day that they were washed out by Hurricane Floyd. It is the third time in about a dozen years that this community has been devastated. Each time they have come back, they have rebuilt and people have gone back into their homes. They have put a lot of blood, sweat, tears, and money into doing that. I think their spirits are broken this time.

Through our own local agencies, we have helped them. FEMA has been right there. We appreciate them being there and working with our team to help people get into shelters and go in and do preliminary damage assessments and that sort of thing.

The question I would have is this. If you can answer it today, then terrific. But if you would like have a little more time to give you answer then you can send it to me later this week, if possible.

One of the people who live in Glenville do not want to go back. They have been through this two or three times. Their spirits are broken. They are interested in our congressional delegation finding out how they go forward with a buy-out program. Could you just take a moment and explain to us how it works. Our Governor has submitted to President Bush a request for Federal emergency designation, a disaster designation, because of the most recent hurricane. She has also submitted a separate request for this community and the surrounding area because of the damage from tropical storm Henri.

How does the buy-out program work?

Mr. BROWN. Well, let me first address the request for declarations. The Henri request came in. We were looking at it. What we do often times is that we go back to the State and local officials

and really work with them to try to define the numbers, to see if we are close. Are we clearly over the threshold? Are we under the threshold? How close are we? What additional information do we need that might help us get to that point? We do all those things.

We were actually in the process of doing that for Glenville. Then Isabel hits. We have already expedited, at the Governor's request, the Isabel declaration. That is done. It will include Glenville. The entire State will be included based on this latest declaration. The prior declaration is still pending and still out there.

What I need to figure out, Senator, is there anything additional we can do in terms of buy-outs? I do not know how many people had flood insurance and how many did not have insurance. It is something that I am going to have to come back to you and tell you that this is exactly what we will or will not be able to do or here are the flexibilities we have.

I do want to assure you that under the expedited declaration we did for Isabel, that the entire State will be covered. I have told my folks to extend an incident period to make sure we get that covered.

Senator CARPER. All right. Thank you. In the next day or two, that would help us.

The kind of things we are interested in resolving from FEMA is how does this program work in some other places? I am sure we are not the only community and we are not the only State this has happened in.

Mr. BROWN. That is why I want to be sure that I give you good accurate information. We will get something together and sit down with you.

Senator CARPER. Thank you. The questions will include: What can the community consider before they decide to try to pursue buy-outs? What is expected in terms of State and local participation in funding these. Are buy-outs even feasible or desirable for a community like Glenville?

Those are the kind of questions we would like to resolve. If you can put us in touch with the right person, we would be grateful.

Mr. BROWN. We will do that.

Senator CARPER. I want to express a special thanks for the quick turnaround with response to the disaster declaration. That was much appreciated. Thank you.

Thank you, Mr. Chairman.

Senator VOINOVICH. Senator Jeffords, do you have any other questions?

Senator JEFFORDS. No further questions.

Senator VOINOVICH. Mr. Brown, I want to say to you that I really appreciate your service to this country. Your Agency has had an enormous burden with the aftermath of 9/11 and all the other things that just come your way. I would like to thank you personally and to carry back to the people that work with you our appreciation for the extraordinary work that they are doing to try to be responsive to all the things that they are being asked to do.

Mr. BROWN. Senator, I would just like to say in closing also that we certainly appreciate your concern about our people. It is our people within this Agency that makes us what we are. I really appreciate that.

Senator VOINOVICH. Thank you.

Our next panel is JayEtta Hecker, Director of Physical Infrastructure Issues, General Accounting Office; and Rick Skinner, Deputy Inspector General, Department of Homeland Security.

Welcome. We are very happy to have you here this morning. We will begin with Ms. Hecker.

STATEMENT OF JAYETTA HECKER, DIRECTOR OF PHYSICAL INFRASTRUCTURE ISSUES, GENERAL ACCOUNTING OFFICE

Ms. HECKER. Thank you, Mr. Chairman.

We are very pleased to be here to present our work to both you and Senator Jeffords. In fact, most of the work that I will be basing my remarks on is work that either we have recently completed for you or has been ongoing for you as well as Senator Inhofe and Senator Clinton.

The remarks that I will focus on today will cover two points—how much and what types of assistance the Federal Government provided to the New York City area following 9/11, and how the Federal Government's response differed from prior disasters. The presentation that I have uses a number of charts. Let me just briefly review; there is a lot of work that we have done and I do not want to confuse you.

The report that you are releasing today is, as you stated, on the $7.4 billion Public Assistance Program by FEMA exclusively. That is what this report reviews in detail. In addition, we have a report on major management risks facing FEMA, which was another objective you had for today's hearing. I have some remarks in my statement based on that as well.

My statement, though, and as you can see in this overview, is about the full $20 billion, not about the $7.4 billion FEMA program exclusively. However, I can talk about that in detail if we want to focus on that. Basically, I will be looking at the entirety of funding, with the focus on the distribution and the role that FEMA played in these four broad areas.

To assist in your following this, we have made copies of the posterboards for you if you want to take a closer look at them. The overview is the estimated $20 billion that was pledged and that Congress has subsequently authorized.

The major contribution that we have made to reviewing the provision of assistance is in two areas. First is giving more detail to it. You have seen it by agency and it has been authorized by agency, but what we have done is to sort it into four broad categories—initial response, compensation for losses, infrastructure restoration, and economic revitalization. These numbers actually exclude committed assistance where its use has not yet been decided. There is $1.16 billion that HUD has committed, but it has not been determined where it is going to go. The total also excludes the Victim's Compensation Fund.

The next four charts are going to take each of these slices and talk about how much was provided and what was provided by each agency. In the initial response, you have $2.5 billion that has been provided for the initial response. We have pictures of the debris removal, the urban search and rescue teams. I do not know what State that team is from, but they are similar to your teams from

Ohio who came in to aid New York. There were 20 of the 28 urban search-and-rescue teams that actually came to New York, the biggest deployment ever.

Then on the bottom you have emergency transportation repairs. You can see the devastation to the tunnels that completely block them and the emergency cleanup that worked to clean that up. Of the $2.5 billion, in initial response funding, about $1 billion is for insurance to cover the liability of the city for the claims from workers and city officials who were involved in the cleanup and who may have been affected with health claims.

That billion is not yet allocated and that agreement is not yet finalized. That is the $2.5 billion. It certainly was a record rate of activity. It was a pile of devastation that was seven stories deep. It was 11 stories high. It happened in record time and well below budget.

The second phase which covers $4.8 billion is for compensation of specific disaster related costs. This goes to three categories of recipients—to city and State officials and other government organizations like the Port Authority; it goes to individuals; and it goes to businesses. The distribution included about $3.3 billion which went to New York City and State, about $800 million to individuals, and $683 million to businesses.

The pictures we have here really are just symbolic. There are dozens of programs that are involved in serving those three constituencies. One picture is of the replacement of emergency vehicles. There were, of course, hundreds of emergency vehicles destroyed. That is what I think Assistant Secretary Brown was referring to is the traditional approach looking at vehicles, or physical damage. That was very quickly reimbursed.

We also have a picture of the substantial number of folks coming in looking to find out what kind of individual assistance and compensation were available. There were dozens of programs, not just by FEMA, but by HUD as well. The total is $4.8 billion for compensation to the three categories of recipients.

The next phase is for infrastructure restoration. This is actually a very unique area. Of course, there was the traditional damage that is always compensated under public assistance. But in this case there was an early agreement by FEMA and subsequently authorized by the Congress, not just for replacement of the damaged infrastructure, but actual enhancement and substantial improvement of the infrastructure.

What we show in this picture is actually one of the renditions of a transportation infrastructure restoration of the South Ferry Street subway station. What you have is the current line, which is that yellow loop, which is very inefficient. It only allows 5 of the 10 cars to open in the station. The plan is to change that so that the full ten cars can come into the station. There was no damage whatsoever to this station. This is part of an agreement to substantially enhance the infrastructure of lower Manhattan.

Similarly, the Fulton Street station was not damaged. There are improvements planned there at the $750 million level. There has been a real commitment by the Federal Government and with the endorsement by Congress to do far more than the simple historic replacement of the infrastructure, but a substantial improvement.

There is also a similar commitment with HUD funding. The amount is about $500 million for improvement of telecommunications and communications infrastructure. That also was an improvement. That is not simply a replacement. It is meant to try to induce and improve the economy and make it more attractive to businesses like the Stock Exchange to have a more robust support and networked infrastructure so that they feel safe being in an environment where they could be so easily interrupted.

The fourth phase is economic revitalization. This is estimated at a little over $5 billion. This includes a range of initiatives on the part of HUD to promote business attraction and retention. There is a diverse range of programs for large businesses, small businesses, as well as the $5 billion estimated value of the Liberty Zone Tax benefit plan that was passed by the Congress to assist in the revitalization of New York City.

Let me turn quickly to the last chart which tries to summarize the major differences of this approach. Of course, it was the biggest disaster ever. It was certainly profound in terms of being a terrorist incident. But what I focus on is the changes in the process and the types of assistance that were provided.

Basically we have categorized the changes into three areas. The first is that there was a complete waiving of State and local match. The law requires about a 75 percent match. At times some of the assistance has gone up to 100 percent, but never the entire amount of assistance. The State and local match was completely waived for all the FEMA public assistance for the first time in history and for all of the Department of Transportation funding. That is over $10 billion. The match there was waived.

The second biggest area—I think this was not quite brought out this morning, and I would like to make this point clear. What was really unique is that it was first time in which the amount of the disaster assistance was set very early. It basically functioned as a funding target. Congress supported the President's commitment to provide approximately $20 billion to New York City.

Basically, as Senator Clinton said, that has then functioned as a cap. So you had the various agencies who had dedicated funds, whether it was FEMA, HUD, or DOT, looking at how they could spend the funds allocated to them. The key thing was that they could not spend the $20 billion under Stafford-eligible projects. Substantial flexibility was provided to be able to expend those funds. That actually was related to the recent consolidated appropriations that authorized FEMA to basically do what amounts to a cash transfer to the city of approximately $1 billion.

This is for the type of assistance that was very nontraditional. FEMA basically closed out, for the first time in history, all of their assistance as of April 30. Then the amount that was left over is what was transferred. That was $1.1 billion that has recently been transferred to the city.

That really summarizes the work. The key things are that it was an extraordinary Federal response. I am sorry to tell you that the data was a mess. It took us a long time to try to get it to tell you where the money went and how it was used. Our report on this area will have very comprehensive reviews for you in more detail

on this, including the disbursement rate as well. We know that has been an issue of interest.

Thank you, Mr. Chairman. I would ask that my written statement be placed in the record in its entirety.

Senator VOINOVICH. Thank you very much.

Mr. Skinner.

STATEMENT OF RICK SKINNER, DEPUTY INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY

Mr. SKINNER. Good morning. I would like to thank you for having me here. I am Rick Skinner, Deputy Inspector General at the Department of Homeland Security. I would like to briefly summarize my remarks. I would like to discuss two issues.

One is the work of the OIG in New York City following the 9/11 terrorist attacks. Two is the OIG's perspective on FEMA's merger into the new Department of Homeland Security.

First, let me address our work in New York. In response to the President's declaration, FEMA applied the full range of its authorized disaster assistance programs. The FEMA OIG, in turn, deployed four teams of auditors, inspectors, and investigators early in October 2001 to New York City to oversee the management of those programs.

One team worked directly with the Federal Coordinating Officer and monitored the general management of the disaster field office and the disaster field operations. Another team worked with the FEMA public assistance staff, debriefed applicants on how to maintain records, reviewed accounting systems, and reviewed grant applications and claims to ensure the eligibility of costs.

The third team worked with the U.S. Attorney and the New York City District Attorney to detect and prosecute fraudulent claims. The fourth team, in the fall of 2002, conducted a full-blown review of FEMA's Individual Assistance Program. I brought extra copies of the report for those who may not have seen it. It was issued in December 2002. I will summarize a few of our more significant findings.

Mortgage and Rental Assistance Program. FEMA historically has not had to implement the Mortgage and Rental Assistance Program on a large scale because previous disasters did not result in widespread unemployment and economic loss. Consequently, Congress eliminated the program when it enacted the Disaster Mitigation Act of 2000, making the program unavailable after October 2002.

The effects of the 9/11 terrorist attack, however, demonstrated genuine need for programs such as this. Therefore, we have recommended in this report that Congress consider reinstating the program under the Stafford Act.

Interagency Coordination Challenges. Responsibility shared among FEMA, EPA, and the U.S. Department of Justice's Office for Victims of Crime, and voluntary agencies were not defined clearly enough to distinguish roles and establish the sequence of delivery of assistance. Recovery from the 9/11 terrorist attacks highlighted the need for advance agreements and memorandums of understanding regarding shared roles, responsibilities, and authorities among those agencies most likely to respond to future such events.

I know that Under Secretary Brown has addressed a few of those issues, particularly with regards to the coordination between FEMA and EPA in the cleanup and testing that took place there. It took place very late in the disaster because people simply did not have experience in dealing with issues like this.

Assistance to Aliens. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires that FEMA public benefits be provided only to U.S. citizens, noncitizen nations, and qualified aliens. Yet, there were 9/11 disaster victims who do not meet this criteria, but who were lawful residents of the United States, in this country legally.

One immigration advocacy group estimated that as many as 80,000 lawfully present individuals in New York City are not qualified for Federal disaster assistance. This would include aliens here on work visas or student visas.

We believe that FEMA should consider pursuing legislative change that would exempt its programs from the Federal Public Benefit Classification, when victims needing aid are lawfully present in the United States.

Grants to small businesses were made on an ad hoc basis. The 9/11 terrorist attack had a negative impact on the New York City economy, strongly affecting businesses, both large and small. In fact, GAO issued a report on this very subject last year. There is, however, presently no ongoing Federal program that provides grant support to businesses adversely affected by terrorist attacks.

SBA is authorized to make loans, not grants, to businesses adversely affected by disaster. The SBA is prohibited, however, from making loans to businesses that do not meet established eligibility criteria. SBA was unable, for example, to make loans to businesses that did not meet the Agency size requirements or standards.

After the 9/11 attacks, Congress enacted special legislation allowing the State of New York to use Community Development Block Grant funds to make business recovery grants for those affected by the 9/11 disaster. However, this was a one-time exception. Congress may wish to consider whether the Federal Government should be the insurer of last resort for terrorist-related business losses. Such a policy decision would eliminate the need to respond on an ad hoc basis if a future event like this should occur.

I would like to shift gears and address FEMA's transition into the Department of Homeland Security. This will be brief. As Under Secretary Brown has already noted in his testimony, FEMA has not missed a step in responding to disasters since becoming part of DHS.

In May of this year, we sent a team of auditors to monitor FEMA's response and recovery efforts in the State of Missouri. The caliber and effectiveness of FEMA's response was the same high standard we have seen in the past. Notwithstanding the continued success of FEMA's response and recovery efforts, FEMA has many problems that need to be address. Its ability to effectively address them is compounded by its merger with DHS.

Areas of particular concern include FEMA's financial management, the development and security of its IT systems, and grants management. Deficiencies in these areas could most certainly ham-

per the effective and efficient integration of FEMA programs and operations into the Department of Homeland Security.

However, the FEMA OIG has also transitioned into DHS and the ability of that staff to provide oversight, as we have in the past, of those activities has been diluted due to the many high profile, non-FEMA programs and activities that the DHS' OIG has responsibility for.

In addition, although numerous grant programs are now consolidated within DHS, their management is divided among various components of the Department. For example, preparedness for terrorism is in the Border and Transportation Security Directorate, while other preparedness efforts are in the Emergency Preparedness and Response Directorate. This bifurcation could create additional challenges related to intergovernmental coordination, performance accountability, and financial accountability.

It is our understanding that these problems are now being addressed legislatively. Further, we just learned that Secretary Ridge has announced plans to centralize these programs within a single office in the Department. These initiatives, either legislatively or through reorganization, if implemented, could very well resolve many of our concerns.

This concludes my opening remarks. Again, I appreciate the opportunity to testify before you today. I will be happy to answer any questions you may have. I would ask that my written statement be placed in the record in its entirety.

Senator VOINOVICH. Thank you very much for being here.

Ms. Hecker, this last chart that you showed us, the nontraditional work funded, such as improvements to transportation infrastructure in lower Manhattan. This is brand new to me. This was a massive infusion of public dollars to enhance the existing set up. In other words, this was more than just a replacement that we are dealing with?

Ms. HECKER. Precisely.

Senator VOINOVICH. What is the dollar amount on how much of this nontraditional money that was put in there? FEMA comes in and they do their work. They help with the library and fix it up. There may be other public buildings that may have been damaged. This seems to have gone way beyond anything like that.

Ms. HECKER. We have not been able to identify an explicit number that was above and beyond Stafford in part because there was substantial flexibility that FEMA officials decided that they had within the Stafford Act to actually improve transportation infrastructure.

There was actually a legal opinion. There was a conclusion that simple replacement of the infrastructure would not restore its functionality. Therefore, they felt improvements were necessary. There were certain types of improvements that they said would have been Stafford covered. But then you had congressional authorization saying that these completely unrelated areas could also be funded as well.

It is not clean-cut of what is over and above Stafford. The Fulton Street station, as I said, was $750 million. There was no damage there. What they are doing is that they are connecting lines that previously were not connected. They are making it a complete

lower Manhattan transit center where all the lines connect. There used to be at least three areas with more than 10 lines. There would be different stations. The South Ferry Station that was on the chart is $400 million.

Ms. HECKER. Do you have that in your report on one page that you can see that? The reason I am asking the question is that this is an extraordinary commitment of infrastructure dollars. This was part of the cap, right?

Ms. HECKER. Absolutely.

Senator VOINOVICH. It is all within the cap?

Ms. HECKER. Precisely.

Senator VOINOVICH. The point I am making is that we may get some requests now to come in and say there are ongoing things that we needed to do and were capped out. What I am trying to say is it is an allocation of resources. If you put all the money, $1.5 billion, into public improvements and then you come back and say, "Well, hey folks, we do not have enough money to take care of the people." I think Senator Clinton mentioned mental health.

Who decided the allocation of the funds? The same people are coming to us to say, "Hey, we do not have enough money for these people. But by the way, we did have enough money to do these public improvements to lower Manhattan."

Ms. HECKER. It is certainly a choice that officials in New York City and State made working with FEMA on the allocation of the funds. There were many meetings about it. There were lots of areas that came before the Congress where there were concerns about coverage. One was costs—$11 million for the rescheduling of elections, not a cost traditionally covered. There were increased Medicaid costs by the State—not a cost traditionally covered.

There were costs of COLA adjustments to pensions. The city was looking for reimbursement of that. These are nontraditional types of costs nowhere covered by the Stafford Act, but with that expedited closeout and that transfer of additional funds, the city and State now will be making the choices of that remaining $1 billion and have made many choices already in terms of dedicating funds to transportation improvements.

Senator VOINOVICH. I am really interested in that—all these things that are nontraditional.

Ms. HECKER. We will try to isolate that. As I said, there is a fuzzy line in some of them.

Senator VOINOVICH. Thank you.

Senator Jeffords.

Senator JEFFORDS. Thank you, Mr. Chairman.

Ms. Hecker, did you find any information as to why the President capped the disaster funding for New York $20 billion? Was there any rationale given for that?

Ms. HECKER. We have not seen much documentation on that. Basically the press reports were that there were overtures to him that he should come out with a very strong statement of a commitment to provide support for New York. There is no documentation of where the $20 billion came from. The Secretary said, "There was very little known in the beginning about the buildings."

For example, the buildings were owned by the Port Authority. There was some concern at the beginning that perhaps the cost of

the replacement of the building might be part of public assistance. There is not much documentation.

But as the process went on and traditional applications came in, it was clear that the $8.8 billion that Congress set aside for FEMA was not going to be met with eligible Stafford Act projects.

Senator JEFFORDS. Is the $20 billion sufficient?

Ms. HECKER. Once you are out of the Stafford Act, everything is a question of judgment. The Stafford Act has its history about what is covered. What is covered by the Stafford Act has been provided or is covered in this $1 billion transfer. The above and beyond is a discretion of Congress to decide what is adequate.

Senator JEFFORDS. This is a question for Mr. Skinner.

In your written testimony you state that FEMA should be more proactive in requesting EPA to conduct necessary testing and there are studies to determine that the public health or safety threat exists in the future in future disasters.

So that cleaning efforts can begin much earlier in the recovery phase, am I correct in understanding that had EPA expressed their concerns about indoor air quality in lower Manhattan earlier, FEMA could have provided emergency response funding more quickly?

Mr. SKINNER. Yes, I believe they could have. FEMA knew early on that there was asbestos in the air as a result of these attacks. But because FEMA's lack of experience in this area—as well as EPA's lack of experience in this area—and the question of whether they even had the authority to authorize cleanup of individual residences, particularly on the inside, was something that I think was discussed for many months before an ultimate decision was made to test and clean residences.

What we are suggesting here is that in the future we need to be a little bit more proactive. If there is any evidence whatsoever, particularly after an event such as the terrorist attacks, or any possibility that there could be some contamination in the air, then FEMA should probably be going to EPA early on and directing them to test the air quality to find out exactly what hazards may exist. This needs to be done early on.

I do not think either FEMA or EPA was prepared after 9/11 to address this issue in the early stages of the disaster.

Senator JEFFORDS. What complicating factors are present in the new Department that may make it more difficult for FEMA to conduct its work and address some of the management challenges you describe in your testimony?

Mr. SKINNER. FEMA's Financial Management System is a good example. It is fraught with problems and if you pull one string, the whole thing could fall apart. Now it is being integrated into the Department of Homeland Security's Financial Management System.

FEMA's financial management systems have several material weaknesses that will affect the Department of Homeland Security's ability to build a reliable department-wide accounting system. The same holds true, for example, with the IT systems. There were IT development efforts ongoing within FEMA prior to the creation of DHS. Many of those development efforts now have to take a back seat or have to compete with other priorities within the Depart-

ment of Homeland Security as to which IT projects should be continued.

The security of FEMA's IT systems, like the security of all the legacy agencies, are very weak. Only a handful of them may have passed an IT security "litmus" test. The problem will certainly affect DHS' ability to integrate legacy systems into a department-wide system.

Grants management has always been a problem with FEMA. It also has been a problem with the DOJ programs, from what I understand. According to DOJ-OIG reports, grants to the States are oftentimes made late. In FEMA's case, grants are timely, but once the funds are passed out, there is no accountability. FEMA does not obtain accurate and timely financial reports, nor are they making onsite monitoring visits. FEMA is validating that the funds are being spent the way they are supposed to be.

I was the Deputy Inspector General at FEMA before the merger with DHS. We questioned over $900 million in grant expenditures in just FEMA programs alone over the last 9 years. These are the types of issues that the DHS must now grapple with, now that they are merged in with DHS. These are problems that will need to be addressed now that they have been transferred into DHS.

Another issue, and I think it is a very serious one, DHS needs to take a very close look at, is this: Are these grants, in fact, enhancing the State and local's ability to respond to and recover from disasters, whether they are caused by natural events or terrorist events? DHS has no performance measures to suggest that the grants that are being passed out on a yearly basis, costing billions of dollars, are, in fact, having an impact on the nation's ability to prepare for and respond to disasters. I think that this issue needs to be addressed sometime soon as these accounts get larger and larger as time goes on.

Senator JEFFORDS. Thank you. I know I went well over my time, but I think it is information well deserved to be received.

May I continue?

Senator VOINOVICH. I have some other questions.

Senator JEFFORDS. Then you go ahead and let me rest.

Senator VOINOVICH. Probably what we need to do is to look at all the various agencies that are being merged into the Department of Homeland Security. How many of them are on GAO's high risk area?

Ms. HECKER. The whole merger is on the high risk list.

Senator VOINOVICH. The issue that Mr. Skinner is getting at is that some of these components were already weak to begin with and now they are going into the new Agency. The issue is: Are they going to better cured by having DHS just focusing on that issue in other agencies and put it all in one basket? Will they be better off just focusing on FEMA to make sure that their financial management systems are in place? That is a policy decision that needs to be made.

One of the points that you made—and again I would like to capture it, is that the grants that were given to New York did not require the match. Have you captured the cost savings in terms of not having to come forward with a match? Traditionally the locals

have to come up with a match. In this particular case, that was waived. Did you put a dollar amount on that?

Ms. HECKER. As I said, the law requires a maximum 75/25 percent State/local match. In prior disasters, the State/local match has been waived for part of the disaster. In the North Ridge earthquake, part of public assistance, the emergency or the short-term work, the State/local match was reduced to 10 percent. In some disasters, the Federal Government has covered 100 percent for some specific expenses or time period. As such, you cannot just estimate what is 25 percent of $8.8 billion. Historically there is a lot of a discretion there to vary the amount. The point is that it has never been entirely without a State or local match for the entire value of the public assistance, in this case $8.8 billion.

Senator VOINOVICH. What I would like to do would be to take a minimum figure. In other words, if you look at other projects, is this is worth 25 percent, 15 percent, or 10 percent? I would like to get a handle on how much money the local communities were saved as a result of not having to come up with the match which is a match that traditionally communities have to come up with. We had to come up with it in Ohio when we had our disasters.

Ms. HECKER. Particularly for the transportation improvements. This is the first time that the transportation match has been waived as well.

Senator VOINOVICH. I am really interested in that. I would like to really capture the total cost of all of this and what was done. All right?

Ms. HECKER. Yes.

Senator VOINOVICH. Mr. Skinner, I would like to talk about the issue of information on what people are exposed to. Does FEMA traditionally get into the issue of air quality?

Mr. SKINNER. To my knowledge, no. It is somewhat unique.

Senator VOINOVICH. That is like an EPA's responsibility. The issue then becomes when EPA gets involved, are they responsible for the air quality outside and inside? You may not have the answer to this.

Mr. SKINNER. I do not know the answer to that. It was my understanding that at the time of the World Trade Center incident, they did not believe they had the authority or responsibility for the air quality inside a residence.

Senator VOINOVICH. In other words, they felt that was up to the local health department to determine what was the condition inside?

Mr. SKINNER. Yes; that is my understanding, but that question could be better answered by EPA.

Senator VOINOVICH. One of the things that I am interested in, as I mentioned earlier, is the legislation that Senator Clinton and I have that was voted out of this committee that empowers the President to move in and get all that information. We still have the situation where you have the EPA out there. Allbaugh was taking about Health and Human Services being involved.

I would like to get an answer in terms of what is the vehicle that would be looked to if the President were to exercise his authority under this legislation. It is easy to have legislation. But the issue is if it happens, who is responsible for what? Is it going to be EPA

that is going to be the one that is doing it? Is it Homeland Security that is going to be done? Is it HHS?

Something has to be put together so that it is comprehensive. Are they responsible for just the exterior air? All of that, I think, really needs to be worked out. I think we ought to get a question to the Agency and really followup on that particular issue.

Mr. SKINNER. Yes, I agree. That was our point in our report. I think the lessons learned from 9/11 should be a guideline for FEMA and EPA to start developing some protocols before the next disaster, so when the next incident does occur, they will be better equipped.

Senator VOINOVICH. In terms of your oversight there, did you ever get into the issue of their processing of these claims for the first responders in terms of their health claims? Did you look at that at all?

Mr. SKINNER. No, we did not, sir.

Senator VOINOVICH. It is just another area where they just did not get the job done.

Mr. SKINNER. It was just so much to do there. Again, we focused primarily on the individual assistance programs, knowing that GAO was going to be focusing on the public assistance programs.

Senator VOINOVICH. OK. I have exhausted my time.

Senator Jeffords.

Senator JEFFORDS. I have no further questions.

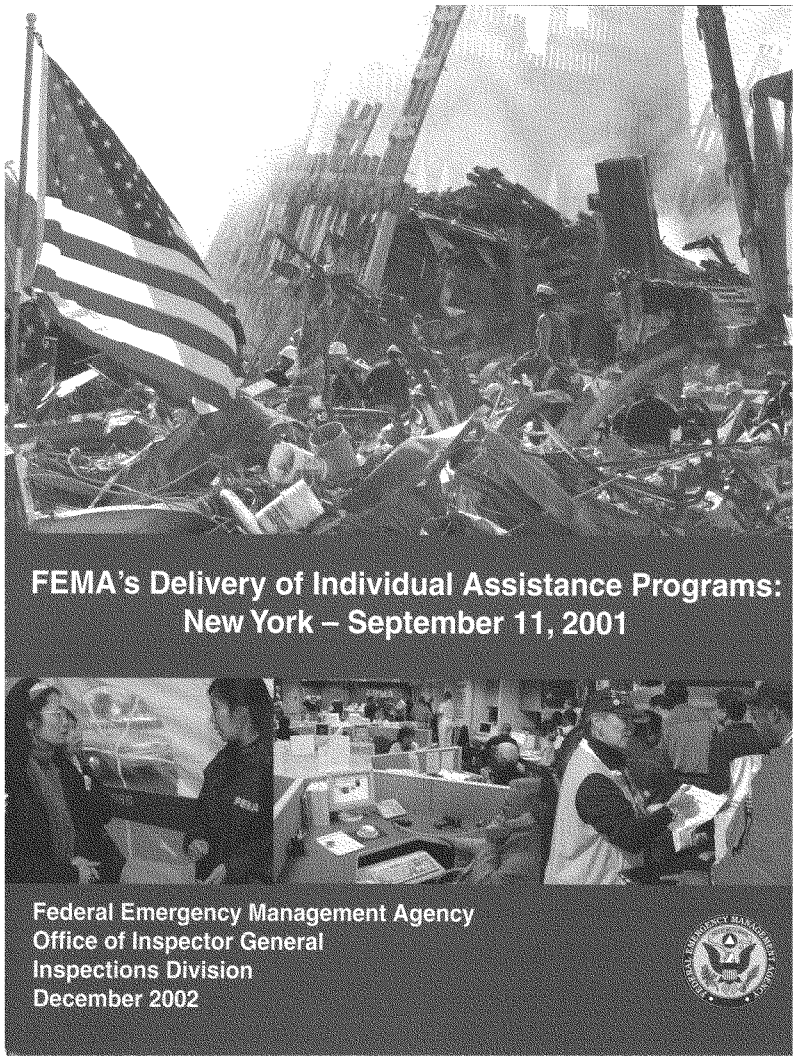
Senator VOINOVICH. I would like to thank you both for being here today. It has been really illuminating.

Mr. SKINNER. Thank you. It was our pleasure.

Senator VOINOVICH. I am going to ask that FEMA report and the GAO report on FEMA, "Major Challenges and Program Risks," released today be entered into the record.

Without objection, so ordered.

[The referenced reports follow:]


FEMA's Delivery of Individual Assistance Programs:
New York – September 11, 2001
Federal Emergency Management Agency
Office of Inspector General
Inspections Division
December 2002

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PREFACE

December 18, 2002

This report presents the results of our review of FEMA's delivery of individual assistance in New York after September 11, 2001. It focuses on issues that need to be addressed by both FEMA and Congress as they consider regulatory and legislative changes to improve FEMA's delivery of assistance to victims of future terrorist attacks that result in presidential disaster declarations.

The Inspections Division, Office of Inspector General, prepared this report. Questions may be addressed to Clifford N. Melby, Assistant Inspector General for Inspections, at (202) 646-3338. Key contributors to this report were Gary Barard, Patsye Ervin, Marcia Moxey Hodges, Carlton I. Mann, Meredith L. Megles, George Peoples, Katherine Roberts, and Sharon Thompson.

Richard L. Skinner
Acting Inspector General

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EXECUTIVE SUMMARY

The unparalleled terrorist events of September 11, 2001, in New York City resulted in catastrophic physical damage and loss to the business and residential infrastructure in the lower part of the Borough of Manhattan. The majority of individuals affected by this disaster required assistance to address economic losses, the possibility of air contaminants in residences, and crisis counseling. Because the Federal, State, and local governments had never before experienced some of the consequences of this kind of event, FEMA re-examined its authorities under the Stafford Act and updated, as necessary, its interpretations for administering applicable programs. The authorities of the Stafford Act are not necessarily sufficient to meet all needs or demands but Congress did not intend for FEMA to return all disaster victims to their pre-disaster status.

FEMA applied the full range of authorized disaster assistance programs to the post-disaster needs of individuals, including Temporary Housing (specifically Mortgage and Rental Assistance), Individual and Family Grants, Disaster Unemployment Assistance, Crisis Counseling Assistance and Training, and Legal Services. FEMA, however, due to the unique circumstances of this disaster, (i.e., managing the consequence of a terrorist attack rather than the consequences of hurricanes, tornadoes, or floods), had to use its authorities and programs more broadly than it ever had before. FEMA's authorities were not adequate to meet everyone's expectations in recovering from the unprecedented needs created by this event. FEMA had no specific authority to: (1) deal with the broad economic losses experienced by the range of people affected by the attack, and (2) address the issue of possible air pollutants and its impact on the general population of New York City beyond assessing threats to immediate health and safety. In addition, due to legal constraints, FEMA could not address recovery needs of: (1) lawfully present disaster victims who are not United States citizens, non-citizen nationals, or qualified aliens (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and (2) otherwise eligible non-critical Private Non-Profit (PNP) service organizations prior to the PNP first availing itself of assistance from the U.S. Small Business Administration (Disaster Mitigation Act of 2000).

Furthermore, FEMA was challenged in coordinating with other Federal agencies responding to the consequences of this event. Coordinating the activities of State and local voluntary organizations also presented difficulties in an environment in which unprecedented offerings of assistance were made.

FEMA should be more proactive in using the expertise available from other resources. FEMA also should focus on improving outreach after events that affect large, diverse populations. Congress may wish to consider legislation to develop a program similar to the Mortgage and Rental Assistance (MRA) program but with greater flexibility to address economic losses and financial hardships. Such a program would help to ensure that the needs of victims in future terrorist attacks are met. Finally, Congress also may wish to consider whether FEMA or another Federal agency should administer grants to small businesses that have been adversely affected by a disaster. Appendix A includes a summary of issues requiring FEMA's attention.

FEMA reviewed in detail a draft of our report and made valuable contributions, ensuring that this report accurately portrays the events and activities affecting FEMA's delivery of individual assistance to the victims of the terrorist attacks. We also obtained comments from the State of New York, U.S. Environmental Protection Agency (EPA), U.S. Department of Health and Human Services' Center for Mental Health Services (CMHS), U.S. Department of Justice (DOJ), U.S. Department of Labor (USDOL), and U.S. Small Business Administration (SBA). Their comments can be found in Appendices to this report.

BACKGROUND

Congress directed the Inspector General to review the use of funds provided to FEMA to meet the post-attack needs of New York City and to report any deficiencies or gaps in FEMA's statutory authorities that may have impeded the delivery of individual assistance to the victims of the terrorist attacks.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) authorizes FEMA to administer five distinct Individual Assistance (IA) programs in response to presidential disaster declarations: (1) Temporary Housing Assistance, (2) Individual and Family Grants, (3) Crisis Counseling, (4) Unemployment Assistance, and (5) Legal Services. The Disaster Mitigation Act of 2000 (DMA 2000) required changes to some of the above-mentioned programs and is effective for all disasters declared on or after May 1, 2002. (See Appendix B for a summary of the financial status of IA programs as of November 1, 2002.)

TEMPORARY HOUSING ASSISTANCE

The Temporary Housing Assistance program has five components: Mortgage and Rental Assistance, Minimal Home Repair, Transient Accommodations, Rental Assistance, and Manufactured Housing. Temporary Housing Assistance is funded 100-percent by FEMA.

❑ MORTGAGE AND RENTAL ASSISTANCE

FEMA's Mortgage and Rental Assistance (MRA) program is designed to cover rent or mortgage payments for victims who suffer financial hardship as a result of a major disaster. Victims who are unable to pay their rent or mortgage and have received written notice of eviction or foreclosure may be eligible for this program, which addresses economic injury rather than physical injury.

FEMA had mailed 44,781 MRA packages to disaster victims as of November 14, 2002. Only 17,843 (40 percent) were returned. Of those, 15,803 were processed, and 9,610 (61 percent) were determined eligible. Payment to eligible recipients accounted for approximately $76 million in MRA costs.[1]

❑ MINIMAL HOME REPAIR

The Minimal Home Repair program is designed to restore a home to a habitable condition by making limited home repairs until more extensive repairs can be made. FEMA had approved approximately 548 applications as of November 14, 2002, totaling approximately $1.5 million.[2]

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[1] FEMA Texas National Processing Service Center, "Mortgage and Rental Assistance Determination Summary," November 14, 2002.

[2] FEMA Texas National Processing Service Center, National Emergency Management Information System (NEMIS) data, November 14, 2002.

❑ Transient Accommodations

Short-term (up to 30 days) lodging expenses of victims are reimbursed by Transient Accommodations. FEMA had processed approximately 689 applications as of November 14, 2002, approving 504 (73 percent), totaling approximately $1.2 million.[3]

❑ Rental Assistance

Rental Assistance is designed to meet temporary housing needs of homeowners and renters by providing a grant based on fair market rents in the disaster-declared area. Eligibility criteria used in previous disasters were applied, which includes permitting recipients to use the funds for any type of housing-related expenses, such as the purchase of cleaning items. FEMA had processed approximately 7,339 applications as of November 14, 2002, and 5,056 (69 percent) were approved, totaling approximately $26 million.[4]

❑ Manufactured Housing

The Manufactured Housing program was not used for this event.

Individual and Family Grants

The Stafford Act authorizes the Individual and Family Grants (IFG) program to meet disaster-related necessary expenses or serious needs of disaster victims that could not be met through other provisions of the Stafford Act or through other means, such as insurance; other Federal assistance; or voluntary agency programs. Eligible expenses may include those for real and personal property, medical and dental expenses, funeral expenses, transportation needs, and other expenses specifically requested by the State.

An eligibility criterion for most categories of IFG grants is that the applicant has first made application for a loan from the U.S. Small Business Administration (SBA) and been declined. Some IFG grants that may be provided without application to SBA include those for medical, dental, and funeral expenses, and some assistance placed in the "other" category.

Because the September 11 event was both a disaster and a criminal act, programs of the U.S. Department of Justice's (DOJ) Office for Victims of Crime were also applicable. As a result, expenses related to medical, dental, and funeral were covered by DOJ.

States, as grantees, administer and implement the IFG program but may request FEMA to process applications on the State's behalf. When a State processes IFG applications, FEMA still works closely with the State and provides advice, accepts applications, and assists in eligibility determinations. Moreover, the State must develop a plan for administering the program that identifies the State agency responsible for program administration, functions to be performed, program procedures, key management staff, and the sources from which additional personnel

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[3] Ibid.
[4] Ibid.

will be obtained. The State of New York initially both administered the program and processed applications for the events of September 11.

Approximately 129,106 IFG applications were transmitted to the State as of November 14, 2002, and 37,787 applications were approved and paid, totaling approximately $34 million in disbursements to eligible applicants.[5] IFG program costs are shared by States, with FEMA paying 75 percent and States paying 25 percent.

CRISIS COUNSELING

The Stafford Act authorizes financial assistance for professional counseling to relieve mental health problems caused or aggravated by a disaster or its aftermath. FEMA provides funding for these services to States under the Crisis Counseling Assistance and Training Program (CCP), which encompasses the Immediate Services Program (ISP) and the Regular Services Program (RSP). The ISP provides funding for counseling that can be applied to meet mental health needs immediately following a disaster. ISP services may be provided for 60 days from the declaration date, with a possible extension of 30 days or more if the RSP application is pending within that same period of time, or if the State can justify a continuing need for the ISP. The RSP generally expands upon the ISP by enabling the State to identify and reach affected populations more effectively. The RSP funds services up to nine months from the date of award notice, and provides for extensions of up to three months, contingent on ongoing need. The RSP has been extended beyond three months after catastrophic disasters. CCP is funded 100-percent by FEMA.

Providing technical assistance for the program, the Center for Mental Health Services (CMHS) under the U.S. Department of Health and Human Services (HHS) consults with State officials and helps to ensure that appropriate services are provided.

Historically, only States receiving a major disaster declaration had been eligible to apply and receive funding for FEMA's CCP. Recognizing the special need resulting from the unusual circumstances of September 11, however, the State of New York requested that the undeclared border States of New Jersey, Connecticut, Massachusetts, and Pennsylvania be allowed to apply for CCP funding. The request was allowed, the affected States each applied separately but through the declaration for New York, and each was approved for CCP funding.

The total approved disaster funding, as of October 2002, for CCP was $162.4 million, of which $21.4 million was for the ISP and $141 million for the RSP.[6] Actual obligated funds for the RSP are $37.7 million.

Because the September 11 event was a disaster and a criminal act, DOJ's program to meet similar victim assistance needs also applied. FEMA believes that CMHS, the States, and itself coordinated closely with DOJ to ensure that programs were complementary in providing mental health services.

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[5] FEMA NEMIS, "IFG Cumulative Status Report," November 14, 2002.

[6] Center for Mental Health Services, Emergency Services and Disaster Relief Branch, October 25, 2002. These figures have been rounded and include CCP assistance for the States of New Jersey, Connecticut, Massachusetts, and Pennsylvania.

The DOJ program provides fee-for-service (individual counseling or therapy sessions) funding only to victims directly affected by the criminal act, whereas the FEMA CCP (an outreach, education-based program) is available to anyone residing in or visiting the affected area during the disaster. Because of these program differences, FEMA believes that there was no duplication of benefits.

UNEMPLOYMENT ASSISTANCE

The Stafford Act authorizes FEMA to provide assistance to any unemployed individual whose employment or self-employment was interrupted as a result of a declared disaster and who is not eligible for regular State Unemployment Insurance or other supplemental income. Disaster Unemployment Assistance (DUA) can be provided in the period until applicants resume work or their customary employment, traditionally up to 26 weeks. The amount of DUA is authorized by the State's regular employment program. DUA is not designed as an income replacement program. Through a delegation of authority by FEMA, the U.S. Department of Labor (USDOL) oversees and coordinates the program. DUA is funded 100 percent by FEMA and administered by the State agency responsible for providing unemployment services and insurance.

Eligible applicants received at least the minimum benefit in effect in New York State at the time of this disaster, $126 per week, which was reduced by any Workers' Compensation or Social Security benefits the applicants received. Applicants qualifying for the maximum amount received $405 per week before reductions. Gaps may exist between applicants' day-to-day living expenses and DUA benefit amounts, which were considerably less than the weekly pay of most. Approximately 6,679 applications were received as of October 2002, and 3,284 applications (49 percent) were approved, totaling approximately $13.2 million.[7]

LEGAL SERVICES

The Stafford Act authorizes legal services to help low-income victims with disaster-related legal issues such as landlord/tenant relationships, employment, immigration, insurance, credit and bankruptcy, will validity, trusts and estates, real property, and powers of attorney. The program was implemented post-September 11 using eligibility criteria applied in previous disasters. Attorneys work *pro bono* and FEMA reimburses eligible administrative costs through the Young Lawyers Division of the American Bar Association. FEMA believes the program is cost effective because the work is *pro bono* and many lawyers, firms, and organizations donate legal services outside FEMA programs. As of November 14, 2002, legal services assistance totaled $2,010.[8]

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[7] USDOL, October 25, 2002.

[8] FEMA Community and Family Services Branch, November 14, 2002.

OBJECTIVES, SCOPE, AND METHODOLOGY

Congress directed the Inspector General to review the use of funds provided to FEMA to meet the post-attack needs of New York City, and to report any deficiencies or gaps in FEMA's statutory authorities that may have impeded the delivery of individual assistance to the victims of the terrorist attacks. We conducted our fieldwork during August, September, and October 2002. We reviewed and analyzed a wide range of Federal, State, and local documents associated with this disaster, including news articles generated by the media related to the event. We also used the following references during our review:

- Congressional Research Service, *Federal Disaster Policies After Terrorist Strike: Issues and Options for Congress*, June 24, 2002;
- Testimony of FEMA's Director, Committee on Environment and Public Works, U.S. Senate, September 2002;
- Urban Justice Center, *Ripple Effect*, The Crisis in NYC's Low-Income Communities after September 11th, September 2002;
- General Accounting Office, *September 11, Interim Report on the Response of Charities*, GAO-02-1037, September 2002;
- *A Nation Remembers, A Nation Recovers*, Responding to September 11, 2001, One Year Later, FEMA, September 2002;
- U.S. Small Business Administration, *Business Assistance Guide*, for the September 11th tragedy in the greater New York Area;
- General Accounting Office, *September 11, Small Business Assistance Provided in Lower Manhattan in Response to the Terrorist Attacks*, GAO-03-88, November 2002; and
- General Accounting Office, *September 11, More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters*, GAO-03-259, draft report, December 2002.

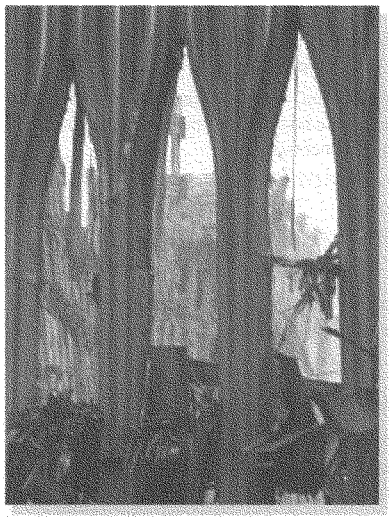
We met with FEMA officials engaged in response and recovery, and with officials at the U.S. Departments of Justice, Labor, and Health and Human Services; U.S. Small Business Administration; New York State Department of Labor; New York State Emergency Management Office; New York City Office of Emergency Management; staffs of the U.S. House of Representatives and the U.S. Senate; staffs of the New York and New Jersey State delegations; New York City Council members and staff; and officials from the National Emergency Management Association. We interviewed, by telephone, officials from the New York Immigration Coalition and the New York State Crime Victims Board. We also attended roundtable forums in New York City with congressional delegation staffs and representatives from voluntary agencies, citizen advocacy groups, and small businesses. Appendix C includes a summary of their concerns.

We obtained data from FEMA's National Emergency Management Information System (NEMIS) to determine significant variations in IA program delivery between this and other major disasters.

We examined historical processing data and eligibility determinations for disaster declarations in Texas, Michigan, and North Carolina (see Appendix E). We also extracted financial data from FEMA's Integrated Financial Management Information System.

ELIGIBILITY ISSUES IN THE MORTGAGE AND RENTAL ASSISTANCE PROGRAM

The way in which the September 11 terrorist attacks rippled through the New York and national economies was unprecedented. The scope and effect of the attacks on the stock market and tourism industry, for example, are still being debated. FEMA historically has not had to implement the Mortgage and Rental Assistance (MRA) program on a large scale because previous disasters did not coincide with nor result in widespread unemployment and national economic losses. From the inception of MRA until September 11, only $18.1 million had been awarded under the program for 68 declared disasters, compared to approximately $76 million as a result of the New York disaster alone.[9] Because it was seldom used, Congress eliminated the program when it enacted the Disaster Mitigation Act of 2000 (DMA 2000) making the program unavailable after May 1, 2002.



FEMA had to face the challenge of implementing this program in a disaster that caused significant economic consequences, including not only the obvious economic impact of the incident itself but also the indirect economic effects felt throughout the country. The language of the Stafford Act's MRA authority establishes as a criterion for assistance a written notice of dispossession or eviction. The law is silent, however, on what constitutes a financial hardship. This omission required FEMA to interpret to what extent a personal financial loss constitutes a financial hardship, and to determine if that hardship resulted directly from the primary effects of the attacks or from secondary effects on the nation.

The MRA program's limited use, the broad economic impact of this unprecedented event, and FEMA's challenge to differentiate between primary and secondary economic effects contributed to difficulties in delivering timely and effective assistance. The number of victims assisted in this event and the possibility that future terrorist attacks would produce similar economic consequences suggests a valid need for economic assistance. Congress may wish to consider legislation to develop a program similar to the MRA program that addresses economic losses and financial hardship but enables greater flexibility.

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[9] FEMA's Recovery Division, December 2002.

ELIGIBILITY CRITERIA

The MRA program is unique because it addresses limited, individual economic losses versus physical damage resulting from a disaster. Traditional inspection of damages as a basis for program eligibility, therefore, does not apply to MRA. Individual financial hardships caused by the disaster must be evaluated case-by-case. FEMA attempted to clarify eligibility criteria that required a clear link between physical damage to the business or industry caused by the disaster and an applicant's loss of household income, work, and/or employment regardless of geographic location. FEMA determined that eligibility for MRA would be expedited for the geographical areas known as the "Red" and "Green" zones within the declared county in New York City. The zones were defined to include the area south of Houston Street in the lower part of the Borough of Manhattan.

FEMA reiterated previous guidance and statutory language for implementing the MRA program in early October 2001. Applicants must have provided the following to be eligible:

- Proof of economic hardship as a direct result of the incident. The applicant's economic hardship is defined as "significant loss, at least 29 percent, of the household's monthly gross income," as demonstrated by the provision of supporting documentation;[10]
- A signed Declaration of Applicant (FEMA Form 90-69D) documenting that the applicant is a citizen, non-citizen national, or qualified alien;
- A signed Applicant Statement/Authorization (FEMA Form 90-69B);
- Proof of pre-disaster primary residence;
- Proof that the applicant is at risk of losing, as a direct result of the disaster, the pre-disaster primary residence via eviction, dispossession, or foreclosure by the landlord or mortgage company.

Assistance after the initial payment would be continued if the applicant could:

- Prove that the applicant continues to reside in the pre-disaster residence;
- Provide documentation to support the applicant's continuing loss of at least 29 percent of household income as a direct result of the incident; and
- Demonstrate that the applicant is working toward securing permanent housing.

As in all disasters, self-employed or business-owner applicants were advised to apply first to the U.S. Small Business Administration (SBA) for an Economic Injury Disaster Loan before continued assistance would be considered. The October 2001 guidance established that the application period would conclude six months after the disaster declaration date and that the MRA assistance period would not exceed 18 months from the declaration date.

FEMA officials, explaining the guidance, told us that a significant number of individuals outside New York City and across the nation were experiencing similar financial stress. Many airports

[10] According to FEMA officials, the 29-percent threshold was based on the eligibility criteria from the U.S. Department of Housing and Urban Development's Section 8 Housing Program at the time of the event. In November 2001, FEMA modified the figure to 25 percent.

and businesses, for example, were forced to undergo layoffs as an indirect result of the event. To clarify MRA eligibility, FEMA added the word "direct" to the phrase "as a result of the disaster" to highlight the link between the disaster's actual physical damages to businesses and employers, and an eligible applicant's significant loss of household income.

FEMA, in the eligibility definitions in the October 2001 guidance, distinguished a household's primary effects from secondary economic effects of the disaster by inserting the word "direct" before "result of the incident." This may have created a perception that a more restrictive threshold was being applied. Households included (1) employees who had lost their jobs at Ronald Reagan National Airport, (2) families that had lost a major source of household income due to the injury, death, or missing status of a family member who provided a significant portion of the household income, (3) individuals who had lost a significant portion, at least 29 percent, of their monthly gross household income due to the physical damage to their place of business or employment within the declared disaster area, or (4) employees who had lost a significant portion, at least 29 percent, of their monthly gross household income due to the location of their businesses or place of employment within the World Trade Center (WTC) hazard area. The decision to include Ronald Reagan National Airport was consistent with the U.S. Department of Labor's (USDOL) decision to provide disaster unemployment benefits for employees at the airport and FEMA's understanding of the unique security issues related to this airport.

FEMA issued additional guidance in early November 2001 to clarify the policies and procedures used in determining eligibility for MRA. This guidance provided that an applicant('s):

- Must be under a threat of eviction from or foreclosure of the applicant's primary residence due to non-payment of rent or mortgage;
- Must have substantial loss of income due to the death, injury, or "missing" status of a family member who provided a significant portion of the household income. A substantial loss of income is defined as a total post-disaster household income that is at least 25 percent less than pre-disaster household income;
- Employer or business supplied goods or provided services to a physically damaged or inaccessible business located in or near the WTC or in the Pentagon; or
- Employer or business supplied goods or provided services to a business adversely affected by the destruction of the WTC or damage to the Pentagon; or that the applicant is otherwise dependent on a business or industry so adversely impacted; or
- Employer or business is dependent upon a business (or other organization) that was closed or suspended its operations or was otherwise disrupted as a result of the destruction of the WTC or damage to the Pentagon; or
- Employer or business was directly impacted by the destruction of the WTC or damage to the Pentagon between September 11, 2001, and October 22, 2001.

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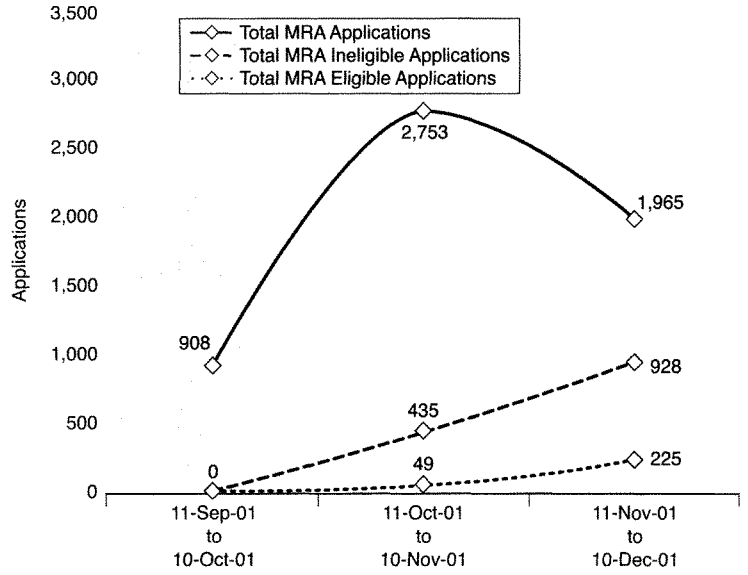
[11] These figures reflect applications in various stages of review, including recertification and reclassification based on expanding criteria. Eligible and ineligible figures, therefore, will not equal total applications at any given date.

Figure 1 illustrates the impact on applicant eligibility and ineligibility as FEMA guidance was clarified.[11]

Figure 1— MRA Applications Determined Eligible from September 2001 to December 2001



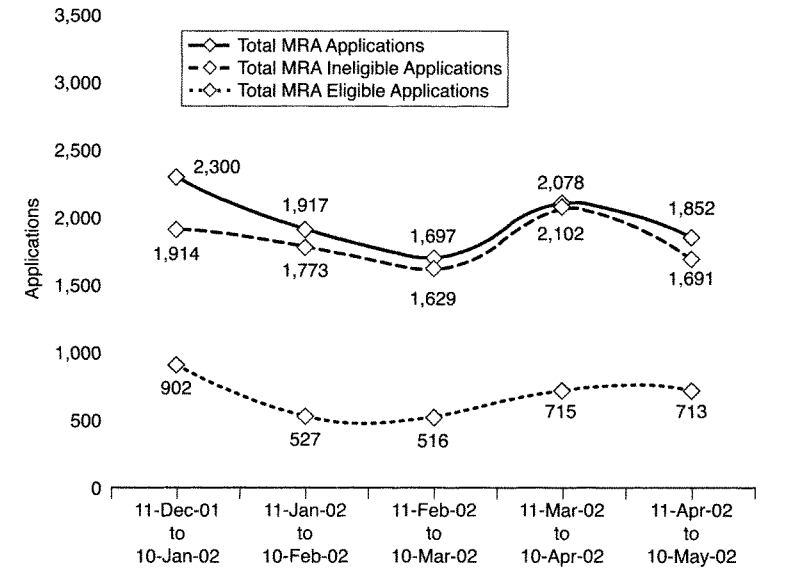
Source: VA NPSC Data, September 2002

FEMA took further steps to clarify and expand eligibility criteria during the period December 2001 to March 2002. These included:

- *December 1, 2001:* Clarified that a late notice is acceptable documentation to indicate intent to foreclose or evict.
- *February 19, 2002:* Declared disaster victims suffering from medical and/or psychological trauma eligible to apply for MRA given the unprecedented psychological trauma being experienced that prevented them from returning to their residence near the disaster area.
- *March 28, 2002:* Modified duration of MRA eligibility from 18 months after the disaster declaration date to 18 months from the applicants' MRA-eligibility date.

These clarifications did not significantly increase MRA eligibility, as illustrated by the relatively constant numbers of applications in Figure 2.

Figure 2—MRA Applications Determined Eligible from December 2001 to May 2002



Source: VA NPSC Data, September 2002

IMPACT OF EXPANDED ELIGIBILITY CRITERIA

As the tables above illustrate, a low number of disaster victims were eligible for MRA. A review of these statistics published in *The New York Times* on April 26, 2002, generated unfavorable public opinion. People clearly expected FEMA to address more broadly the economic impact of the disaster. FEMA subsequently recognized the need to re-evaluate eligibility criteria.

FEMA, in April and May 2002, reviewed all 7,323 MRA applications previously denied. Of these, 1,625 (22.19 percent) were deemed eligible; 2,607 (35.60 percent) had no change in initial ineligibility; and additional documentation was requested for 3,126 (42.69 percent).[12] The initial purposes of this review were to assess quality control and ensure that applications were processed

[12] Per FEMA records dated July 16, 2002. The total, 100.48 percent, reflects that cases were reported in multiple categories.

correctly under the applicable eligibility criteria. Once FEMA determined that most applications were processed correctly, the review refocused on researching and analyzing the circumstances of applicants found to be ineligible and develop options for expanding eligibility. Using this analysis, FEMA explored options for applying new or revising existing criteria to make assistance more broadly available but still within the intent of its authority. FEMA officials told us that dialogue was continuous with Members of Congress, the State of New York, the Office of Management and Budget, volunteer organizations, and advocacy groups as expanded eligibility was being considered.

At the same time, Congress was considering enacting a bill to establish geographic eligibility for this event that would expedite assistance to the entire Borough of Manhattan, and directing FEMA to review previously denied MRA applications using the expanded geographic area. In late June 2002, FEMA expanded the geographic eligibility area to include the Borough of Manhattan. Congress subsequently enacted the legislation on August 2, 2002. FEMA also discontinued requiring self-employed or business-owner applicants to apply first to SBA for a loan before FEMA would consider continued assistance after the initial MRA payment. Applicants must now meet the following eligibility criteria:

- Be United States citizens, non-citizen nationals, or qualified aliens and sign a self-declaration form attesting to citizenship/qualified-alien status. If an applicant has a child who is a United States citizen, the applicant may apply for MRA on the child's behalf;
- Have suffered at least a 25-percent loss of household income as a result of the WTC attack, and the loss must conform to one of the following categories:
  - Employers, or their own businesses, are located in the Manhattan Borough and have suffered financially due to the WTC attack.
  - Lost jobs or significant income because the applicants' employers or businesses not located in the Manhattan Borough have or had a significant business relationship with a firm in the Manhattan Borough.
  - Live in the Manhattan Borough but commute to work outside the Manhattan Borough and suffered financially due to travel restrictions and station/road closures after September 11, 2001; and
- Received a late payment notice (or notice of eviction, foreclosure, or termination of lease) on their primary residence to demonstrate that they are in danger of possible eviction, dispossession, or foreclosure.

To continue receiving assistance after the initial payment, applicants must provide proof that they:

- Continue to reside in the pre-disaster residence;
- Have at least a 25-percent loss of household income due to the federally declared disaster; and
- Are attempting to re-establish household financial stability.

Figure 3 illustrates how the expanded eligibility criteria increased eligibility for MRA.

Figure 3—MRA Applications Determined Eligible under Expanded Eligibility Criteria

Date	Total MRA Applications Processed	Total MRA Applications Determined Eligible	Percent of MRA Applications Determined Eligible	Total Amount of MRA Assistance Approved
July 15, 2002	11,202	5,147	46%	$32,044,327[13]
August 29, 2002	11,864	6,901	58%	$48,516,447[14]
September 19, 2002	13,115	7,658	58%	$55,106,877[15]
November 14, 2002	15,803	9,610	61%	$75,897,258[16]

These figures, however, may not fully represent the potential universe of MRA applicants. As of November 14, 2002, FEMA had mailed 44,781 MRA packages to disaster victims. Only 17,843 (40 percent) were returned. Of those, 15,803 have been processed and, of the processed applications, 9,610 (61 percent) were determined eligible. It is difficult to determine the reasons why the remaining 26,938 packages were not returned. FEMA mailed letters to these applicants requesting information so that they could be considered for assistance.

FEMA placed phone calls to applicants that returned incomplete packages and sent follow-up letters requesting the additional information needed to process their applications. Despite this follow-up, the return rate seemed low. Applicants may have interpreted "denial" expressed in their initial MRA grant award letters as complete ineligibility for the program, even in cases where the denial conveyed the requirement to furnish additional documentation. Advocacy groups maintain that FEMA's outreach did not adequately convey the changing eligibility criteria. Another explanation may be that the initial assistance provided by the overwhelming outpouring of resources was meeting individual needs.

FEMA translated all MRA forms and letters into seven languages, distributed fliers describing the programs and expanded eligibility, and provided registration information. FEMA brochures, Questions & Answers, and website pages dedicated to individual assistance also were translated. Advertisements were placed in 26 foreign-language newspapers in August and September of 2002. In addition, FEMA used a contracted service for a "language line" for people calling into

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[13] FEMA Texas National Processing Service Center, "Special Summary Report," Mortgage and Rental Assistance, July 15, 2002.

[14] FEMA Texas National Processing Service Center, "Mortgage and Rental Assistance Determination Summary," August 29, 2002.

[15] FEMA Texas National Processing Service Center, "Mortgage and Rental Assistance Determination Summary," September 19, 2002.

[16] FEMA Texas National Processing Service Center, "Mortgage and Rental Assistance Determination Summary," November 14, 2002.

the 800 teleregistration number. This enabled one-on-one personal contact in up to 157 different languages. Advocacy groups believed FEMA's outreach, despite these efforts, was not adequate to overcome language barriers for the portion of the population in the Manhattan Borough who spoke little or no English.

Furthermore, advocacy groups assert that assistance was impeded by applicants' difficulty in producing adequate documentation to demonstrate loss of income, place of residence, and/or place of employment, which is required in all disasters, in cases where there were:

- No record of earnings;
- Lack of cooperation from employers;
- Lack of cooperation from landlords because of cash payments;
- Lack of cooperation from landlords because of rent control and rent subsidy considerations;
- A sublease of applicant's residence with no formal lease document; and/or
- Misunderstanding of FEMA's requests for documentation in cases where applicants did not speak English as their primary language.

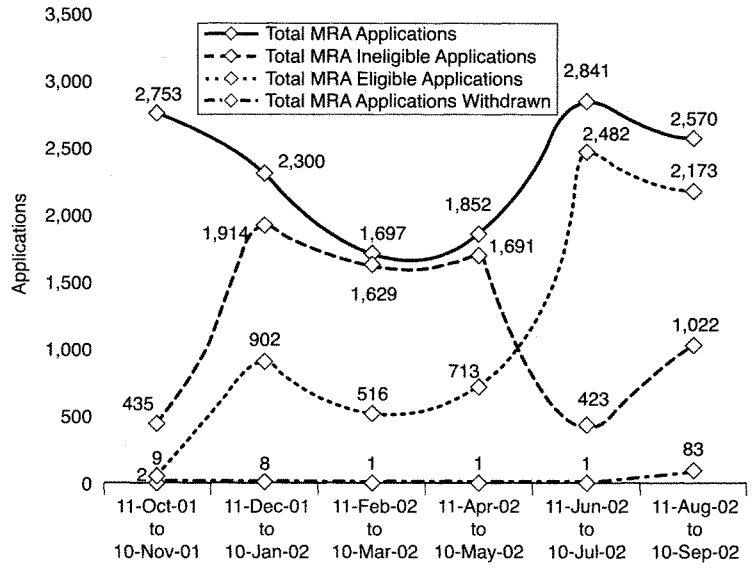
FEMA's goal is to balance the need for adequate documentation to prevent fraud against unusual questionable circumstances, such as a "cash economy" where there are no records of salaries paid or rent collected. This balancing required FEMA to consider the possibility that such practices are designed to evade income taxation and create a situation that is ripe for fraud and abuse. Based on feedback from the advocacy groups, FEMA nevertheless reviewed documentation requirements, simplified and streamlined forms, and created new procedures to ease the burden of proof in instances of cash-exclusive arrangements.

As with all disaster victims, including lower-income applicants, the availability of MRA was restricted if the applicant (1) had pre-disaster arrears in rental and/or mortgage payments, and/or (2) did not meet the 25 percent loss-of-income threshold. Even though a loss of less than 25 percent of income could still yield devastating results for many of these individuals, MRA was not available to them.

Finally, MRA also is not available to applicants who have relocated from their pre-disaster residence. According to the Stafford Act, an applicant may be eligible because of "written notice of dispossession or eviction from a residence by reason of a foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster." This disaster presented situations in which relocation took place and financial hardships still existed. Some applicants relocated due to (1) an inability to continue living in the affected area, or (2) the need to obtain housing commensurate with their post-September 11, 2001, financial status. FEMA established guidance in October 2002 that would enable these applicants to receive MRA.

Figure 4 illustrates the volume of MRA applications and eligibility determinations made through September 2002, including the rise in applications found eligible.

Figure 4—MRA Applications Determined Eligible from October 2001 to September 2002



Source: VA NPSC Data, September 2002

Although positive strides were made in implementing MRA, there is a need to examine how to address individual economic loss from a terrorist attack or other catastrophic events that result in widespread economic disruption. Specifically, the following characteristics need to be considered in developing a program that addresses economic loss and financial hardship:

- Distinguishes between physical and economic loss;
- Has fair and equitable eligibility criteria and operational procedures and does not appear arbitrary;
- Reaches diverse ethnic populations in dense urban areas to provide assistance in a timely fashion;
- Simplifies documentation requirements and addresses the inability of some disaster victims to produce traditional documentation of ability to pay a mortgage or rent;
- Recognizes the hardships of extremely low-income populations by developing a comprehensive mechanism to define "economic loss" and "financial hardship" in relation to victims' ability to pay rent or mortgage;

- Distinguishes clearly between pre- and post-disaster economic conditions;
- Is flexible in defining the time period during which assistance will be provided; and
- Is easy to implement even though infrequently used and does not require specialized training.

In summary, the MRA program, if reinstated, could continue to meet a fairly narrow economic need but would still require legislative revision to make it less complicated to administer. A broader, more flexible program, however, would more appropriately meet the range of economic losses experienced after events such as the September 11 terrorist attacks. FEMA should explore such a program with Congress. In doing so, Congress may wish to consider studying other existing mechanisms within the Federal Government as possible vehicles through which broader assistance could be provided.

STATE CAPABILITY TO IMPLEMENT THE IFG PROGRAM

New York State has statutory responsibility for administering the IFG program. FEMA believes that few administrative problems would have existed but for the decision to reimburse applicants for costs related to air quality. Once that decision was made, without sufficient consideration of the potential workload it would create, delays were encountered.

The Governor of New York assigned to the State Department of Labor (NYDOL) responsibility for implementing and managing the program. The Commissioner of Labor assigned to the NYDOL Inspector General, responsibility for developing the State's IFG staffing plan, determining the sources of staff, and managing the day-to-day IFG program activities. The State initially assigned 10 permanent and 50 temporary employees to process applications for assistance and to answer telephone and written inquiries about the program. Until the decision was made to include air quality items, which resulted in an unusually high number of applications, the State had not experienced any major difficulties in administering the IFG program.

The State received 20,786 applications and handled an unknown number of inquiries during the first six months following the event.[17] Various advocacy groups believed that the State's initial promotion of the IFG program to address unmet needs of disaster victims raised expectations. However, after applicants learned of the program's eligibility criteria established by FEMA, which include first applying insurance receipts and seeking SBA assistance to address recovery needs, many felt disenfranchised and an unfulfilled sense of entitlement. This may have contributed to a decline of new IFG applications. The State believes, on the other hand, that the decline is more likely attributable to the assistance provided by the various nonprofit organizations. The State, as a result, reduced staffing to 30 employees in March 2002.

In June 2002, the consequences of the decision to include air quality devices as eligible in all five boroughs began to materialize. Some local businesses became aware that the program covered air conditioners, air filters, air purifiers, and high efficiency particulate air (HEPA) vacuums, and they began circulating flyers that encouraged individuals to purchase the items and request

[17] FEMA Virginia National Processing Service Center report, "Special Report on Applications by Month," November 1, 2002.

reimbursement from FEMA. The latter three items had been added as eligible under the IFG program in late October 2001 and were advertised by FEMA in November 2001. The State, in March 2002, added assistance, in consultation with FEMA, for repairing or replacing window air-conditioning units that were damaged as a direct result of the disaster.

Even though FEMA and the State had authorized coverage for these items before June 2002, the number of applications received to that point was minimal. Applications for IFG assistance rose sharply in June 2002, however, as applicants requested assistance for the air quality items. FEMA believes the increase in new applications coincided with public announcements being made by the U.S. Environmental Protection Agency (EPA) regarding the poor air quality in the City and the need for air-conditioning and related items because of the unusually warm spring and early summer. The State believes the surge in new applications coincided with the closing of the non-profit programs. FEMA received an average of 7,660 applications per month from June to August 2002 for air-quality items. Applications for IFG assistance typically do not spike at this point in the recovery phase.

FEMA inspects applicant residences in the initial recovery phase of a disaster to verify damages to real and personal property and identify transportation issues. Rather than authorize assistance for air-conditioners under the personal property category, FEMA authorized it in the "other" category. FEMA then decided in March 2002 that it would not be cost effective for inspectors to verify damage to a single property item. Instead, the State implemented a self-certification process requiring applicants to describe the circumstances associated with the repair or replacement of the property item and to submit supporting receipts. This decision, combined with publicity from vendor promotion, also contributed to the historically high number of IFG applications submitted months after the event. This may have increased the likelihood of fraud and abuse.

The unanticipated increase in applications received after June 2002 also may be related to two other decisions regarding assistance for air-quality items. First, assistance was made available to all households in the five boroughs of New York City. The broad geographic eligibility was not related to the areas of actual impact. A better model might have been to limit eligibility to the same areas identified by EPA and the New York City Department of Health for purposes of the apartment cleaning and testing program. If the IFG program and the EPA testing and cleaning program had worked more closely together in terms of geographic eligibility, the program would have had reasonable and justifiable boundaries. Second, as a result of concerns expressed by certain advocacy groups, applicants were allowed to certify that they were unable to pay for the air-quality items (costing as much as $1600). Funding was advanced to those applicants and they were requested to provide receipts after purchase. There were few limitations placed upon who could qualify for this "unable to pay" option. This may also have increased the likelihood of fraud and abuse.

When the number of IFG applications rose in June 2002, the State assigned additional staff and authorized overtime in June, July, and August. The State's staff, however, was unable to process the applications and timely answer additional telephone and written inquiries from applicants seeking assistance. The State had processed only 28,122 (55 percent) of the 50,968 applications

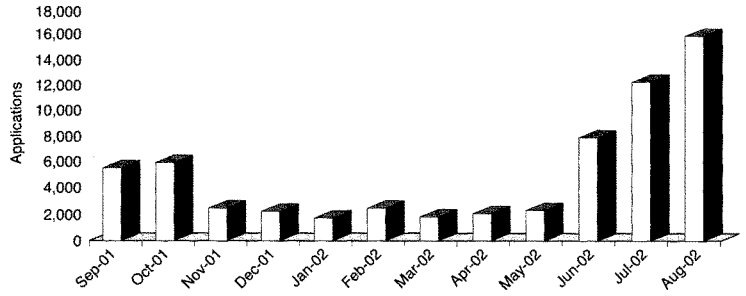
received as of August 23, 2002.[18] A FEMA team began working closely with the State staff to analyze the reasons for delays and develop corrective actions. The following recommendations were developed with the support of State staff and accepted by State program management on August 29, 2002:

- Convert the paper-based information-management/case-processing system to an electronic, digitized database in which case information needed for processing and responding to inquiries would be available to all FEMA caseworkers.
- Refer all incoming telephone inquiries to FEMA National Processing Service Centers, increasing the number of State staff available to resolve pending caseload.
- Make eligibility determinations while answering telephone inquiries at the National Processing Service Centers to the fullest extent possible.
- Eliminate paper registrations by providing for efficient, online registration in the Worth Street Disaster Application Center.
- Streamline redundant processing procedures.

FEMA, in September 2002, began assisting the State to implement these corrective actions. The number of applications not processed nevertheless continued to increase. As of November 1, 2002, 106,342 IFG applications were received; 70,754 were processed; and 35,588 were pending; however, 33,144 of the pending cases were awaiting additional information from the applicant.[19]

Applications for assistance under the IFG program remain higher one year after this event than they did after one month. Figure 5 illustrates the trend.

Figure 5—Individual and Family Grant Applications through September 2002



Source: VA NPSC Data, November 2002

[18] FEMA, "IFG Cumulative Status Report," August 26, 2002.
[19] FEMA, "IFG Cumulative Status Report," November 1, 2002.

The increase in applications was neither anticipated by the State nor could it have been predicted. To prevent the recurrence of this situation in future, similar events, FEMA should (1) work with States electing to administer the new Individual and Households Program[20] to ensure that State contingency staffing plans can adapt to fluctuations in applicant activity; and (2) limit assistance for personal property whenever eligibility is determined without verification by inspection to disaster-related necessary expenses or serious needs that cannot be met by other insurance, government, and volunteer agency programs.

[20] DMA 2000 repealed Temporary Housing Assistance and the Individual and Family Grants programs and combined them into the Individual and Households Program.

INTERAGENCY COORDINATION CHALLENGES

Responsibilities shared among FEMA, EPA, and the U.S. Department of Justice (DOJ) Office for Victims of Crime were not defined clearly enough to distinguish roles and establish the sequence of delivery of assistance. Recovery from the September 11 event highlighted the need for advance agreements regarding shared roles and responsibilities among key agencies likely to respond to future events.

RESPONSE TO RESIDENTIAL AIR QUALITY, TESTING, AND CLEANING REQUIRES MORE COORDINATION

According to the Federal Response Plan, FEMA's responsibility to coordinate recovery from disasters declared by the President is to supplement, not supplant, State and local efforts. FEMA had not coordinated an indoor contaminant-cleaning effort during disaster recovery before September 11.

EPA's mission assignment from FEMA for this disaster initially included monitoring outdoor air quality by setting up stationary monitors in various locations in conjunction with the New York State Department of Environmental Conservation; vacuuming streets, parks, and other public areas in coordination with the New York City Office of Emergency Management; and setting up wash stations for workers and vehicles that hauled debris from the WTC site. EPA also assisted with the safety of first responders working at Ground Zero by providing personal protective equipment.

EPA was aware, based on its work in the aftermath of the 1993 WTC terrorist bombing, that the WTC towers contained asbestos material. Neither FEMA nor New York City officials, however, initially requested that EPA test or clean inside buildings because neither EPA nor the New York City Department of Environmental Protection (NYCDEP) could identify any specific health or safety threat. EPA nevertheless advised rescue workers early after the terrorist attack on the WTC that materials from the collapsed buildings contained irritants, and advised residents and building owners to use professional asbestos abatement contractors to clean significantly affected spaces. Directions on how to clean the exterior of buildings affected by dust and debris were provided to building owners by NYCDEP,

and directions on how to clean interior spaces were provided by the New York City Department of Health.

Notwithstanding EPA's initial efforts, concern continued about environmental quality inside residences. Much of the criticism for lack of Federal assistance in cleaning interior residential spaces was directed at EPA. Therefore, EPA established an Indoor Air Task Force in February 2002. This Task Force, composed of representatives from Federal, State, and local agencies including FEMA,[21] considered indoor environmental issues and provided advice and counsel on potential health consequences in affected residences. A Mayor's Task Force was also created to review similar issues. Eight months after the disaster, in May 2002, based on the recommendation of these Task Forces, EPA, FEMA, and NYCDEP jointly announced a testing and cleaning program for residences in the lower part of the Borough of Manhattan. FEMA would fund the cleaning and testing program through NYCDEP pursuant to Sections 403 and 407 of the Stafford Act to hire contractors to test and/or clean residential interiors as a "debris removal" project and EPA staff would implement the program.

More than one year after the event, residents continue to seek information about and assistance with pollutant testing and cleaning their dwellings. On the recommendation of EPA, on August 16, 2002, the initial registration deadline of September 3, 2002, to request testing/cleaning was extended twice to December 28, 2002. Although many State and local officials and residents expressed satisfaction with the extended deadline, others remain critical of cleanup efforts. Residents expressed frustration in open forums with difficulties in obtaining program information or registering for assistance. They also expressed dissatisfaction with delays and a lack of systematic interior cleaning, and concern that some building managers responsible for common areas have not applied to have buildings tested and/or cleaned. An August 2002 survey conducted by the Office of the Manhattan Borough President indicated that 75 percent of the 700 residents in the Manhattan Borough who responded believed the air still contained toxins.

The demand for testing or cleaning has been low despite the continuing public perception that air quality remains an issue. Of an estimated 20,000 apartments in the lower part of the Borough of Manhattan potentially eligible, approximately 4,800 residents, as of October 2002, have requested cleanup. Approximately 1,150 have selected a "test only" option, under which NYCDEP and EPA test a residence for the presence of asbestos and clean up only if asbestos is detected at a hazardous level.[22] NYCDEP and EPA began cleaning apartments in mid-September 2002, and 138 have been cleaned and found free of hazardous asbestos levels. NYCDEP and EPA also reported that they completed 108 "test only" residences, three of which contained dangerous asbestos levels.

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[21] The Indoor Air Task Force was composed of representatives from the EPA, FEMA, USDOL Occupational Safety and Health Administration, U.S. Department of Health and Human Services Agency for Toxic Substances and Disease Registry, N.Y. State Department of Health, N.Y. State Department of Environmental Conservation, N.Y. City Department of Health, N.Y. City Department of Environmental Protection, N.Y. City Mayor's Office of Environmental Coordination, and N.Y. City Office of Emergency Management.

[22] New York Committee for Occupational Safety and Health, "NYCOSH Update on Safety and Health Archive," October 30, 2002.

Neither FEMA nor EPA traditionally has been involved in testing and cleaning private residences. Neither agency is specifically authorized to provide such services. However, when a potential health and safety threat was identified and New York officials documented that interior testing and cleaning would beneficially impact the City's economic recovery, FEMA used its debris removal authorities under the Stafford Act to provide the necessary funding. Though the entire New York public cannot be serviced, the low level of applications for cleaning and testing, along with the low number of residences found with dangerous asbestos levels, may indicate that FEMA and EPA have addressed the need, or that individuals already have taken the initiative to clean their residences.

FEMA and EPA entered into two interagency agreements before the interior cleaning/testing project was instituted. The purpose of these agreements was to help verify the existence of health and safety issues associated with WTC dust. FEMA agreed to reimburse EPA for:

❑ Indoor Air Quality/Interior Cleaning Study

This agreement was executed on June 6, 2002. As many as seven contaminants of potential concern may have spread into buildings as a result of the collapse of the WTC buildings. EPA initiated a cleaning study to evaluate the different types of cleaning procedures that are effective for removing the contaminants. A final report is due on January 30, 2003.

❑ Background Sampling

This agreement was executed on June 12, 2002. Most, if not all, of the pollutants were present in New York City's environment before the disaster. EPA is collecting and analyzing additional indoor samples to determine the presence of potentially harmful contaminants in several buildings that were not affected by the collapse of the WTC buildings. The results of these activities will establish baselines for the presence of contaminants in affected residences and buildings, as well as support decisions about cleanup levels to address future threats to public health and safety. A final report was due on November 30, 2002.

The program to test and clean residences in lower Manhattan did not commence until months after the disaster. Although FEMA has the responsibility to coordinate recovery from presidentially declared disasters, FEMA must depend on the particular expertise of EPA in circumstances involving possible air contaminants or environmental hazards. EPA must confirm that such hazards constitute a public health and safety threat before FEMA can provide funding for emergency response. FEMA should be more proactive in requesting EPA to conduct necessary testing and/or studies to determine if a public health or safety threat exists in future, similar disasters so that cleaning efforts can begin much earlier in the recovery phase. FEMA also should address the roles of State and local agencies in such circumstances, as consultation with these agencies would provide useful information in review or evaluation.

DEPARTMENT OF JUSTICE ASSISTANCE MIRRORS COMPONENTS OF FEMA'S CRISIS COUNSELING AND INDIVIDUAL AND FAMILY GRANTS PROGRAMS

Because the September 11 terrorist attack sites were presidentially declared disasters resulting from criminal actions, both FEMA and the DOJ's Office for Victims of Crime (OVC) had authority to provide victim assistance. FEMA's Crisis Counseling Assistance and Training Program (CCP) providers found it necessary to offer support services that went beyond the normal levels of CCP mental health programs. Too many entities were involved at the outset to ensure coordination and avoid potential confusion of services provided to victims.

❑ GEOGRAPHIC AND LOSS CATEGORIES OF NEEDS

CCP assistance may be provided to individuals residing or located in the declared area at the time of the disaster. Because of this disaster's effects on families, relatives, and friends living outside these areas, however, CCP grants were awarded under the New York disaster to Pennsylvania, Massachusetts, New Jersey, and Connecticut as well as the declared areas of New York. Each of these States applied separately for CCP assistance.

FEMA's funding for the CCP led to the creation of Project Liberty, an umbrella for CCP providers in New York State under which a majority of services were delivered. Project Liberty's Immediate Services Program provided short-term outreach, education, crisis counseling, and referrals to longer-term mental health services. Project Liberty's Regular Services Program goals were to assist "those most impacted by the disaster to recover from their psychological reactions and regain their pre-disaster level of functioning" [23] and "to enhance resiliency in impacted individuals, families, and communities and thereby reduce suffering, improve functioning, and help prevent psychopathology."[24]

Classifications of loss categories were incorporated into a formula estimating disaster mental health needs and using an "at-risk multiplier" developed through research by the Center for Mental Health Services (CMHS). Standard categories include dead, hospitalized, non-hospitalized injured, homes destroyed, homes with major damage, homes with minor damage, and disaster unemployed. States may add or subtract classifications as they see fit in planning for counseling services. New York made a detailed, event-specific list of categories of victims, including rescue and recovery workers from the public and private sectors; individuals employed in and around the WTC towers who either escaped, were evacuated, or had not been on site at the time of the disaster; and at-risk individuals who were most likely to experience trauma from the event due to their age or disability. Figure 6 illustrates the categories of victims needing services.

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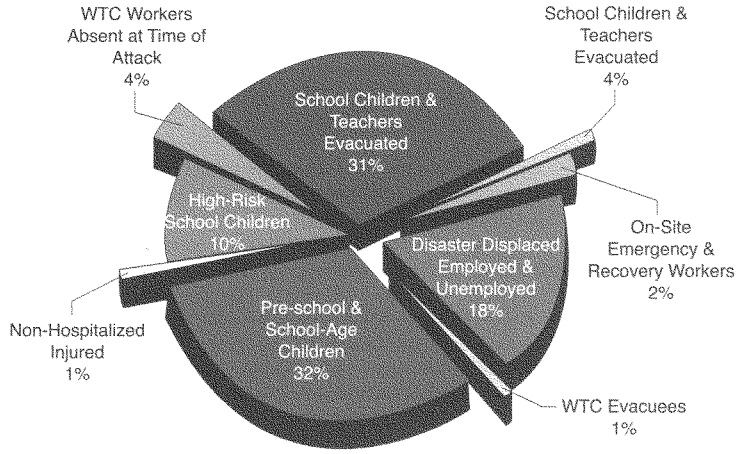
[23] New York State, Regular Services Application, "Executive Summary," January 2002.
[24] New York State, Project Liberty Strategic Goals and Objectives for the Regular Services Program, July 2002.

Figure 6—Categories of New York State Victims Targeted for Counseling Services After September 11, 2001



Source: New York State, Regular Services Application Conditions Response, June 2002

❑ DEPARTMENT OF JUSTICE AUTHORITIES COMPLIMENT FEMA AUTHORITIES

The September 11 incidents uncovered potential DOJ-FEMA overlaps in some programs covering disaster areas that are also crime scenes. FEMA's CCP program funds crisis counseling and IFG program reimburse victims of disasters for medical, dental, and funeral expenses. The Victims of Crime Act of 1984, as amended (42 United States Code §10603), authorizes DOJ's OVC to provide financial assistance to victims of federal crimes and of terrorism and mass violence in the form of (1) grants to State crime victim compensation programs to supplement State funding for reimbursement of the same out-of-pocket expenses, including mental health counseling, and (2) grants to State victim assistance agencies in support of direct victim services, i.e., crisis counseling, criminal justice advocacy, shelter, and other emergency assistance services.

OVC awards discretionary grants to State crime-victim assistance agencies. The funds are then sub-granted to community agencies and non-profit organizations. For-profit organizations and individual service providers are not eligible to receive this assistance. The grantees must use Victims of Crime Act funds only for direct victim services and may include social service and other public mental health agencies, hospitals, emergency medical facilities, religious-affiliated entities, and other groups. In addition, OVC received an appropriation earmarked by Congress to support counseling programs for victims, family members of victims, and rescue workers who responded to the September 11 terrorist attacks.

Victims are also reimbursed by the State victim-compensation agency for out-of-pocket medical expenses not covered by insurance, including counseling costs. Statistically, fees to hospitals, doctors, and therapists usually comprise well over half of the amounts paid to victims of crime. After the September 11 event, however, reimbursements for mental health counseling by the New York State Crime Victims Board were minimal. The vast majority of Victims of Crime Act reimbursements were for lost wages and support, such as earnings, child support, alimony, and disability insurance. This pattern may have been due to the many free counseling resources that were being offered.

All FEMA compensation programs are "payers of last resort," meaning that any collateral sources of payment to the victim, such as medical or auto insurance, employee benefit programs, Social Security, Medicaid, or other public benefit program, must be used first. The volume of individuals seeking assistance and the number of organizations responding to the September 11 event made it difficult to determine the primary sources of assistance.

FEMA, OVC, and DOJ's Executive Office for United States Attorneys subscribed to a *Letter of Intent* in October 1996 to ensure that victims receive needed services and information and to articulate services needed in responding to catastrophic federal crime. FEMA officials told us that verbal agreement had also been reached soon after September 11 between DOJ and FEMA on the sequence of delivery of services. Expenses related to medical, dental, and funeral services, for example, were to be covered by DOJ rather than the IFG Program.

The *Letter of Intent* should serve as the foundation for future cooperative activities but more detailed and comprehensive guidance is necessary to ensure that services delivered to disaster victims who are also victims of crime are appropriate, consistent, and not duplicative. These objectives could be accomplished through a Memorandum of Understanding between FEMA and DOJ's OVC that formalizes the relationship, the responsibilities and authorities to be applied, programs, time frames, and sequencing when a disaster is also a crime scene.

❑ CCP Provided Additional Referral Services

The recovery needs of disaster victims may involve physical, structural, and economic issues in addition to mental health. Although counseling other than mental health is outside the scope of the CCP, counselors nevertheless played a pivotal role in assisting victims to address other needs. The number of referrals for non-counseling assistance needed by victims in this disaster was greater than usual because of the large number of people affected, the many organizations providing various types of assistance, the significant ethnic and linguistic diversity in the affected communities, and the frequently changing list of available assistance. In addition to providing mental health service, some mental health counselors assisted in completing victims' financial forms and translated instructions and procedures for applying to various programs as well as referring victims to disaster services available through FEMA teleregistration; State and voluntary agencies such as the American Red Cross, Salvation Army, Interfaith Disaster Recovery Services; and Unmet Need Committees. It is appropriate for mental health counselors to participate to some extent in activities that help ensure coordination of comprehensive services but it is outside CCP guidelines for counselors to assume a central role in obtaining or coordinating the services.

The New York State Crime Victims Board confirmed that non-counseling assistance was a primary need of victims. Crime-victim compensation programs depend largely on the professionals who daily provide medical and counseling services to make victims aware that financial assistance is available. The victim compensation programs typically expend considerable effort to train professionals for this additional responsibility.

❑ MANY ENTITIES PROVIDED COUNSELING-TYPE ASSISTANCE

Numerous organizations, *ad hoc* groups, and voluntary agencies counseled victims. Irrespective of how well intentioned these *ad hoc* providers may have been, a significant number of victims may have received inaccurate or, possibly, even harmful services from individuals not certified, licensed, or otherwise sanctioned by the State to provide mental health services. These individuals may not have received appropriate training or oversight regarding the mental health needs of disaster victims, or the appropriate services, methods, and resources available under the incident command structure. New York attempted to coordinate with providers through FEMA; however, providers rarely shared detailed information on eligibility requirements, types and amounts of assistance being provided, qualifications of the providers, and data collected.

Among the primary goals of Project Liberty are developing reliable referral resources, establishing links among mental health service providers, and using resources efficiently. Project Liberty officials continue to work to ensure that the services provided to the disaster victims and their families are appropriate, timely, and non-duplicative.

❑ SHORT-TERM COUNSELING VERSUS LONGER-TERM MENTAL HEALTH NEEDS

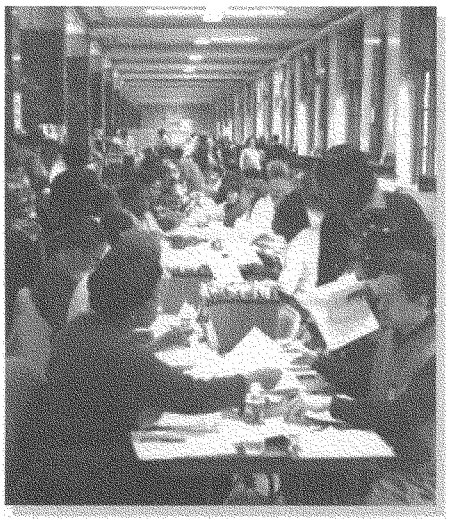
New York stated in its application for CCP assistance that research suggests that victims of intentional events, such as terrorism, have higher rates of psychological distress than those who have experienced "natural" events. FEMA's resources are directed toward short-term assistance. Program limitations are placed on the provision of medication, hospitalization, long-term therapy, childcare, transportation, fundraising activities, advocacy, and case management. DOJ's assistance also is generally limited to a maximum of 4 years.

It is too early in the recovery process to tell how effective these interventions may be in precluding longer-term psychological difficulties. There is a public perception that FEMA should be providing assistance for as long as it will take victims to recover but FEMA funds are emergency in nature. Other Federal entities, such as HHS's CMHS, fund more long-term endeavors. CMHS has been proactive and is already funding and studying the long-term mental health needs stemming from this event.

COORDINATION WITH VOLUNTARY AGENCIES

FEMA is authorized by the Stafford Act to coordinate the activities of voluntary agencies (VOLAGS) to the extent that they "agree to cooperate under this advice or direction." FEMA exercises its lead responsibility in an environment of consensus that allows the VOLAGS to carry out their missions in a coordinated manner. Working arrangements with established organizations that are normally involved in providing disaster assistance are made in advance.

VOLAGS typically provide immediate emergency assistance to victims, FEMA addresses short- and long-term recovery needs, and, near the end of the recovery cycle, VOLAGS address victims' unmet needs. After the September 11 terrorist attacks, individuals donated time, resources, and money in record volumes to a large number of VOLAGS. The overwhelming generosity and rapid influx of cash donations likely contributed to the ability of VOLAGS and other groups to provide higher levels of assistance. Since so many VOLAGS, *ad hoc* organizations, and other entities not traditionally in the sequence of delivery were distributing assistance, it was difficult to collect accurate information necessary to understand the scope of assistance being provided.



FEMA, attempting to bring order to the chaos created by the multitude of voluntary organizations, developed a matrix of various government and non-government entities. At one point, this matrix included over 100 organizations and was used to identify their contributions to disaster recovery efforts and the types of assistance provided. FEMA validated the information and became familiar with the kinds of assistance being offered so that staff could make informed referrals. FEMA believes that this information was used widely by the media as an authoritative guide to assistance available, and the matrix was distributed and used nationwide. In spite of these efforts, FEMA was not able to ensure that all voluntary agencies were coordinated appropriately.

FEMA is required by the Stafford Act to ensure that benefits are not duplicated among disaster programs, insurance benefits, and/or any other types of disaster assistance. Historically, FEMA

has not considered the assistance of voluntary agencies to be duplicative under normal disaster conditions. In response to this event, however, VOLAGS far exceeded their traditional role in the provision of assistance. FEMA, to ensure timely assistance to victims, decided to activate its own IA program and to treat VOLAG and other non-governmental assistance as non-duplicative as it related to the events of September 11. FEMA determined that VOLAGS and *ad hoc* agencies were making one-time grants or lump-sum payments that covered more than one type of assistance and could be judged as "gifts."

Although FEMA works extensively on an ongoing basis with VOLAGS to coordinate assistance, FEMA has found that the effort involved in identifying and quantifying the variety of sources of VOLAG assistance in its many forms, is not cost-effective for the purpose of avoiding duplication of benefits on a case-by-case basis. Furthermore, many organizations are reluctant to share client information with other VOLAGS, let alone the Federal Government. Had FEMA expended the resources necessary to fully identify and quantify such assistance after September 11, the timely provision of urgently needed assistance would have been delayed. FEMA acknowledges, however, that some people may have received assistance for similar losses from more than one source.

Regardless of FEMA's decision to not identify and quantify voluntary agency assistance on a case-by case basis, the potential that duplication occurred does exist although the nature and amount of duplication remain unknown. FEMA needs to be better able to anticipate the proactive role non-governmental organizations will play in disaster recovery operations and attempt to coordinate relationships with those organizations through protocols such as Memorandums of Understanding to alleviate the potential for duplicating benefits. The General Accounting Office (GAO) has also emphasized the need to improve coordination among charities and between charities and FEMA.[25]

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[25] GAO draft report, "More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disaster," December 2002.

PERCEPTION OF OUTREACH SHORTFALLS

Some members of Congress and advocacy groups remain critical of FEMA's efforts to inform disaster victims about assistance despite an outreach program that was the most comprehensive in FEMA history. Program adjustments made during recovery and ethnic and linguistic diversity within the affected communities challenged FEMA significantly. Critics claim that outreach shortcomings may explain why some eligible individuals still have not been informed about assistance available or how to apply.

FEMA deployed Community Relations Teams (107 FEMA members and 32 DOJ outreach workers at peak) that distributed disaster assistance information door-to-door, manned FEMA's HELPLINE and toll-free registration line, and staffed Disaster Assistance Service Centers to disseminate information in 17 languages. These efforts were made to ensure that all victims had information about assistance with housing, transportation, damage to personal property, business losses, or loss of employment earnings. FEMA also conducted an extensive advertising campaign that included:

- Distribution of public service advertisements to all network stations, cable operators, and more than 500 daily and weekly newspapers serving the metropolitan New York area promoting IA programs;
- Placement of paid advertisements promoting the expanded MRA eligibility criteria in six daily mainstream newspapers, seven community newspapers, and 26 foreign-language newspapers;
- Distribution to radio stations in the New York metropolitan area of public service advertisements promoting the expanded MRA eligibility criteria in six languages;
- Placement of MRA advertisements and articles in newsletters of various agencies, including the United Services Group, Downtown Alliance, and the 9/11 Families Coalition; and
- Placement of posters advertising the MRA program and the expanded eligibility criteria in ferries, ferry terminals, and Port Authority Trans-Hudson (PATH) stations in New York and New Jersey.

FEMA also developed program brochures in several languages, including MRA-specific brochures in seven languages. Brochures were distributed at community meetings, FEMA's Applicant Assistance Center, and through voluntary agencies.

FEMA, recognizing the unique needs of the New York area, employed many non-traditional means to encourage individuals having disaster-related needs to register for assistance. These included establishing links to FEMA's website from myriad websites, posting the teleregistration number on the Madison Square Garden and NASDAQ marquees, and developing partnerships with newspapers to distribute copies of the Disaster Assistance Guides that included specific information for victims affected by the September 11 attack.

Following the expansion of the MRA eligibility criteria, FEMA created an extensive collection of information on its website, www.fema.gov, with a direct link to MRA information. FEMA developed a Question & Answer section, translated into seven languages, and posted sample application forms to help applicants better understand the process.

FEMA regularly briefed New York congressional and legislative staffs and trained staffs of community-based organizations and voluntary agencies to distribute information to their constituency groups. An unprecedented intergovernmental outreach effort was undertaken that consisted of regular updates and briefings for the borough presidents, the City Council and its many members and committees, and various community boards.

Some in Congress and various advocacy groups nevertheless cited shortcomings, including failures to disseminate information to large groups, to explain available programs adequately, and to tailor information to the ethnic and linguistic diversity in affected communities. For example, FEMA began some advertising of IA programs late in the recovery phase. Advertisements were placed in foreign press papers in August 2002, in mainstream papers in November 2002, and on buses and subways in December 2002. New York City Council staff members stated that it continues to be difficult to find out what FEMA programs are available and how they apply to the specific circumstances of victims. New York City officials also stated that FEMA's outreach inadequately distributes information about programs that are constantly changing.

The New York delegation has continually called for broader outreach and better explanations of programs, as well as better explanations of how expanded MRA guidelines apply to victims' circumstances. In addition, advocates following implementation of the MRA program could not access current and accurate information; therefore, it is possible that some disaster victims remain unaware of their new eligibility and, thus, have not applied.[26] Finally, anecdotally, we were told that FEMA employees answering the HELPINE resisted providing information to victims. The groups who remain critical said that their constituents complained that FEMA disseminated complicated, confusing, and conflicting information about IA programs. This may be reflective, however, that these programs are complicated and in an attempt to reach as many people as possible, FEMA may not have been able to always convey the various eligibility requirements for each program

FEMA's outreach shortcomings may have led, for example, to misunderstanding the Disaster Unemployment Assistance (DUA) program. USDOL provided DUA liberally and allowed for

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[26] The Urban Justice Center, *Ripple Effect—The Crisis in NYC's Low-Income Communities After September 11th*, September 2002.

(1) disaster unemployment benefits to a broader range of survivors than in the past, (2) extraordinarily long application periods, (3) more flexible documentation standards, and (4) a 13-week extension in the duration of benefits. DUA program assistance nevertheless may not have met applicant expectations. Numerous advocacy groups stated that eligibility was unjustly limited or that improper processing excluded eligible applicants.

Federal regulations provide that decisions to deny benefits be scrutinized to ensure that maximum assistance is consistently delivered. Because this event involved an historically disproportionate denial rate, USDOL officials examined the records maintained by New York State to determine if denial decisions were consistent with guidelines and regulations. The examination revealed that denials did fall within acceptable parameters. Most denials appear to have resulted from misinformation or misunderstanding about eligibility or the specific benefits covered, and/or the application process.

Many groups praised FEMA for attempting to reach non-English-speaking communities by distributing multilingual brochures about assistance programs. They believe, however, that FEMA should go further to reach communities by placing additional multilingual advertisements in subways, buses, newspapers, radio, and other venues. The groups also stated that FEMA must do more to assist non-English-speaking applicants in completing various applications. These applicants were not informed in their native language about available assistance and became frustrated with the application process. Because of language differences, a universe of potential applicants having legitimate needs may not have been fully addressed.

To avoid this situation in the future, FEMA should undertake the following much earlier in the recovery phase of a disaster: (1) broaden its outreach capability to provide current brochures in multilingual formats that define IA programs and eligibility criteria, (2) better inform non-English-speaking victims about IA programs, and (3) assist non-English-speaking victims in applying.

UNMET NEEDS

Several gaps in authorizations appear to exist for FEMA and other Federal agencies to address recovery needs of certain individuals and businesses. We believe these gaps may be of concern in future disasters.

FEDERAL PUBLC BENEFIT CLASSIFICATION LIMITS IA ELIGIBILITY

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires that Federal public benefits be provided only to United States citizens, non-citizen nationals, and qualified aliens. Under Title IV, the following FEMA IA programs authorized by the Stafford Act are considered Federal public benefits:

- Temporary Housing Assistance
- Unemployment Assistance
- Individual and Family Grants Programs
- Food Coupons and Distribution

Temporary Housing Assistance and the IFG program have been repealed and combined into one grant program, the Individuals and Households Program, under DMA 2000. This new program falls under the Federal public benefit standard.

The recipient limitations imposed by the Federal public benefit standard do not apply to some types of post-disaster assistance. Any victim may receive short-term, non-cash, in-kind emergency disaster relief, including emergency medical care, emergency mass care, emergency shelter, and other assistance provided by VOLAGS. Other recovery tasks also must occur without regard to limitations. These include clearing roads; constructing temporary bridges needed to perform emergency repairs and deliver essential community services; warning of further risk or hazards; disseminating public information; assisting victims with health and safety measures; providing food, water, medicine, and other essential goods; transporting supplies or persons; and otherwise reducing immediate threats to life, property, and public health and safety.

The September 11 disaster affected victims who are not United States citizens, non-citizen nationals, or qualified aliens but who were lawful residents of the United States under a valid immigration category or classification. Because these residents are not granted an alien status that would allow them to receive a Federal public benefit, they were ineligible for assistance under the IA program. For example, individuals who possess an unexpired Employment Authorization Card, which permits lawful employment in the United States, are precluded from Federal public benefit assistance. One immigration advocacy group estimates that as many as 80,000 lawfully present

[27] The New York Immigration Coalition, "Recommendation to Improve FEMA's Mortgage and Rental Assistance Program," June 23, 2002.

individuals in New York are not qualified for Federal disaster assistance beyond the short-term emergency relief.[27]

FEMA should consider pursuing legislative changes that would exempt FEMA's IA programs from the Federal public benefit classification when victims needing IA are lawfully present in the United States at the time of the applicable disaster but may not have the qualified alien status required by Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

FEMA Assistance for Non-Critical Private Non-Profit Service Organizations Is Limited

To be eligible for FEMA grant assistance, a Private Non-Profit (PNP) organization must fall within the Stafford Act's definition of a PNP that provides an essential service of a governmental nature. This was true prior to DMA 2000 and DMA 2000 did not change the definition of an eligible PNP applicant. However, with DMA 2000, Congress created a two-tiered system of reimbursement for FEMA-eligible PNP's. For eligible PNP facilities that provide "critical services," FEMA may provide assistance for eligible work just as it did prior to DMA 2000. For eligible non-critical PNP facilities, DMA 2000 now requires the PNP to first apply to SBA. FEMA can then provide the PNP assistance if the PNP does not qualify for an SBA loan or if it obtains one in the maximum amount for which it is eligible.

The intent of Congress to limit grant assistance to "critical" PNP organizations without applying first for a loan, is unambiguous. Even the discretion given to the President to add to the list of "critical" PNP services is limited to a few emergency-related activities. The attacks of September 11 enabled the first significant test of this new approach to funding PNPs, and the reactions were predictable. PNPs that lost immediate access to grants as a result of DMA 2000—Colleges, Universities, and various providers of social services—understandably questioned the equity of the new law. While these changes were under consideration by Congress, concern surfaced that dividing PNP services into "critical" and "non-critical" categories would be perceived as inequitable and would, in fact, affect the relatively smaller and less well financially endowed organizations more substantially than larger organizations that enjoyed better, ongoing access to other forms of revenue.

On December 12, 2002, FEMA implemented a new policy, based on the President's announcement to strengthen the Administration's compassion agenda by making it easier for America's faith-based and community groups to work with the Federal Government. FEMA's new policy extends assistance to eligible and necessary faith-based organizations by broadening the eligibility of certain non-profit organizations to receive federal disaster assistance. This policy recognizes the statutory eligibility of PNP organizations that provide necessary and vital functions to local communities and is retroactive to January 20, 2001.

Congress may wish to reconsider this "critical" and "non-critical" PNP approach and either require all PNPs to apply first for an SBA loan, which would achieve greater cost-savings, or require no PNPs to apply for loans before qualifying for FEMA grants, which would level the playing field but increase the amount of Federal grant assistance.

LEGISLATIVE ISSUES

Congress may wish to consider legislation to either reinstate the MRA program or develop a comparable program. Congress also might wish to consider whether FEMA or another Federal agency should administer grants to small businesses that have been adversely affected by a disaster.

MRA IS ELIMINATED BY THE DISASTER MITIGATION ACT OF 2000

DMA 2000 amendments to the Stafford Act repealed the MRA program as a component of FEMA's Temporary Housing Assistance for disasters declared on or after May 1, 2002. FEMA received an extension from Congress and has made this effective for all disasters declared on or after October 15, 2002. DMA 2000 also establishes a $25,000 cap on the Individuals and Households Program. These new limitations raise serious issues for addressing economic losses and financial hardships suffered by victims of events similar to this one. Congressional consideration may be warranted to better position FEMA to address economic issues in future acts of terrorism.

GRANTS TO SMALL BUSINESSES WERE MADE ON AN *AD HOC* BASIS

In its November 2002 report, *September 11, Small Business Assistance Provided in Lower Manhattan in Response to the Terrorist Attacks*, GAO documented assistance made available under various grant and loan programs to both public and private entities. GAO reported, "The September 11, 2001 terrorist attacks on the World Trade Center had a substantially negative impact on the New York City economy, strongly affecting businesses, both large and small, and as disparate as financial services firms, travel agencies, and retail stores. Some businesses were destroyed, some displaced, and still others could not operate because of street closures and the lack of utilities. Many businesses still face a diminished client base and uncertainty about the future redevelopment of the World Trade Center site." There is, however, presently no on-going Federal program that provides grant support to businesses adversely affected by disasters, except in the instance of special legislation targeted to an event.

FEMA is prohibited by the Stafford Act from providing disaster assistance to businesses of any size. The Stafford Act provides funding, principally in the form of grants, to individuals, State and local governments, and certain private, non-profit organizations adversely affected by a disaster. SBA is authorized to provide loans, not grants, to businesses adversely affected by a disaster. SBA is administratively prohibited, however, from making loans to businesses that do not meet specific and generally established eligibility criteria. SBA was unable, for example, to make loans to businesses that did not meet the agency's size standards or financial qualifications.

SBA's limited ability to assist businesses financially after the September 11 event was recognized early in the response phase. FEMA, under special legislation, was already involved in compensating businesses adversely affected by the May 2000 Cerro Grande fire in northern New Mexico. Some

members of Congress introduced legislation specific to the September 11 events that would allow FEMA to initiate a similar program in Lower Manhattan.[28] The bill would have authorized FEMA to compensate businesses in an amount generally not to exceed $500,000 for specified business losses. A companion bill was introduced in the House of Representatives. Neither bill, however, was enacted.

Alternatively, Congress enacted the Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act of 2002, a provision of which allowed the State of New York to use Community Development Block Grant (CDBG) funds administered by the U.S. Department of Housing and Urban Development (HUD) to make Business Recovery Grants. GAO noted that the Business Recovery Grants covered, in total, about 17 percent of business losses that were not covered by insurance and New York City and State grants. GAO further reported that the Empire State Development Corporation, which is administering the Business Recovery Grant program, planned to increase payments to some businesses and thereby reduce the amount of their uncompensated economic losses.

Congress may wish to consider whether the Federal Government should be the insurer of last resort for all or part of disaster-related business losses. Such a policy decision would eliminate the need to respond on an *ad hoc* basis after each terrorist attack that results in a presidential disaster declaration. Factors that should be considered are whether the lack of such assistance in recovering from difficulties related to terrorist incidents could increase other Federal response costs, such as DUA and MRA; and the respective roles of FEMA, SBA, and HUD in administering financial assistance to small businesses.

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[28] Cerro Grande Fire Assistance Act, Division C. It should be noted that FEMA received substantial assistance from SBA in implementing the compensation program for businesses.

APPENDIX A: SUMMARY OF ISSUES REQUIRING FEMA'S ATTENTION

The following summarizes issues that FEMA should consider addressing to improve its delivery of assistance to victims of future terrorist attacks that result in presidential disaster declarations. Issue 1 and 8 will require FEMA's coordination with Congress.

1. Examine how to address individual economic loss from a terrorist attack or other catastrophic events that results in widespread economic disruption. Specifically, the following characteristics need to be considered in developing a program that addresses economic loss and financial hardship:
   - Distinguishes between physical and economic loss;
   - Has fair and equitable eligibility criteria and operational procedures and does not appear arbitrary;
   - Reaches diverse ethnic populations in dense urban areas to provide assistance in a timely fashion;
   - Simplifies documentation requirements and addresses the inability of some disaster victims to produce traditional documentation of ability to pay a mortgage or rent;
   - Recognizes the hardships of extremely low-income populations by developing a comprehensive mechanism to define "economic loss" and "financial hardship" in relation to victims' ability to pay rent or mortgage;
   - Distinguishes clearly between pre- and post-disaster economic conditions;
   - Is flexible in defining the time period during which assistance will be provided; and
   - Is easy to implement even though infrequently used and does not require specialized training.

2. Work with States electing to administer the new Individual and Households Program to ensure that State contingency staffing plans can adapt to fluctuations in applicant activity.

3. Limit assistance for personal property whenever eligibility is determined without verification by inspection to disaster-related necessary expenses or serious needs that cannot be met by other insurance, government, and volunteer agency programs.

4. Be more proactive in requesting EPA to conduct necessary testing and/or studies to determine if a public health or safety threat exists in future, similar disasters so that cleaning efforts can begin much earlier in the recovery phase. In addition, address the roles of State and local agencies in such circumstances, as consultation with those agencies would provide useful information in review or evaluation.

5. Prepare more detailed and comprehensive guidance to ensure that counseling services delivered to disaster victims who are also victims of crime are appropriate, consistent, and not duplicative. These objectives could be accomplished through a Memorandum of Understanding between FEMA and the U.S. Department of Justice Office for Victims of Crime that formalizes the relationship, the responsibilities and authorities to be applied, programs, time frames, and sequencing when a disaster is also a crime scene.

6. Be better able to anticipate the proactive role non-governmental organizations will play in disaster recovery operations and attempt to coordinate relationships with those organizations through protocols such as Memorandums of Understanding to alleviate the potential for duplicating benefits.

7. Undertake efforts much earlier in the recovery phase of a disaster to (1) broaden its outreach capability to provide current brochures in multilingual formats that define IA programs and eligibility criteria, (2) better inform non-English-speaking victims about IA programs, and (3) assist non-English-speaking victims in applying.

8. Pursue legislative changes that would exempt FEMA's IA programs from the Federal public benefit classification when victims needing IA are lawfully present in the United States at the time of the applicable disaster but may not have the qualified alien status required by Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

APPENDIX B: FINANCIAL STATUS OF INDIVIDUAL ASSISTANCE PROGRAM AS OF NOVEMBER 1, 2002

TEMPORARY HOUSING ASSISTANCE	
Mortgage and Rental Assistance	$76,275,000
Minimal Home Repair	$1,450,000
Transient Accommodations	$1,225,000
Rental Assistance	$26,150,000
INDIVIDUAL AND FAMILY GRANTS	$25,400,000
CRISIS COUNSELING ASSISTANCE AND TRAINING PROGRAM	$162,400,000*
UNEMPLOYMENT ASSISTANCE	$13,200,000
LEGAL SERVICES	$2,000
TOTAL FEMA INDIVIDUAL ASSISTANCE FOR NEW YORK	$306,102,000

* Approved funding includes New Jersey, Connecticut, Massachusetts, and Pennsylvania

APPENDIX C: ISSUES RAISED AT PUBLIC FORUMS

The Office of Inspector General participated in two roundtable forums in New York City hosted by representatives of various members of Congress and the New York City Council. These roundtables enabled local community, advocacy, and voluntary organizations from New York and New Jersey, as well as members and staff of Congress and the New York City Council, to discuss concerns regarding FEMA's implementation of the IA programs in response to the events of September 11, 2001. The following issues were discussed:

- Poor coordination between FEMA, other Federal agencies, and voluntary agencies led to misinformation and applicant confusion.
- Outreach needs improvement. People were not well informed of assistance programs and types of assistance available; foreign-language speakers had difficulty completing applications written in English; application requirements need to be better specified and conveyed to applicants.
- To be eligible for MRA, an applicant had to live or work in Manhattan. Replace restrictive programmatic guidelines with more lenient guidelines to ensure that all victims having disaster-related needs are assisted. Guidelines should be clear so that decisions are less arbitrary; however, for some unique situations, eligibility determinations should be made on a case-by-case basis.
- FEMA's role regarding small businesses needs to be revised so that business losses are reimbursed adequately; small businesses should be able to participate in a program similar to the MRA program.
- The exclusive use of cash made it difficult for some applicants to verify place of residence or employment; some landlords and/or employers also were unwilling to verify place of residence or employment. Allow alternative forms of verification for all temporary housing programs.
- The availability of MRA to applicants in a lower-income scale might have been impeded if those applicants (1) had a history of pre-disaster arrears in rental and/or mortgage payments, and (2) had not met the 25-percent loss-of-income threshold.
- The quality of the air inside residences, schools, and businesses and the unclear assignment to a specific agency of the responsibility for cleanup.
- Frustration of applicants who found it difficult to get through to New York State to apply for assistance from the IFG program, a cumbersome IFG applications process, an applications backlog, and low approval rates. Expand the IFG program to ensure that all disaster-related needs not met through other assistance are addressed.
- A need for legislation to reinstate MRA or to develop a comparable program so that economic assistance can be provided after future events of this type.
- Clearer correspondence. MRA applicants that failed to submit a required document received correspondence from FEMA stating that they were "denied" assistance and might have interpreted this as complete ineligibility for the program.

- Reconsideration of residency requirements. Assistance under the MRA program is not available to applicants who have relocated from their pre-disaster residence. Some applicants have relocated (1) due to an inability to continue living in the affected area and (2) to obtain housing commensurate with their post-September 11, 2001, financial status. Victims who had to move from their pre-disaster residence because of the disaster should be eligible for assistance.
- Applicants who were initially ineligible for MRA may not have reapplied after the eligibility criteria became more lenient. FEMA should review applications that were previously denied.
- Simplification of temporary housing assistance applications. Applications should have less extensive document requirements and explain the remaining requirements more clearly. The two-step registration process of calling teleregistration and then completing an application is confusing—some believe that after calling teleregistration, the process is already working on their behalf.
- Eligibility periods for the temporary housing programs, namely the MRA and IFG programs, should be extended well into 2003.
- The time to process and approve temporary housing program applications is too long.
- A voucher system. Low-income victims cannot afford to purchase cleaning equipment available under the IFG program and be reimbursed at a later date.
- MRA eligibility criteria penalize those who do not want to ruin their credit by waiting to owe mortgage or rent payments before they apply for assistance. Waiting for an eviction or disclosure notice to apply for assistance is too late.
- Low approval ratings for Disaster Unemployment Assistance.
- Caseworkers taking housing assistance applications are not adequately familiar with the programs. Caseworkers in other states are not familiar with the situations in New York. There is a need for better training.
- Concerns that multiple FEMA caseworkers are working on one application; one caseworker for each application was suggested.
- The standard of recognition for medical and psychological trauma needs to be clearly defined.
- FEMA should re-open any program that did not reach eligible applicants.
- When former housing assistance recipients later apply for assistance from the public welfare system, assistance received from FEMA looks like an asset and adversely affects their application.
- FEMA should recognize the burden placed on the health-care infrastructure with respect to unemployed, uninsured individuals; the mental health infrastructure should also be increased and sustained.
- A health care program is needed that expands on the September 11 Fund Program and provides health care to victims.
- Individuals having insurance are penalized by having to wait to see what their insurance company paid to cover losses.
- The amount of housing assistance provided is usually not sufficient to meet individuals' needs in a large urban environment.

PUBLIC FORUM ATTENDEES

Representatives from the following offices and entities include:

- Representative Maloney
- Representative Nadler
- Representative Velazquez
- Representative Serrano
- Representative Rangel
- Representative Menendez
- Representative Rothman
- Representative Meeks
- Senator Schumer
- New York City Council
- New York State Senate
- New York State Assembly
- Manhattan Borough President's Office
- Urban Justice Center
- Rebuild with a Spotlight on the Poor Coalition
- 9/11 Environmental Coalition
- 9/11 United Services Group
- Beyond Ground Zero Network
- Catholic Charities Archdiocese of New York
- Catholic Charities Archdiocese of Brooklyn-Queens
- From the Ground Up
- Project Life at Lutheran Social Services
- Family Assistance Center for Safe Horizon
- Asian American Legal Defense and Education Fund
- Chinese Staff and Workers Association
- The Children's Health Fund
- Project Ayuda at Puerto Rican Legal Defense and Education Fund
- Brooklyn Bureau of Community Service
- Residents of New York City

APPENDIX D: ACRONYMS

CCP	– Crisis Counseling Assistance and Training Program
CDBG	– Community Development Block Grant
CMHS	– Center for Mental Health Services
DMA 2000	– Disaster Mitigation Act of 2000
DOJ	– U.S. Department of Justice
DUA	– Disaster Unemployment Assistance
EPA	– U.S. Environmental Protection Agency
FEMA	– Federal Emergency Management Agency
GAO	– General Accounting Office
HEPA	– High Efficiency Particulate Air
HHS	– U.S. Department of Health and Human Services
HUD	– U.S. Department of Housing and Urban Development
IA	– Individual Assistance
IFG	– Individual and Family Grants
IFMIS	– Integrated Financial Management Information System
ISP	– Immediate Services Program
MRA	– Mortgage and Rental Assistance
NEMIS	– National Emergency Management Information System
NPSC	– National Processing Service Center
NYCOSH	– New York Committee for Occupational Safety and Health
NYCDEP	– New York City Department of Environmental Protection
NYDOL	– New York Department of Labor
NYSCVB	– New York State Crime Victims Board
OVC	– Office for Victims of Crime
PNP	– Private Non-Profit
RSP	– Regular Services Program
SBA	– U.S. Small Business Administration
Stafford Act	– Robert T. Stafford Disaster Relief and Emergency Assistance Act
USDOL	– U.S. Department of Labor
VOLAGS	– Voluntary Agencies
WTC	– World Trade Center

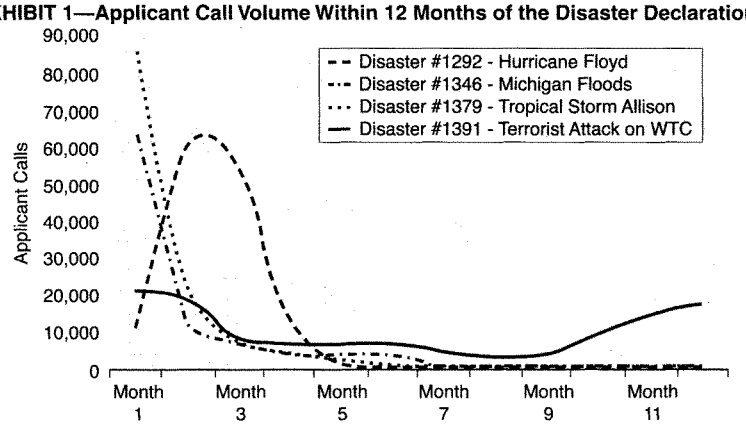
APPENDIX E: BENCHMARK COMPARISONS

FEMA activated its applicant assistance teleregistration system to receive calls from disaster victims immediately following the President's disaster declaration on September 11, 2001. Disaster victims use this system to register for FEMA's IA programs. Requests for assistance are then processed using FEMA's National Emergency Management Information System (NEMIS) database.

To better understand individual assistance needs presented in this disaster and in previous disasters, we asked FEMA to compile data on applicant calls for assistance in the September 11, 2001, Terrorist Attacks in New York, and in Tropical Storm Allison in Texas (June 9, 2001), the Michigan floods (October 17, 2000), and Hurricane Floyd in North Carolina (September 16, 1999). These disasters were selected as representative of disasters with similar applicant call volume.

Our analysis of the data revealed that applicant call volume in Tropical Storm Allison, the Michigan floods, and Hurricane Floyd decreased significantly—to fewer than 200 calls a month—seven months after these events were declared. Applicant call volume for the Terrorist Attacks in New York remained at more than 3,000 per month seven months after the declaration, and surged to 14,000 and 17,000 calls in months 11 and 12, respectively. The volume may reflect continuing needs demonstrated by disaster victims and the decisions made by FEMA. For example, the overwhelming majority of these calls were for assistance with air quality items. The following exhibit illustrates applicant calls received by month within the twelve months following the date of disaster declaration.

EXHIBIT 1—Applicant Call Volume Within 12 Months of the Disaster Declaration



Source: VA NPSC NEMIS Data, October 2002

APPENDIX F: FEMA COMMENTS ON DRAFT REPORT

Federal Emergency Management Agency
Washington, D.C. 20472

December 17, 2002

Richard L. Skinner
Acting Inspector General
Federal Emergency Management Agency
500 C Street, SW
Washington, DC 20472

Dear Mr. Skinner:

Thank you for providing FEMA the opportunity to comment on the draft Office of Inspector General (OIG) Report entitled "FEMA's Delivery of Individual Assistance Programs: New York---September 11, 2001."

Given the enormous challenge presented by the September 11th terrorist attacks, we are proud of FEMA's response in delivering its Individual Assistance programs and in meeting the needs of disaster victims. While we acknowledge that there is always room for improvement, we strongly believe FEMA met the significant challenges created by the unique response and recovery circumstances of such an unprecedented disaster.

The challenges FEMA faced in the distribution of Individual Assistance were unlike any other disaster in its history because: the disaster site was also a crime scene; the debris contained potentially hazardous materials; there was a tremendous outpouring of private charitable activities; the disaster had a nationwide economic impact; and there were significant public expectations regarding available Federal assistance. Despite all of these challenges, FEMA's authorities and programs were generally adequate and flexible enough to meet most individual needs.

In every disaster there are individuals for whom FEMA cannot provide all assistance needed or requested. However, Congress made clear in the Stafford Act that disaster assistance is meant only to supplement other means of assistance for serious disaster-related needs. To ensure that New York disaster victims received as much assistance as legally possible, FEMA reviewed its authorities to ensure the broadest interpretations of FEMA programs. Therefore, to the extent the OIG report relies on criticism from the public or public advocacy groups that FEMA provided less than adequate assistance, FEMA respectfully submits that it provided all requested assistance for which it had authority.

Finally, the OIG report notes that FEMA could improve its public outreach as well as its communications and coordination with Federal and State partners and voluntary agencies. Should this nation ever again face such a disaster event, FEMA will build upon what it learned in responding to the September 11th attacks. I am confident that given the circumstances of this disaster, my staff's significant outreach and coordination activities

prevented many problems before they occurred and generally made the distribution of individual assistance more efficient and effective than it would have been otherwise.

In conclusion, we appreciate the opportunity you have given us to make meaningful contributions to your report. We look forward to working with the OIG in similar partnership in the future.

Sincerely,

Joe M. Allbaugh
Director

APPENDIX G: STATE OF NEW YORK COMMENTS ON DRAFT REPORT

New York State Emergency Management Office
1220 Washington Avenue
Building 22, Suite 101
Albany, NY 12226-2251

Edward F. Jacoby, Jr., Director

December 5, 2002

Mr. George Peoples
Office of the Inspector General
Federal Emergency Management Agency
Federal Center Plaza
500 C. Street S.W.
Washington, D.C. 20472

Dear Mr. Peoples:

This is in response to the draft report on the Individual and Family Grant (IFG) program, part of the Individual Assistance (IA) program for FEMA – 1391 –DR NY.

As was discussed at the exit conference held on November 20, 2002, the New York State Emergency Management Office (SEMO) and the New York State Department of Labor (DOL), which administers the IFG program, believe that the draft report, as currently written, is unjustly critical of the administrative activities relating to Disaster 1391 and does not accurately reflect what actually occurred. In particular, the draft report fails to take in account the unique magnitude of this particular disaster and, instead, assumes administrative criteria based on a disaster usually encountered, such as a flood or snowstorm. I strongly urge you to include a discussion of the unique circumstances of the WTC disaster as part of the final report.

When this review was originally discussed with IFG representatives, it was explained that the review would document how this unique disaster was handled and to see what, if anything, could or should be changed that would have enabled both FEMA and the state to better manage this remarkable situation. This draft report reflects very little of the uniqueness of this disaster, especially in light of the fact that all fieldwork was completed by the end of August 2002, and the majority of the applications were taken after this date. In response to the large number of applications, the State and FEMA took exceptional measures to meet the needs of claimants. This includes FEMA's assuming the operation of the IFG Helpline, the State's adding unprecedented numbers of staff to process IFG claims, and the continual expansion of the hours of operation to accommodate the increasing demands of the program. I recommend you update this audit to include these efforts.

The audit establishes conclusions in this report that are based on opinions, not facts. For example, the report cites comments made by representatives from various advocacy groups, expressing feelings of frustration, but does not offer more specific data to support these conclusions. The report then utilizes these comments to highlight the program's restrictive eligibility criteria, such as needing to apply to their insurance company and the Small Business Administration first for assistance. But the report neglects to mention that these eligibility

State Emergency Coordination Center (518) 457-2200 Fax: (518) 457-9930 Executive Offices: (518) 457-2222

criteria are mandated by FEMA as elements of the IA program under 42 USC Sections 5152 and 5155 of the Public Health and Welfare Law (Stafford Act). This fact should be included in the final audit. Not doing so will create a misperception of the State's limited authority in the IFG program. The report also fails to acknowledge that for Disaster 1391, the decline actually began to occur three months into the disaster and the reason for this decline is more likely attributable to the role that the various non-profit organizations played in providing aid to victims of Disaster 1391. These organizations, acting autonomously, were able to provide a variety of financial relief not as easily available under federal programs. The role of these organizations and their significant impact on the predictability of the IFG caseload should be included in the final report.

The section of the report that discusses the increase in applications that occurred in June 2002 also does not accurately reflect what occurred with Disaster 1391. The report attributes the rise in applications to the increased advertisement of the environmental items covered by the IFG program by local vendors and the addition of the air conditioner as a covered item. While the State concurs that both of these may have played some role in the increase, the report again fails to take into account the impact of the closing of the non-profit programs around this same time period. More importantly, the report fails to discuss the significant impact of the special program initiated to address those individuals identified as having a serious and necessary need but unable to pay for these items up front, to later be reimbursed. This program is referred to as the hardship/advance payment program and was a unique element of the IFG program for Disaster 1391. The hardship/advance payment program began in response to a single congressional inquiry and has become a significant element of the program consisting of almost half of all the new applications received since June 2002. The advance payment program enabled those victims who could least afford it access to the much-needed environmental items. The final audit should be revised to include these facts.

Of more significance is the report's incorrect contention that the State did not have adequate resources to process applications and address applicant inquiries. First, the report states that the State did not develop a staffing plan to identify the human resources needed to perform functions imposed by Disaster 1391. This statement is not true. In fact, as required, the State submitted an administrative plan, which was approved by FEMA, which specifically addressed the staffing for Disaster 1391. The state continuously monitored staffing and made adjustments when necessary. While the report properly reflects that in March 2002 the State reduced staffing in response to the decline in new applicants, the report fails to properly reflect the staffing adjustments made in response to the unexpected increase in new cases that started in June 2002. The report contends that no additional staffing increases were made until August 2002. However, the State actually increased staff continuously in June, July and August in response to the extraordinary increase in caseload. During this same time period, the State expanded hours, and added Saturday workdays. In late August 2002, in direct response to a continued increase in new applications which neither FEMA or the state could have envisioned, the State and FEMA entered into an agreement to manage Disaster 1391 jointly. This decision was made after FEMA sent staff to provide suggestions to the State on how to best manage the disaster in light of the unprecedented increases. The results that this agreement has produced are far greater than either organization could have anticipated.

The cooperation enjoyed by the State and FEMA in administering this program is unprecedented and should be used as a model for future disasters. In fact, FEMA would support other states using New York as an example when structuring their IFG programs. Streamlined methods have allowed this program to pay more than $40 million to 40,000 New Yorkers.

If you would like any further information, please let me know.

Sincerely,

Edward F. Jacoby, Jr.
Governor's Authorized Representative
FEMA – 1391-DR NY

APPENDIX H: U.S. ENVIRONMENTAL PROTECTION AGENCY COMMENTS ON DRAFT REPORT

Attachment
U. S. Environmental Protection Agency
Comments on FEMA Office of Inspector General Report
"FEMA's Delivery of Individual Assistance Programs: New York–September 11, 2201
December 2, 2002

Draft Report states: "For eight months, EPA took the position that no environmental cleanup was necessary."

This statement is inaccurate. EPA in many public statements, beginning in September 2001, and documents indicated that residents of lower Manhattan affected by dust/debris from the World Trade Center attack should cleanup using techniques that would be effective with asbestos containing material. EPA did this because under its FEMA mission assignment to assist in assessing and cleaning lower Manhattan exterior and ambient environs, many samples were taken of bulk dust material (approximately 135) that was in the streets of lower Manhattan. Approximately 35% of these samples showed greater than 1% of the material was asbestos. Given these results EPA recommended that, if residents had any significant levels of dust/debris in their dwellings, they should use professional asbestos abatement cleaners and presume the material was asbestos containing.

A group of concerned legislators from lower Manhattan coalesced as the "Ground Zero Elected Officials Task Force." These officials began early on to request assistance be provided to residents in the cleanup of their buildings. They identified several buildings which they wanted sampled indoors. EPA consulted with representatives of the New York City Department of Health regarding whether NYC wanted any support in testing these buildings. New York City did not request EPA action. The Ground Zero officials commissioned a sampling effort the results of which were provided in a report dated October 12, 2001 to EPA and others.

On September 28, 2001 EPA attended a public meeting at which lower Manhattan residents requested cleanup assistance to be able to return to their residence. FEMA was represented at this meeting by Marianne Jackson.

On October 9, 2001 EPA representatives (Bruce Sprague, Kathleen Callahan) met with FEMA representatives including Larry Sommer and Kathryn Humphrey to discuss whether FEMA's assistance programs could provide residents with the additional financial support that would be needed to have professional asbestos abatement cleaners hired to clean the residences. FEMA invited EPA to sit in on a meeting that day with lower Manhattan residents, community board representatives and representatives of the Battery Park Business coalition. This meeting's principle topic was the additional support residents needed to cleanup safely and the business coalition was considering providing funding support. Ultimately, this initiative did not take place. FEMA did attempt to provide greater assistance to residence who were displaced from their affected apartments. However, there continued to be pressure for more government assistance for residential cleanup. Although most air samples taken for asbestos in the outdoor (ambient) environment did not show

levels of asbestos exceeding the benchmark EPA used to assess the state of the environment surrounding the WTC site, the dust did contain asbestos in variable amounts and locations and with cleanup activity this could become entrained in the air, posing an inhalation health risk. EPA continued to recommend the use of professional abatement cleaners wherever possible and use of wet wiping, wet mopping and HEPA vacuuming to reduce the likelihood that the dust would become airborne and pose a risk. Additional testing showed silica, and fibrous glass to be present in dust/debris as well.

The New York City Department of Health and the Agency for Toxic Substances and Disease Registry, with EPA funding support and counsel, developed a study of indoor residences to evaluate impacts of the WTC attack on dwelling units. Air and dust samples were collected in and around 30 buildings in lower Manhattan. Many of the dwelling units had already been cleaned. Four buildings north of 59th Street were sampled for background levels of contaminants

The results of this study were released in final form in September 2002. Recommendations include:

- frequent cleaning with HEPA vacuums and damp cloths/mops to reduce the potential for exposure because more asbestos, synthetic vitreous fibers (e.g., fiber glass), mineral components of concrete (quartz, calcite, and portlandite), and mineral components of wallboard (gypsum, mica, and halite) were found in settled surface dust in lower Manhattan residential areas when compared to residential areas north of 59th Street

- additional monitoring of residential areas in lower Manhattan,

- and requesting cleaning and /or testing form the "EPA" cleanup program.

Draft Report states: "In May 2002, because of increased political pressure and unfavorable media coverage, EPA announced it would provide free testing and cleaning for the Lower Borough of Manhattan residences."

This statement is extremely misleading.

First, it is misleading in that it implies EPA made a decision to have a cleanup program as a result of political pressure and unfavorable media coverage. As stated previously, based upon potential health impacts EPA had concerns early on with regard to how residents would be able to cleanup the debris from the WTC building collapses (which contained asbestos containing material in a substantial number of samples taken and was known to have been used in the construction of the WTC towers). These concerns were shared by NYC DOH and ATSDR.

Secondly, it implies that EPA made a unilateral decision to announce a cleanup program. On the contrary, in May 2002 at a press conference EPA's Regional Administrator, New York City's

Commissioner of Environmental Protection and FEMA's Acting Regional Administrator jointly made the announcement that an indoor residential cleanup program would begin. This announcement was the result of months of continuing discussions between EPA, FEMA, and New York City. Below are listed some of the meetings at which the issue of indoor cleanups was discussed.

2/14/02 - A meeting was held of the Catastrophic Disaster Response Group (CDRG) at the request of FEMA Director Joe Allbaugh to discuss the air quality questions at the WTC site in NYC. EPA attended (Jim Makris, Larry Reed, and by phone Jane Kenny, Regional Administrator, William Muszynski, Deputy Regional Administrator, and Kathleen Callahan. Also on the phone was Robert Williams of ATSDR, as well as representatives from HHS, OSHA, the U.S. Army Corps of Engineers, and GSA. EPA and HHS were requested to prepare papers on the indoor air concerns as well as other HHS related issues. EPA's paper was provided to FEMA on 2/26/02, as requested.

EPA's Administrator Christine Todd Whitman announced the establishment of an Indoor Air Task Force. Agencies invited to participate in the Task Force in addition to several EPA offices, included FEMA, OSHA, ATSDR, the New York State Department of Health, the New York State Department of Environmental Conservation, the New York City Department of Health, the Mayor of New York City (who was represented by the Office of Emergency Management and the Office of Environmental Coordination), Governor George Pataki. A working group was established with representatives of all the invited agencies. The first meeting of the work group supporting the task force was held on February 21, 2002. Marianne Jackson and Robert Traynor attended for FEMA.

2/26/02- EPA presented its proposed approaches and requested write up at a meeting attended by Larry Reed. FEMA officials requested a follow up meeting for 3/11. This took place; EPA presented further information and discussions took place. FEMA officials indicated that they need to give further consideration to authorities, funding mechanisms, etc.

3/19/02 - Larry Zensinger advised EPA representatives from HQ to work through New York City from that point on.

4/15/02 - FEMA representatives met with EPA Assistant Administrator Horinko and staff, with Region 2 representation by phone, met to discuss impediments to progress on the issues related to indoor cleanup.

4/17/02 - FEMA, EPA and NYC representatives met to review indoor cleanup program issues.

Throughout this time there were weekly meetings of the interagency work group members about the potential health concerns related to indoor dust/debris and program options for addressing these.

In late April New York City Mayor Bloomberg requested of EPA Administrator Whitman that EPA take the lead on indoor air issues in NYC.

NYC had numerous discussions with FEMA regarding options for funding the program and ultimately coordinated a program which identified tasks to be funded through FEMA and conducted by NYC and EPA.

5/08/02 - press announcement for indoor cleanup program.

6/01/02 - Hotline for registering for testing or cleaning and testing was opened, as well as a web site for on-line registration. NYC DEP contracted for this service. EPA staff provided technical direction and oversight.

8/22/02 - EPA contractor begins testing only in apartments in lower Manhattan

9/12/02 - Eight contracts are awarded by NYC for cleaning and testing of residential spaces in lower Manhattan. EPA staff provide technical and implementation direction in consultation with NYC. Many technical issues arose in the development of the scopes of work associated with these contracts. EPA and NYC staff worked closely to develop a satisfactory program, and put in place the funding mechanisms with FEMA to assure that all involved agencies understood the program scope.

Draft Report states: "Despite FEMA's and EPA's apparent regulatory and legislative authority to act, their actual roles and responsibilities were not defined early on in the recovery effort.... To avoid this ad hoc approach in the future, FEMA, in conjunction with EPA, should amend the Federal Response Plan, authorizing FEMA to direct EPA to conduct testing and cleaning of residences for hazardous materials during similar disaster recovery efforts."

These statements seem to miss critical points. The Federal Response Plan becomes activated when a situation beyond the capability of state and local governments arises and, upon the request of the Governor of the state, the President declares a major disaster or emergency. A Federal Coordinating Officer from FEMA is appointed to coordinate all federal disaster assistance activities. This gives FEMA broad latitude to act implementing the Federal Response Plan, and coordinating and directing emergency assistance and disaster relief of impacted individuals, business and public services under the Robert T. Stafford Disaster Relief Act. The FRP was developed with numerous federal agencies to facilitate delivery of federal assistance through twelve functional annexes, the Emergency Support Functions (ESFs). FEMA can assign EPA responsibilities under the ESFs, with EPA being the designated lead agency for ESF 10, Hazardous Materials.

A critical point which seems unaddressed in the Draft Report is how federal agency responses assigned by FEMA are to be coordinated with state and/or local responses. The indoor residential cleanups were left as the responsibility of building owners and residences. Although other mission assignments were given to EPA, no requests were made to EPA from FEMA or by NYC to FEMA to act on the indoor cleanup issue. The FRP would seem to still stand up as a solid context in a

response of this type. FEMA provided residential assistance of various types to affected residents. The focus of future responses should frame the conditions under which FEMA or EPA or other agencies, for example in the case of public health threats or nuclear materials incidents, might recommend other actions to state or local government and what options those other actions should include. In addition, the role of the state and local governments in the decision process should be explored.

Draft Report states: "FEMA had not coordinated a contaminant cleaning effort during disaster recovery."

This seems inaccurate. Based upon knowledge of Region 2 responses to nationally declared disasters subsequent to hurricanes FEMA has assigned EPA contaminant cleanup work. We believe this to be the case in many regions, consistent with ESF 10 Hazardous Materials lead activity.

APPENDIX I: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES' CENTER FOR MENTAL HEALTH SERVICES COMMENTS ON DRAFT REPORT

Comments from the Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, Division of Prevention, Traumatic Stress and Special Programs, Emergency Services and Disaster Relief Branch regarding the Office of Inspector General Draft Report: *FEMA's Delivery of Individual Assistance Programs: New York – September 11, 2001.*

Following a review of the report authored by the Office of Inspector General (OIG) regarding the Crisis Counseling Program, it is concluded that the report is generally correct in the description of services of the Federal Emergency Management Agency (FEMA) and the Crisis Counseling Assistance and Training Program. We concur with recommendations regarding interagency coordination.

We appreciate the opportunity to comment on this **Draft Report**. Please see the following comments we have provided below:

1. On page 4, in the third sentence regarding the crisis counseling program, we recommend substituting the word "counseling" for "screening and diagnostic" techniques.

2. On page 5, the Draft Report states that as of October 2002, the total disaster funding for the Crisis Counseling Program was $162,400,000, with $21,400,000 for the Immediate Services Program and $141,000,000 for the Regular Services Program. Although the program has been approved for this amount and could reach or even exceed these figures, the actual obligated amount for the Regular Services Program for New York, Connecticut, New Jersey and Massachusetts is $37,698,356. Additional funding may be obligated if the States provide documentation to FEMA and CMHS on financial expenditures.

3. On page 22, staff noted some ambiguity in the sentence that reads "At the outset, too many entities were involved to ensure that the victim services provided adequately addressed victim needs." We recommend rewording to clarify that the central concern is one of coordination and potential confusion among disaster victims.

4. On page 24, we recommend substituting the second sentence of the second paragraph with the following: "OVC administers its own grant programs and has consulted in the past with CMHS for technical assistance."

5. On page 25, under the subheader that reads "Many Entities Provide Counseling-type Assistance" we recommend substituting the second sentence to read as follows: "Irrespective of how well intentioned these ad hoc providers may have been, a significant number of victims may have received inaccurate or possibly even harmful services from individuals not certified, licensed, or otherwise sanctioned by the State to provide mental health services. These individuals may

not have received appropriate training or oversight regarding the mental health needs of disaster victims, or have access to the appropriate services, methods, and resources available under the incident command structure."

APPENDIX J: U.S. DEPARTMENT OF JUSTICE COMMENTS ON DRAFT REPORT

U.S. Department of Justice

Office of Justice Programs

Office for Victims of Crime

Washington, D.C. 20531

November 22, 2002

Mr. Clifford N. Melby
Assistant Inspector General for Inspections
Federal Emergency Management Agency
Federal Center Plaza
500 C Street, SW.
Washington, D.C. 20472

Reference: Federal Emergency Management Agency (FEMA) Delivery of Individual Assistance Programs: New York -September 11, 2001 Draft Report

Dear Mr. Melby:

Thank you for the opportunity to review pages 24 and 25 of the above referenced draft report titled *2. Department of Justice Authorities May Overlap FEMA Authorities*. Because, you were only permitted to share those sections of the draft report pertaining to the Office for Victims of Crime (OVC), it is difficult to put the 2-page synopsis in full context of the report. Hence, we reviewed the information provided to us for technical accuracy and to assess the soundness of the proposed recommendation for improving coordination between our agencies.

As you are aware, OVC, FEMA, and the Executive Office of United States Attorneys (EOUSA) signed a *Letter of Intent* in October 1996 following the Oklahoma City bombing. This letter of intent sets forth the terms of a crisis response protocol for the participating agencies. We believe this agreement is responsive to the recommendation contained in your draft report. However, it would probably be beneficial to reexamine the content of this agreement in light of the activities of our respective agencies following the September 11th terrorist attacks, and issue an updated agreement with representatives of this Administration which incorporate lessons learned from both Oklahoma City and the 9/11 terrorist attacks.

Overall, OVC and FEMA came to terms amicably and cooperatively with the specific aspects of our respective responses, informed by our past experience responding to the Oklahoma City criminal disaster. Given our overlapping authorities, we are pleased with the coordination between our two agencies and the level of services and support that we were able to provide to the victims of the September 11th terrorist attacks. Because we only have one section of your report, we are uncertain how you have addressed issues regarding duplicate funding for counseling services for victims. In our assessment, this is the area that proved most problematic

in our response to victims. As you correctly indicate in your report, "non-counseling assistance" was a primary need for victims; however, the money appropriated to OVC for assisting victims was strictly limited to funding counseling programs. We hope that your report highlights this issue and makes recommendations to address this duplication of effort. We also hope that the report offers recommendations regarding other types of expenses victims incurred for which money was not appropriated.

There are a few other areas of the report which require minor tweaking to make them technically accurate. In particular, the draft report tends to discuss issues relating to state and federal funding and program administration in the same context. We have taken the liberty of correcting these technical inaccuracies, and by adding information regarding funding OVC received specifically to support counseling for crime victims (see attachment).

We appreciated the process that the FEMA Office of the Inspector General staff followed to prepare this report. Please feel free to contact Carolyn Hightower, Deputy Director at 202/616-3568, if you would like to discuss our assessment of your draft report.

Sincerely,

John W. Gillis
Director

Attachment

cc: Deborah J. Daniels
Assistant Attorney General
Office of Justice Programs

2. Department of Justice Authorities May Overlap FEMA Authorities

For disaster victims, FEMA's CCP and IFG programs fund crisis counseling services and reimbursement for medical, dental, and funeral expenses. Under the Victims of Crime Act (VOCA) of 1984, as amended (42 U.S.C. §10603), the Office for Victims of Crime (OVC) is authorized to provide grants from the Crime Victims Fund to state crime victim compensation programs for the same expenses, including mental health counseling, and to provide funding to states to support victim assistance services, i.e., crisis counseling, criminal justice advocacy, shelter, and other emergency assistance services. VOCA authorizes OVC to provide funding for direct services to victims of federal crimes, and to fund programs that assist victims of terrorism and mass violence from OVC's Antiterrorism Emergency Reserve fund. In addition, with the passage of the USA PATRIOT Act (hereinafter referred to as the PATRIOT Act), OVC received appropriated dollars specifically to support counseling grants for victims, their family members of victims, and rescue workers who responded to the terrorist attacks.

Funding available from OVC is administered through formula grants, discretionary grants, and reimbursable agreements with other federal agencies. Funds are awarded to states, private nonprofit and nongovernmental organizations, and federal agencies.

In the aftermath of the September 11th terrorist attacks, OVC awarded grants to: state crime victim compensation programs to supplement state funds available to compensate victims for out-of-pocket expenses such as medical services, mental health counseling, lost wages, and funeral expenses; state victim assistance agencies to award subgrants to community-based organizations responding to other emergency and direct service needs of the victims of the attacks; states and to community-based non-profit organizations specifically to administer counseling programs using dollars authorized and appropriated by the PATRIOT Act.

We interviewed representatives from the New York Crime Victim Compensation Board to obtain a clearer understanding of the types of expenses victims of the terrorist attacks incurred. Not surprisingly, they received numerous requests for reimbursement for mental health counseling. They attributed this to the fact that so many other free sources of mental health counseling were made available to the victims and because crime victim compensation programs are *payers of last resort*, and many victims had access to collateral sources of payment such as medical or auto insurance, social security benefits, and medicaid for out-of-pocket expenses like dental health counseling.

Prior to the events of September 11th, FEMA and OVC worked cooperatively to respond to the Oklahoma City bombing victims. In fact, the two agencies jointly funded mental health counseling services for these victims during the trials of Timothy McVeigh and Terry Nichols. To facilitate the cooperative working relationship, FEMA, OVC, and the Department of Justice's Executive Office for United States Attorneys (EOUSA) entered into a *Letter of Intent* setting forth the terms of a crisis response protocol. This protocol outlined responsibilities for coordinating assistance to victims of catastrophic federal crimes, coordinating resources and referral services, and addressing victims' needs and rights to privacy and confidentiality. In the spirit of collaboration and cooperation, FEMA and OVC officials met shortly after the terrorist

Draft

attacks to determine the sequence of delivery for victim services. However, their efforts were sometimes stymied by overlapping authorities to cover certain victim-related costs. FEMA and OVC should reissue the *Letter of Intent* drafted following the Oklahoma City bombing to incorporate lessons learned from the September 11th terrorist attacks. Likewise, Congress should closely examine existing funding authorities for counseling services for victims of criminal disaster to avoid duplication of effort among agencies. Further, closer examination of the noncounseling emergency assistance needs of victims should be examined and addressed.

draft

APPENDIX K: U.S. DEPARTMENT OF LABOR COMMENTS ON DRAFT REPORT

On December 2, 2002, the U.S. Department of Labor (USDOL) provided the following response to the draft report via electronic mail:

"In reviewing and commenting on the draft report, USDOL has a comment on page 28, pertaining to the first sentence in the first paragraph, "As an example, FEMA's..." USDOL believes this paragraph does not seem to relate to the rest of the body. In addition, the first paragraph gives the impression that FEMA was duly responsible for providing DUA liberally after September 11th, which in fact, it was USDOL who developed and set the regulations in motion and provided oversight assistance to New York State."

APPENDIX L: U.S. SMALL BUSINESS ADMINISTRATION COMMENTS ON DRAFT REPORT

FEMA IG Draft Report
FEMA's Delivery of
Individual Assistance Programs:
New York – September 11, 2001

B. Grants to Small Businesses Were Made on an Ad Hoc Basis

One factor that should be part of the analysis is whether the government's failure to assist businesses promptly in recovering from difficulties related to terrorist incidents could increase other Federal response costs, such as DUA and the MRA program, and the respective roles of FEMA, SBA, and HUD.

Comment: We disagree with the statement that the Federal government failed to assist businesses promptly in response to the terrorist attacks of September 11. Specifically, SBA immediately began outreach efforts to these disaster victims. However, we recognize that many victims chose not to return their loan applications quickly for a variety of reasons, such as:

- The stronger businesses had some insurance coverage (for physical damage and business interruption), and they typically wait until that is settled before applying for a loan or they may decide to use their own resources in the short run before taking on additional debt.
- With all the publicity about donations and grant programs, many businesses hoped to get help from these sources rather than an SBA loan, which must be repaid.
- Many prudent businesses may not request a loan until they decide what they need to finance.
- Some of the impacted businesses have substantial financial resources of their own and won't seek outside help.

Therefore, we found that many businesses chose not to immediately file for Federal assistance; however, a business owner's decision to delay requesting Federal assistance does not mean that the Federal government "failed to assist businesses promptly".

Federal Emergency Management Agency

Office of Inspector General
Washington, D.C. 20472

CUSTOMER RESPONSE **IG Report No.: I-02-03**

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We wish to make our reports as responsive as possible to our customers' requirements, and therefore ask that you share your thoughts with us. Please answer the following questions if they apply to you:

1. What additional background information about the selection, scheduling, scope, or procedures of the review would have been helpful to the reader in understanding this report?

3. What additional Information related to findings and recommendations could have been included in this report to assist management in implementing corrective actions?

4. What format, stylistic, or organizational changes might have made this report's overall message clearer to the reader?

5. What additional, helpful actions could have been taken by the Office of Inspector General on the issues discussed in this report?

6. Provide additional comments below that you believe would help to improve future reports.

Please include your name and telephone number so that we may contact you should we have questions about your comments.

Name: _____ Date: _____

Organization: _____ Telephone: _____

Please mail your comments and questions to the following address or fax them to (202) 646-3901. You may also ccmail/e-mail your comments to Clifford N. Melby, Assistant Inspector General for Inspections, at Cliff.Melby@FEMA.Gov, or call Mr. Melby at (202) 646-3338.

Office of Inspector General
Federal Emergency Management Agency
500 C Street, S.W., Room 505
Washington, D.C. 20472

United States General Accounting Office

GAO

Performance and Accountability Series

January 2003

Major Management Challenges and Program Risks

Federal Emergency Management Agency

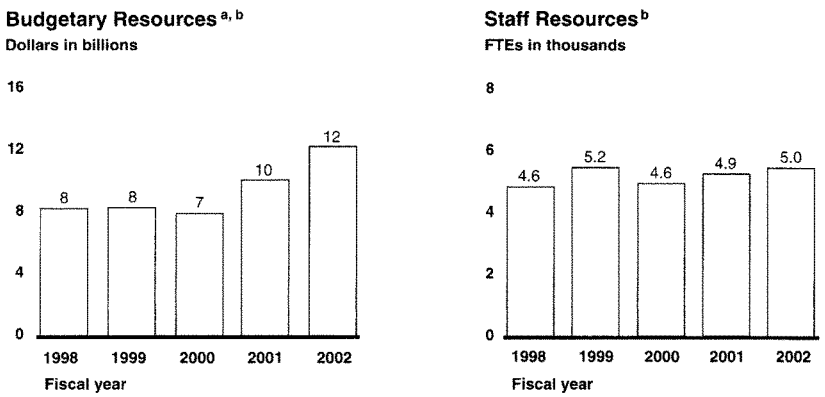
GAO-03-113

A Glance at the Agency Covered in This Report

The Federal Emergency Management Agency coordinates federal disaster and emergency assistance policies and administers programs that provide assistance before and after disaster strikes. Agency programs and activities include

- supplemental assistance to enhance state and local preparedness activities,
- disaster relief for communities and individuals,
- a national flood insurance program,
- fire prevention and suppression assistance, and
- support for hazard mitigation projects.

The Federal Emergency Management Agency's Budgetary and Staff Resources



Source: Budget of the United States Government.

[a] Budgetary resources include new budget authority (BA) and unobligated balances of previous BA.

[b] Budget and staff resources are actuals for FY 1998-2001. FY 2002 are estimates from the FY 2003 budget, which are the latest publicly available figures on a consistent basis as of January 2003. Actuals for FY 2002 will be contained in the President's FY 2004 budget to be released in February 2003.

This Series

This report is part of a special GAO series, first issued in 1999 and updated in 2001, entitled the *Performance and Accountability Series: Major Management Challenges and Program Risks.* The 2003 Performance and Accountability Series contains separate reports covering each cabinet department, most major independent agencies, and the U.S. Postal Service. The series also includes a governmentwide perspective on transforming the way the government does business in order to meet 21st century challenges and address long-term fiscal needs. The companion 2003 *High-Risk Series: An Update* identifies areas at high risk due to either their greater vulnerabilities to waste, fraud, abuse, and mismanagement or major challenges associated with their economy, efficiency, or effectiveness. A list of all of the reports in this series is included at the end of this report.

January 2003

GAO
Accountability·Integrity·Reliability
Highlights

Highlights of GAO-03-113, a report to Congress included as part of GAO's Performance and Accountability Series

PERFORMANCE AND ACCOUNTABILITY SERIES

Federal Emergency Management Agency

Why GAO Did This Report

The 2003 performance and accountability series includes the first report on the Federal Emergency Management Agency (FEMA) since the series started in 1999. GAO reported on management challenges facing FEMA this year because of the increased national significance of the agency's missions and the additional responsibilities placed on the agency.

The information GAO presents in this report is intended to help sustain congressional and agency attention on continuing to make progress in addressing these challenges and ultimately overcoming them. This report is part of a special series of reports on governmentwide and agency-specific issues.

What Remains to Be Done

GAO believes that FEMA should

- ensure effective coordination of preparedness and response efforts,
- enhance the provision and management of disaster assistance for efficient and effective response,
- reduce the impact of natural hazards by improving the efficiency of mitigation and flood programs, and
- resolve financial management weaknesses to ensure fiscal accountability.

www.gao.gov/cgi-bin/getrpt?GAO-03-113.

To view the full report, click on the link above. For more information, contact John H. Anderson Jr. at (202) 512-2834 or andersonj@gao.gov.

What GAO Found

FEMA has made progress in recent years in achieving its mission of supplementing state and local governments' efforts to prepare and respond to major disasters. FEMA's mission will be absorbed into a new Department of Homeland Security. As FEMA moves to integrate its mission into this new department, FEMA faces several management challenges to:

- **Ensure effective coordination of preparedness and response efforts.** FEMA and its missions will be transferred in their entirety into the new Department of Homeland Security (DHS)—the largest reorganization of the federal government since 1947. However, FEMA's homeland security and nonhomeland security missions will be under separate DHS directorates. The separation of disaster and emergency preparedness responsibilities will present coordination challenges for the Undersecretaries within DHS.

- **Enhance the provision and management of disaster assistance for efficient and effective response.** FEMA has demonstrated its ability to quickly get resources to stricken communities in many disasters. However, FEMA needs to develop more objective and specific criteria to assess the capabilities of states and localities to respond to a disaster. FEMA needs to assess how the extent of its response and recovery assistance to future disasters may be affected by the magnitude and scope of recovery efforts undertaken in New York City. Information system problems and a shortfall of appropriately trained FEMA staff could compromise FEMA's ability to respond to a disaster.

- **Reduce the impact of natural hazards by improving the efficiency of mitigation and flood programs.** As the number of large, costly disasters has grown, FEMA has placed more emphasis on disaster mitigation efforts to reduce the effects of natural hazards. However, concerns about the cost effectiveness of some of the mitigation programs have been raised. The National Flood Insurance Program has not operated on a sound financial footing for several years.

- **Resolve financial management weaknesses to ensure fiscal accountability.** From 1998 to 2000, FEMA's Inspector General issued unqualified opinions on FEMA's consolidated financial statements. However, problems with some of FEMA's systems resulted in a qualified opinion on their 2001 financial statement, and FEMA plans to take corrective action. Until corrective actions are completed to address reliability of information and instances of noncompliance with requirements of certain laws and regulations, FEMA will not be able to achieve effective financial accountability.

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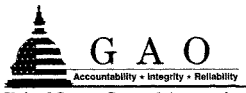


Comptroller General of the United States

United States General Accounting Office
Washington, D.C. 20548

January 2003

The President of the Senate
The Speaker of the House of Representatives

This report addresses the major management challenges and program risks facing the Federal Emergency Management Agency (FEMA) as it works to carry out its missions, which range from hazard mitigation to disaster response coordination. It is part of a special series GAO has issued biennially since January 1999.

This report discusses the actions that FEMA has taken and that are under way to address its management challenges. The report also discusses major events that have occurred that significantly influence the environment in which the agency carries out its mission. Also, GAO summarizes the challenges that remain, new ones that have emerged, and further actions that GAO believes are needed.

This analysis should help the new Congress and the administration carry out their responsibilities and improve government for the benefit of the American people. For additional information about this report, please contact John H. Anderson Jr., Managing Director, Physical Infrastructure, at (202) 512-2834 or at andersonj@gao.gov.

David M. Walker
Comptroller General
of the United States

Major Performance and Accountability Challenges

For more than 20 years, the Federal Emergency Management Agency (FEMA) has been the nation's lead federal agency for preparing for, responding to, and recovering from emergencies and disasters, natural and manmade. The agency provides disaster management assistance and funding for disaster response and recovery activities to communities and individuals in situations where catastrophic events are beyond the capabilities of the state and local governments affected. During this past year, the agency has faced the daunting challenge of leading the federal response to aid victims of the September 11, 2001 terrorist attacks—the most costly disaster and most devastating terrorist incident since FEMA was created. Moreover, FEMA's role in working with first responder agencies—police, fire departments, and emergency medical personnel—has taken on new urgency in preparing for similar, or possibly worse, terrorist incidents. Yet, FEMA's traditional responsibility of preparing for and responding to natural disasters has not lessened, and the agency responded to 49 major disaster events in 2002.

Consistent with the increasing responsibilities placed upon FEMA, its budget is growing substantially. The fiscal year 2003 FEMA budget request is $6.7 billion, roughly three times the request for fiscal year 2002.[1] The largest portion of the fiscal year 2003 request is meant to support state and local preparedness through the proposed $3.5 billion First Responder Initiative.

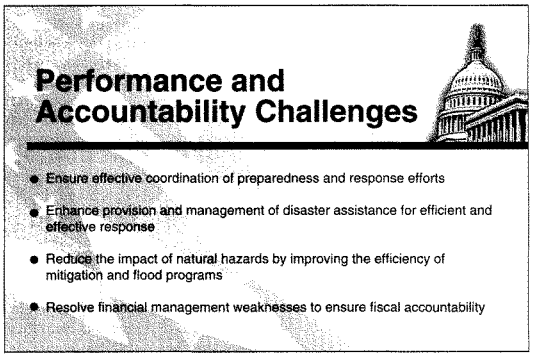
On November 25, 2002, President Bush signed into law a bill creating the Department of Homeland Security (DHS)—the largest reorganization of the federal government since the formation of the Department of Defense in 1947. DHS will be dedicated to protecting the United States from terrorist attacks and will combine about 170,000 federal workers from 22 agencies. FEMA and its missions will be placed entirely into DHS.

[1]FEMA's annual budget request provides for normal agency operations and for conducting its various programs. Supplemental funding is requested if funds appropriated in annual legislation are not sufficient to respond to disasters. In fiscal year 2002, most of the funds appropriated to FEMA were provided through supplemental appropriations.

The placement of FEMA within DHS represents a significantly changed environment in which FEMA will conduct its missions in the future. FEMA has traditionally operated in an "all hazards" approach—preparing simultaneously for all types of disasters—and it will be important for FEMA and DHS management to ensure that sufficient management capacity and accountability is provided to both homeland security and natural hazards missions. Some of these missions—such as hazard mitigation and flood insurance—have not traditionally been security related. In testimony to the Congress, the Comptroller General stated that care needs to be taken so that nonsecurity functions in agencies such as FEMA receive adequate funding, attention, visibility, and support when subsumed into a department that will be under tremendous pressure to succeed in its primary mission.[2]

This year, for the first time, we are issuing a report that addresses challenges facing FEMA because of the increased national significance of the agency's missions and the additional responsibilities placed on the agency. These responsibilities include responding to the effects of terrorist attacks and providing a central focal point for disaster preparedness and response. As a result, the agency faces a number of challenges, some of which result from the creation of the DHS, and some which the agency will bring into the new department. The performance and accountability challenges facing FEMA are described below.

[2]U.S. General Accounting Office, *Homeland Security: Critical Design and Implementation Issues*, GAO-02-957T (Washington, D.C.: July 17, 2002).



Ensure Effective Coordination of Preparedness and Response Efforts

As a result of the legislation forming DHS, FEMA and its missions will be transferred in their entirety into DHS. However, its homeland security and nonhomeland security missions will be under separate DHS directorates. This divisional separation could complicate FEMA's historical all-hazards approach—a comprehensive approach focused on preparing for and responding to all types of disasters, either natural or man-made. The separation of disaster and emergency responsibilities across two directorates of the new department will present coordination challenges for the appropriate Undersecretaries within DHS.

Separation of responsibilities for preparedness and response activities has created problems in the past. Prior to 1979, more than 100 federal agencies were involved in some aspect of disasters and emergencies, causing problems at all levels of government and highlighting the need for consolidation of functions. Thus, one of the objectives in the establishment of FEMA in that year was to bring together disaster and emergency response for all hazards in a single federal entity. More recently, fragmentation of responsibilities for combating and responding to terrorism has been recognized as a problem. As we reported in March 2002, over 40 federal entities have had a role in combating and responding to terrorism.[3] The absence of a central focal point resulted in two major problems. First, there was a lack of cohesive effort from within the federal government. Second, the lack of leadership resulted in the federal government's development of multiple, similar programs to assist state and local governments. For example, numerous federal entities offered state and local governments training, planning, and assistance in dealing with the consequences of chemical, biological, radiological, or nuclear attacks. Not only did these efforts overlap, they potentially duplicated other efforts to prepare for possible disasters such as from biological outbreaks, nuclear power plants, or chemical factories.

In May 2001, as one approach to achieving a more integrated federal terrorism preparedness response, the President created an Office of National Preparedness within FEMA to coordinate all federal programs that support state and local preparedness. In our September 2001 report, we recommended a move beyond coordination—program consolidation.[4] We believed that consolidation of assistance programs would best eliminate overlapping assistance programs and provide a single liaison for state and local officials. The need for consolidation of preparedness and response assistance efforts has been similarly expressed in the Gilmore Commission's reports on assessing domestic response capabilities for terrorism involving weapons of mass destruction.

Placing varied preparedness and response functions, which are currently dispersed across several different departments, within DHS does achieve a measure of consolidation. However, responsibility for terrorism

[3]U.S. General Accounting Office, *Combating Terrorism: Key Aspects of a National Strategy to Enhance State and Local Preparedness*, GAO-02-473T (Washington, D.C.: Mar. 28, 2002).

[4]U.S. General Accounting Office, *Homeland Security: A Framework for Addressing the Nation's Issues*, GAO-01-1158T (Washington, D.C.: Sept. 21, 2001).

preparedness and response will reside in the department's Border and Transportation Security Directorate, which will include FEMA's Office of National Preparedness. Other types of FEMA disaster preparedness and response efforts will transfer to DHS's Emergency Preparedness and Response Directorate. With this division of preparedness and response responsibilities, close coordination will be needed among these directorates to ensure programs are developed, and activities undertaken, that do not replicate the problems of duplication, overlap, and confusion that occurred in the past. Additionally, a single face for the new department will be needed so that state and local governments can be provided with clear leadership and assistance. This will be particularly critical as the funding requested by the President to assist state and local preparedness is expected to be substantial. The President has requested $3.5 billion for a First Responder Initiative that will aid state and local preparedness and response efforts.

As FEMA has been at the forefront of preparedness and response efforts, and has established networks with state and local governments, it will be incumbent upon the FEMA components within the new department to play a lead role in helping to establish an effective, coordinated preparedness and response program that integrates both the homeland security and nonhomeland security elements. Additionally, the DHS Undersecretaries responsible for the Border and Transportation Security and the Emergency Preparedness and Response Directorates will have the challenge of establishing strong leadership and links between the directorates to ensure that coordinated preparedness and response is achieved. The new department will need this leadership to be able to quickly undertake this important mission.

Enhance Provision and Management of Disaster Assistance for Efficient and Effective Response

FEMA faces a number of challenges pertaining to the provision and management of disaster assistance. The agency administers several programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act[5] that provide federal assistance to supplement state and local governments' disaster response, recovery, preparedness, and mitigation efforts. Since the Act's passage in 1988, FEMA provided over $34 billion in assistance for more than 600 disasters. In fiscal year 2001, FEMA disaster assistance obligations totaled $3.4 billion, reflecting FEMA's

[5]Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)

response and recovery efforts for 50 declared major disasters, 15 declared emergencies, and 36 events related to fire assistance.

FEMA has demonstrated its ability to quickly get resources to stricken communities and disaster victims, but has problems ensuring the effective use of such assistance, according to the Office of Management and Budget (OMB). FEMA will be challenged to

- improve its criteria for determining state and local eligibility to receive federal disaster assistance,
- assess extent of assistance for future major disasters based on the recovery efforts undertaken in New York City,
- build on lessons learned from charities' response to September 11,
- enhance disaster assistance staff training and resource planning,
- strengthen oversight of disaster assistance, and
- improve an existing information system before it is used as a building block for a multiagency disaster management Web site.

Improve Eligiblity Criteria for Federal Disaster Assistance

FEMA is developing more objective and specific criteria to assess the capabilities of state and local governments to respond to a disaster. The Stafford Act requires that the President determine if conditions are beyond state and local capability to respond before major disaster assistance from the federal government is warranted. In 1999, FEMA published revised regulations that established formal criteria for recommending presidential approval of disaster declarations. These criteria include both minimum financial thresholds and other qualitative measures that FEMA applies in deciding whether to recommend presidential approval. As we reported in August 2001,[6] FEMA can recommend a disaster declaration if preliminary estimates of the damage exceed $1.04 per capita statewide and $1 million in total. FEMA's other criteria include qualitative factors such as the impact of

[6]U.S. General Accounting Office, *Disaster Assistance: Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures*, GAO-01-837 (Washington, D.C.: Aug. 31, 2001).

a disaster on a particular area or the occurrence of recent multiple disasters in the same area.

FEMA's criteria, however, may not be an appropriate measure of state financial resources. The current threshold was established in 1999 at $1.00-per-capita and is adjusted for inflation. However, FEMA initially proposed this $1.00-per-capita threshold in 1986, as it then represented about 0.1 percent of estimated General Fund expenditures by states. Adjusting for annual inflation since 1986, the threshold level would have been $1.58 in 2001. Additionally, better measures of a state's financial capacity exist. Total Taxable Resources, a measure developed by the Department of the Treasury, provides a more comprehensive measure of the resources that are potentially subject to state taxation and are used to target aid in other federal programs. Use of Total Taxable Resources criteria would result in varying financial capability thresholds for states instead of a uniform threshold and might better reflect states' capacity to bear the burden of responding to a disaster.[7]

We recommended in our August 2001 report that FEMA develop more objective and specific criteria to assess the capabilities of state and local governments to respond to a disaster. FEMA commented that our observations would be valuable for its review of disaster declaration criteria, but FEMA has yet to implement this recommendation. As the President noted in his fiscal year 2002 budget proposal, the lack of clear and meaningful criteria for recommending disaster declarations puts FEMA at risk of providing federal funds to some states that do not need assistance, while ignoring the legitimate needs of others. This situation will remain until FEMA develops more objective assessment criteria.

Assess the Extent of Assistance for Future Major Disasters Based on the Recovery Efforts Undertaken in New York City

FEMA needs to assess how the extent of its response and recovery assistance to future disasters may be affected by recovery efforts undertaken in New York City after the September 11, 2001, terrorist attacks. The assistance FEMA is providing New York is of historic proportions. Following the attacks, President Bush pledged at least $20 billion in federal funds to New York City to be delivered through various federal agencies. Of these funds, FEMA is responsible for the largest share, a total of $9 billion, an amount that is also the greatest level of financial

[7]U.S. General Accounting Office, *Federal Grants: Design Improvements Could Help Federal Resources Go Further,* GAO/AIMD-97-7 (Washington, D.C.: Dec. 18, 1996).

assistance FEMA has ever provided for any single disaster. To provide this funding and respond to the degree of damage resulting from the attacks, FEMA has needed to expand its assistance guidelines. The amount and extent of assistance FEMA is providing may, however, have consequences on spending for future major disasters if other affected communities expect comparable federal disaster assistance.

FEMA's response to the horrific damage resulting from the terrorist attacks on New York City has led to a generally higher level of federal assistance. According to the Stafford Act, once a disaster is declared, FEMA may reimburse state and local governments for between 75 to 100 percent of the eligible cost for response and recovery activities. FEMA states that assistance has generally been limited to 75 percent of eligible costs; however, assistance levels were increased to 100 percent of eligible costs for the terrorist attacks on New York and other affected areas due to the magnitude of the disaster. Although FEMA funding of 100 percent of eligible costs is not unprecedented, funding of all eligible costs not only places a greater financial burden on the federal government and potentially reduces the cost control incentives inherent in cost-sharing arrangements, but may also be viewed as a precedent for FEMA assistance by other affected communities that may experience major disasters.

Additionally, in light of the magnitude and scope of damage to New York City, FEMA determined—in some cases, at the direction of Congress—that it was necessary to expand its guidelines to allow for maximum flexibility in defining eligible response and recovery activities. FEMA Public Assistance has traditionally been limited to coverage of disaster-related losses and damages to existing infrastructure, and such assistance has not been provided to enhance or modernize the infrastructure beyond its predisaster condition. However, in recognizing the interdependence of Lower Manhattan's transportation system, FEMA officials reported that they were able to broadly interpret their guidelines in order to ensure the transportation needs of New York City were met. As a result, FEMA will work with the Department of Transportation to rebuild the various transportation systems that were damaged from attacks and to improve Lower Manhattan's overall transit system. Similarly, FEMA officials, as mandated by the Congress, reported expanding eligibility guidelines of the Mortgage and Rental Assistance program (MRA). Prior to September 11, MRA was a rarely used FEMA program designed to aid individuals in disaster areas whose employment was directly damaged by the event. However, with the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States

(P.L. 107-206), FEMA expanded the eligibility guidelines of MRA to include individuals who lived and worked in Lower Manhattan and lost significant income regardless of whether their place of employment was damaged. According to FEMA, the expansion represented the broadest interpretation of the program in FEMA's history.

FEMA faces several challenges as it continues to lead the largest recovery effort in its history. Currently, FEMA faces the challenge of providing an unprecedented amount of federal assistance to efficiently meet the needs of New York City. For the future, it will be important for FEMA to consider how the landmark federal response to the terrorist attacks could pose a challenge in determining the level and breadth of future federal assistance.

Build On Lessons Learned from Charities' Response to September 11

FEMA needs to work with charities to build on lessons learned from charities' response to September 11 in order to improve the collective response to future disasters. FEMA is the lead federal agency for responding to disasters and may link with charitable organizations to provide assistance. In fact, FEMA is required to coordinate government relief and assistance activities with those of the American Red Cross and the Salvation Army, as well as other voluntary organizations that agree to operate under FEMA's direction. Charitable aid made a major contribution in the nation's response to the September 11 attacks. However, the scope and complexity of the September 11 disasters presented a number of challenges to charities in their attempts to provide seamless social services for survivors of the disaster. At the same time, FEMA and the various charities involved in the response learned valuable lessons that could improve future disaster response.

Thirty-five of the larger charities reported raising an estimated $2.6 billion since September 11, 2001. Charities reported distributing their September 11 funds for a broad range of assistance. For example, in addition to cash grants to more than 3,000 families of the victims, charities aided at least 50,000 families who lost jobs or income or whose homes were damaged and served millions of meals to thousands of rescue workers. To distribute aid, charities had to make extensive efforts to identify victims and survivors, as there was no uniform contact lists for families of victims; charity officials also said privacy issues affected the sharing of information among charities.

Initially, little coordination of charitable aid occurred, but a more integrated approach emerged some months later. Despite these efforts, however, September 11 survivors reported they generally had to navigate a maze of service providers in the early months, and both charities and those individuals who were more indirectly affected by the disaster were confused about what aid might be available to them. Although steps were taken to address some of these issues in previous disasters, the scope and complexity of the September 11 attacks presented a number of challenges to charities in their attempts to provide seamless social services for surviving family members. Some months after the disaster, however, oversight agencies and large charities established a more coordinated approach. This included the formation of coordinating entities, the implementation of case management systems, and attempts to implement key coordination tools, such as client databases. To help facilitate future collaborative efforts, we recommended in a December 2002 report that FEMA convene a working group of involved parties to take steps to implement strategies for future disasters, building upon lessons learned in the aftermath of September 11.[8] FEMA generally agreed that a broad based working group is likely to foster enhanced communication and coordination among charitable organizations and others involved in disaster response.

Enhance Disaster Assistance Training and Resource Planning

FEMA faces challenges to enhance its disaster assistance training and resource planning. After a disaster has been declared, FEMA officials determine which projects meet Stafford Act criteria for funding. Given this responsibility, it is critical that a process exists to ensure staff have the requisite disaster assistance knowledge, skills, and abilities. In fiscal year 1999, FEMA developed a credentialing program that provided a framework for evaluating the knowledge, skills, and abilities of its staff—including its permanent full-time employees as well as its temporary disaster assistance employees, who are deployed to respond to a disaster. FEMA expected that this program would ensure that its employees would have the basic qualifications to perform their jobs and would make FEMA managers, applicants, and the public more confident about their performance. According to FEMA officials, however, the credentialing program has not been implemented because of budget constraints.

[8]U.S. General Accounting Office, *September 11: More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters*, GAO-03-259 (Washington, D.C.: Dec. 19, 2002).

The credentialing program may be a critical need because FEMA staff may not be getting adequate training. As we reported in 2001,[9] the Public Assistance budget for training has decreased from about $1.9 million for fiscal year 1999 to $725,000 for fiscal year 2001. In addition, several studies conducted by individual FEMA disaster field offices during 1999 and 2000 found training either was not timely or was not offered at all. For example, according to available data on formal training, only 20 percent of the staff had received training on the agency's core information tracking system—the National Emergency Management Information System (NEMIS). NEMIS is the management information system staff is expected to use to document disaster assistance to various recipients. Only one FEMA region had trained over half of its staff to use the system.

In our 2001 report, we recommended that FEMA reconsider budgetary priorities to determine if a higher priority should be assigned to implementing a credentialing and training program for federal disaster staff that focuses on the knowledge, skills, and abilities needed for each of the various roles involved in disaster management. FEMA disagreed with the need to assign training a higher budgetary priority, as FEMA stated that all disaster staff attended its basic training class, which provides such instruction. We still believe, however, that FEMA should consider giving higher priority to implementing a credentialing program such as the one the agency has designed.

In addition, FEMA faces the challenge posed by attrition from retirements. According to FEMA projections, 48 percent of FEMA's workforce will be eligible to retire in the next 5 years. FEMA is working to develop a workforce-restructuring plan to address how the agency will attract and retain personnel with the skills to perform core agency functions. FEMA advised us that they expect to have a draft of the plan in early 2003.

Strengthen Oversight of Disaster Assistance

For a presidentially declared disaster, FEMA has primary responsibility for coordinating the federal response. Typically, this response consists of providing grants to assist state and local governments and certain private nonprofit organizations to alleviate the damage resulting from such disasters. FEMA's monitoring of grantee and contractor performance can be improved. In 1998, FEMA's Inspector General (IG) reported that FEMA

[9]GAO-01-837.

grantees were not fully complying with FEMA and federal grant regulations, and problems went undetected because FEMA did not have an effective grants management system. In response, FEMA formed a grants management team to develop policies and procedures to enable FEMA regional offices to manage grants. However, GAO and the FEMA IG have continued to report FEMA grant and contractor oversight problems.

An example of an area where FEMA can improve its oversight is debris removal. According to a 2001 FEMA IG report,[10] FEMA needs to continue improving its controls over the debris removal program to prevent fraud, waste, and abuse. The IG identified examples of excess charges that did not meet eligibility criteria, unsupported costs not substantiated by documentation, and duplicate payments. The IG also called for FEMA to improve grantees' recording of debris information, to provide better technical assistance for debris removal, and to improve debris management training. Although confronted with unprecedented challenges such as the site's immense scale and its status as a crime scene, FEMA officials noted steps were taken to improve oversight of debris removal at the World Trade Center site. Specifically, FEMA officials reported that grantees used best practices to ensure contractor accountability, such as trip tickets, load counts and equipping trucks with global positioning satellite tracking systems. Figure 1 shows debris at the World Trade Center.

[10]FEMA, Office of Inspector General Audit Division, *Audit of FEMA's Debris Removal Program* (Washington, D.C., March 2001).

Figure 1: Debris at the World Trade Center

Source: FEMA Photo Library.

FEMA lacks adequate procedures and processes to recapture improper payments. GAO's work over the past several years has demonstrated that improper payments (payments that should not have been made or were made for incorrect amounts) are a significant and widespread problem in federal agencies,[11] and FEMA's IG has found improper payments to be a problem area for FEMA. For example, the IG found an $8.5 million improper grantee payment, and FEMA management indicated in February 2001 that they would take action to recover the money. However, 7 months later, FEMA had not taken any action to collect these funds. Moreover, FEMA officials explained that the agency was actively pursing such debts, but that collecting debts was an arduous process due to poor or no documentation, lack of final inspections on disaster related projects, and difficulty in negotiating final debt amounts with the states.

[11]U.S. General Accounting Office, *Financial Management: Coordinated Approach Needed to Address the Government's Improper Payments Problems*, GAO-02-749 (Washington, D.C.: Aug. 9, 2002).

FEMA's lack of documentation was also noted as a problem in our July 2001 report on a presidentially declared major disaster—the Cerro Grande fire in New Mexico.[12] Although a systematic process for the payment of fire victims' injury claims had been established, we found that certain key procedures used by the claim reviewers under contract were not formally documented. Further and more importantly, because of the condition of the files, FEMA officials could not effectively carry out their responsibilities for assessing the contractor's work to determine the validity and reasonableness of the amounts claimed. As a result, inconsistent claims determinations can occur, and there is no assurance that the proper amounts are paid. To address the lack of documentation, we recommended that FEMA direct the Office of Cerro Grande Fire Claims to require all claims reviewers to document all steps and procedures they perform to determine the validity of a claim and the amount recommended for payment. Although FEMA did not specifically comment on our recommendation, officials reported that claim reviewers have responded to

Improve Existing Information System Prior to System Expansion

FEMA's disaster information system, NEMIS, has fundamental problems that must be resolved before it can be used as a springboard for an expanded disaster assistance tool. FEMA plans to create and manage a one-stop information Web site that will include information to assist in emergency preparedness. The new site, Disasterhelp.gov—one of the top three e-government initiatives of the Bush administration—aims to provide a single federal point of contact for all assistance in response to major disasters. FEMA officials hope that states and localities will use the Web site as an information source for preparedness, mitigation, response, and recovery, and that public and private organizations might use it to share knowledge and information. The new system is being structured to use FEMA's existing system—NEMIS—as a building block.

[12]U.S. General Accounting Office, *Federal Emergency Management Agency: Weaknesses Exist in the Cerro Grande Fire Assistance Claim Validation Process*, GAO-01-848 (Washington, D.C.: July 13, 2001).

FEMA needs to resolve NEMIS problems before the system can effectively be used for developing Disasterhelp.gov. As we reported in 2001,[13] NEMIS has limited application in providing the information needed to manage and oversee disasters and suffers from a lack of quality controls. We found that NEMIS can provide information on a project-by-project basis, but it is severely limited in its ability to provide higher-level information that could help FEMA management review the agency's performance. Further, there have been many complaints from federal and state disaster personnel that the system is difficult to use and subject to sporadic shutdowns. In addition, the system does not automatically verify certain information that has been entered; and it can be unreliable, time-consuming, and difficult to use in a remote disaster environment. The quality of the information in NEMIS is also suspect because of FEMA's reliance on temporary staff that may lack experience with the system or training in its use.

Furthermore, in the administration's fiscal year 2002 budget, OMB noted that FEMA has traditionally given little oversight to its information technology spending. OMB stated this led to ineffective and costly information technology projects, and specifically noted the $67 million NEMIS system. OMB said that the system has a history of crashing during disaster response operations.

Reduce the Impact of Natural Hazards by Improving the Efficiency of Mitigation and Flood Programs

For many years, FEMA has focused increased emphasis on reducing the impact of natural hazards, not only to lessen the impact to property and individuals, but also to reduce federal disaster costs. Two of the agency's major efforts in this regard have been its mitigation programs and the National Flood Insurance Program. These programs seek to strengthen structures against the effects of hazards or remove them from harm's way and to minimize the need for future FEMA disaster assistance. However, concerns exist in both of these efforts that may limit their effectiveness in achieving these objectives.

Moreover, the placement of FEMA within DHS represents a substantially changed environment in which FEMA will conduct its missions in the future, and missions that focus on reducing the impacts of natural hazards, such as hazard mitigation and flood insurance, may receive decreased emphasis. Sustained attention to these programs will be needed to ensure

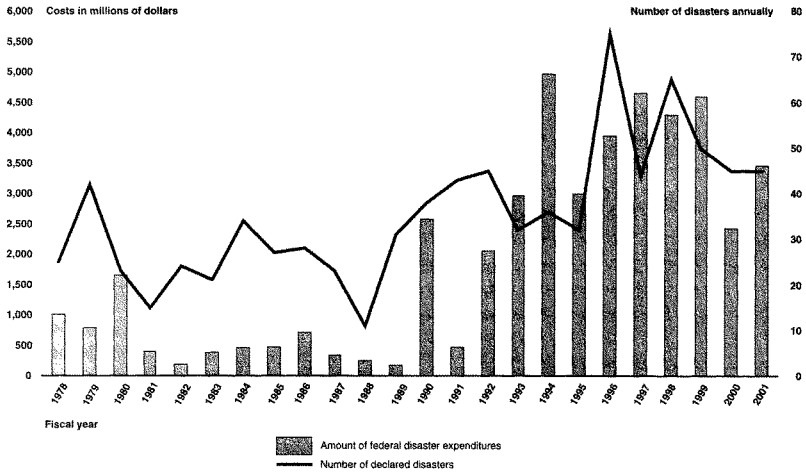
[13]GAO-01-837.

they maintain or improve their effectiveness in protecting the nation against, and reducing federal costs associated with, natural hazards.

Multihazard Mitigation Programs

The cost of federal disaster assistance has grown significantly since the late 1980s. During the 12-year period ending in 1989, the expenditures from the disaster relief fund totaled about $7 billion (in fiscal year 2001 dollars). However, during the following 12-year period ending in 2001, as the number of large, costly disasters has grown and the activities eligible for federal assistance have increased, expenditures from the disaster relief fund increased fivefold to about $39 billion (in fiscal year 2001 dollars). (See figure 2.) Disaster assistance costs are expected to remain high in 2002, in part as a result of the September 11, 2001, terrorist attacks. According to FEMA's projections, disaster assistance expenditures from the disaster relief fund will total more than $4 billion in fiscal year 2002.

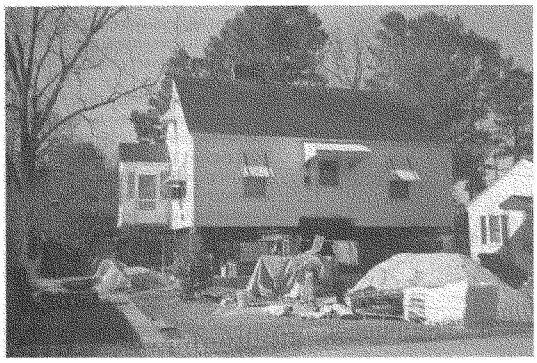
Figure 2: Disaster Relief Fund Expenditures and Number of Declared Disasters, Fiscal Years 1978-2001 (in Fiscal Year 2001 Dollars)



Source: FEMA.

As costs for disaster assistance have increased, mitigation actions—both "brick and mortar" efforts, such as elevating buildings in flood-prone areas or creating tornado-resistant structures, and outreach activities, such as providing mitigation education and awareness to the public—have taken on greater importance. Figure 3 shows a house in the process of being elevated to mitigate flood damage.

Figure 3: House in North Carolina in the Process of Being Elevated to Mitigate Flood Damage



Source: FEMA Photo Library.

FEMA has placed more emphasis on disaster mitigation efforts to reduce or eliminate long-term risks to people and property from hazards and their effects. Among the most significant of these efforts are its multihazard mitigation programs that address a broad range of hazards. These are the Hazard Mitigation Grant Program, which provides funding to undertake mitigation actions in areas that have recently suffered a major disaster, and the Project Impact program, which funds predisaster mitigation actions.[14]

Concerns have been raised regarding the demonstration of cost effectiveness of some mitigation projects in these programs. For example, as we reported in 1999, FEMA had exempted four categories of projects in the Hazard Mitigation Grant Program from benefit-cost analysis,[15] and for projects in these categories—the number of which FEMA could not identify—the cost effectiveness was unknown. Similarly, FEMA's Office of Inspector General reported in March 1998 and again in February 2001 concerns about the cost-effectiveness of mitigation projects and pointed out that analyses had often not been done and techniques for conducting them were poorly understood. Furthermore, many projects had been exempted from analysis.[16]

The administration has also had concerns with the cost-effectiveness of mitigation projects, and in FEMA's fiscal year 2003 budget request, a consolidation of the mitigation programs has been proposed. This proposed consolidation would (1) eliminate the Hazard Mitigation Grant Program, (2) establish a new predisaster mitigation program, and (3) require all grants to be awarded on a national, cost-competitive basis. The funding for mitigation activities would be around $300 million annually—relatively consistent with historical averages—but all mitigation funding would be subject to the annual appropriation process and spending caps. Currently, funding for the Hazard Mitigation Grant Program can total up to

[14]The Project Impact program was discontinued in 2002, but a similar program was funded by the Congress to continue predisaster mitigation activities. However, this new program has not yet been implemented. Consequently, we refer to the predisaster mitigation program as Project Impact.

[15]U.S. General Accounting Office, *Disaster Assistance: Opportunities to Improve Cost-Effectiveness Determinations for Mitigation Grants*, GAO/RCED-99-236 (Washington, D.C.: Aug. 4, 1999).

[16]FEMA, Office of Inspector General Audit Division, *Auditors Report on FEMA Fiscal Year 2001 Financial Statement* (Washington, D.C., February 2002) and *Improvements are Needed in the Hazard Mitigation Buyout Program 1-01-98* (Washington, D.C. March 1998).

15 percent of the total grant funds for disasters, an amount that has no dollar limit.

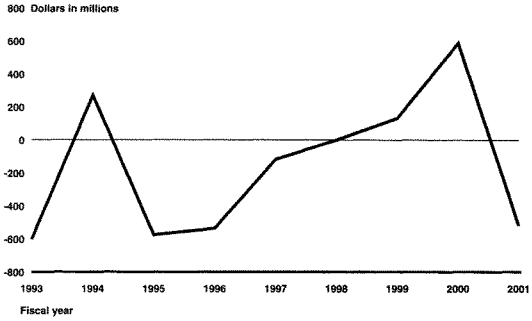
We reported in September 2002 that the administration's proposals to change the mitigation programs could raise additional challenges to mitigation program participation and implementation.[17] These challenges include: (1) a reduced window of opportunity for taking advantage of the heightened interest in mitigation that exists after a disaster has struck, (2) potential exclusion of some states from disaster mitigation funding, and (3) possible curtailment of outreach and planning activities that increase mitigation awareness and participation. Additionally, FEMA does not have a process for determining or comparing the relative benefits and costs of projects needed for a competitive grant program. As a result, these changes to the mitigation programs could lessen their effectiveness.

Flood Insurance Program

Floods have inflicted more economic losses upon the United States than any other natural disaster. From fiscal year 1992 through fiscal year 1999 alone, 20 major flooding disasters caused over $97 billion in damages. Since its inception 34 years ago, the National Flood Insurance Program has become a major component of the federal government's efforts to provide disaster assistance. The program offers insurance to property owners in communities that have joined the program and encourages floodplain management efforts to mitigate flood hazards. Additionally, the program has reduced federal expenditures on disaster assistance. It is estimated that community compliance with the program's standards for new construction are now saving about $1 billion annually in flood damage avoided, and that its payment of nearly $12 billion in insurance claims replaced costs that would, to some extent, have increased taxpayer-funded disaster relief.

[17]U.S. General Accounting Office, *Hazard Mitigation: Proposed Changes to FEMA's Multihazard and Mitigation Programs Present Challenges*, GAO-02-1035 (Washington, D.C.: Sept. 30, 2002).

Figure 4: Net Financial Status of the National Flood Insurance Program (Annual Income Minus Costs)



Source: FEMA.

Nevertheless, the National Flood Insurance Program has not operated on solid financial footing. Annual operating losses or net revenues from the insurance program's operations have varied significantly from year to year, and while revenues exceeded program costs in some years, cumulative program costs exceeded income by more than $1.3 billion during fiscal years 1993 through 2001. (See Figure 4.)

This long-term loss has occurred because the flood insurance program is not actuarially sound. As we reported in July 2001,[18] about 30 percent of the policies in force are subsidized. By law, FEMA is prohibited from charging full premiums for structures that were in existence before a community joined the program, and on average the premium on subsidized policies represents only about 38 percent of the true risk premium for these properties. FEMA estimates subsidized properties to be as much as four

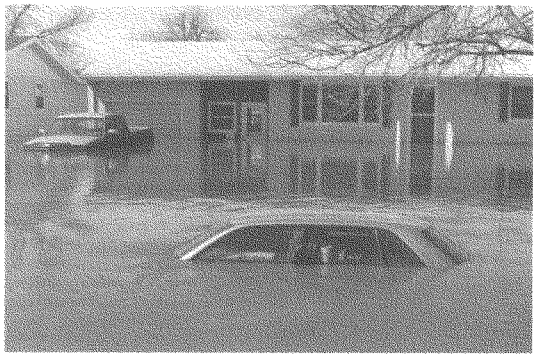
[18]U.S. General Accounting Office, *Flood Insurance: Information on the Financial Condition of the National Flood Insurance Program*, GAO-01-992T (Washington, D.C.: July 19, 2001).

times more likely to suffer a flood loss, and to receive 40 percent more damage, than properties with unsubsidized policies. FEMA officials estimated that premium income from subsidized policyholders is about $500 million per year less than it would be if these rates had been actuarially based.

Further, the program is not designed to collect sufficient premium income to build reserves to meet the long-term future expected flood losses. The program's annual target for premium income is at least the amount of losses and expenses in an average year. However, the program has only been in existence since 1978 and has not experienced any catastrophic loss years; consequently, in determining losses and expenses in an average year, it does not include possible catastrophic losses.[19] This, in turn, does not enable the program to build sufficient reserves to cover such a loss. Because the program does not collect sufficient premium income to build reserves to meet the long-term future expected losses, it is inevitable that losses from the claims and program expenses will exceed the funds available to the program in some years and, cumulatively, over time. Figure 5 illustrates severe flooding that occurred in East Grand Forks, Minnesota.

[19]A catastrophic loss year is defined as a year resulting in $5.5 to $6 billion in claims losses, which has a 1 in 1,000 chance of occurring.

Figure 5: Destructive Flooding in East Grand Forks, Minnesota



Source: FEMA Photo Library.

In addition to these concerns, the level of compliance with requirements for the mandatory purchase of flood insurance is unknown. The purchase of flood insurance is required for properties located in flood-prone areas of participating communities for the life of mortgage loans made or held by federally regulated lending institutions, guaranteed by federal agencies, or purchased by government-sponsored enterprises.[20] However, no system exists upon which to determine the level of compliance. In June 2002,[21] we reported that, based on an analysis of data on new mortgages and new flood insurance policies, compliance with mandatory insurance purchase

[20]A federally regulated lending institution is any bank, savings and loan association, credit union, farm credit bank, federal land bank, production credit association, or similar institution supervised by a federal entity for lending regulation. A government-sponsored enterprise is a privately owned, federally chartered corporation that serves a public purpose.

[21]U.S. General Accounting Office, *Flood Insurance: Extent of Noncompliance with Purchase Requirements Is Unknown*, GAO-02-396 (Washington, D.C.: June 21, 2002).

requirements does not appear to be a problem at the time mortgage loans are originated. However, no readily available data exists upon which to determine if flood insurance policies are being maintained over the life of the mortgage loan as required. Consequently, the federal government remains at risk of having to provide disaster assistance to properties that should be covered by flood insurance and of not receiving all the flood insurance premiums that it should.

The administration has recognized that the National Flood Insurance Program faces major financial challenges, and has proposed several reforms to improve financial performance and transfer greater financial liability to individuals building in flood-prone areas. These reforms include phasing out premium subsidies on second homes and vacation properties and requiring that mortgage borrowers insure the full replacement value of their properties. Nevertheless, while these steps may result in some improvement to the program's financial soundness, the underlying problems have yet to be fully addressed. Additionally, beginning in fiscal year 2003, FEMA expects to begin a program to update existing flood rate maps, an effort that may increase the number of properties within the identified flood zone and exacerbate the current problems in the flood insurance program.

Resolve Financial Management Weaknesses to Ensure Fiscal Accountability

Sound financial management is critical to ensuring that FEMA's—and by extension, the federal taxpayer's—funds are appropriately controlled, managed, and reported. In fiscal year 2001, FEMA received a qualified opinion on its financial statement from its independent auditors—a reversal from the previous 3 years in which it received unqualified audit opinions. Further, the auditors reported six material internal control weaknesses in FEMA's financial systems as well as substantial noncompliance with certain laws and financial regulations such as the Federal Financial Management Improvement Act. Until these weaknesses and instances of noncompliance are addressed, FEMA will not be able to achieve effective financial accountability and will continue to be at risk for errors, fraud, or noncompliance that may not be promptly detected.

Inadequate Accounting for Property and Unliquidated Obligations

FEMA received a qualified audit opinion on its financial statements for fiscal year 2001.[22] This was a departure from the last 3 years when FEMA received unqualified opinions on its financial statements. FEMA's auditor was unable to issue an unqualified opinion because, with regard to

personal property amounts, it found that FEMA's systems were not integrated and required two different manual accounting processes, which together were inadequate for financial reporting purposes. Due to these inadequate processes, FEMA could not reconcile the property information from the manually created spreadsheets to its personal property management system and to its core financial system. As a result, the auditors were unable to determine the accuracy of the $10.8 million amount reported for FEMA's equipment.

Further, FEMA did not have adequate support for its unliquidated obligations accounts. The auditors found that FEMA did not reconcile many of these accounts fully or on time. Once FEMA reconciled unliquidated obligations from its subsidiary records to the general ledger, it reduced the general ledger by $77 million, as of September 30, 2001, in order to bring its financial statement into balance. However, FEMA did not have supporting documentation for the reduction. As a result, the auditors were unable to determine the accuracy of the adjustment made to FEMA's financial statements.

Internal Control Weaknesses Impede Financial Accountability

FEMA's auditor has also identified six serious weaknesses with the agency's internal financial controls. These are as follows:

- Weak information security controls and insufficient financial system controls increase vulnerability, such that users with viewing access could modify data, including creating new records. This results in a substantial risk that financial resources and data may be exposed to unauthorized modification, disclosure, loss, or impairment.
- Ineffective interfaces between FEMA financial systems result in inefficient and potentially inaccurate manual processes to integrate data for financial reporting or financial statement preparation. Such interface problems and manual processes significantly affect FEMA's ability to process, maintain, and report financial information.
- The financial statement reporting process is unreliable and does not generate reliable reports, as financial statements are not accurate until a significant number of adjustments are made and substantial resources

[22]The qualified opinion was due to inadequate documentation to support personal property amounts and an unsupported adjustment to its unliquidated obligations account.

are committed to review and validate the statements. These conditions increase the risk that FEMA's financial statements could be inaccurately presented.

- FEMA does not have adequate accounting systems and processes that ensure that all property, plant, and equipment is properly recorded, accurately depreciated, and tracked in accordance with FEMA policies and applicable federal accounting standards. As a result, the system cannot track items to supporting documentation or to a current location.

- Many of FEMA's accounts had not been reconciled during the year and, once reconciliations were performed, significant adjustments to FEMA financial accounts and records were required. For example, a $177 million reduction was required in records supporting accounts payable, and at the time the report was issued, there still existed a $22.6 million unreconciled difference in a fund account between FEMA and the Department of the Treasury's records.

- Due to noncompliance with applicable regulations and policies, FEMA's accounts receivable required detailed analysis and stronger collection efforts. For example, as of September 30, 2001, FEMA has made no attempt to recoup about $30 million of overpayments recorded as accounts receivable in 1998.

The FEMA IG reported in January 2002 that problems with the agency's internal controls significantly affect its financial accountability. In the fiscal year 2001 Annual Performance and Accountability Report, FEMA's IG reported that FEMA does not have a functioning integrated management system and that its system of internal controls has weaknesses that have adversely affected its ability to record, process, summarize, and report accurate, reliable, and timely financial information.

FEMA Did Not Comply with Certain Laws and Regulations

The auditors reported that FEMA's financial management systems did not substantially comply with requirements of certain laws and regulations intended to improve financial accountability. The auditors reported the following:

- FEMA's financial management systems did not substantially comply with federal financial management systems' requirements or applicable

federal accounting standards under the Federal Financial Management Improvement Act.

- Improvements were needed to FEMA's information security program in order to fully comply with the Government Information Security Reform Act.
- FEMA's selection, control, and evaluation processes for information resource investments did not comply with the Clinger-Cohen Act.
- FEMA did not have a financial management system plan with action plans and time frames for enhancing the agency's financial systems environment and, other than its IG coordinated reviews, did not perform reviews of financial management systems to ensure sufficient controls were in place as required by the Federal Managers' Financial Integrity Act and OMB Circular A-127, *Financial Management Systems*.

In a February 2002 letter responding to the audit report, FEMA officials agreed with each issue and identified corrective actions to all recommendations. FEMA stated that processes would be in place during fiscal year 2002 to address the report qualifications and the material internal control weaknesses. In addition, FEMA officials expect the Chief Information Officer's final report to provide responses to concerns about information technology and information system security controls.

Until these qualifications, weaknesses, and instances of non-compliance are addressed, FEMA will not have accurate financial statements or adequate internal controls over financial information. FEMA will continue to require intensive time-consuming manual efforts to develop reliable information and be at risk for errors, fraud, or noncompliance that may not be promptly detected. The results of the fiscal year 2002 financial statement audit will be the determining factor in the success of FEMA's efforts to address these issues.

GAO Contacts

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Senator VOINOVICH. We have people here at the front lines today. Brother Shipley and I have been through a lot together. I think you were on a leave of absence to go over to Chicago and work for FEMA for awhile. Now he has returned back to Ohio.

Senator Jeffords, I would like you to know that we probably have the best emergency management facility in the United States of America. In fact, James Lee Witt was there when we cut the ribbon on it. Mr. Shipley is really an outstanding individual that has served our State and country for many years.

Senator JEFFORDS. Is that because you have so many disasters out there?

Senator VOINOVICH. Thank God we did not have that many of them.

[Laughter.]

Senator VOINOVICH. Mr. Larson, you certainly have been through it and probably could write a book. Maybe you are starting to do that. We are very happy to have you here with us today.

If you could limit your comments to 5 minutes, I would appreciate it.

I think we will begin the testimony with Mr. Shipley.

STATEMENT OF DALE SHIPLEY, EXECUTIVE DIRECTOR, OHIO EMERGENCY MANAGEMENT AGENCY, ON BEHALF OF THE NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

Mr. SHIPLEY. Thank you, Chairman Voinovich. I appreciate the opportunity to be here today. Senator Jeffords, it is a pleasure to be here with you. I am Dale Shipley, Director of the Emergency Management Agency for Ohio, and Past President of the National Emergency Management Association. I am here today representing NEMA.

Certainly it is a historic time as we create the Department of Homeland Security. Part of my focus will be to emphasize an all-hazards approach to disasters which have been the basis for our response to disasters for some 25 years.

NEMA supported the inclusion of the Federal Emergency Management Agency into the Department of Homeland Security because it was obvious that the primary focus for that Department was to address a major new threat to the United States, that of terrorism, which we view as one of many threats. Hurricane Isabel recently reinforced the all-hazards approach that the Department is built upon.

In Ohio, we have had two Federal disaster declarations since FEMA was incorporated into the Department in March. We have seen no change in the speed, availability, or the flexibility of assistance from FEMA since it came into the new Department.

Other agencies within the Department of Homeland Security, as was mentioned by Secretary Brown, will provide even greater assistance to us as we look to them for research and development, new requirements we have in light of the focus on weapons of mass destruction, and increased security against that threat through prevention. The Department of Homeland Security repeatedly stresses as its number one mission as information-sharing programs and funding for increasing the capabilities for a more effective response.

You specifically asked me to address the Public Assistance Program. As you know, it addresses public needs, specifically the costs of debris removal, damages to roads and bridges, water control facilities, public buildings, public utilities, and parks and recreation facilities.

Public assistance is particularly important for disaster relief because communities need these vital functions restored in order to get back on their feet. A terrorist event, such as the World Trade Center or the anthrax attacks, cause redefinition of programs which are based on threats experienced during the previous 25 years.

As Secretary Brown testified, the Stafford Act allows flexibility and continues to serve us well, although certainly policies and procedures had to be rewritten after this unprecedented disaster occurred.

In Ohio, we have staff that work with FEMA to assist various applicants for public assistance in identification, applications and accomplishing eligible projects. During this current Federal fiscal year, we have had four Presidential disaster declarations in Ohio with some 997 public entities—villages, townships, counties—apply and received $49 million in public assistance.

Ohio employees act to manage these problems and interface all these applicants with the Federal Government, and are charged with keeping records, handling all reporting requirements, closing out the projects, closing out the disasters, and managing the 25 percent non-Federal cost share.

We also manage one of the few State programs for public assistance. Under the State law, the Ohio Governor can declare a disaster, and if it does not warrant or is not large enough to warrant a Presidential declaration, then we will implement a State public assistance program. We have had four such declarations in this same 1-year period, which have assisted 83 applicants at a total cost of $4.8 million. You can see the relevant size that I am talking about in State disaster versus Federal disaster declarations.

One challenge this year was a congressional appropriations for 2003 were about half the normal anticipated costs in the disaster relief fund. That resulted in the Federal Government writing some IOUs which the committee asked about earlier in this hearing. We have had some examples where snow and ice in Monroe County, for instance, one our smallest counties. I think 15,000 people live there. They had a public assistance approval for almost a half million dollars in losses from that snow and ice disaster. Only earlier this month, we were able to draw dollars to help them accomplish those projects.

Other issues that I would like to bring before this committee involve both pre- and post-disaster mitigation programs. I have really been pleased to see some questions involving mitigation and the cost shares of these programs. Senator Clinton, in particular, brought up the fact that recently we have reduced the formula for mitigation money from 15 percent of total disaster cost to 7.5 percent. In fact, she addressed the issue of a 5 percent cap put on mitigation for the New York disaster.

Let me just give you the most recent success story that emphasizes what I believe is critically important to our mitigation efforts.

Hurricane Isabel—there were 220 homes in Bell Haven, NC that were elevated with Hazard Mitigation Grant Program funds after Hurricane Fran in 1996.

None of these homes flooded last week, even though there was significant flooding on the Pungo River.

We try constantly to find examples where we can go back and show that getting people out of harm's way is good government, good business, and reduces costs of life and property ultimately if we can just mitigate what we know will be future disasters.

My written testimony includes comments about a correction to the Disaster Mitigation Act of 2000 asking for more flexibility in our assistance to individuals and households where we ended up with a cap of $5,000 in that program which should be flexible. We should be able to increase it. It is in the best interest of ourselves and our victims.

Senator, you asked specifically if we would address your proposed legislation on health monitoring of volunteers. My personal angle on that not only is to be supportive of that, but that we all need to be critical, as you know, in all of our disaster response. We are absolutely dependent upon the thousands and thousands of volunteers who come forth to help us. Government cannot do everything for everybody, nor should we even try.

The Salvation Army and the Red Cross are voluntary organizations active in disasters. All the religious organizations and all the people that come forth to help are critical to our success. People like we have volunteering to serve in our urban search and rescue task forces must be cared for. I appreciate your interest and your concern in doing that.

As we work to establish a new Federal Department of Homeland Security, we must not forget the all hazards approach to emergency management. We must prepare for and respond to all threats, the common as well as the extraordinary, whether it is flooding in Ohio, a hurricane in North Carolina, tornadoes in Kansas, or an explosion of known or unknown origin.

States need a Federal commitment and system, recognizing that each State and local government has unique disaster mitigation, preparedness, response, and recovery needs that require flexible, predictable, and adequate funding assistance that is coordinated with the State emergency management plan.

Again, I thank you very much for the opportunity to be here. I would ask that my written statement be placed in the record in its entirety.

Senator VOINOVICH. Thank you for being here.

Mr. Larson.

STATEMENT OF BUD LARSON, ASSOCIATE DIRECTOR, NEW YORK CITY OFFICE OF MANAGEMENT AND BUDGET

Mr. LARSON. Good morning, Chairman Voinovich and Senator Jeffords. My name is Bud Larson. I am the associate director of the New York City Office of Management and Budget.

My responsibilities include, among others, coordinating and processing all the FEMA claims by the city of New York. I am thankful for the opportunity to share the city's experiences in this process over the last 2 years. In particular, I would like to provide you with

some insight on how the city and FEMA responded to certain limitations in the Stafford Act.

Immediately following the attacks of September 11, 2001, the President and Congress committed over $20 billion of much needed aid to the city of New York. The aid included a $5 billion Liberty Zone tax incentive package, over $3 billion in Community Development Block Grants for Economic Development, and almost $2 billion to the U.S. Department of Transportation for downtown transit upgrades, and over $8 billion to FEMA for transit improvements, individual and family assistance grants, and public assistance programs.

Of these, the city of New York is eligible to make direct claims for reimbursement of disaster-related costs only through the FEMA's Public Assistance Programs. The city's claims have totaled approximately $3.5 billion.

Overall, FEMA has been remarkably efficient and flexible in reimbursing the city, given the constraints of the Stafford Act. Since the 9/11 terrorist attack was the largest disaster ever in the United States, the associated costs borne by the local government was the largest FEMA has ever had to deal with. FEMA recognized very early on in the process that they had entered into new uncharted territory.

As this disaster was unlike any they had responded to before, FEMA officials were willing to work as hard as possible in order to provide the necessary reimbursements to the city of New York. The city has already received almost 100 percent of the claims filed and currently eligible to be reimbursed, excluding the $1 billion insurance fund. A large portion of the balance of Public Assistance funds have been earmarked for transportation improvements for the new transit hub in lower Manhattan and will be provided to the appropriate entity when the expenses occur.

The city has already received almost 100 percent of all claims filed and currently eligible to be reimbursed, excluding the $1 billion insurance fund. A large portion of the balance of Public Assistance funds have been earmarked for transportation improvements for a new transit hub in Lower Manhattan, and will be provided to the appropriated entity when the expense occur.

This success is attributable to the staff of FEMA, the State of New York, all our city agencies, and the assistance of our congressional delegation including Senator Clinton. While we greatly appreciate the work done by FEMA in providing the city with appropriate reimbursement, there are a number of limitations in the Stafford Act that did not make this an easy process.

If not for congressional action, the city would still not have received reimbursement necessary to cover the unique expenses a local government incurs when responding to a terrorist attack. In fact, there are some instances where the city will never receive appropriate reimbursement due to these limitations.

First and foremost, due to the extent of the damages and the destruction of the financial center of the Nation, the city and the State lost a substantial amount of tax revenue as a direct result of this terrorist attack. The city estimated substantial losses in tax revenue of almost $3 billion in 2002 and the 2003 city fiscal years

directly attributable to the attack, and independent of the economic slow down.

These losses were due to decreases in city personal income taxes, business taxes, and reduced sales taxes. In addition, the actual destruction of property, the closure of lower Manhattan, and the significant effect on travel and tourism to New York in particular, also had a devastating effect on our tax revenues.

While some have argued that it is impossible to link the loss of these revenues to the terrorist attack, the General Accounting Office issued a report on July 26, 2002, reviewing these estimates, and noted that the tax revenue loss estimates for 2002 "appear to reasonably approximate the impact of the terrorist attacks on tax revenue." I also want to make it clear that the city did not receive any funds based on the city's experiencing a budget shortfall as a result of these lost tax revenues.

Currently, the Stafford Act does not allow FEMA to provide any reimbursement for lost tax revenue to local governments. While the Community Disaster Loan Program currently exists, the loan amount is capped at only $5 million, not even a fraction of the costs associated to such a large terrorist attack in a major metropolitan city.

Since the Stafford Act does not accommodate this very real need for disaster stricken local governments, the people of the city and the State of New York have been forced to shoulder these additional financial burdens caused by an act of war.

Another limitation of the Stafford Act is the lack of provision for local governments to receive reimbursement for unique expenses associated with a terrorist attack. New York City was the direct target, as were the Pentagon and the District of Columbia. And as a direct target, the city needed to take an action immediately by heightening security in all parts of the city.

Prudence demanded that the entire city needed to be shut down. Bridges and tunnels into Manhattan needed to be closed. Subway lines and rail lines needed to be suspended. The security at the United Nations and other key locations were immediately heightened. These costs were incurred directly as a result of the city being a terrorist target.

However, the Stafford Act does not recognize these expenses as eligible reimbursements since these additional expenses did not occur at the actual site of the disaster. While FEMA worked to interpret the Act as broadly as possible under the narrow confines of the Stafford Act, FEMA could not grant reimbursement. It took a special act of Congress to allow FEMA to provide the reimbursement to the city of New York for these costs which would clearly not have been incurred but for the terrorist attacks.

After receiving congressional authorization, FEMA responded diligently and effectively in processing these new claims. But the fact remains that in any future terrorist attack there will be a significant related cost incurred by local government that will be ineligible for reimbursement under the Stafford Act.

Finally, one of the most complex obstacles to full reimbursement under the Stafford Act encountered by the city involved in the environmental liability as it relates to debris removal. Immediately after the attack on September 11, the city responded by deploying

police officers, firefighters, EMS workers, and other employees to the site for search and rescue.

At the same time, the city contacted four construction management companies to begin the process of debris removal. These companies, along with dozens of subcontractors, acted with a sense of patriotism and worked without contracts, insurance, or indemnity. This response by the municipality and its contractors were immediate and necessary. All parties took substantial risks.

In order to protect against liability for the city and its contractors, the city sought to obtain insurance in the private market, but was able to obtain only $79 million of general liability coverage. Even that coverage came with significant exclusions. The city and its contractors accordingly sought legislation providing for Federal indemnification of these claims, but without success.

Finally, as a result of congressional action, FEMA set aside approximately $1 billion for an insurance fund to protect the city and its contractors from claims relating to the debris removal process. While the city and the contractors will benefit from the substantial coverage, the amount of coverage is only a fraction of the $12 billion of damage claimed already against the city.

The creation of this insurance fund was difficult and complex and was aggravated because the Stafford Act provided no facility for its funding. In fact, even after 2 years since this attack, and 7 months after the additional congressional action, this insurance fund has yet to be created and negotiations between FEMA, the city, and its contractors are still ongoing.

This clearly is an unfortunate circumstance and one no local government or contractor should have to deal with. In fact, this experience may cause governments and others to think twice before responding to a terrorist attack. The Federal Government must address this issue by either enacting Federal indemnification or an insurance plan to protect municipalities and their contractors.

While the city's experience with FEMA has not been without difficulties as I just explained, I want to be very clear that this was in no way due to the staff or the mission of the Agency. I have the utmost respect for the professionalism and the diligence of the people at FEMA. It was the constraints in Federal statute that proved to be difficult.

I urge you to examine these issues and determine the best course of action so local governments and taxpayers are protected from the additional financial burdens of a terrorist attacks.

I thank you for your patience and would be glad to take any questions. I would ask that my written statement be placed in the record in its entirety.

Senator VOINOVICH. Thank you, Mr. Larson.

I am impressed with your testimony. It follows up on some of the questions that I asked the previous witness. The point you are making is that even though the local share was waived when you calculate some of the losses that you incurred that were nontraditional in a typical disaster, that that cost far exceeded any waiver of local match that you might have benefited from?

Mr. LARSON. That is true.

Senator VOINOVICH. I think the real issue here is this. Are you aware whether FEMA is now reevaluating the Stafford Act to have

a separate category dealing with terrorist attacks like you experienced?

Mr. LARSON. I believe that they are doing a review, but I am not really sure what the details of that review entail.

Senator VOINOVICH. I think what we will do is find out.

The question I would like to ask both of you is this. 9/11 was not typical. God forbid we have another one. But the fact is that we could. Would you suggest having a separate set of criteria laid out for that kind of disaster separate and apart from the Stafford Act in terms of its traditional response to disasters in this country?

Mr. LARSON. I believe that there are modifications required to the Stafford Act to look at those issues that relate specifically to acts of terrorism which are not necessarily something that FEMA has normally dealt with in a natural disaster. The Act should be adjusted in such a way that those could be recognized as true costs are reimbursed. Also very importantly, because of the types of things that happen at terrorist attacks, to make sure that those responders are covered for any liability claims that might be put against them in the future.

In the case of 9/11, obviously this was such a huge event that the insurance industry was not able to handle this which is how it would be handled under a normal event. In a normal situation, when we would have entered into a contract with the contractors, included within that contract would be standard insurance. FEMA would pay for it. But since there was no market for insurance, FEMA had no mechanism to provide the type of liability coverage that they would normally do.

Senator VOINOVICH. On behalf of your national organization, do you have an opinion on that?

Mr. SHIPLEY. Sir, it would be my personal opinion. Yes, I think we could establish thresholds at which certain additional assistance might be available. Just as you have had occasion as Governor to make a decision on when a local government was impacted so severely that they could not even meet their 12.5 cost share, which we normally ask them, States would go ahead and say, "We will cover 100 percent of your costs."

When you get into the sort of disaster that occurred here, lost tax revenue, if we are without power for 24 or 48 hours, probably should not be a consideration. But lost tax revenue with an incident the size that occurred in New York City, I think brings new dynamics into play. Yes, maybe we should look at what point should additional assistance be made available when it is just beyond the capability of local governments to make it up.

Senator VOINOVICH. Do you the staff capacity at your organization to put something together and make a recommendation?

Mr. SHIPLEY. I would take it back to NEMA and work with them, if that is OK.

Senator VOINOVICH. I would really like them to sit down and think about this and come back with some recommendations on how we can handle this thing so we can prepare and eliminate some of the problems that Mr. Larson has encountered.

Mr. SHIPLEY. I think the issues were faced not only in New York but in Virginia with the Pentagon, and the office building in Oklahoma. I think all of those States have experienced these extraor-

dinary sized disasters. There was Hurricane Andrew in Florida also. We will probably have valuable input for us to look at what we might revise to deal with those.

Senator VOINOVICH. Thank you.

The other issue that you talked about and I am really interested in is mitigation. Let us take the Ohio River. We had those folks that continued to have their places flooded. We made a condition, did we not, that they could not get any help unless they moved? But then the issue was how much money did we have available to help them move? Is that what you are talking about, that they have limited the amount of money that is available?

Mr. SHIPLEY. Yes, sir.

Senator VOINOVICH. I do not understand. Fifteen percent of what? The cost of moving?

Mr. SHIPLEY. The money that has been made available for mitigation projects has historically been set as a formula of total disaster costs for a disaster. So if we in Ohio have a disaster that we expend $20 million in recovery, then we would take 15 percent of that amount which would be made available for mitigation projects.

The percentage of the total disaster costs to calculate mitigation was reduced from 15 percent to 7.5 percent in the 2003 Omnibus Appropriations bill.

Senator VOINOVICH. So you have less money to move people out. Do you still have the rule that says that if you have been a disaster victim and you do not move, you are not going to get relief a second time without insurance?

Mr. SHIPLEY. What we require is flood insurance. We cannot force people to move. It is a voluntary program. But we can require them to buy flood insurance or they would receive no individual assistance in future flooding. We are trying to encourage people to cover themselves, either through insurance or elevation, or other forms of flood proofing, or let us buy you out and get you completely out of the area.

There are a lot of options. As the Senator commented earlier, sometimes people do not want to leave, but sometimes even they get beaten down to the point where they say, "Hey, we have to get out of this town. We have to get to higher ground."

We have had some success, as you know, in doing that.

Senator VOINOVICH. Senator Jeffords.

Senator JEFFORDS. Thank you, Mr. Chairman.

I was pleased to have your testimony. It has been very helpful.

Mr. Shipley, in light of the fact that the FEMA Director was once a Cabinet-level position, and the past close relationships FEMA Directors had with the Presidents, in your opinion, how do you think FEMA is doing in the new Department of Homeland Security? Are disaster declarations and assistance taking longer to get approval? Does anything need to be done to address FEMA's role in the Department?

Mr. SHIPLEY. My answer may surprise you. FEMA and the Department of Homeland Security leadership and the White House have worked out the procedures for disaster declaration so that they still move directly from FEMA to the White House with information to the Secretary of Homeland Security's office.

There is no slow down in the processing and requesting that the President make a decision and response. The major difference that I am seeing is that there is a new boss over FEMA dealing with all disasters, all threats. That organization is still struggling to figure out exactly how they are going to deal with defining the threat, accomplishing the intelligence gathering and sharing, focus on prevention at the same time that FEMA still has the mission of preparedness, response, and recovery.

I think it is interesting to see that Senator Voinovich has asked some of the questions of who is responsible for what and when which is the essence of emergency planning. Who is responsible and under what conditions? When you look at indoor air, outdoor air, that is the responsibility of the Federal response plan written by FEMA to spell out just those exact things.

We are in the process, under the Department of Homeland Security, of rewriting what we are calling a national response plan. It is not being led by FEMA. Those are just some things I see going on that is complicated, whereas Secretary Brown is the Director of FEMA, was responsible for coordinating Federal organizations in response to disaster. The Secretary is now directly responsible to the President for that same thing. So there is some growing pains and some coordination issues that they are working hard on.

Senator JEFFORDS. I appreciate that response. We would like to followup with you as time goes by to make sure that those problems are resolved.

Thank you.

Mr. SHIPLEY. I would welcome the opportunity.

Senator JEFFORDS. Mr. Larson, the GAO report indicates that New York City officials interviewed believe that changes need to be made to existing authorities under the Stafford Act in order to effectively respond to events of terrorism.

Can you explain first what New York City wanted to do but could not do in the structure of the existing program? Then describe what legislative changes you might propose?

Mr. LARSON. First, I do not believe that we were prohibited in any fashion from doing what we wanted to do because of the Stafford Act. All of the decisions as to how to respond to this emergency were based on public safety issues being priority. We did everything we believe we needed to do.

After we did those things, the ability to be reimbursed for costs which we believe were directly related to this being a terrorist attack, were not eligible reimbursement costs under the Stafford Act. We believe that the definition of reimbursable costs for terrorist attacks should have some flexibility relating to those types of costs that do not occur on the site, which is the limited focus of Stafford Act.

Also, unfortunate as it might be, we experienced such a tremendous loss of members of our emergency response forces that we had significant additional training costs to return those offices to full staffing, after the event. Those costs were not reimbursable. As unfortunate as it may be, we have huge additional disability costs related to this event which were not covered under the normal Stafford Act—potentially $170 million of additional disability pension costs.

There are a whole series of those types of costs that I can track directly back to this being a terrorist event, somewhat different than the natural disaster. But the guidelines under the Stafford Act did not permit those to be reimbursed. I think we need to expand that definition to recognize some of these issues.

Again, the other thing that is very important is the type of liability that local governments might be facing because of the actions they took to protect their citizens. They should have some comfort that they will not be bearing a burden of liability for what was an attack against this country.

Senator JEFFORDS. Will you or someone be preparing suggestions on how to make improvements in the Stafford Act to alleviate those problems?

Mr. LARSON. We would be happy to work with somebody on that.

Senator JEFFORDS. I would appreciate that very much. Thank you.

Thank you, Mr. Chairman.

Senator VOINOVICH. I would like to thank both of you very much for coming. We would really appreciate your followup to some of the questions that we have raised here today and your organization looking at this whole thing. We also appreciate your continuing input as this reorganization goes.

I would welcome, as the chairman of this subcommittee, periodically receiving information from you as to how you think things are going, that they are doing this or they are doing that, and "Gee, if they did it differently, it would be better." We do not want to not hear from you for a year and they go ahead and do their thing. I would rather correct it as we go along rather than wait until it is too late to do anything.

Again, Mr. Larson, you have the experience. You have done a nice job of outlining some of the things that you have been confronted with that were not covered. You have the real perspective. Then you have an issue—is it in the Stafford Act?

I would like from my perspective to lay out all the things that you would be doing if you were sitting in the Department of Homeland Security. You are the people that are on the ground and know it.

Mr. Shipley knows I am a big believer in empowerment and quality management and going to the people that are dealing with the problems to get their information. I have to tell you that in too many instances the folks here do not know what it is. They do not understand what it is on the street. You would really help me to give me the street impression of what is going on so that can be fit into the Department of Homeland Security and FEMA. Thank you.

Mr. SHIPLEY. Thank you.

Mr. LARSON. Thank you.

Senator VOINOVICH. With that, we are adjourned.

[Whereupon, at 11:20 a.m., the subcommittee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF MICHAEL BROWN, UNDER SECRETARY, EMERGENCY PREPAREDNESS AND RESPONSE DIRECTORATE, DEPARTMENT OF HOMELAND SECURITY

Good morning Chairman Voinovich and Members of the Subcommittee. I am Michael Brown, Under Secretary for the Emergency Preparedness and Response Directorate of the Department of Homeland Security, which includes the Federal Emergency Management Agency (FEMA).

Since becoming part of the Emergency Preparedness and Response Directorate (EP&R) of the Department of Homeland Security (DHS), FEMA has continued its traditional role of preparing for, mitigating against, responding to, and recovering from disasters caused by all hazards.

Over the last 2 weeks, we have worked closely with the States and our Federal partners to effectively respond to Hurricane Isabel and all within the new structure of DHS. DHS brought its resources to bear in response to Hurricane Isabel in order to protect the public. We deployed key new assets, including the National Disaster Medical System (NDMS) teams. The U.S. Coast Guard also deployed its assets to assist in the response effort. All of our response efforts have been coordinated department-wide through the DHS emergency operations center.

Our Hurricane Liaison Team was invaluable in arranging up to the minute meteorological information and predictions from the National Hurricane Center and other National Oceanic and Atmospheric Administration (NOAA) components for State and local officials and emergency managers in the path of the storm. We established mobilization centers at Ft. Bragg, North Carolina, and Edison, New Jersey, and staging areas at Ft. A. P. Hill, Virginia, and Columbus, Ohio. Advanced elements of our Emergency Response Teams and our State Liaisons were dispatched before the storm to the affected States and the District of Columbia to coordinate disaster response activities. Many other assets which we positioned from Alabama to New York were also critical to staging an effective response including the Rapid Needs Assessment Teams, National Disaster Medical System (NDMS) Disaster Medical Assistance Teams, Urban Search and Rescue Task Forces, Mobile Emergency Response Support Detachments, Environmental Protection Agency HazMat Teams, Army Corps of Engineers, Forest Service, General Services Administration, Department of Energy, and Department of Health and Human Services Teams.

But, we must not rest on our past achievements. As in all major incidents, we will learn valuable lessons from the Hurricane Isabel response. The key to our continued improvement will be taking these lessons and incorporating them into our planning, doctrine, and procedures to ensure our continued improvement. DHS will continue working with the Congress and our Federal partners, State and local leaders, and other affected stakeholders and partners to continue to enhance our ability to respond effectively to all types of disasters.

Prior to joining DHS, the focus of the disaster programs within FEMA was an all-hazards approach. This focus remains today, and in fact it benefits from the more global perspective of DHS and its related components. I am proud of our response to the Hurricane Isabel disaster on the east coast because it clearly demonstrates our steady improvement in coordinating and leading Federal, State, tribal and local response efforts to protect life and property in times of disaster. The seamless collaboration of the different response elements in the Department of Homeland Security, as well as those in other Federal departments and agencies, allowed for a rapid and effective positioning of disaster assets and capabilities throughout the eastern United States to quickly provide any assistance needed by States and communities to protect the life and property of their citizens.

We at FEMA, are proud to be doing our part to secure the homeland, and I am proud to be a part of an organization made up of so many fine and dedicated individuals. FEMA's greatest asset is its people. As we have transitioned into DHS, we have continued our efforts to ensure that FEMA's workforce remains one of the finest in the Federal Government through the development of a comprehensive strategic Human Capital Plan. We have also continued to work to integrate the new missions into FEMA's structure. We are working with the Department of Health and Human Services on a wide array of issues including finalizing the consolidation of staff in the FEMA headquarters building within the next few months, fully integrating NDMS assets into the FEMA response structure and enhancing the operational readiness of NDMS teams.

Since becoming part of the Department of Homeland Security, FEMA has continued to carry out its mission to prepare for, mitigate against, respond to, and recover from disasters of all kinds. It is a great honor for me to serve Secretary Tom Ridge as I lead FEMA into a new era as part of DHS.

In order to achieve our mission more efficiently, FEMA has been divided into four disciplines: Preparedness, Mitigation, Response, and Recovery. This organizational

alignment reflects the traditional areas of emergency management. It also resembles the organizational flow used by many States, who continue to be our principal partners in emergency management.

PREPAREDNESS

Since joining DHS on March 1, FEMA's Preparedness Division has continued to implement its grants and training programs and has already gained assets in the transition. The Preparedness Division had the opportunity to test its capabilities during exercises including the nationwide Top Officials 2 exercise (TOPOFF2) in May 2003; to provide funding to State, tribal, and local governments; and to forge strong working relationships with the Office for Domestic Preparedness (ODP), which is also now part of DHS.

The recent TOPOFF2 exercise served as a good test of significant new organizational structures and provided some good lessons as to how our efforts can be improved. It tested new procedures, such as our operational relationship with the DHS Crisis Assessment Team and systems transferred to DHS, such as the Strategic National Stockpile. Exercises such as TOPOFF2 allow us to pinpoint challenges to help ensure a better response and a more timely delivery of assistance.

Although national level exercises like TOPOFF2 are important and valuable, community-based exercises are equally important for a comprehensive and truly effective national exercise program. Several months ago, a train carrying hazardous materials derailed near Laguna, New Mexico. Fortunately, local emergency responders and the New Mexico Office of Emergency Services were ready. A response exercise held just weeks earlier had prepared responders for such an event. The bottom line is that community-based exercises work, and they work at the first responder level. In cooperation with ODP, FEMA is continuing to support a robust, multi-tiered system of exercises.

As a sign of the growing national interest in individual and community preparedness, Citizen Corps has increased its number of local councils by 377 since March 1, for a total of more than 628 Councils in 51 States and territories. Councils are serving nearly 35 percent of the U.S. population or approximately 90 million people. Five new affiliates have partnered with Citizen Corps since March, including the U.S. Junior Chamber of Commerce, the National Volunteer Fire Council, the National Voluntary Organizations Active in Disaster, the Points of Light Foundation, and the National Safety Council.

Additionally, Federal affiliates have partnered with Citizen Corps. On July 29, 2003, Tom Dunne, EPA's Associate Assistant Administrator for the Office of Solid Waste and Emergency Response, signed an agreement adding EPA as an affiliate with Citizen Corp. NOAA and the Department of Education's Office of Safe and Drug-Free Schools have also signed agreements.

A key component of Citizen Corps is the Community Emergency Response Team (CERT) program, which helps train citizens to be better prepared to respond to emergency situations in their communities. In May 2003, DHS provided nearly $19 million in grant funds to States and territories to expand the CERT program through additional State-offered Train-the-Trainer courses and to help communities start CERT programs and expand existing teams. When I announced these grants in Olathe, Kansas, I had the good fortune to meet Community Emergency Response Team members who worked together to help their neighbors recover from the destructive tornadoes in the Midwest this past spring. This is a fine example of what CERT can accomplish.

Our National Emergency Training Center, which includes the National Fire Academy and the Emergency Management Institute, continues to provide training to the leaders of the fire service and emergency management communities. We train more than 16,000 students a year on campus and more than 100,000 students a year through off-campus programs with our partners in the State fire and emergency management training systems. We also have trained over 185,000 students this year through our Independent Study Program. Our training prepares the fire, EMS and emergency management community, as well as local officials all across the country. With the addition of Noble Training Center in Anniston, Alabama, our capabilities are being expanded, and we will be able to reach more personnel than ever before.

DHS is committed to helping firefighters improve their effectiveness and stay safe. The responsibilities of the fire service have increased since 9/11 to include planning for and responding to possible terrorist attacks. So far this fiscal year, DHS has awarded over $250 million to fire departments through the Assistance to Firefighters grant program.

Given the recommendations to better consolidate and coordinate grants for first responders and terrorism preparedness, the President's Budget for fiscal year 2004

requested that Assistance to Firefighters Grant Program be placed within ODP. In order for State and local governments to be effective partners with the Federal Government in securing the homeland, they need quick and easy access to terrorism and emergency preparedness grant programs designed to support their work. Prior to the formation of the Department of Homeland Security, information about terrorism and emergency preparedness grant programs were scattered throughout the Federal Government. Many are now centered within DHS, though still divided among our various components. To make them even more accessible, Secretary Ridge announced plans to centralize these programs within a single office. State and local authorities will soon have a single point of contact for terrorism and emergency preparedness efforts—one access point to obtain critical grant funding. It will help ensure that nationwide, State and local officials have one place in the Department where they can tap into the resources and information they need, from applying for funds to protect critical infrastructure to receiving funding for first responders.

As a Department we have not waited to begin new initiatives that leverage the resources of the Federal Government in support of our first responders and first preventers. For example, DHS and the Department of Justice COPS program coordinated the application and review of their separate appropriations for interoperable communication pilot programs. This innovative DHS/DOJ partnership demonstrated Federal leadership and illustrates the importance of integrating multiple disciplines in addressing the nation's preparedness needs. In the coming weeks, the Departments will be announcing approximately $150 million in pilot project grants that will establish best practices and help develop unique solutions to the interoperable communication issues that have hampered our first responders.

RESPONSE

The Response Division continues working hard to consolidate and integrate our existing and new disaster response assets, teams, systems, programs and responsibilities into the Emergency Preparedness and Response Directorate to create a more unified and comprehensive all-hazards disaster response capability. We are looking into new approaches that can result in greater efficiency and effectiveness in our disaster response activities. I am confident that over time we will be able to introduce a new response culture, one that will enable us to elevate our operational response capabilities to a higher level of proficiency and ensure better protection of and service to the American people.

The Response Division's structure is based on the Incident Management System so that it is optimally aligned to meet the needs of State and local responders and designed to meet the President's direction to establish a National Incident Management System (NIMS) and National Response Plan (NRP). On February 28, 2003, the President established a single, comprehensive national incident management system and provided for the integration of separate Federal response plans into a single all-discipline, all-hazards national response plan. The Secretary of Homeland Security is responsible for developing and implementing both initiatives. FEMA has been actively participating in the effort to develop the National Response Plan (NRP) and a framework for National Incident Management System (NIMS). We are also a co-facilitator and have regional participation on the State, tribal and local NIMS/NRP workgroup, which is an intergovernmental advisory group assembled to provide State and local input, guidance and expertise to the NRP/NIMS revision efforts. As directed in the Department of Homeland Security Act of 2002, FEMA will play a key role in the management and maintenance of NIMS once it is developed.

The Response Division is pulling together critical national response assets formerly maintained within other Federal agencies, such as the National Disaster Medical System (NDMS), the Strategic National Stockpile (SNS), the Domestic Emergency Support Team (DEST), and the Nuclear Incident Response Team (NIRT). Different options are under consideration on the best way to staff and deploy these teams and integrate these assets into a mission capable operation that builds upon our existing and proven disaster response foundation. The Response Division is also initiating steps to create dedicated, rapid-deployment DHS Incident Management Teams that would form the initial core on-scene management component of the Federal disaster response capability interfacing with the State/local Incident Commander. The teams have not been fielded yet but are an important aspect of FEMA's implementation of Homeland Security Presidential Directive-5. We plan to staff, train, and equip the teams over the next year.

We are coordinating with different elements of DHS to enhance the operational readiness and capability of our National Emergency Operations Center (NEOC), Regional Operations Centers, NDMS, DEST, Urban Search and Rescue (US&R) Task

Forces, Mobile Emergency Response Support elements, and other specialized disaster response teams to respond to protect the Nation in times of disaster.

In addition, the Response Division is taking steps to reduce disaster response times so that eventually disaster teams will be able to respond anywhere in the country within 12 hours and disaster logistics packages, commodities, and equipment can be delivered anywhere in the country within 24 hours of a disaster declaration. A pilot test of a prototype disaster logistics pre-deployment program is being planned as part of our efforts to ensure that we provide maximum assistance to help State and local governments meet immediate disaster needs in the first 24 hours of a disaster while additional disaster response commodities and equipment are enroute.

We are placing additional emphasis on increasing patient evacuation capabilities and conducting more hospital training and exercises under NDMS, improving coordination of Strategic National Stockpile activities, and working to ensure that US&R Task Forces can safely respond to weapons of mass destruction incidents with the necessary medical screening and equipment.

Work continues with the Department of Health and Human Services on a wide array of issues including finalizing the consolidation of staff in the FEMA headquarters building within the next few months, fully integrating NDMS assets into the FEMA response structure, and enhancing the operational readiness of NDMS teams. We are also finalizing guidance that will clarify and specify in greater detail DHS and HHS roles and responsibilities agreed to under the Memorandum of Agreement the two departments signed related to the SNS.

Over the next few years we intend to focus much more attention on completing catastrophic all-hazards planning for our most vulnerable cities. Some work has already been accomplished in this area, but we want to make sure as we move forward that we are addressing those issues that are most critical to State and local officials in responding to a truly catastrophic disaster. We are also drawing up a plan to develop the capability to provide intermediate emergency housing for up to 100,000 displaced disaster victims within 60 days of a disaster, a situation that we could be easily faced following a truly catastrophic disaster. Different options are being reviewed including the possibility of using portable housing solutions involving trailers, manufactured homes, modular housing, and other innovative approaches. Our goal is to develop a methodology and template that will provide useful planning and operational tools for all levels of government.

The consolidation of national response assets allows the Federal Government not only to continue to provide the services which existed prior to the establishment of DHS to which the American people have become accustomed during emergencies and disasters, but also to enhance our ability to maximize Federal resources, streamline delivery processes, and directly focus programs and assets on meeting State and local needs.

RECOVERY

The good work that FEMA continues to do after being incorporated into the Department of Homeland Security is a commentary on how well the transition has gone. Since the March 1 transition into DHS, FEMA has provided disaster relief in 50 Presidentially declared disasters and emergencies in 34 States and one territory from Alaska to New York to American Samoa. These disasters include such events as the President's Day snowstorm and the devastating tornadoes that struck the Midwest and South in May. Most recently, of course, we have been dealing with Hurricane Isabel.

When I traveled to these disaster areas, I had the opportunity to meet with some of the victims. Their lives had been totally devastated. They had lost family members. They had lost their homes. I cannot adequately describe in words the impact of looking into the eyes of people who have lost everything. But when things are at their worst, our people are at their best I have never been more proud to be a part of the Federal organization that already had individuals on the ground providing assistance to those in need and getting the process of disaster recovery underway.

The committee has expressed an interest in the GAO report on the Public Assistance Program as implemented in New York following the September 11, 2001 terrorist attacks. While the GAO report does not address FEMA's performance or provide specific recommendations, it does note some differences in the delivery of assistance that I would like to take this opportunity to emphasize. FEMA implemented the Public Assistance Program, which provides State and local governments reimbursement for debris removal, emergency protective measures, and/or the repair or replacement of public damaged facilities. However, the Consolidated Appro-

priations Resolution of 2003 provided some flexibility that allowed recovery operations for New York to move more quickly. The resolution directed FEMA to fund non-Stafford Act 9/11 related projects with any remaining funds from the appropriation it received for the September 11 terrorist attacks in P.L. 107–117, after eligible projects had been funded. This flexibility did not forfeit accountability or detract from the effectiveness of the program.

In our ongoing efforts to assist the recovery from the terrorist attacks of September 11, FEMA has also finalized a Memorandum of Understanding with the Centers for Disease Control and Prevention to fulfill requirements in the Consolidated Appropriations Resolution of 2003. This agreement is providing $90 million for administering baseline and followup screening, clinical exams, and health monitoring for emergency services, rescue, and recovery personnel. I know this issue is of particular interest to you Mr. Chairman, Senator Clinton and the rest of the Subcommittee with regard to the legislation you have recently introduced and considered.

MITIGATION

Since the integration into DHS, the Mitigation Division has focused primarily on two Presidential initiatives: the flood map modernization program and pre-disaster mitigation. This groundwork sets the stage for results for the rest of this fiscal year and beyond.

We have nearly $200 million available for our flood map modernization program this fiscal year, $149 million appropriated by Congress and $50 million in National Flood Insurance Program (NFIP) policyholder fees.

The funding enables us to embark on a multi-year effort to update and digitize our flood map inventory. Updating flood insurance rate maps will make community assessment of flood risks more accurate and improve floodplain management decisions. An updated map inventory will also provide the basis for prudent flood insurance decisions and an actuarially sound insurance rating.

Flood risk identification is central to informing decisionmakers at all levels of government and in helping to shape their assessment of risks. Effective flood hazard mitigation hinges, in the final analysis, on accurate identification of the risk. A sustained commitment to the President's initiative for updating the NFIP's flood map inventory will result in even more effective risk reduction.

Our flood map modernization initiative reflects, too, the President's overall management agenda; the effort will be citizen-centered, results-oriented, and market-based. We have been laying the groundwork for this significant undertaking and plan to award a contract for the flood map modernization program soon.

We have also continued our commitment to hazard mitigation programs. This fiscal year, Congress appropriated $149 million for the Pre-disaster Mitigation (PDM) Program and directed that grants be awarded on a competitive basis and without reference to state allocations, quotas, or other formula-based allocation.

The PDM program provides a significant opportunity to raise risk awareness and to reduce the Nation's disaster losses through mitigation planning that includes risk assessment, and the implementation of pre-identified, cost-effective mitigation measures before disasters occur. Examples of these measures include retrofitting existing structures to protect against natural hazard events and acquisition and relocation of flood-prone structures. Funding these hazard mitigation plans and projects will reduce overall risks to the population and infrastructure and—in the long-term—will reduce reliance on funding from disaster assistance programs following an event.

We are requesting that the PDM program be reauthorized through fiscal year 2009 to allow us to continue to implement this critical initiative. We have worked closely with States, tribal governments, and territories over the past months to share the PDM concepts through a number of outreach opportunities, including meetings with the National Emergency Managers Association and the Association of State Floodplain Managers, and have conducted state mitigation workshops in all 10 FEMA regions. We have also developed an electronic grants system for stakeholders to electronically create, review, and submit grant applications for the PDM program through the Internet, which will enable us to review and evaluate grant applications more efficiently.

CONCLUSION

As part of the Department of Homeland Security, FEMA has continued to carry out its mission to prepare for, mitigate against, respond to, and recover from disasters and emergencies caused by all-hazards. And we will continue to do so.

I appreciate the opportunity to testify before you today. I would be glad to answer any questions that you have.

RESPONSE BY MICHAEL BROWN TO ADDITIONAL QUESTION FROM SENATOR JEFFORDS

Question. One of the issues raised in the GAO report is whether or not FEMA should have reimbursed New York City for heightened security costs in the wake of the terrorist attack. The GAO report states that FEMA believed that this work was not eligible for reimbursement because it was similar to work being done nationwide. How much did New York spend on increased security costs in the wake of September 11th? How does that compare with similar expenditures nationwide?

Response. New York City was a direct target of a terrorist act, as were the District of Colombia and the Pentagon. The immediate response required immediate action in the areas of bridges, tunnels, subways, railroads, water supplies, foreign missions, the United Nations and other potential targets located in the city. All entries to Manhattan needed to be secured and there were certainly other security costs surrounding the World Trade Center site. These steps taken in the immediate aftermath of the attacks were, we believe, different than steps taken elsewhere in the country that had not been attacked.

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Clean Air, Climate Change, and Nuclear Safety, Committee on Environment and Public Works, U.S. Senate

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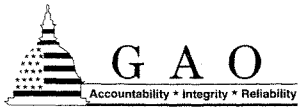
DISASTER ASSISTANCE

Federal Aid to the New York City Area Following the Attacks of September 11th and Challenges Confronting FEMA

Statement of JayEtta Z. Hecker, Director Physical Infrastructure Issues



GAO-03-1174T

September 24, 2003

GAO
Accountability-Integrity-Reliability

Highlights

Highlights of GAO-03-1174T, a testimony to the Subcommittee on Clean Air, Climate Change, and Nuclear Safety, Committee on Environment and Public Works, U.S. Senate

DISASTER ASSISTANCE

Federal Aid to the New York City Area following the Attacks of September 11th and Challenges Confronting FEMA

Why GAO Did This Study

The federal government has been a key participant in the efforts to provide aid to the New York City area to help it respond to and recover from the terrorist attacks. The President pledged, and the Congress subsequently authorized, about $20 billion in federal aid. This federal aid was provided primarily through four sources: the Federal Emergency Management Agency (FEMA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), and the Liberty Zone tax benefits—a set of tax benefits targeted to lower Manhattan. In the period since the federal response and recovery assistance began, a new agency—the Department of Homeland Security—has been created, and FEMA, along with its disaster response responsibilities, has been absorbed into the new department.

GAO was asked to describe the federal government's response and recovery efforts to the New York City and how the federal government's response to this disaster differed from previous disasters. Additionally, GAO was asked to describe the management challenges FEMA faces as it integrates into the Department of Homeland Security.

www.gao.gov/cgi-bin/getrpt?GAO-03-1174T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact JayEtta Z. Hecker at (202) 512-8984 or heckarj@gao.gov.

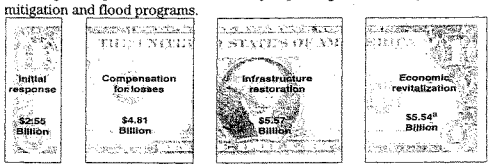
What GAO Found

An estimated $20 billion of federal assistance has been committed to the New York City area through DOT, FEMA, HUD, and the Liberty Zone tax benefits. While plans for use of $1.16 billion in HUD funds have not been finalized, $18.47 billion have been directed for the following four purposes.

- **Initial response efforts**, which include search and rescue efforts, debris removal, emergency transportation and utility system repairs, received $2.55 billion.
- **Compensation for disaster-related costs and losses**, which includes aid to individuals for housing costs and damages, grants and loans to businesses to cover economic losses, and funding to the city and state for disaster-related costs, total about $4.81 billion.
- **Infrastructure restoration**, which includes restoration and enhancement of the lower Manhattan transportation system and permanent utility repair and improvement, totals $5.57 billion.
- **Economic revitalization**, which includes include the Liberty Zone tax benefits and business attraction and retention programs, is estimated to total $5.54 billion.

The designation of $20 billion to assist the New York City area was the first time in which the amount of federal disaster assistance to be provided was determined early in the response and recovery efforts; normally, the level of assistance is determined as needs are assessed against established eligibility criteria. This designation of the assistance amount changed the traditional approach to administering FEMA disaster funds and prompted Congressional authorization of numerous forms of non-traditional assistance to be provided by other agencies.

FEMA faces ongoing challenges as it and its mission are subsumed into the Department of Homeland Security along with 21 other agencies. Specifically, FEMA is a part of department's overall management challenge of combining 22 agencies into an effective and collaborative department—a challenge we have designated as high-risk. Further, FEMA will be challenged to (1) ensure effective coordination of preparedness and response efforts, (2) enhance the provision and management of disaster assistance for efficient and effective response, and (3) maintain emphasis on reducing the impact of natural hazards by improving the efficiency of mitigation and flood programs.



Total funds committed to specific projects.

Source: GAO.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here to discuss issues related to the federal government's response to recovery efforts regarding to the September 11, 2001, terrorist attacks, particularly the role of the Federal Emergency Management Agency (FEMA), as well as management challenges facing FEMA as the agency adjusts to its transfer to the Department of Homeland Security (DHS). The terrorist attacks resulted in one of the largest catastrophes this country has ever experienced. The federal government has been a key participant in the efforts to provide aid after the attacks, and it has been providing the New York City area with funds and other forms of assistance. The magnitude of the disaster in New York and the size and scope of the federal government's response in aiding the city has generated significant interest in the nature and progress of this federal assistance.

In my testimony today, I will focus on (1) how much and what types of assistance the federal government provided to the New York City area following the September 11 terrorist attacks, (2) how the federal government's response to this disaster differed from previous disaster response efforts, and (3) the ongoing challenges FEMA faces as it, and its mission, are subsumed into the Department of Homeland Security. My comments will be based on the following GAO work on FEMA issues, including our January 2003 Performance and Accountability Reports that highlighted both FEMA and DHS management challenges and program risks[1] and our August 2003 report on FEMA public assistance we issued to the Full Senate Committee on Environment and Public Works, as well as ongoing work we are conducting for the Committee on the overall federal assistance to the New York City area in the wake of September 11. (See appendix 1 for further discussion of the objectives, scope, and methodology.)

The President pledged, and the Congress authorized an estimated $20 billion in assistance to the New York City area following the terrorist attacks.[2] Many agencies of the federal government were involved in

[1]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Homeland Security*, GAO-03-102 (Washington, D.C.: January 2003) and *Major Management Challenges and Program Risks: Federal Emergency Management Agency*, GAO-03-113 (Washington, D.C.: January 2003).

[2]The $20 billion in federal assistance does not include the Victim's Compensation Fund or income tax deferrals.

administering this funding, but most of the federal aid—96 percent—has been provided through four sources: FEMA, the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), and the Liberty Zone tax benefits[3]. The assistance provided through these sources targeted different aspects of the response and recovery efforts, and in our work for the Committee, we have found that it is useful to discuss the federal aid to the New York City area in terms of four broad types of assistance instead of by each federal source of assistance. Consequently, I will discuss the aid in the following four broad categories:

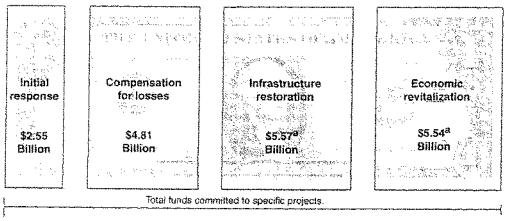
- Initial response efforts, which include activities to save lives, recover victims, remove debris, and restore basic functionality to city services;
- Compensation for disaster-related costs and losses, which includes compensation for losses incurred by individuals, businesses, and governments;
- Infrastructure restoration, which includes efforts to restore and enhance infrastructure that was severely destroyed by the collapse of the World Trade Center towers and the subsequent response efforts; and
- Economic revitalization, which includes activities to help improve the lower Manhattan economy that was harmed by the disaster.

In summary,

[3]The Liberty Zone tax benefits are benefits primarily targeted to the area of New York City damaged on September 11, designated as the New York Liberty Zone

- As of June 30, 2003, an estimated $20 billion of federal assistance has been committed to the New York City area, primarily through FEMA, DOT, HUD, and the Liberty Zone tax benefits. Figure 1 shows the amount of assistance in each of the four broad categories.

Figure 1: Primary Purpose and Amount of Disaster Assistance Committed By FEMA, HUD, DOT, and Liberty Zone Tax Benefits



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above and according to HUD will mostly likely be directed to either infrastructure restoration or economic revitalization.

The $2.55 billion for initial response efforts included numerous assistance programs, such as search and rescue operations, debris removal operations, emergency transportation measures, and emergency utility service repair. FEMA provided the bulk of the federal funds for initial response efforts—$2.20 billion—but DOT and HUD also provided funds. Compensation for disaster-related costs and losses totaled about $4.81 billion. This funding, provided by FEMA and HUD, compensated state and local organizations, individuals, and businesses for disaster-related costs, such as mortgage and rental assistance to individuals and grants to businesses to cover economic losses. The amount committed for infrastructure restoration and improvement efforts is $5.57 billion. The majority of this funding is a combination of FEMA and DOT funds to rebuild and enhance the lower Manhattan transportation system, including the construction or repair of roads, subways, ferries, and railroads. HUD is funding efforts to improve utility infrastructure. Efforts to revitalize the economy in lower Manhattan include the Liberty Zone tax benefit plan—

an estimated benefit of $5.03 billion[4]—and $515 million in HUD funding for business attraction and retention programs. Once the city, state, and HUD finalize plans for the remaining $1.16 billion, these funds will most likely be directed to infrastructure restoration and improvements and/or economic revitalization.

- The $20 billion to assist the New York City area differed from previous disaster response efforts in that it was the first time in which the amount of federal disaster assistance to be provided was set early in the response and recovery efforts, which resulted in two major changes to the federal approach. First, the specified level of funding for the entire federal response to this disaster changed the traditional approach to administering FEMA funds. In an effort to ensure that all FEMA funds were expended for this disaster, FEMA broadly interpreted its provisions within the Stafford Act, and the Congress authorized FEMA to compensate the city and state for costs such as increased security that it could not otherwise have funded within provisions of the Stafford Act. Secondly, this specific level of funding for the disaster prompted Congressional appropriations that authorized numerous forms of non-traditional assistance by agencies other than FEMA, such as the Liberty Zone tax benefit plan and improvements to the transportation infrastructure that exceeded normal replacement cost.

- Simultaneous to FEMA's efforts to assist the New York City area's recovery from September 11, FEMA faced the challenge of being transferred into the newly formed DHS. As we previously reported in our 2003 Performance and Accountability Series, FEMA faces ongoing management challenges resulting from its transfer into DHS, and DHS itself faces the daunting challenge of combining FEMA and 21 other agencies with various missions into an effective and collaborative agency. Recognizing the magnitude of the overall challenge in establishing DHS, GAO has designated the implementation and transformation of the department as high-risk. Several of the specific challenges that FEMA faces include the need to (1) ensure effective coordination of preparedness and response efforts, (2) enhance provision and management of disaster assistance for efficient and effective response, and (3) reduce the impact of natural hazards by improving the efficiency of mitigation and flood programs. We have ongoing work that is focusing

[4]The Liberty Zone tax benefits are benefits targeted primarily to the area of lower Manhattan damaged on September 11, designated as the New York Liberty Zone. The amount of the tax benefit is an estimate prepared by the Joint Committee on Taxation.

on FEMA's challenges in each of these areas and will be reporting on these efforts in the near future.

Background

After a disaster, the federal government, in accordance with provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act)[5],assists state and local governments with costs associated with response and recovery efforts that exceed a state or locale's capabilities. FEMA is the agency responsible for coordinating federal disaster response efforts under the Federal Response Plan, an agreement among 27 agencies and the Red Cross to deliver federal disaster assistance. FEMA was established in 1978 to consolidate and coordinate emergency management functions in one agency. In November 2002, the Congress enacted legislation establishing DHS in an effort to consolidate numerous homeland security functions in a single entity, which involved subsuming 22 agencies, including FEMA. FEMA's primary functions have remained intact and have been placed primarily in DHS' Emergency Preparedness and Response Directorate.

FEMA not only coordinates the federal disaster response, it also provides significant assistance through a variety of programs funded through its Disaster Relief Fund. This assistance is provided when disaster costs exceed state and local government capabilities to respond and insurance damage proceeds. These programs include FEMA's individual assistance program that provides aid to victims affected by a disaster and its hazard mitigation program that provides funds to state and local governments to reduce the risk of damage from future disasters. However, FEMA's public assistance program is typically the largest source of disaster relief. It is designed to provide grants to eligible state and local governments and specific types of private non-profit organizations that provide services of a governmental nature, such as utilities, fire departments, emergency and medical facilities, and educational institutions, to help cover the costs of emergency response efforts and work associated with recovering from the disaster.

Many other agencies play active roles in federal disaster relief. For example, the Federal Highway Administration (FHWA), an agency of DOT, has existing authority to assist in disaster relief. FHWA can provide up to $100 million in emergency relief funding for each natural disaster or

[5]Pub. L. No. 93-288, 88 Stat. 143 (1974), as amended.

catastrophic failure event that is found eligible within the provisions of the Emergency Relief Program. Other agencies within DOT, such as the Federal Transit Administration (FTA) and the Federal Railroad Administration, also have had roles in previous disaster relief efforts. HUD, which has had authority to assist in disaster relief efforts at different times in the last few decades, once again became actively involved in providing disaster recovery assistance following Hurricane Andrew in 1992. Since that disaster occurred, the Congress has made available more than $5.7 billion in 15 supplemental appropriations to HUD for disaster assistance.[6] Typically, HUD awards funds to the affected state or local government, and then the funds are administered at the state or local level.

The President's declaration of September 11 as a federal disaster activated 27 agencies, including the American Red Cross in response and recovery efforts. On September 12, 2001, President Bush pledged to commit at least $20 billion to help the New York City area recover. The President sent a letter to the Speaker of the House requesting that the Congress pass emergency appropriations to provide immediate resources. Over the next 11 months, the Congress enacted three emergency supplemental appropriation acts that provided more than $15 billion in direct federal assistance as well as an estimated $5 billion economic stimulus package for the New York City area.

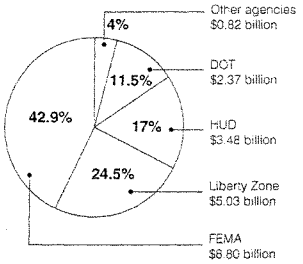
Federal Disaster Assistance to the New York City Area

The greatest role in providing federal assistance fell to FEMA, HUD, and DOT. The funds appropriated to these agencies, along with the Liberty Zone tax benefits, constitute over 96 percent of all federal assistance designated to the New York City area. FEMA, the largest single provider of assistance, was appropriated $8.80 billion for debris removal, rescue efforts, and other assistance. Congress appropriated HUD $3.48 billion to provide the New York City area assistance to aid businesses and individuals and spur economic revitalization. DOT received $2.37 billion to assist in the restoration and enhancement of the transit system in the New York City area. The Liberty Zone tax benefits is estimated by the Joint Committee on Taxation to reduce federal tax revenue—and in turn increase the funds retained by taxpayers—by $5.03 billion. An additional $0.82 billion in assistance to the New York City area has been appropriated to 15 other agencies to conduct numerous activities, such as environmental studies and federal building restoration. Figure 2 shows the

[6]All dollars are in nominal terms.

amount of federal assistance, in both amount and percentage, committed to the New York City area by the federal government.

Figure 2: Federal Assistance to the New York City Area by the Federal Government



Source: Congressional Budget Office and GAO.

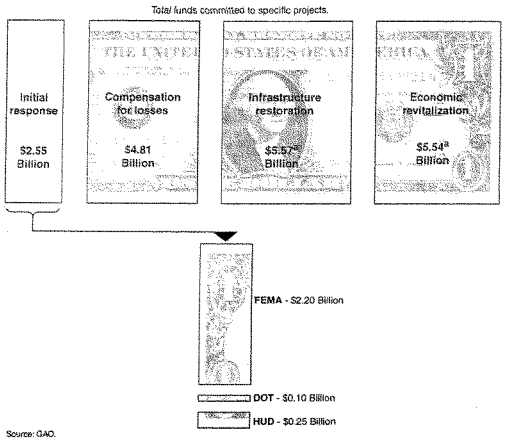
Note: Numbers do not total 100 percent due to rounding.

As the large majority of federal assistance to the New York City area is primarily through FEMA, DOT, HUD, and the Liberty Zone tax benefits, I would now like to discuss the assistance these sources did, or will, provide in the four board categories I discussed earlier: (1) initial response efforts, (2) compensation for disaster-related costs and losses, (3) infrastructure restoration, and (4) economic revitalization.

Initial Response Activities Totaled $2.55 Billion

Initial response assistance in New York City began immediately after the hijacked aircraft collided with the World Trade Center towers and totaled $2.55 billion. This assistance was predominately funded by FEMA. Figure 3 shows the amount each agency funded in this category of assistance.

Figure 3: Amount of Assistance Committed to Initial Response Activities, by Agency



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Initial response activities included urban search and rescue; debris removal operations; emergency transportation measures; other initial response assistance by FEMA, such as cleaning buildings; and emergency and temporary utility service.

Urban Search and Rescue Operations

The terrorist attacks of September 11 prompted the largest search and rescue operation in U.S. history, a $22 million effort. FEMA oversees 28 national Urban Search and Rescue Task Forces across the country and 20 were activated to respond to the attacks in New York. The teams operate under FEMA authority and were deployed as part of the National Urban Search and Rescue Response System. Almost 1,300 members of the Urban

Search and Rescue teams and 80 dogs worked at the World Trade Center site.

Debris Removal Operations, Including Liability Insurance Coverage

Immediately after the World Trade Center towers collapsed, the debris removal operation began in order to help workers look for survivors. The effort eventually transformed to a victim and evidence recovery operation as well as a clean-up site. Debris removal operations totaled $1.70 billion, although over one-half of those funds—$1 billion dollars—is to be used to establish an insurance company with the intended purpose of covering the City and its contractors for potential claims resulting from debris removal at the World Trade Center site. The New York City Department of Design and Construction and the New York City Department of Sanitation completed the daunting task of removing debris piled from several stories below street level to 11 stories above ground and weighing nearly 1.6 million tons, with support from FEMA, the Federal Highway Administration, and the U.S. Army Corps of Engineers. FEMA provided $630 million to reimburse the city for the costs associated with removal of the debris from the World Trade Center site and barge it to a landfill on Staten Island, New York, for screening, sorting, and disposal. Initial estimates projected that the recovery effort and cleanup would take two years and cost $7 billion; however, the effort was completed substantially below these time and cost estimates. As of September 3, 2003, FEMA had obligated $1 billion for the insurance program; however, no funds will be disbursed until details for the establishment of the dedicated insurance company are finalized.

Emergency Transportation Measures

The collapse of the World Trade Center buildings and subsequent recovery efforts wreaked havoc on lower Manhattan's transportation system: subway stations and the PATH commuter rail terminal were destroyed, sections of local roads became impassable due to damage or recovery efforts, and subways and ferries were overcrowded as commuters returned to work using different means or routes of transportation. FEMA and DOT coordinated with a variety of transportation, public works, public safety, and utility providers to plan emergency/interim projects to address issues such as shifts in travel demand after September 11, capacity issues, and system delays associated with revised travel patterns.[7] Overall,

[7]As debris removal efforts were completed, FEMA and FTA released the "Emergency/Interim Transportation Disaster Recovery Plan" in spring 2002, which identified 100 projects proposed by local agencies to use available FEMA and FTA funds.

FEMA and DOT provided approximately $299 million for emergency transportation measures, including:

- Clean-up and emergency repair of local roads and tunnels,
- Construction of a temporary PATH terminal,
- Expanded ferry service, and
- Capital projects to improve commuter transportation.

Other FEMA Initial Response Assistance

FEMA provided $285 million for other initial response assistance. For example, as authorized by the Congress, FEMA entered into an interagency agreement with the Department of Health and Human Services to conduct a project to screen and monitor emergency services personnel for long-term health effects of work at the World Trade Center site.[8] In addition, FEMA worked with EPA officials to conduct clean-up efforts that included vacuuming streets, parks, and other areas covered by dust from debris and fires and in conjunction with New York City officials conducted an indoor cleaning and testing program at private residences.

Emergency and Temporary Utility Service

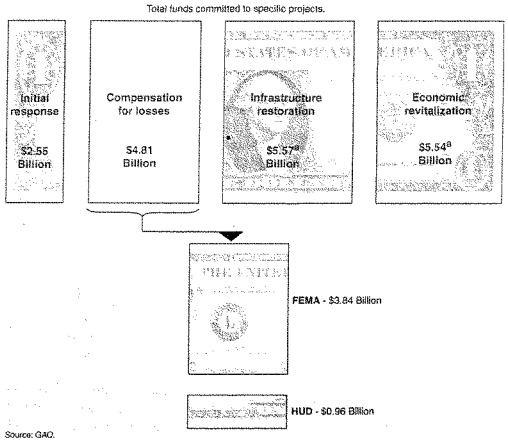
The collapse of the World Trade Center buildings and subsequent debris removal efforts resulted in widespread damage to the energy and telecommunications utility infrastructure. Utility firms worked to provide service for rescue operations in the days immediately following the disaster and to stabilize delivery of service to lower Manhattan, including the reopening of the New York Stock Exchange 6 days after the attacks. The Congress appropriated $250 million to HUD to reimburse utility companies for uncompensated costs associated with restoring service. Eligible firms will be reimbursed up to 100 percent of actual, incurred, uncompensated, and documented costs. These funds have not been disbursed to utility companies; however, HUD approved a city plan for distributing these funds on September 15, 2003, and HUD officials expect funds to begin being obligated.

Compensation for Disaster-Related Costs and Losses Totaled $4.81 Billion

Approximately $4.81 billion in federal assistance is committed to compensating state and local organizations, individuals, and businesses for disaster-related costs and losses. The majority of the assistance provided under this category was provided by FEMA. Figure 4 shows how much each agency has committed to compensate for disaster-related costs and losses.

[8] P.L. 108-7.

Figure 4: Amount of Assistance Committed to Compensate Disaster-Related Costs and Losses, by Agency



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Note: Numbers do not equal total due to rounding.

FEMA provided funds through its Public Assistance Program, as congressionally authorized, non-traditional assistance to New York City and State; under its Hazard Mitigation Grant Program; Mortgage and Rental Assistance Program, Crisis Counseling Assistance Program, Individual and Family Grant Program, and also through a variety of other assistance efforts. HUD provided assistance under its residential grant program and business assistance programs.

Public Assistance to New York State, City, and Other Organizations

FEMA reimbursed New York State, City, and other organizations about $1.49 billion through its public assistance program to compensate for disaster-related costs and losses. Of this funding, $643 million was provided to the New York City Police and Fire Departments to pay benefits and wages to emergency workers during response and recovery efforts and to replace vehicles and other equipment. As first responders, these departments suffered heavy casualties and damages and received compensation for overtime costs, death benefits, and funeral costs. FEMA also reimbursed costs to the City to relocate several agencies' offices; establish a Family Assistance Center; reschedule elections that were being held on September 11 and replace damaged voting equipment; and pay for instructional time for students who missed school due to closures, delayed openings, and school relocations.[9]

FEMA also provided assistance to other entities, including the Port Authority, counties, and private nonprofit organizations; and it also provided funds to the state of New Jersey. The Port Authority was reimbursed for costs to replace equipment it lost when its World Trade Center facilities were destroyed and for office relocation costs. Additional assistance was provided to all New York counties for cancelled election costs and to some private-non-profits, such as Pace University, for temporary relocation. FEMA additionally provided $88 million to New Jersey for emergency protective measures.

Congressionally Authorized Non-traditional Assistance to New York City and State

In addition to the traditional public assistance FEMA provided to city and state agencies, the Congress also authorized FEMA to provide funding to the city and state for expenses associated with the disaster, but were unreimbursable under the Stafford Act. The legislation ensured that FEMA would be authorized to spend the entirety of the appropriated assistance for New York recovery efforts—$8.80 billion—by allowing the city and state to be provided reimbursement for disaster-related costs that FEMA otherwise could not have funded. Non-traditional assistance that FEMA was authorized to fund included reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to the pensions of survivors of firefighters and police officers killed in the line of duty in the attacks. In order for FEMA to determine how much funding was available for non-traditional assistance, FEMA officials implemented an expedited close-out process, identifying and deobligating any funds unspent as of April 30, 2003. These funds—totaling over $1

[9] House Report 107-593.

billion—were just recently provided to both the city and state and they will ultimately have discretion to use the funds as they deem suitable.

Hazard Mitigation Grant Program

FEMA also provided $377 million in hazard mitigation grants to New York State. Created in 1988 by the Stafford Act, the Hazard Mitigation Grant Program provides funds to states affected by major disasters to undertake mitigation measures. At the time of the New York disaster, FEMA could provide mitigation grants in an amount up to 15 percent on top of the total amount of other assistance provided.[10] However, in the New York recovery effort, the President limited mitigation funds to 5 percent of the funds appropriated within the total amount of funds. According to FEMA officials, the agency reduced the percentage of hazard mitigation grant funds available to New York initially because it was unclear how much the disaster would actually cost in FEMA funds, and public assistance funds were being provided at 100 percent Federal share. According to FEMA officials, as a result of the broadened authority authorized in the Consolidated Appropriations Resolution, New York has requested less for the Mitigation Grant program—which contains a state and/or local matching requirement—so that it could use funds to reimburse other disaster-related costs.

Mortgage and Rental Assistance Program

Individuals suffering financial hardships as a result of September 11 could obtain mortgage and rental assistance from FEMA. Prior to September 11, FEMA had provided a total of $18 million in mortgage and rental assistance grants in all previous disasters, which provided rent or mortgage payments to individuals in danger of losing their homes through foreclosure or eviction as a result of a major disaster. In the wake of September 11, this program increased tremendously, as FEMA provided nearly $200 million in this type of assistance for the New York City area. Initially, applicants were eligible if they resided in certain zones around the World Trade Center site. FEMA, as directed by the Congress, extended assistance to those working anywhere in Manhattan and to those whose employers were not located in Manhattan but were economically dependent on a Manhattan firm; and anyone living in Manhattan who commuted off the island and who suffered financially because of post-September 11 disruptions. The Mortgage and Rental Assistance program

[10]The Disaster Mitigation Act of 2000 increases this amount to 20 percent of total estimated federal assistance for states that meet enhanced planning criteria. For states without an approved enhanced plan, the Consolidated Appropriations Resolution of 2003 reduces the amount available for mitigation grants to 7.5 percent of the other assistance provided. However, neither of these provisions were applicable on September 11, 2001.

closed on January 31, 2003, and as of August 5, 2003, $194 million had been disbursed of the $200 million available. FEMA officials expect all funds to be disbursed as applicants receive monthly assistance.[11]

Crisis Counseling Assistance Program

The Crisis Counseling Assistance Program, funded by FEMA, led to the creation of "Project Liberty." Project Liberty, administered by the New York State Office of Mental Health, provides short-term outreach, education, referrals to mental health services, and a Regular Services Program to provide support to individuals with longer-term issues. In the past, only individuals from a declared disaster area were eligible to receive counseling services; however, because of the broad impact of the disaster, grants for this program were also provided to eligible individuals in New Jersey, Connecticut, Massachusetts, and Pennsylvania. FEMA provided more than $166 million for crisis counseling; this sum is more than all previous counseling grants since 1974 combined. Of these funds, $99 million has been obligated and disbursed.

Individual and Family Grant Program

FEMA is authorized by the Stafford Act to provide individual and family grants for individuals' necessary expenses related to disasters that were not covered through insurance, other federal assistance, or voluntary programs. For the September 11 disaster, FEMA's Individual and Family Grant Program provided eligible residents of New York City assistance for home repairs, replacement of personal property, reimbursement for air quality products, and repair or replacement of air conditioners. The New York State Department of Labor was tasked with implementing and administering the program. The Individual and Family Grant program closed on November 30, 2002. As of August 5, 2003, $97 million had been disbursed of the $110 million available through this program.

Other FEMA Assistance

In addition to Mortgage and Rental Assistance and Individual and Family Grants, FEMA also provided other temporary housing assistance, including Minimal Home Repair and Transient Accommodations programs totaling $34 million. Both programs address short-term needs such as lodging expenses and temporary housing repairs. In addition, the Stafford Act authorizes FEMA to provide unemployment assistance to individuals who are unemployed as a result of the disaster but not eligible for regular State Unemployment Insurance. For the New York City area, FEMA provided $17 million for disaster unemployment insurance administered by the State of New York.

[11] Eligible applicants received up to 18 months of assistance as part of this program.

HUD Funded Residential Grant Program

In addition to FEMA assistance programs, $281 million in HUD funds were used for the administration of the Residential Grant Program to provide compensation to those affected by the disaster who remained in the area, address the vacancy rate increases, and provide incentives to attract residents to the area.[12] The program consisted of three different grants—a two-year commitment grant, a September 11 resident's grant, and a family grant. Applicants could apply for all three types of grants; each grant's value depended on the applicant's location and housing/rental costs. The Residential Grant Program closed on May 30, 2003. As of June 30, 2003, over 31,000 applications totaling $172 million were approved and $106 million had been disbursed in grants.[13]

HUD Funded Business Assistance Programs

In addition, HUD funds were used for a variety of business assistance programs, such as recovery grants and loans to compensate for economic losses and recovery efforts. Almost 18,000 businesses in New York City, representing approximately 563,000 employees, were disrupted or forced to relocate as a result of the terror attacks. Approximately 30 million square feet of commercial space was damaged or destroyed. While businesses near the World Trade Center site suffered physical damage, businesses all across the city felt the economic impact of the disaster. The Empire State Development Corporation (ESDC), as a grantee for HUD funds, administered five programs in cooperation with New York City to compensate businesses for economic losses and to assist in their recovery. HUD funds provided $683 million for business assistance programs, and as of June 30, 2003, $510 million had been disbursed. The Business Recovery Grant Program, HUD's largest September 11 business assistance program, closed December 31, 2003, and provided $488 million to over 14,000 businesses in lower Manhattan as of June 30, 2003.[14] Other programs that are still available include a $33 million plan to provide assistance to businesses that lost a disproportionate amount of workforce due to the disaster, and a $41 million Business Recovery Loan Program.

[12]Although the Residential Grant program and its incentives helped to revitalize the economy of lower Manhattan, we categorized it as compensation for disaster-related losses because of its short-term nature and intended affect on the City in terms of restoring pre-disaster occupancy rates.

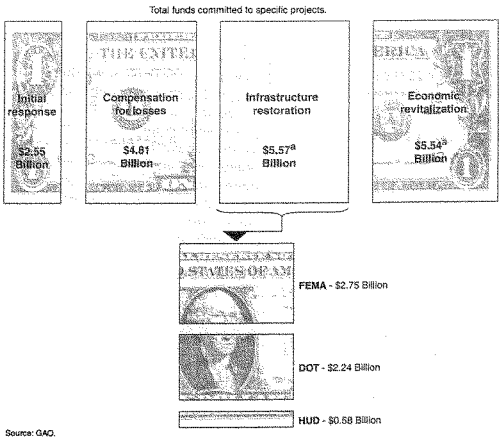
[13]In July 2003, HUD officials announced that $50 million unallocated from the Residential Grant Program would be used for an affordable housing initiative in lower Manhattan.

[14]ESDC provided funds to small and large businesses through its recovery grant program. In August 2003, HUD approved allocation of additional funds to allow full disbursement of these programs, for a total of $578 million.

About $5.57 Billion Has Been Committed for Projects to Restore and Enhance Infrastructure

The terrorist attacks at the World Trade Center severely damaged the public transportation system that was used by more than 85 percent of commuters to lower Manhattan—the highest percentage of people commuting to work by public transit of any commercial district in the nation. About $5.57 billion has been committed for projects to restore and enhance infrastructure in lower Manhattan and the amount of assistance each agency has committed is shown in figure 5.

Figure 5: Amount of Assistance Committed for Infrastructure Restoration and Improvement, by Agency



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Infrastructure efforts being funded by FEMA, DOT, and /or HUD include restoration and enhancement of the lower Manhattan transportation system, including a new Port Authority Trans-Hudson (PATH) terminal and new subway stations; permanent utility infrastructure repairs and

improvements; and short-term capital projects, such as parks and open space enhancements.

Projects Planned to Restore and Enhance the Lower Manhattan Transportation System

The Congress has appropriated a total of $4.55 billion for transit projects, including $1.80 billion in Capital Investment Grants to FTA for replacing, rebuilding, or enhancing the public transportation systems serving Manhattan,[15] and $2.75 billion in FEMA funds. Under an August 2002 Memorandum of Agreement between FTA and FEMA, FTA was designated the lead federal agency in charge of administration and oversight. The three largest projects identified are the restoration and improvement of the PATH Transit Terminal, and the enhancements of the Fulton Street Transit Center and South Ferry Subway Station.

- **PATH Transit Terminal**—The PATH commuter rail terminal, located underneath the World Trade Center site, was completely destroyed in the terrorist attacks. The Port Authority is requesting $1.4 billion to $1.7 billion to build a permanent PATH terminal that Port Authority officials report will be a substantial improvement over the destroyed World Trade Center terminal. This terminal will serve PATH commuter trains and four subway lines and is to be completed in the 2007 to 2008 timeframe.

- **Fulton Street Transit Center**—The current Fulton Street—Broadway Nassau Subway Station Complex provides access to the most heavily used subway lines in lower Manhattan and lies one block east of the World Trade Center site. The complex is comprised of four separate subway stations that serve nine subway lines and 62,000 riders during weekday peak periods. The complex was not damaged on September 11, but according to FTA and Metropolitan Transit Authority (MTA) officials, it is difficult to navigate and not easily accessible. The MTA is planning a $750 million project to improve the existing Fulton Street—Broadway Nassau Subway Station Complex to create a Fulton Transit Center designed to have a visible street level entrance pavilion, improved intermodal connectivity, expanded platforms and mezzanines, and new underground pedestrian concourses. The project is estimated for completion in December 2007.

- **South Ferry Subway Station**—The South Ferry subway station, which is located a half-mile from the World Trade Center site, was not damaged on September 11; however, according to MTA officials, the South Ferry station is outmoded: only five cars of a ten-car subway train can open onto

[15]PL 107-206.

the platform at one time; the tunnel is curved in such a fashion that trains have to slow down substantially to negotiate it; and it has no direct passenger connections to nearby subway stations. MTA is planning to improve the South Ferry subway station so that it would accommodate the length of a standard ten-car subway train and would provide connection to the Whitehall Street station that serves two other subway lines. FTA officials anticipate that the project will cost $400 million and be completed in the 2007/2008 timeframe.

The permanent PATH terminal, the Fulton Transit Center, and the South Ferry station account for $2.55 billion to $2.85 billion of the $4.55 billion designated for lower Manhattan transit projects. At this time, projects to be funded with the remaining $1.7 billion to $2 billion have yet to be determined. In April 2003, various New York City and State agencies[16] released a report entitled Lower Manhattan Transportation Strategies that identified priority transportation projects. However, the total cost of these projects far exceeds the remaining federal transportation assistance funds. High priority projects highlighted in the report include access to JFK Airport and Long Island, enhancement of West Street, construction of a tour bus facility, and construction of World Trade Center underground infrastructure. To date no decisions have been made on which of these projects will be funded within the $4.55 billion cap. A portion of remaining $1.16 billion in HUD funds will most likely be directed to infrastructure improvement activities depending on the results of on-going studies.

In addition to the transit system, the Congress appropriated $442 million for restoration and improvements to the local roads and enhancements to ferry terminals and railroad tunnels. The Federal Highway Administration is overseeing plans for $242 million in resurfacing and reconstructing lower Manhattan streets through the Emergency Relief program. These streets were damaged by the direct impact of the collapsed World Trade Center buildings as well as wear and tear from response vehicles and debris removal activities, and from emergency telecommunications repairs. Ferry terminals were not damaged on September 11; however, FHWA was appropriated $100 million in Miscellaneous Highway funds for ferry and ferry facility construction projects.[17] Various ferry terminals are under consideration for significant enhancements in both New York and

[16]LMDC, Port Authority of New York and New Jersey, Metropolitan Transit Authority, the New York State Department of Transportation and the City of New York.

[17]PL 107-117.

New Jersey. Further, the Federal Railroad Administration was appropriated $100 million to renovate the New York rail tunnels. The funds are to be used by Amtrak to modernize ventilation systems, install communication systems, improve emergency exits from the tunnels, and structurally rehabilitate four East River tunnels, two Hudson River tunnels, and the subterranean section of Penn Station.

Permanent Utility Infrastructure Repairs and Improvements

The Congress also appropriated HUD funds to provide assistance to utility firms as they complete permanent repairs and improvements to the damaged infrastructure around the World Trade Center site. In addition to the $250 million for emergency repairs previously discussed, the Congress appropriated $500 million to HUD to provide funds to affected utility firms for permanent repairs and rebuilding. The goals of the permanent repair program are to prevent businesses and residences from bearing the cost of rebuilding and to enhance the redevelopment of lower Manhattan by supporting investment in energy and telecommunication infrastructure. New York State officials worked with utility firms, and state and local agencies to develop the program in order to help utility firms while developing an improved system to attract new businesses to the area. Applicants will have until December 31, 2007, to apply for certain programs.[18]

Short-term Capital Projects

A New York State Agency worked with community groups, local businesses, and city and state governments to select short-term capital projects for HUD funding as part of its effort to improve the accessibility and appearance of lower Manhattan. A plan submitted to HUD was approved on August 6, 2003, detailing $68 million of proposed projects that could be completed within one year of approval, such as parks and open space enhancements, West Street pedestrian connections, building and streetscape improvements, and a new school, Millennium High School. In addition, a portion of these funds will be used to conduct an outreach campaign to keep residents informed of rebuilding efforts.

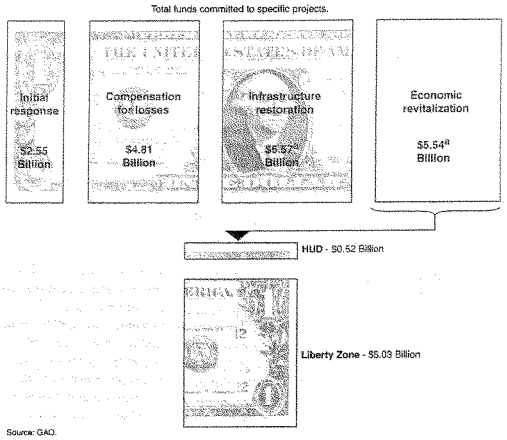
Efforts to Revitalize the New York Economy Include Tax Benefits and Assistance to Businesses

The terrorist attacks of September 11 disrupted New York City's economy and resulted in billions in lost [or forgone] income and tax revenues. The attacks caused tens of thousands of job losses and severely impacted lower Manhattan's commercial and retail sectors. In response, the Congress enacted the Liberty Zone tax benefits, estimated by the Joint

[18]HUD approved the utility plan September 15, 2003.

Committee on Taxation to be $5.03 billion in lost federal revenue, and appropriated funds to HUD, of which $515 million will aid in revitalizing the lower Manhattan economy. Figure 6 shows a breakdown of economic revitalization assistance.

Figure 6: Estimated Amount of Assistance Committed for Economic Revitalization, by HUD and Liberty Zone Tax Credits



Source: GAO.

[a]HUD's plans for $1.16 billion have not been finalized. These funds are not included in the purposes listed above, and according to HUD, will most likely be directed to either infrastructure restoration or economic revitalization.

Note: Numbers do not equal total due to rounding.

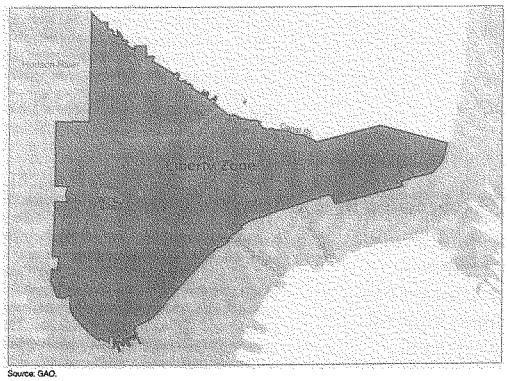
Liberty Zone Tax Benefits

In Title III of the Job Creation and Worker Assistance Act of 2002[19], Congress instituted tax benefits primarily targeted to the Liberty Zone, the

[19]Job Creation and Worker Assistance Act of 2002 (Public Law 107-147)

area of New York City most severely impacted by the terrorist attacks, as shown in figure 7.

Figure 7: New York Liberty Zone



Source: GAO.

The amount of benefits to New York that will result from the Liberty Zone tax provisions is unclear and likely to remain unknown. Before the Job Creation and Worker Assistance Act was passed, the Joint Committee on Taxation estimated the amount of tax revenue projected to be lost to the U.S. Treasury from the Liberty Zone provisions. However, an estimate of potential lost revenue is not the same as an estimate of the benefits received by taxpayers. Furthermore, there are uncertainties with any estimate. As with many tax benefits, usage of the Liberty Zone tax benefits will depend on a variety of difficult to predict economic factors that can influence the magnitude of the benefits. For example, an economic downturn could slow rebuilding efforts in the New York City area, reducing the use of benefits such as depreciation allowances. Conversely, an economic upturn could increase benefit usage above existing estimates. Additionally, information on usage of most Liberty Zone tax benefits is not being collected or reported by federal, state or local agencies, and the total amount of the benefits accruing to New York is likely to remain unknown.

HUD Business Assistance Programs and Planning for Rebuilding and Permanent Memorial

In addition to the Liberty Zone tax benefits, the Congress appropriated funds to HUD to revitalize lower Manhattan. New York State agencies are administering $515 million to provide programs to attract and retain businesses to the area and for other projects to revitalize lower Manhattan. Damage around the World Trade Center site displaced an estimated 1,025 firms employing more than 75,000 workers, and many more were displaced by subsequent recovery efforts. Of the $515 million committed for a variety of economic revitalization efforts, $475 million is provided to create incentives for existing small and large businesses to remain in the area and to attract new businesses to lower Manhattan. As of June 30, 2003, $161 million had been disbursed for these programs, providing assistance for 985 businesses. An additional $40 million had also been committed to help plan and coordinate rebuilding and revitalization efforts

The Designation of a Specific Level of Assistance Contributed to a Unique Federal Government Response for this Disaster

In its effort to provide assistance to the New York City area following the terrorist attacks, the federal government provided aid in all categories of assistance—initial response efforts, compensation for disaster-related costs and losses, infrastructure restoration and improvements, and economic revitalization—that differed from that provided in any previous disaster. However, the most significant difference in the federal government's response to this disaster was the designation of a specific level of funding for disaster assistance. The designation of $20 billion to assist the New York City area was the first time in which the total amount of federal disaster assistance was set early in the response and recovery efforts, and resulted in two major changes to the federal approach to this disaster.

- Designating a specific level of funding for the entire federal response to this disaster changed the traditional approach to administering FEMA funds.
- This specific level of funding for the entire disaster prompted Congressional authorization of numerous forms of non-traditional assistance to be provided by other agencies.

Designation of a Specific Level of Funding Altered the Traditional FEMA Disaster Assistance Process

The specific level of funding that was targeted by the President and passed by the Congress changed the traditional approach taken to administer FEMA funds. Ordinarily, FEMA assistance has no dollar limit . When a qualifying disaster event occurs, the President declares that a major disaster or emergency exists. This declaration activates numerous FEMA disaster assistance programs. The funding for responding to a specific disaster is not set; instead, the only factor limiting the amount of assistance for response and recovery efforts is reimbursement eligibility

under the Stafford Act. Historically, FEMA approves all applications for grants and other assistance if—and only if—the applications meet the program requirements under the act. For example, compensation to rebuild a public road would be an eligible project, but compensation to improve a public road would not be. Economic losses to a city from reduced tourism associated with a disaster would not be eligible. Further, as some projects can be long term and are reimbursed upon completion, it may take years to fully reconcile how much assistance was provided for certain disasters.

In responding to September 11, however, this traditional practice was not followed, as the President pledged at least $20 billion in federal assistance to New York, and subsequent to that pledge, the Congress, in authorizing this specific level of federal assistance, appropriated over $8.80 billion to FEMA—the first time that a specified amount of funds had been designated to FEMA to respond to a disaster. Consequently, FEMA officials viewed the amounts legislated as the amount of money to be spent in responding to the disaster and administered their programs accordingly to ensure that this amount of funding was provided to the New York area.

In addition, in order to respond to the amount of damage resulting from the attacks and to provide the entire appropriated amount for this disaster, FEMA expanded eligibility guidelines for many of its programs. FEMA officials said that they broadly interpreted the Stafford Act to provide public assistance for several projects. For example, FEMA—in conjunction with DOT—provided funds for lower Manhattan transportation system improvements. Previously, FEMA only provided funds to restore damaged infrastructure to its pre-disaster condition. In recognizing the interdependence of lower Manhattan's transportation system, FEMA officials reported that they interpreted their guidelines to allow maximum flexibility to permit the rebuilding of the transportation system as a whole instead of only what was damaged. Another example of the broadened guidelines FEMA followed in this case is its determination that costs associated with an EPA program to clean the interior of private residences—the first of its kind—were eligible for reimbursement under the Stafford Act. In this instance, FEMA determined that the dust associated with the collapse of the World Trade Center towers was a type of debris, and therefore costs associated with interior cleaning could be reimbursed.

Further, the Congress reinforced FEMA's flexible approach to eligibility for assistance in two ways. First, the Congress authorized FEMA to

expand the eligibility guidelines of certain programs due to the unique circumstances of the disaster and the unprecedented amounts of assistance available for response and recovery efforts.[20] For example, nearly a year after September 11, Congress authorized FEMA to make the Mortgage and Rental Assistance program more broadly available and directed FEMA to review applications that had been previously denied. With these new eligibility requirements, FEMA provided funds to individuals working anywhere in Manhattan and to those whose employers were not located in Manhattan, but who were economically dependent on a Manhattan firm. Further, the Congress authorized FEMA to establish an insurance company to manage a $1 billion insurance fund and to settle claims filed by, among others, city and contractor workers who suffered ill health effects as a result of working on debris removal operations.[21] Although FEMA regularly reimburses applicants for insurance costs that are part of a contract for services, FEMA has never reimbursed for insurance to cover a city for suits brought by its own employees.

Second, despite FEMA's broadened eligibility guidelines interpretation and the Congress' authorization of certain activities, there were still not enough projects eligible within the authority provided by the Stafford Act for which the New York City area could be reimbursed to reach the $8.80 billion target level for FEMA assistance. As a result, the Congress passed the Consolidated Appropriations Resolution that ensured that FEMA would spend the entirety of the FEMA-appropriated assistance for New York by authorizing the agency to reimburse costs that it otherwise could not have funded. This is the first time that FEMA has been given such expansive authority to fund projects outside of provisions of the Stafford Act. New York officials believe this was necessary because the Stafford Act was too restrictive for responding to a major terrorist event, as it does not allow FEMA to reimburse affected communities for many costs directly related to the disaster. With the authority granted by the Consolidated Appropriations Resolution, FEMA adapted its programs and conducted an expedited close-out process that allowed for disbursement of remaining funds to New York years sooner than in past disasters. As part of the expedited closeout process, FEMA provided funds for projects that the city or state had already completed and paid for. New York City and State officials will ultimately have discretion to use these federal

[20]Further discussion and additional examples of public assistance projects that we identified as non-traditional can be seen in GAO-03-926.

[21]Public Law 108-7.

funds as they deem appropriate, in contrast to the established process under which FEMA officials oversee distribution of federal funds to assure that only projects eligible within the provisions of the Stafford Act are funded. The expedited close-out resulted in FEMA reconciling the most expensive public assistance disaster in its history years before the process is typically accomplished.

As a result of the different approach taken to respond to this disaster, FEMA recently initiated an effort to develop a concept for redesigning its public assistance program. As we noted in our August 2003 report on FEMA's public assistance program efforts in New York, a working group of the Public Assistance Program Redesign Project was formed at the request of the director of FEMA's Recovery Division, and held its first meeting in May 2003.[22] Members included FEMA public assistance and research and evaluation staff and state program managers to provide a broader perspective on the issues and concerns. The project was established to suggest proposals to improve the public assistance program and make it more efficient and capable of meeting community needs for all types and sizes of disasters, including those resulting from terrorism. Among other things, the project seeks to transform the program to one that is flexible enough to meet the demands of disasters of all types and sizes and eliminate redundancies in decision-making and processes. The working group will examine potential options for redesigning the program that include an annual block grant program managed by the states, a disaster-based state management program, and a capped funding amount. The working group plans to develop a basic design concept for revising the program by September 30, 2003.

Designation of a Specific Level of Assistance Spurred Congressional Appropriation and Authorization of Other Forms of Non-Traditional Disaster Assistance

Not only was FEMA's traditional disaster response effort changed in assisting the New York area, but the specific level of funding that was targeted by the President and passed by the Congress also spurred authorization of other forms of non-traditional assistance for the New York City area. The most notable of these is the Liberty Zone tax benefits. To address the economic impact of the September 11 attacks on New York, Congress passed the estimated $5.03 billion New York Liberty Zone tax benefit package.[23] This was a unique way for the Congress to provide assistance for the area affected by the disaster as, according to IRS officials, the Congress has never before passed a tax benefits package in

[22] GAO-03-926.

[23] Job Creation and Worker Assistance Act of 2002 (PL 107-147)

response to a disaster. Further, this tax package was targeted to a geographic area, which has not generally occurred in the past.

Additionally, DOT was authorized to fund transportation projects to improve the overall transportation system substantially beyond pre-disaster condition. In most disasters, DOT is authorized to provide funds only to rebuild or restore damaged infrastructure back to its pre-disaster condition. However, in response to September 11, the Congress authorized DOT not only to restore transportation infrastructure directly damaged in the disaster, but also to enhance the overall lower Manhattan transportation system.

Further, the Congress also directed HUD to compensate businesses for economic losses—the first time its funds have been used for this purpose. In previous disasters, HUD funds were typically provided to address long-term effects of the disaster, including economic redevelopment efforts. However, after September 11, the Congress directed HUD to focus on different aspects of relief efforts than in previous disasters, such as compensating businesses and individuals for economic losses and funding programs to promote tourism initiatives in lower Manhattan, which had not been done before, according to HUD officials.

FEMA Faces Major Management Challenges While Making the Transition to the Department of Homeland Security

The integration of FEMA into DHS, a department whose focus is on security against terrorism, while maintaining FEMA's current roles is likely to present both FEMA and DHS officials with major challenges. In January of this year, we published the 2003 Performance and Accountability Series[24] that focused on major management challenges and program risks facing the federal government. In that series, we published reports on challenges to both FEMA and DHS. In our report on DHS, we noted that the creation of DHS, involving the integration of FEMA and 21 other agencies specializing in various disciplines, is a daunting challenge; yet only through the effective integration and collaboration of entities can the synergy expected of the department be achieved. Recognizing the magnitude of the overall challenge in establishing DHS, we designated the implementation and transformation of the department as high-risk. Our Performance and Accountability report on FEMA pointed to specific areas

[24]U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Homeland Security*, GAO-03-102 (Washington, D.C.: January 2003) and *Major Management Challenges and Program Risks: Federal Emergency Management Agency*, GAO-03-113 (Washington, D.C.: January 2003).

where its homeland security and non-homeland security missions were being transferred to separate DHS directorates. This divisional separation could complicate FEMA's historical all-hazards approach—a comprehensive approach focused on preparing for and responding to all types of disaster, either natural or man-made. The separation of disaster and emergency responsibilities across two directorates of the new department will present coordination challenges for the appropriate Undersecretaries within DHS.

Our FEMA Performance and Accountability report noted a number of other challenges. These include:

- **Enhancing the provision and management of disaster assistance for efficient and effective response**. FEMA has demonstrated its ability to quickly get resources to stricken communities and disaster victims, but has had problems ensuring the effective use of such assistance, according to the Office of Management and Budget (OMB). Among other things, FEMA will be challenged to (1) improve its criteria for determining state and local eligibility to receive federal disaster assistance, (2) assess the extent of and approach to assistance for future major disasters based on the recovery efforts undertaken in the New York City area, (3) enhance disaster assistance staff training and resource planning, and (4) improve its existing information system before it is used as a building block for a multi-agency disaster management website.

- **Reducing the impact of natural hazards by improving the efficiency of mitigation and flood programs**. For many years, FEMA has focused increased emphasis on reducing the impact of natural hazards, not only to lessen the impact to property and individuals, but also to reduce federal disaster costs. Two of the agency's major efforts in this regard have been its mitigation programs and the National Flood Insurance Program. These programs seek to strengthen structures against the effects of hazards or remove them from harm's way and to minimize the need for future FEMA disaster assistance. However, concerns exist in both these efforts that may limit their effectiveness in achieving these objectives. Moreover, the placement of FEMA within DHS represents a substantially changed environment in which FEMA will conduct its missions in the future, and missions that focus on reducing the impacts of natural hazards, such as hazard mitigation and flood insurance, may receive decreased emphasis. Sustained attention to these programs will be needed to ensure they maintain or improve their effectiveness in protecting the nation against, and reducing federal costs associated with, natural disasters.

We continue to view these areas as challenges for FEMA and expect to assist the Congress in its efforts to examine these challenges. In this regard, we have a number of assignments ongoing or planned that address many of these issues, and we will be reporting on these in the near future.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions you or Members of the Subcommittee may have.

For further information on this testimony, please contact JayEtta Z. Hecker at (202) 512-2834 or William O. Jenkins at (202) 512-8777. Individuals making key contributions to this testimony include Kevin F. Copping, Matthew F. Ebert, Kara A. Finnegan-Irving, John T. McGrail, and John R. Schulze.

Appendix I: Objectives, Scope, and Methodology

The Subcommittee on Clean Air, Climate Change, and Nuclear Safety, Senate Committee on Environment and Public Works, asked us to describe the federal government's response and recovery efforts to New York City and how the federal government's response to this disaster differed from previous disasters. Additionally, we were asked to describe the management challenges FEMA faces as it integrates into the Department of Homeland Security (DHS).

In addressing the first and second objective, we limited our work to the four federal sources of assistance that comprise 96 percent of the $20 billion in aid pledged by the President to help the New York City area response to and recover from the terrorist attacks. We used information in our August 29, 2003 report on the Federal Emergency Management Agency's Public Assistance Program and our ongoing work on the overall federal response to the New York City area that we are conducting for the Senate Committee on Environment and Public Works. To develop the information for our ongoing work that we used in this statement, we reviewed relevant legislation and obtained and reviewed information from the appropriate budget documents, funding plans, status reports and other documents from the respecting agencies. We also reviewed available Executive Orders, Presidential correspondence, Office of Management and Budget reports, and Congressional Budget Office reports related to federal response and recovery efforts for New York City. We interviewed federal officials from the Office of Management and Budget, FEMA, the Department of Housing and Urban Development, the Federal Transit Administration, the Federal Highway Administration, the Federal Railroad Administration, and the Internal Revenue Service to get their perspectives on to what purposes the assistance has been and will be used. We also obtained pertinent documents from and interviewed officials with New York State and New York City agencies, including the Lower Manhattan Development Corporation, the Empire State Development Corporation, the New York State Department of Transportation, the Metropolitan Transit Administration, and Port Authority of New York and New Jersey. We also interviewed officials from nonprofit planning and research organizations in New York to gain their perspectives on use of the funding in the city's redevelopment process. We reviewed relevant agency documentation of program plans and execution including budget documents and databases. We also compared agency historical data to documentation from the New York response and recovery.

To address management challenges facing FEMA as it transfers to the Department of Homeland Security, we used information from two reports from GAO's Performance and Accountability Series. These were *Major*

Management Challenges and Program Risks: Federal Emergency Management Agency (January 2003 GAO-03-113) and *Major Management Challenges and Program Risks: Department of Homeland Security* (January 2003 GAO-03-102.)

The work we drew upon for this statement was conducted from July 2002 through September 2003 in accordance with generally accepted government accounting standards.

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Testimony Before the Subcommittee on Clean Air, Climate Change, and Nuclear Safety, Committee on Environment and Public Works

Federal Aid to the New York City Area Following the Attacks of September 11th

September 24, 2003

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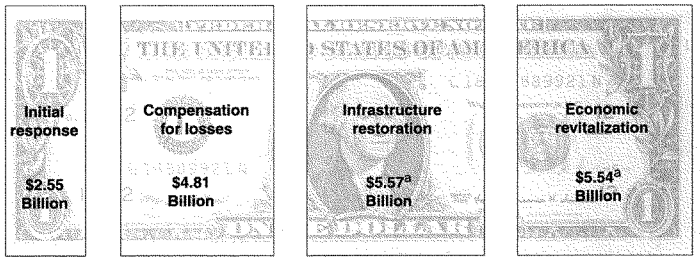
Federal Assistance to the New York City Area (FEMA, HUD, DOT and Liberty Zone Tax Benefits)



Total funds committed to specific projects.

Source: GAO.

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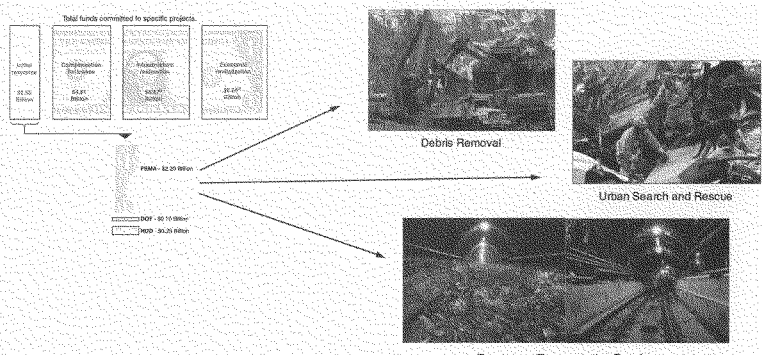
Initial Response



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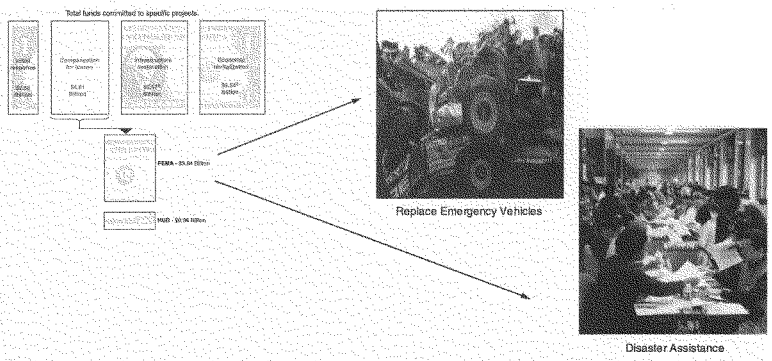
Compensation for Losses



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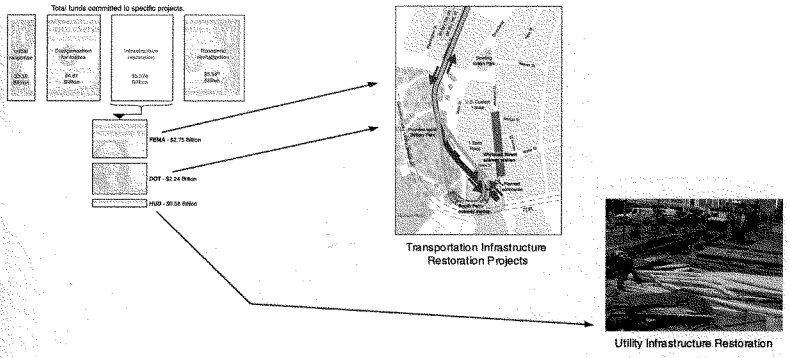
Infrastructure Restoration



Source: GAO.

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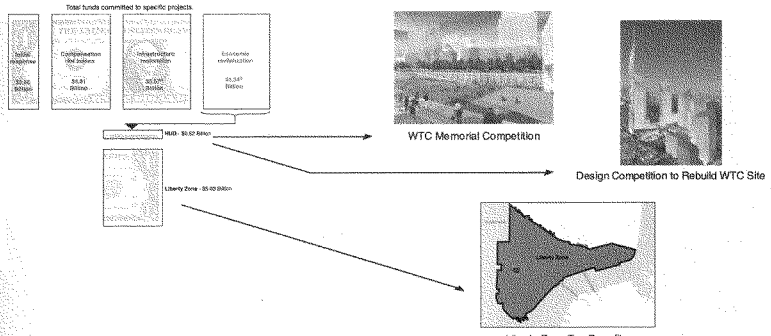
Economic Revitalization



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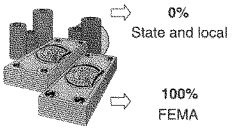
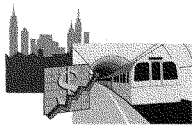
Differences in this Public Assistance Approach



No state or local matching funds were required

Capping funding amount resulted in different approaches to selecting and closing out work.



Nontraditional work was funded (i.e. - improvements to the transportation infrastructure in lower Manhattan)

Source: NOVA Development Corporation and GAO.

RESPONSES BY JAYETTA Z. HECKER TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. Another issue raised in your report is that NYC was not required to pay the 25 percent cost share that is normally required of communities that receive Federal disaster assistance. In addition, you report that the President reduced the amount of Hazard Mitigation Grant Program Funds to 5 percent rather than the standard 15 percent of the amount spent on the disaster. Coupled with the $20 billion cap I mentioned earlier, do you believe that New York ultimately received less or more Federal assistance than they would have if the normal Stafford Act procedures were followed?

Response. Clearly, the Federal Government provided more assistance to the New York City area in this disaster than if all funding has been provided through the typical Stafford Act framework; however, it is impossible to provide a definitive answer as to how much more. After a large disaster, Congress has often appropriated funds outside the constructs of the Stafford Act. In this disaster, well over $10 billion was provided to the New York City area outside of Stafford Act provisions. For example, Congress appropriated $2.37 billion for transportation restoration and improvements. Congress also appropriated $3.48 billion in HUD grants to compensate individuals, businesses and State and local governments and other organizations for economic losses and costs. Additionally, Congress passed the first ever tax benefit package targeted to a disaster area to provide for economic development, estimated to be $5.03 billion in benefits. This assistance was all funded outside of the established Stafford Act framework.

In addition to this funding, FEMA was appropriated $8.8 billion to assist in recovery efforts in the New York City area. Approximately $7.4 billion was provided in public assistance funding, In order for public assistance funding to be distributed, projects must meet criteria set forth within the provisions of the Stafford Act. However, in this disaster, Congress granted FEMA authority to provide funds that were not eligible under the Stafford Act criteria. For example, FEMA provided $2.75 billion in transportation funding that was authorized for transportation infrastructure improvement, beyond pre-disaster conditions. Under the Stafford Act, infrastructure restoration projects would be eligible, but infrastructure improvement projects would not be eligible. Furthermore, for some of these projects, the replacement value was clear, but for others it would be impossible to determine how much more funding has been provided for costs associated with enhancing the infrastructure. As a result, a portion of the $2.75 billion in transportation funding was for projects that would not traditionally be eligible under the Stafford Act, but the exact amount is unclear. Moreover, because Congress authorized FEMA to provide funding for costs incurred regardless of project eligibility within the provisions of the Stafford Act, FEMA conducted an early close-out process that made available $1.2 billion, which was transferred to the city and State at the end of fiscal year 2003. Although the close out process linked the payout of the $1.2 billion with a variety of costs that were associated with the disaster but not previously eligible for FEMA funds (such as heightened security across the state, increased pension costs, and tourism campaigns), New York City and State now have discretion for allocating these funds. Most of these uses would not have been eligible for reimbursement under the Stafford Act. However, as of the date of the early close-out, some projects that were clearly eligible for Stafford Act funding had not yet been not fully funded. As a result, some portion of the $1.2 billion will likely be used to reimburse agencies for Stafford eligible projects. Thus, it is impossible to provide a definitive answer as to how much of the $1.2 billion in public assistance funds provided to FEMA was for projects beyond traditional Stafford Act eligibility.

New York also benefited from the elimination of the State and local matching requirement for FEMA public assistance funding and DOT funding. Typically, FEMA's public assistance program shares disaster costs burdens, with FEMA providing 75 percent of the costs—the minimum provided for under the Stafford Act—and affected State and local governments paying the remaining share. After a major disaster, sometimes the cost share balance has shifted and the State share reduced for a limited time. In this disaster, at the direction of the President, FEMA provided 100 percent of the entire range of public assistance costs and over the full period of assistance for the New York City area. This was the first time an entire FEMA public assistance operation was 100 percent federally funded. Had New York City and State been required to provide a 25 percent match of the $7.46 billion in public assistance and public assistance-related funding authorized for this disaster, these governments would have incurred costs of $1.85 billion. However, prior disasters have had varying State match requirements for specified uses or over limited time periods, when up to 100 percent of funding was provided. As a result, it is difficult

to pinpoint an exact savings to the New York City area. In the case of DOT assistance, Congress eliminated the State and local matching requirement for the entire disaster relief effort. Historically, DOT funding has required a State and local share; for FHWA projects this share has ranged from 80 to 90 percent and for FTA projects it has ranged from 50 percent to 80 percent. By Congress authorizing DOT funding to be provided with no State and local matching requirement, the New York City area achieved significant savings, but again, it is difficult to quantify the exact savings.

Although New York received the benefits of 100 percent funding of FEMA public assistance programs and DOT funding, the President reduced the amount of related Hazard Mitigation. Grant Program funds provided to New York. At the time of the terrorist attacks, grant funds up to 15 percent of the total amount of FEMA assistance provided were available to states following a disaster to support mitigation activities. However, in this case, the President limited the mitigation grant funds to 5 percent of the amount spent, Had the hazard mitigation funding percentage not been reduced, more than $1.2 billion in mitigation funds would have been available using the customary 15 percent of total cost criteria.

Question 2. I discussed some of the air quality issues surrounding the World Trade Center with Mr. Brown on the earlier panel, and I would like your perspective on some of the same questions. Your report states that FEMA determined that the testing of air quality and cleaning were eligible for public assistance funding where the collapse of the World Trade Center buildings, resulting fires, and subsequent debris removal caused potential health issues related to air quality. FEMA entered into an interagency agreement with EPA and partnered with the New York Department of Environmental Projection to execute this testing and leaning. I have several questions: What role did FEMA play in providing information to the public on the results of the air quality testing that was conducted at the site and in the surrounding areas? In selecting the buildings or areas of the city that would be eligible for public assistance funding, did FEMA include all areas impacted by the dust cloud resulting from the collapse of the buildings?

The GAO report cites $8.6 million that went to the New York Department of Environmental Protection for exterior building cleaning and interior residence cleaning. I have several questions regarding this expenditure. Who decided that New York would take, the lead for this function? In selecting the 244 buildings that received exterior cleaning and the residences that received interior cleaning did FEMA include all areas impacted by the dust cloud resulting from the collapse of the buildings? Can you explain why the interior cleaning program was limited to lower Manhattan and why the interior cleaning program was limited to residences and did not include workspaces? What precautions were taken to protect the workers conducting this cleaning, pedestrians, and other people in the area of these clean-ups? What monitoring has occurred to ensure that those interior cleanings were effective?

Response. The objectives of our audits of FEMA's post-9/11 public assistance and overall Federal assistance to the New York City area did not include a detailed review of the World Trade Center Dust. Cleaning Program or the dissemination of information to the public regarding air quality testing, but we can share some data we gathered on this work related to your question.

In terms of providing a description of FEMA's role in, providing the public with information regarding the air quality testing, it appeared to us that FEMA did not have a direct role. That responsibility was assigned to the U.S. Environmental Protection Agency (EPA), the NYC Department of Environmental Protection, and its contractors.

In terms of the World Trade Center Dust Cleaning Program, FEMA entered into an interagency agreement with EPA in August 2002, under which FEMA provided EPA with $19.5 million to provide overnight, data management and data assessment. The interagency agreement specifically tasked EPA with disseminating information to the public on the cleaning program. EPA was to conduct outreach efforts and develop information including printing, advertising, graphics, direct mail, and translation services. In addition, EPA was to establish an Internet hotline that residents could use to obtain information on the program and develop a data base to support the hotline and house analytical data. Validated laboratory analyses of dust samples were to be mailed to residents, building owners and/or building associations who made requests for cleaning and monitoring and to be uploaded to the EPA request data base, where they could be accessed electronically by the requester.

The New York City Department of Environmental Protection was a partner in the management of the Dust Cleaning Program and had lead responsibility for key aspects of the program. For example, the city agency developed contracts for the operation of the information hotline for residents to request cleaning and sampling, and

for performance of the actual cleaning and sampling. However, EPA was to manage and direct the contractors.

The scope of the Dust Cleaning Program included residences in the specific area of lower Manhattan south and/or west of Canal, Allen and Pike Streets—an estimated 20,000 to 25,000 residences. A FEMA official said that this scope was within the zone that NYC closed to public access immediately after the World Trade Center attacks. Workspaces were not included because FEMA officials concluded that business owners were more likely than residents to receive assistance for interior and exterior building cleaning through the Small Business Administration and/or private insurance companies. We did not do audit work to determine whether residences outside of the area eligible for assistance were impacted by the dust cloud nor to determine whether businesses received dust cleaning assistance from SBA and/or private insurance companies.

Under the FEMA/EPA interagency agreement, oversight of the cleaning and monitoring effort of NYC's monitoring and scheduling contractors was to be done by EPA. The U.S. Occupational Safety and Health Administration (OSHA) was to provide oversight to ensure worker protection. The scope of our audit did not extend to evaluating the amount and quality of oversight done by these Federal agencies.

Question 3. One of the issues raised in the GAO report is whether or not FEMA should have reimbursed New York City for heightened security costs in the wake of the terrorist attack. How much did New York spend on increased security costs in the wake of September 11? How does that compare with similar expenditures nationwide?

Response. In our reviews, we did not estimate how much security expenses have increased in the United States. in the aftermath of September 11. To do so would be a difficult challenge. New York City Office of Management and Budget officials have not yet determined the amount of heightened security expenses they will reimburse city agencies from the $1.2 billion in discretionary funds available as a result of the early close-out of FEMA's traditional public assistance program and Congressional authorization to FEMA to provide reimbursement for heightened security costs.

It is important to reiterate that heightened security is a cost incurred by NYC that FEMA officials told us they would not have reimbursed had they not been directed by legislation to do so. FEMA officials determined that costs related to heightened security in the New York City area after the terrorist attacks were not eligible for reimbursement under the provisions of the Stafford Act because these costs were not a direct response to the disaster that occurred. On February 20, 2003, Public Law 108–7 was enacted. The law stated,

> "notwithstanding, any other provision of law, funds appropriated to FEMA for disaster relief for the terrorist attacks of September 11, 2001 may be used to provide funds to the city of New York and the State of New York for costs associated with such attacks that are unreimbursable under the Stafford Act . . ."

Under this provision, FEMA has the authority to provide the city and State funds for costs incurred as a result of the disaster that officials can use to reimburse some city agencies for extra security measures they took in the immediate aftermath of the terrorist attacks.

RESPONSE BY JAYETTA Z. HECKER TO ADDITIONAL QUESTION FROM SENATOR VOINOVICH

Question. Please provide a complete accounting of the nontraditional projects that were funded in New York City. For example, what were the extra costs of enhancing and modernizing Lower Manhattan's transportation system rather than repairing the existing infrastructure? In addition to this accounting of all the nontraditional work, what were the nontraditional costs that New York City faced due to the nature off this disaster? Also, how much additional assistance was provided since the cost share was waived?

Response. We have not directly evaluated what the nontraditional costs that New York City faced due to the nature of this disaster. However, issues related to extra costs of enhancing the lower Manhattan transportation system and an accounting of the nontraditional assistance and savings related to the elimination of a State and local cost share are addressed in our response above to the first question from Senator Jeffords.

United States General Accounting Office

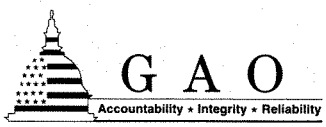
GAO

Report to the Committee on Environment and Public Works, U.S. Senate

August 2003

DISASTER ASSISTANCE

Information on FEMA's Post 9/11 Public Assistance to the New York City Area



GAO-03-926

August 2003

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Highlights

Highlights of GAO-03 -926, a report to the Committee on Environment and Public Works, U.S. Senate

DISASTER ASSISTANCE

Information on FEMA's Post 9/11 Public Assistance to the New York City Area

Why GAO Did This Study

The terrorist attacks on New York City created the most costly disaster in U.S. history. In response, the President pledged at least $20 billion in aid to the city. Approximately $7.4 billion of this aid is being provided through the Federal Emergency Management Agency's (FEMA) public assistance program, which provides grants to state and local governments to respond to and recover from disasters. The Senate Committee on the Environment and Public Works requested that GAO determine (1) what activities FEMA supported in the New York City area through its public assistance program after the terrorist attacks; (2) how the federal government's response to this terrorist event differed from FEMA's traditional approach to providing public assistance in past disasters; and (3) what implications FEMA's public assistance approach in the New York City area may have on the delivery of public assistance should other major terrorist attacks occur in the future.

www.gao.gov/cgi-bin/getrpt?GAO-03-926.

To view the full product, including the scope and methodology, click on the link above. For more information, contact JayEtta Z. Hecker at (202) 512-2834 or heckerj@gao.gov.

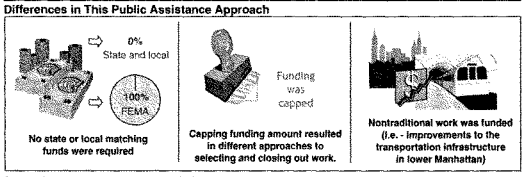
What GAO Found

FEMA has supported many activities through its $7.4 billion in public assistance-related funding to the New York City area. Activities funded include grants to state and local governments for emergency response, such as debris removal, and permanent work, such as the repair of disaster-damaged public facilities. FEMA also provided public assistance-related funding specifically directed by Congress that would not otherwise have been eligible for assistance (e.g. reimbursing costs of instructional time for students who lost school time after the terrorist attacks). The major uses for this funding are as follows:

- $1.7 billion for debris removal operations and insurance.
- $2.8 billion to repair and upgrade the transportation infrastructure of Lower Manhattan.
- $0.6 billion to the New York City Police and Fire Departments for such purposes as emergency efforts and replacing destroyed vehicles.
- $0.3 billion to miscellaneous city agencies for a wide range of activities (e.g., instructional time for students and building cleaning).
- $0.7 billion for non-New York City agencies for many purposes (e.g. office relocations and repair of damaged buildings).
- $1.2 billion available on June 30, 2003, for public assistance-related reimbursements to New York City and state (work to be decided).

The provision of public assistance to the New York City area differed in three significant ways from FEMA's traditional approach.

Differences in This Public Assistance Approach



Source: NOVA Development Corporation and GAO.

FEMA and New York City officials agreed that FEMA's public assistance approach in the New York City area creates uncertainties regarding the delivery of public assistance in the event of another major terrorist event. They differed on the effectiveness of using the public assistance program as currently authorized as the vehicle for federal disaster response to a future major terrorist event. Key New York City officials said that the program needed major revisions, while FEMA officials said it worked well along with the congressional prerogative to provide additional assistance. Nevertheless, FEMA has begun to consider ways to redesign the program to make it better able to address all types and sizes of disasters, including terrorist attacks.

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Abbreviations

DHS	Department of Homeland Security
DOT	Department of Transportation
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FTA	Federal Transit Agency
NEMIS	National Emergency Management Information System
NYC	New York City
OMB	Office of Management and Budget
PATH	Port Authority of New York and New Jersey

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United States General Accounting Office
Washington, DC 20548

August 29, 2003

The Honorable James M. Inhofe
Chairman
The Honorable James M. Jeffords
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable George V. Voinovich
The Honorable Hillary Rodham Clinton
United States Senate

The September 11, 2001, terrorist acts were the most destructive and costly terrorist events—in terms of lives lost, physical damage, emotional trauma, and economic hardship—that this country has ever experienced. In New York City (NYC), the attacks killed almost 3,000 people, injured thousands more, and leveled 16 acres of Lower Manhattan, including the World Trade Center Towers and other buildings on or around the World Trade Center site. The attacks also disabled major electrical and communications facilities and the transportation infrastructure in the Lower Manhattan area and left many residents temporarily homeless and thousands unemployed.

To help NYC respond to and recover physically, emotionally, and economically from the damages it incurred, the President pledged and Congress appropriated over $20 billion in federal assistance. Today, less than 2 years after the terrorist attacks, the rubble that was the World Trade Center is gone and rebuilding efforts have started. The Federal Emergency Management Agency (FEMA) led the federal response.[1] Total FEMA funding for several programs it administered to help NYC area accounts for about $8.8 billion of the $20 billion in federal assistance, making this the largest disaster response in the agency's history. In only

[1]In March 2003, FEMA and its approximately 2,500 staff became part of the Department of Homeland Security (DHS). Most of FEMA—including its disaster assistance efforts—is now part of the Department's Emergency Preparedness and Response Directorate; however, it has retained its name and individual identity within the department. We therefore refer to FEMA in this report.

six other disasters had FEMA provided more than $1 billion in assistance, the largest of them being the Northridge earthquake in California in 1994.[2]

FEMA's public assistance program was the largest federal disaster effort to the NYC area, totaling $7.4 billion.[3] This program is designed to provide federal disaster grants to eligible state and local government agencies and specific types of private nonprofit organizations. It funds eligible "emergency work," such as responses by local emergency personnel and debris removal, and "permanent work," such as the repair, replacement, or restoration of disaster-damaged facilities, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act.[4] FEMA is expected to provide about $7.4 billion to the NYC area through the public assistance program and public assistance-related spending directed by Congress, making FEMA's public assistance funding the largest single federal disaster aid effort to the NYC area.[5]

You asked us to review several aspects of the federal government's response and recovery efforts. Since FEMA's public assistance program was the largest federal assistance program to help the New York City area, we agreed to identify what activities were funded and the possible implications of this public assistance response to any major terrorist events that may occur in the future. Specifically, we agreed to provide information on (1) what activities FEMA supported in the NYC area with its public assistance program after the terrorist attacks, (2) how the

[2]The six other disasters for which FEMA spent more than $1 billion were caused by earthquakes, hurricanes, or floods. These six disasters are: $6.99 billion for the Northridge Earthquake, Calif. (1994); $2.25 billion for Hurricane Georges, Ala., Fla., La., Miss., P.R., V.I. (1998); $1.84 billion for Hurricane Andrew, Fla., La. (1992); $1.13 billion for Hurricane Hugo, N.C., S.C., P.R., V.I. (1989); $1.14 billion for Midwest Floods, 9 Midwestern states (1993); and $1.08 billion for Hurricane Floyd, 13 Eastern Seaboard states (1999).

[3]The term "public assistance" is also used for unrelated government programs administered by other agencies. For example, in the Department of Health and Human Services, public assistance refers to benefits for low-income individuals. For this report, public assistance refers to the FEMA program.

[4]Pub. L. No. 93-288, 88 Stat. 143 (1974), as amended. The Stafford Act authorized the public assistance program that gives FEMA authority to provide assistance, defines basic program criteria and eligibility, and authorizes FEMA to publish regulations.

[5]In the Consolidated Appropriations Resolution for fiscal year 2003, Congress authorized the state and NYC to use funds appropriated to FEMA for disaster relief for costs associated with the World Trade Center attacks that are not reimbursable under the Stafford Act. We refer to these funds as public assistance-related because they are used for projects in the public domain that are not related to hazard mitigation.

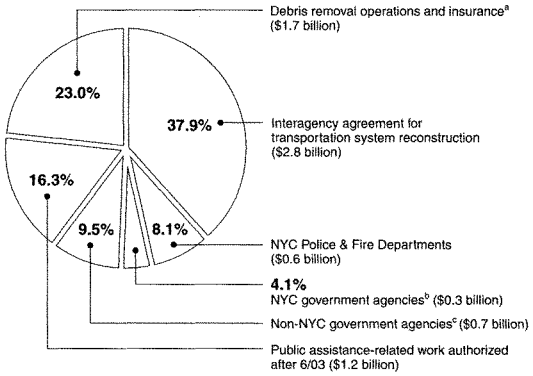
federal government's response to this terrorist event differed from FEMA's traditional approach to funding public assistance in past disasters, and (3) what implications FEMA's public assistance approach in the NYC area may have on the delivery of public assistance should other major terrorist attacks occur in the future. We also agreed to provide a separate report on the overall federal disaster assistance given to help the NYC respond to and recover from the terrorist attacks. That report will be provided to you later this year.

To address our objectives, we reviewed disaster-related project documentation, and we analyzed management information system data on the public assistance FEMA provided and its cost. We reviewed approaches FEMA traditionally used to fund major natural disasters and the staffing and coordination processes it used to deliver the assistance and compared them to approaches used in the aftermath of the World Trade Center attacks. Using a structured data collection and interview instrument, we reviewed decisions FEMA made on funding applications for 10 projects that were nontraditional when compared to the types of work funded in the aftermath of previous major natural disasters. We also interviewed FEMA, NYC, and nonprofit organization officials about the assistance provided and the challenges FEMA faced in delivering public assistance. We asked these officials their views on whether differences in the approach to delivery of public assistance in the NYC area demonstrated a need for a new approach to providing public assistance should another major terrorist event occur in the future. Our scope and methodology are discussed in greater detail in appendix I.

Results in Brief

FEMA supported a wide range of activities for the NYC area with its public assistance program. The approximately $7.4 billion in funding was distributed to major categories of recipients. (See fig. 1.)

Figure 1: Distribution of $7.4 Billion in Public Assistance and Public Assistance-Related Funding



Source: GAO analysis of FEMA data.

Note: $0.08 million in grant administration costs are not reflected in the graph but are part of the total public assistance-related spending. Percentages do not total 100 percent because these costs are not included and due to rounding.

[a] Includes the NYC Departments of Sanitation and Design and Construction, and the U.S. Army Corps of Engineers.

[b] Excludes the NYC Departments of Police, Fire, Sanitation, and Design and Construction. Reimbursements to these four departments are shown under Debris Removal Operations & Insurance and NYC Police and Fire Departments.

[c] Includes New York state agencies, nonprofit organizations, and the Port Authority of New York and New Jersey.

Debris removal operations (costing about $0.7 billion) involved removing, screening, and disposing of 1.6 million tons of debris. The establishment of an insurance company to cover possible claims resulting from debris removal operations is projected to cost about $1 billion. The largest

individual amount of FEMA's public assistance funds—$2.8 billion or 38 percent—will be used jointly with additional funds from the U.S. Department of Transportation to repair and upgrade the transportation infrastructure—including streets, subway systems, and commuter railways—damaged in the disaster. Reimbursements for NYC Police and Fire Departments' emergency efforts, pensions, and vehicle and equipment losses amounted to $0.6 billion. The $0.3 billion in reimbursements to NYC agencies other than the Departments of Design and Construction, Sanitation, Police and Fire were for various activities such as exterior building cleaning, rescheduling elections, and DNA testing to identify victims. Another $0.7 billion provided to non-NYC government agencies—such as New York state agencies, nonprofit organizations, and the Port Authority of New York and New Jersey—was to reimburse these agencies for, among other things, relocating offices and supporting some transportation projects that were not covered in transportation efforts listed above. Lastly, $1.2 billion was made available in June 2003 as a result of FEMA's early close out of its traditional public assistance program to NYC and state for congressionally authorized costs associated with the terrorist attacks. Most of these costs would not have been eligible for reimbursement under FEMA's traditional public assistance program. To receive the $1.2 billion reimbursement for public assistance-related costs, FEMA officials reported that NYC and state officials must prepare traditional grant applications to document that disaster-related costs have been incurred, however Congress authorized a much wider scope of costs that could be reimbursed than are authorized under the Stafford Act. As we concluded our review, the list of projects to be funded had not been determined, but NYC and state had requested reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to pensions of the survivors of fire fighters and police officers killed in the line of duty in the terrorist attacks. A reimbursement had been made for a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks.

While FEMA followed traditional processes for considering most applications, public assistance provided to the NYC area after the terrorist attacks differed significantly in three major ways from FEMA's traditional approach. First, FEMA did not require state or local governments to provide a share of federally provided disaster response and recovery costs. Typically, FEMA's public assistance program shares disaster costs burdens, with FEMA providing 75 percent of the costs—the minimum provided for under the Stafford Act—and affected state and local governments paying the remaining share. At the direction of the President,

FEMA provided 100 percent of all public assistance costs in the NYC area. This was the first time an entire FEMA public assistance operation was 100 percent federally funded. The second distinct aspect of FEMA's public assistance to New York was that there was a funding target that became a cap on the level of the assistance. As a result, the public assistance program did not follow customary project selection and close out processes. Consistent with the President's and Congress' commitment of approximately $20 billion in disaster assistance to New York, FEMA operated with a set spending level appropriated by Congress that it did not exceed for all public assistance-related work for the NYC area. In contrast, in prior disasters all applications for public assistance that FEMA determined to be eligible under the provisions of the Stafford Act were funded. Also, FEMA closed out public assistance funding for the World Trade Center disaster in June 2003, releasing money that had not been spent to NYC and state officials to use at their discretion for disaster-related expenditures. A FEMA official said that no prior disaster had been closed out in this manner before work had been completed. Third, the size and type of work funded was quite different from the public assistance provided after prior major natural disasters. FEMA determined some non-traditional work was eligible for its public assistance program using flexible interpretations of the Stafford Act. For example, public assistance has traditionally been limited to coverage of disaster-related losses and damages—restoring, but not improving, existing infrastructure. However, FEMA officials said that they broadly interpreted the Stafford Act to allow funding that will not only to rebuild transportation systems that were damaged from the terrorist attacks, but may also improve the overall transportation system in Lower Manhattan. For example, within the FEMA/Department of Transportation interagency agreement, work has been proposed to construct a new transit station to replace the existing but undamaged Fulton Street station to improve the overall flow of commuter traffic. Congress also authorized FEMA to fund other disaster-related work, some of which would not have been eligible for assistance under the Stafford Act. As a result of the June 2003 close out of the public assistance program, $1.2 billion in funds that had not been spent for traditional public assistance work was made available to the city and state of New York for broader purposes authorized by Congress. For example, NYC plans to use FEMA funds to cover some of the costs of heightened security after the attacks.

These distinct aspects of FEMA's public assistance response in the NYC area compared to public assistance responses delivered after previous major disasters create uncertainties about the delivery of public assistance should there be another catastrophic terrorist attack in the future. FEMA

and NYC officials who managed the disaster recovery efforts agreed that the decisions made in New York would likely be considered if terrorists struck again, and that it is uncertain whether an approach similar to the one that evolved in NYC would be followed. Furthermore, NYC and FEMA officials differed on how well the public assistance program, as authorized by the Stafford Act, serves as the federal government's vehicle for delivering this type of assistance. The NYC officials we interviewed did not think that the current program fully addressed the needs of the city. They said it should not be used to respond to major terrorist events unless it is significantly amended to address what they believe are unique challenges in aligning disaster assistance with the consequences of a terrorist incident; these concerns include long-term environmental liabilities and the need for heightened security efforts in the immediate aftermath of a terrorist attack. In contrast, FEMA officials said that they were generally satisfied that the Stafford Act provides the necessary flexibility for responding to terrorist attacks since Congress may authorize additional assistance to disaster-affected areas to address specific and unique needs, as it did for the NYC area. As we were completing our audit work, FEMA established a working group to look at ways to redesign the public assistance program to meet community needs for all types and sizes of disasters in the future, including those resulting from terrorist events. This group expects to provide an initial concept for revising the program by September 30, 2003.

In commenting on a draft of this report, the Acting Director of FEMA's Recovery Division said that FEMA officials are proud of the agency's response in delivering public assistance programs to NYC and state, and that they are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York. FEMA's comments are reprinted in appendix II. FEMA also provided technical comments on our draft, which we incorporated into the report where appropriate.

Background

Under the Stafford Act, when a major natural catastrophe, fire, flood, or explosion occurs that is beyond the capabilities of a state and local government response, the President may declare that a major disaster exists. This declaration activates the federal response plan for the delivery of federal disaster assistance. The response plan is an agreement signed by 27 federal departments and agencies, including the American Red Cross. Under the Stafford Act, FEMA is responsible for coordinating both the federal and private response efforts. President Jimmy Carter established FEMA in 1978 to consolidate and coordinate emergency management

functions in one location, addressing concerns about the lack of a coordinated federal approach to disaster relief. FEMA most recently redesigned its public assistance program in 1998. The federal assistance coordinated by FEMA is designed to supplement the efforts and available resources of state and local governments and voluntary relief organizations.[6]

While FEMA had the lead in coordinating the federal response to the attacks on NYC, other federal agencies, including the Department of Transportation (DOT), the Small Business Administration (SBA), the U.S. Army Corps of Engineers, and the Environmental Protection Agency (EPA) also provided significant assistance. The disaster declaration from the President triggers not only a role for FEMA as coordinator of the federal emergency response plan, but also a role in delivering assistance through several programs it administers. These programs include individual assistance to victims affected by a disaster and hazard mitigation funds to state and local governments to take steps to prevent future disasters. However, FEMA's public assistance program is typically its largest disaster assistance effort. It is designed to provide grants to eligible state and local government agencies and specific types of private nonprofit organizations that provide services of a governmental nature, such as utilities, fire departments, emergency and medical facilities, and educational institutions, to help cover costs of emergency response efforts and work associated with recovering from the disaster. According to FEMA regulations, work eligible for public assistance must be

- to repair damage that occurred as a result of a declared event,
- located within an area declared by the President as a disaster area, and
- the legal responsibility of an eligible applicant.

The Stafford Act sets the federal share for the public assistance program at no less than 75 percent of eligible costs of a disaster with state and local governments paying for the remaining portion. The assistance is to be provided to repair, restore, reconstruct, or replace eligible facilities. The

[6]In a December 2002 report, we discussed charitable organizations' contribution to the disaster relief efforts in the NYC area and the need for a greater FEMA role in facilitating collaboration among these organizations. U.S. General Accounting Office, *September 11: More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters*, GAO-03-259 (Washington, D.C.: Dec. 19, 2002).

amount of public assistance provided is reduced by, among other considerations, insurance proceeds and salvage value. Because the assistance provided by the program is limited by these factors, as well as certain eligibility criteria, the amount of public assistance funds FEMA provides in a disaster does not equal the total financial impact of a disaster on an affected community or area.

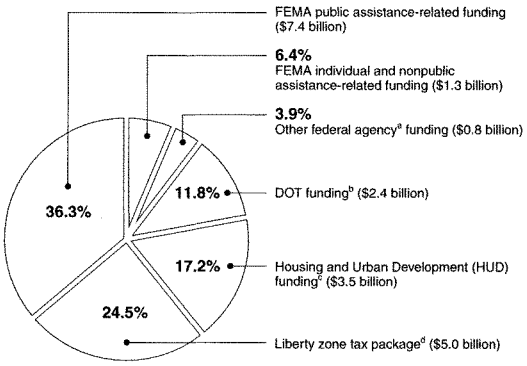
The Stafford Act has been amended several times since its enactment in 1974, and FEMA has taken steps over the years to redesign its public assistance program with internal policy changes to make eligibility criteria for public assistance clearer, and more consistent and accurate. The Senate report on the Disaster Mitigation Act of 1999 noted that the congressional interest in reducing the federal cost of disaster assistance would be achieved by, among other things, reducing the types of facilities and activities that may receive assistance in the event of a disaster.[7] In August 2001, we reported that in a period of about 2 years since FEMA had completed a 1998 redesign of the public assistance program, it had developed or revised public assistance program policies in 35 areas or topics in part to make clearer eligibility criteria and improve the consistency and accuracy of eligibility determinations for individual projects.[8]

FEMA's public assistance program is the largest portion of the federal assistance provided to New York in the aftermath of the World Trade Center attacks. Of a total of over $20 billion in federal assistance approved for this disaster, either in the form of direct assistance or in the form of tax benefits, about $7.4 billion was funded through FEMA's public assistance program or through public assistance-related spending authorized by Congress through appropriations to FEMA. Figure 2 shows that FEMA's public assistance program is providing the largest single portion of the federal contribution to the NYC area's disaster recovery effort.

[7] Senate Report 106-295.

[8] U.S. General Accounting Office, *Disaster Assistance: Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures*, GAO-01-837 (Washington, D.C.: Aug. 31, 2001).

Figure 2: Public Assistance Funding Provides the Largest Federal Contribution to the NYC Area's Recovery



Source: GAO analysis of FEMA and Congressional Budget Office data.

Note: Percentages do not total 100 percent due to rounding.

[a] Includes the Department of Health and Human Services, Department of Labor, and SBA.

[b] DOT funds are to assist in rebuilding and improving the transportation infrastructure.

[c] HUD funds are to be used for a variety of purposes, including assistance to businesses and individuals, infrastructure restoration, and economic recovery.

[d] Estimate by the Joint Congressional Committee on Taxation in March 2002 of the cost of the Liberty Zone tax package to the federal government. The cost of the tax package in lost revenues to the federal government will not be precisely determined because data is not available. The package contains provisions designed to spur economic revitalization in Lower Manhattan.

FEMA may assign work or enter into agreements with other federal agencies and the American Red Cross to handle aspects of public assistance within their areas of expertise. These agreements are called mission assignments and interagency agreements. Mission assignments were widely used in the first few months after the World Trade Center disaster to provide assistance for short-term projects. Interagency agreements—used for long-term projects—are similar to mission assignments in that they are funding agreements between agencies to provide goods and services on a reimbursable basis.

In March 2003, FEMA and its responsibilities were placed entirely into DHS in the largest reorganization of the federal government since the formation of the Department of Defense. The Emergency Preparedness and Response Directorate within DHS has responsibility for the public assistance program and continues to be referred to as FEMA, which we do in this report.[9]

$7.4 Billion in Public Assistance-Related Funding Provided for Broad Range of Activities

The approximately $7.4 billion of public assistance and public assistance-related work funded through FEMA is providing a broad range of aid to the NYC area. For example, public assistance-related funding was, or will be, provided to reimburse NYC authorities for immediate response and recovery actions—such as debris removal operations and emergency efforts by the NYC Departments of Design and Construction, Sanitation, Fire, and Police—and for long-term actions to repair and upgrade damaged facilities and transportation systems. Because of the unique nature of the NYC disaster, existing FEMA data system categories for tracking and reporting public assistance do not provide for some of the large public assistance-related efforts.[10] Based on our analysis, we categorize the public assistance and related funding for NYC into six general areas:

[9]FEMA's Office of National Preparedness, which is responsible for terrorism preparedness and response, was placed in the Border and Transportation Security Directorate. This placement was designed to achieve a measure of consolidation with preparedness functions from other agencies. However, as we reported in our Performance and Accountability Series in January, 2003, other disaster preparedness and response efforts will be in the Emergency Preparedness and Response Directorate and close coordination will be needed among these groups to ensure that problems of duplication, overlap, and confusion that occurred in the past are not replicated. U.S. General Accounting Office, *Major Management Challenges and Program Risks: Federal Emergency Management Agency*, GAO-03-113 (Washington, D.C.: January 2003).

[10]FEMA's categories for public assistance work are (1) debris removal, (2) emergency protective measures, (3) road and bridge systems, (4) water control facilities, (5) public buildings and equipment, (6) public utilities, and (7) recreation and other. However, some large public assistance efforts funded in NYC did not fit well within the standard categories. For example, a $64.6 million application to cover increased NYC contributions to the retirement system due to the line-of-duty deaths of police and fire fighters in the terrorist attacks was classified as an emergency protective measure, and a FEMA official noted that the "recreation and other" category was used to classify reimbursements that did not fit in other categories. For example, funding to provide additional school time for students who lost instructional time as a result of the terrorist attacks was classified as "recreational or other." For this reason, we did not use the FEMA categories for our analysis.

- debris removal operations and insurance;
- reconstruction of the Lower Manhattan transportation infrastructure under an interagency agreement with DOT;
- reimbursement of police and fire department costs;
- reimbursement of expenses incurred by NYC agencies other than the Departments of Design and Construction, Sanitation, Police and Fire for such activities as DNA and forensic testing to identify victims and exterior building cleaning;
- reimbursement of expenses to agencies that are not part of the NYC government (i.e., New York state agencies, the Port Authority, and private non profits) for disaster-related costs such as transportation work not covered under the interagency agreement discussed above; and
- reimbursement of public assistance-related expenses authorized by Congress that would not otherwise have been eligible for assistance (i.e. heightened security after the terrorist attacks) from funds made available after the June 30, 2003, close out of the traditional public assistance program.

Refer to figure 1 on page 4 for a graphic illustration of how public assistance funding to the NYC area was or will be distributed within these six categories.

Each category of public assistance funding and some of the major efforts funded in each of them, are described in the following sections.

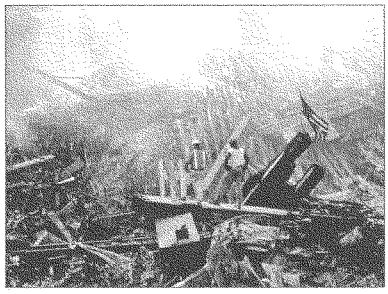
Debris Removal Operations and Insurance

FEMA funded about $1.7 billion in work related to debris removal operations and to reimburse the NYC Departments of Design and Construction and Sanitation for debris removal expenses. The most significant and costly activities in this category were removing and disposing of the destroyed World Trade Center buildings, screening debris for victims' remains and personal effects, and establishing an insurance company for possible claims resulting from debris removal operations.

Workers spent an estimated 3.1 million hours over 9 months to remove about 1.6 million tons of debris from the World Trade Center site. Debris from the collapse of the World Trade Center towers extended 7 stories into the earth and more than 11 stories high at Ground Zero. Thick dust

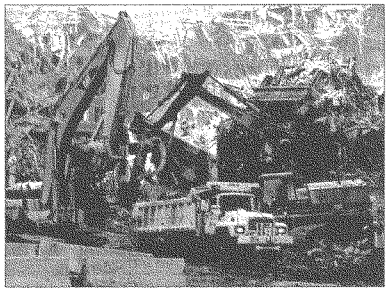
covered streets, buildings, and vehicles for blocks around the site. FEMA provided $620.9 million for removing the debris from the World Trade Center site and barging it to a landfill in Staten Island, N.Y., for screening, sorting, and disposal. Original estimates projected that the recovery effort and cleanup would take 2 years and $7 billion. Figure 3 shows debris removal and barging operations.

Figure 3: Public Assistance-Funded Debris Removal Operations



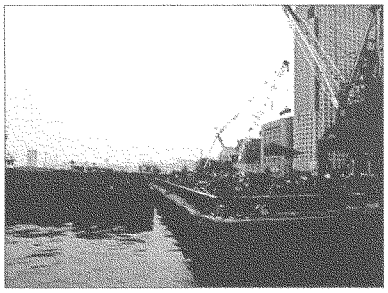
Source: FEMA Photo Library.

Debris removal contractors survey the piles of debris, estimated at 1.6 million tons, at the site where the World Trade Center towers once stood.



Source: FEMA Photo Library.

FEMA-funded debris removal efforts are in progress at the World Trade Center about a month after the terrorist attacks.



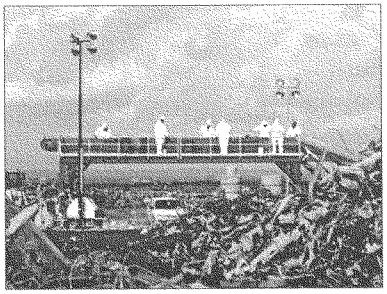
Source: FEMA Photo Library.

Two 500-ton floating cranes continue debris removal operations, loading wreckage onto barges to be towed to a city landfill in Staten Island, N.Y., for screening, inspection, and disposal.

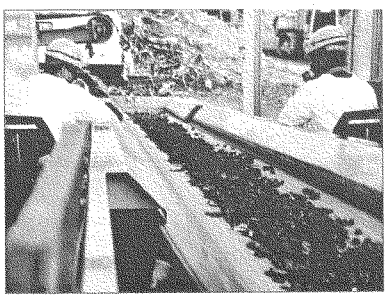
The need to sort and screen the debris to recover the remains and personal effects of victims and criminal evidence made the debris removal operation even more difficult. FEMA provided $72 million to the U.S. Army

Corps of Engineers to manage the debris inspection at the landfill. The sorting activities were an intense, meticulous effort to recover remains and personal belongings of victims to return them to their families and to gather criminal evidence related to the terrorist attacks. The Corps of Engineers provided labor, heavy equipment, conveyer belts, and screening equipment. The Corps also provided temporary buildings for storage and to shelter workers, worker decontamination facilities, and food service facilities. Figure 4 shows debris screening and inspection operations at the landfill.

Figure 4: Debris Screening and Inspection Operations



Source: FEMA News Photo.



Source: U.S. Army Corps of Engineers.

Two views of inspectors at work at the city landfill in Staten Island, N.Y., screening through mixed debris for victims' remains and personal effects and criminal evidence.

In addition to the costs of debris removal and disposal, FEMA set aside $1 billion to establish a debris removal insurance company to cover contractors and NYC for liability claims resulting from debris removal operations.[11] According to city officials, private contractors came to Ground Zero to do search and rescue, recovery, and debris removal work

[11]FEMA was authorized to do so by the Consolidated Appropriations Resolution of 2003, Pub. L. No. 108-7. $1 billion is a projected cost, but actual costs will be unknown for many years.

in the immediate aftermath of the terrorist attacks before entering into formal contract agreements with NYC. The outstanding issue that kept the contractors and NYC from reaching a final agreement on compensation for the work done was liability insurance coverage. City officials said that liability insurance could not be obtained from a private insurance company because of the unknown risks and potentially large number of liability claims. Based on input from insurance experts, city officials and FEMA determined that the best solution was to establish an insurance company with $1 billion in federal capital to provide $1 billion in coverage for a payout period of up to 25 years. The insurance fund will cover NYC workers and contractor employees. As of June 2003, the details of the insurance coverage had not been finalized. Additional perspectives on how aspects of FEMA's establishment of the insurance fund differed from a traditional public assistance activity can be found on page 30 of this report.

Interagency Agreement for Lower Manhattan Transportation System Reconstruction

FEMA provided $2.8 billion to help fund an interagency agreement with the DOT to reconstruct the Lower Manhattan transportation system. The terrorist attack at the World Trade Center severely damaged the intermodal public transportation system that was used by about 80 percent of the 350,000 daily commuters to Lower Manhattan—the highest percentage of people commuting to work by public transit of any commercial district in the nation. The Port Authority of New York and New Jersey (Port Authority) commuter station underneath the World Trade Center was destroyed, and subway stations servicing the area were sufficiently damaged to prevent trains from stopping at them. In addition, some tunnels were temporarily closed, preventing commuter buses from entering Lower Manhattan. Access to and mobility within Lower Manhattan was severely diminished. Many streets were closed due to debris from the collapsed buildings and the subsequent debris removal operations. Large rescue vehicles and heavy debris removal equipment also damaged the area streets, making them more difficult to navigate.

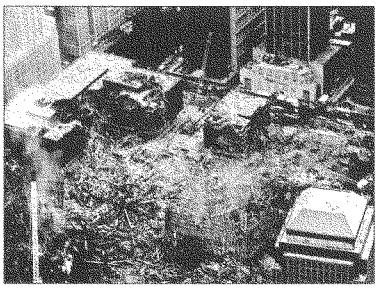
Plans are underway to rebuild and improve the Lower Manhattan transportation system with funding from FEMA and DOT. These agencies, under an interagency agreement, will contribute $4.6 billion to these transportation system projects, with FEMA providing $2.8 billion and DOT providing an additional $1.8 billion. The agreement will result in not only rebuilding a system that was damaged, but also improving the overall Lower Manhattan transportation system. The agreement designated DOT's Federal Transit Administration (FTA) as the lead agency in charge of

administering the federal assistance and coordinating with state and local implementing agencies.

In February 2003, the Governor of New York submitted funding requests to FEMA and DOT for three priority projects estimated to cost between $2.55 billion and $2.85 billion—the World Trade Center Transportation Hub, Fulton Street Transit Center, and South Ferry Subway Station to improve the overall flow of commuter traffic in lower Manhattan. Although the uses for the remaining $1.7 billion to $2.0 billion of the $4.6 billion in FEMA/DOT funds had not been determined as of June 2003, uses for the remaining funds being evaluated included improvements in access to JFK Airport and Long Island, improvements to West Street Route 9A, a tour bus facility, the World Trade Center sub grade infrastructure, and commuter ferries and street configuration work.

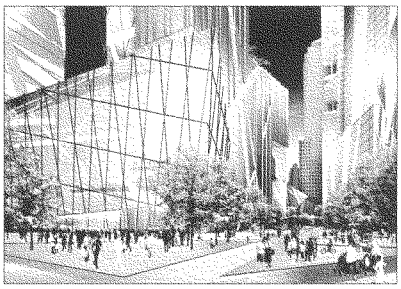
Figure 5 shows the extensive damage to the PATH commuter station beneath the World Trade Center Towers after the terrorist attacks and a model of the permanent station planned to be constructed in its place with FEMA/DOT interagency agreement funds.

Figure 5: Interagency Agreement Will Fund Construction of a Permanent New Station to Replace the Extensively Damaged PATH Station Beneath the World Trade Center Towers



Source: FEMA News Photo

The PATH train station beneath the World Trade Center Towers was severely damaged in the attacks. A new permanent station will be constructed within the FEMA/DOT interagency agreement.



Source: Port Authority of N.Y. and N.J.

A model of the permanent station to be designed and constructed within the FEMA/DOT interagency agreement in place of the damaged facility.

FEMA is also funding transportation-related work for the Port Authority outside of the scope of this interagency agreement. This work is discussed on page 21 of this report. We provide additional perspective on how aspects of this interagency agreement differ from FEMA's traditional public assistance response to major disasters on page 28 of this report.

NYC Police and Fire Department Reimbursements

FEMA provided about $643 million in assistance to the NYC Police and Fire Departments to pay benefits and wages to emergency workers during response and recovery efforts and to replace vehicles and equipment. As first responders, these departments suffered heavy casualties and damages in the collapse of the twin towers of the World Trade Center: 343 NYC fire department employees, 23 active city police officers, and 5 retired city police officers died in the line of duty, and 238 emergency vehicles, as well as radios and other equipment were lost or destroyed. In the months after the attack, nearly 100 firefighters per shift worked at the disaster site around the clock standing over contractor-operated steel-ripping machines looking for victims' remains. Similarly, police officers were stationed 24 hours a day, 7 days a week to provide security at the disaster site. Figure 6

includes photographs of police and firefighters during the search and rescue phase of work immediately after the terrorist attacks and 2 of the emergency vehicles that were destroyed in the World Trade Center collapse.

Figure 6: Public Assistance Funded Police and Firefighter Overtime and Replaced Emergency Vehicles That Were Destroyed in the Terrorist Attacks

Source: FEMA News Photo.

Police and firefighters worked around the clock in the search and rescue phase following the terrorist attacks. FEMA public assistance reimbursed for overtime.

Source: New York Fire Department.

Two of the emergency vehicles destroyed when the World Trade Center towers collapsed. FEMA public assistance reimbursed NYC the funds to replace emergency vehicles and equipment.

Public assistance grants to these two city agencies included $341 million for police overtime and death benefits and $223 million for firefighter overtime, death benefits, and funeral costs. Grants also reimbursed emergency service departments $44 million to replace 98 firefighter vehicles, radios, and other equipment; and $26 million to replace 140 police emergency vehicles and emergency equipment that were destroyed in the terrorist attacks.

Reimbursements to Other NYC Government Agencies

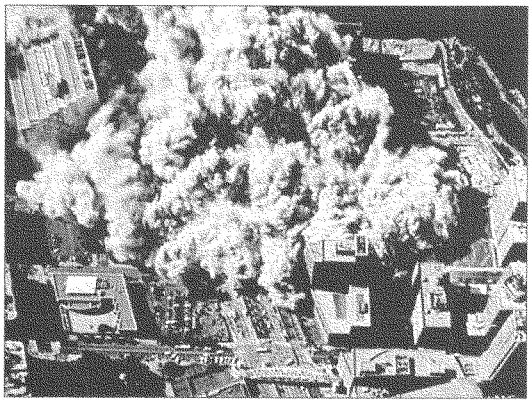
Although the NYC Departments of Design and Construction, Sanitation, Fire, and Police were the city agencies that received the largest amounts of FEMA public assistance funding for debris removal and insurance and for emergency response losses and expenses related to the terrorist attacks, FEMA also provided direct public assistance to a number of other NYC agencies for a wide range of work totaling almost $300 million. Projects included:

- $46.7 million to the Office of the Chief Medical Examiner for DNA testing, forensic analysis and equipment to help identify victims of the terrorist attacks;
- $8 million to the Department of Elections to reimburse the expenses it incurred to reschedule elections that were being held on September 11, 2001, and to replace damaged voting equipment;
- $19.3 million to the NYC Department of Education to pay for instructional time for students who missed school due to closures, delayed openings, and school relocations[12]; and
- $8.6 million to the NYC Department of Environmental Protection for exterior building cleaning.

Other examples of funding that went to city agencies are $12.9 million to the NYC Department of Citywide Administrative Services for emergency supplies, equipment and services, and $10.6 million to set up the facilities and provide equipment and furniture for the NYC Family Center and reimburse city and state personnel for overtime at the Family Center who provided services for NYC residents in the aftermath of the terrorist attacks. Figure 7 shows the cloud of dust that covered buildings for blocks around the World Trade Center.

[12]Funding of $77 million was approved for the NYC Board of Education for this purpose. As of April 2003, $19.3 million was. The remaining funds were de-obligated from the project and directed to public assistance related work authorized by Congress after the close out of the traditional assistance program.

Figure 7: NYC Agencies Received Public Assistance Funding for a Range of Work Including Cleaning Dust from Buildings



Source: U.S. Environmental Protection Agency.

Contaminant-filled dust covered buildings in the blocks around the World Trade Center. FEMA reimbursed the NYC Department of Environmental Projection for the exterior cleaning of 244 buildings in Lower Manhattan.

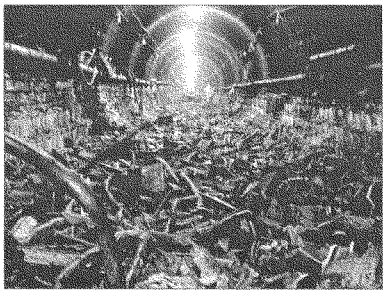
Reimbursements to Non-NYC Government Agencies

FEMA provided over $700 million in public assistance-related funding to agencies that were not part of the NYC government, including the Port Authority, state agencies, counties, and private nonprofit organizations. Among the agencies receiving some of the largest amounts was the Port Authority, which sustained substantial losses of lives and property as a result of the terrorist attacks. The funding for the Port Authority was in addition to the FEMA transportation funding provided in its interagency agreement with DOT to rebuild and improve the Lower Manhattan transportation system, as discussed on page 16.

FEMA reimbursed the Port Authority for a wide range of work including $285.0 million to relocate offices that were located in the World Trade Center, repair commuter train tunnels that were damaged in the terrorist

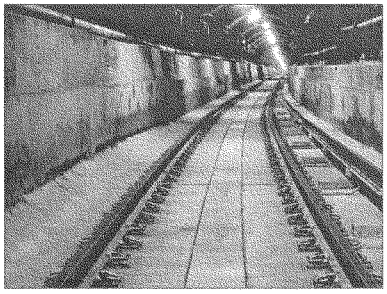
attacks, implement emergency ferry services, open a temporary PATH station, and pay overtime to the Port Authority police. The damage to the Port Authority's PATH train system was extensive; tunnels leading from the station to New Jersey were flooded and the Exchange Place station in New Jersey had to be closed because the station could not operate as a terminal. All tunnel components (i.e., fiber optics, conduits, pipes, lighting, ductbanks, track, contact rail, and ballast) needed to be replaced. The Port Authority also received public assistance funds to replace equipment it lost when its World Trade Center facilities were destroyed, including its voice telephone network, desktop computers, and fax and photocopy machines, and to pay overtime labor costs for the emergency response. Figure 8 shows PATH tunnel repair and construction efforts.

Figure 8: Port Authority Received Public Assistance Funding to Restore Tunnels That Were Flooded in the Terrorist Attacks



Source: Port Authority of N.Y. and N.J.

Ongoing efforts in June 2002 to restore two 2-mile PATH tunnels under the Hudson River, connecting Lower Manhattan and New Jersey. The tunnels were flooded as a result of the terrorist attacks.



Source: Port Authority of N.Y. and N.J.

As of March 2003, progress shows in one PATH tunnel as the PATH Service Restoration project moves forward to the goal of restoring service to Lower Manhattan in December 2003.

FEMA also provided public assistance funds to many other non-NYC government agencies to reimburse them for emergency and repair costs. For example, the New York State Police received $45 million for security operations, and New York University received $5.9 million for air monitoring, environmental cleaning, and emergency supplies and services. Other examples include the NYC Office of Emergency Management, which

received $11.8 million from FEMA to replace destroyed equipment and leased office space that was located in the World Trade Center; Pace University, which was provided $4.4 million for damaged buildings; and the Battery Park City Authority, which received $3.9 million to repair damaged facilities.

Reimbursements for Public Assistance-Related Work Authorized by Congress

Lastly, $1.2 billion was made available in June 2003 as a result of FEMA's early close out of its traditional public assistance program to NYC and state for congressionally authorized costs associated with the terrorist attacks. Most of these costs would not have been eligible for reimbursement under FEMA's traditional public assistance program. The close out freed funds for discretionary public assistance-related uses by NYC and state and ensured that FEMA would spend the entirety of the appropriated assistance to the NYC area. Funds obligated for all of FEMA's programs, including individual assistance and hazard mitigation, were reconciled, and funds that had not been expended for approved projects as of April 2003 were de-obligated to be used for discretionary public assistance-related expenditures. To receive the $1.2 billion reimbursement for public assistance-related costs, FEMA officials reported that NYC and state officials must prepare traditional grant applications to document that disaster-related costs have been incurred; however, Congress authorized wide discretion on the type of costs that could be reimbursed.

As we concluded our review, the list of projects to be funded had not been determined, but NYC and state had requested reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to pensions of the survivors of firefighters and police officers killed in the line of duty in the terrorist attacks. A $19 million reimbursement has been made for a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks. We discuss the heightened security reimbursements in more detail on page 32 of this report as an example of funding that was different in scope than a typical public assistance project and that would not have been eligible for FEMA funding unless it was specifically authorized by Congress.

Public Assistance to NYC Differed from the Traditional FEMA Response in Several Areas

Each disaster to which FEMA responds has aspects that make it unique from other disasters, resulting in some differences in forms of assistance provided to affected communities within the parameters of the Stafford Act eligibility requirements, according to the head of FEMA's public assistance program. While FEMA followed traditional processes for considering most applications, the public assistance response in the NYC area after the terrorist attacks differed significantly from the traditional approach FEMA has used in providing assistance under the Stafford Act after major natural disasters. The three significant differences were:

- the elimination of any local sharing of disaster response and recovery costs,
- capped amounts of funding that resulted in significant modifications to the project selection and close out processes, and
- the size and type of projects funded.

Many of these differences are based on presidential and congressional direction; however, some are the result of FEMA's interpretations of the Stafford Act to allow the approval of funding for certain assistance to New York.

No Sharing of Public Assistance Costs by State or Local Governments

The Stafford Act sets the federal share for the public assistance program at no less than 75 percent of eligible costs. The President can increase the federal share for the public assistance program if it is determined that the disaster costs greatly exceed a state's financial capabilities. In practice, the federal share has reached 100 percent for emergency work, for limited periods of time, if determined that it was necessary to prevent further damage, protect human lives, or both. In 1992, for example, after Florida and Louisiana suffered large disaster expenses as a result of Hurricane Andrew, FEMA funded 100 percent of all public assistance costs above $10 per capita.[13] According to a FEMA official, the 1994 Northridge, California earthquake, which cost almost $7.0 billion, was FEMA's most costly disaster funding effort until the World Trade Center attacks occurred; FEMA provided for 90 percent of all public assistance costs. In discussing the question of state and local sharing of public assistance costs, FEMA

[13]Per capita personal income is commonly used in federal grant programs as a basis for sharing program costs between states and the federal government.

officials stated that they are reluctant to recommend a 100 percent federal share for projects unless there are compelling reasons to do so because the traditional process with a matching share creates incentives for state and local officials to control costs and closely evaluate projects.

In the days immediately following the terrorist attacks, the President determined that the magnitude and nature of the disaster justified the federal government funding the total cost of public assistance projects, and he directed that FEMA fund 100 percent of the eligible costs with no state or local matching funds. This increased FEMA's costs and significantly reduced costs to NYC and other recipients. For example, on the transportation repair and improvements efforts, NYC area recipients did not have to make a financial contribution that could have totaled nearly $680 million—25 percent of the $2.75 billion that FEMA is providing.

Although New York received the benefits of 100 percent FEMA funding of public assistance projects, the President reduced the amount of related Hazard Mitigation Grant Program funds provided to New York. Created in 1988 by the Stafford Act, this grant program provides funds to communities affected by major disasters to undertake mitigation measures following a major disaster. At the time of the terrorist attacks, grants funds up to 15 percent of the total amount of FEMA assistance provided are available to states following a disaster.[14] However, in this case, the President limited the mitigation grant funds to 5 percent of the amount spent. Had the hazard mitigation funding percentage not been reduced, more than $1.2 billion in mitigation funds would have been required using the customary 15 percent of total cost criteria.

[14]The Consolidated Appropriations Resolution of 2003, Pub. L. No. 108-7, has since amended the Stafford Act to reduce the amount available for mitigation grant funds to 7.5 percent. However, pursuant to the The Disaster Mitigation Act of 2000, up to 20 percent of the total estimated federal assistance amount is available for states that meet enhanced planning criteria.

Different Processes for Selecting Projects and Closing Out the Disaster Based on Capped Funding Amounts

In a typical major disaster, FEMA's consideration of whether work is eligible for public assistance is not constrained by a limit on the total amount of public assistance funding that can be spent, and disasters remain "open" with FEMA until public assistance work is substantially completed. Generally, FEMA officials approve all public assistance applications that meet eligibility criteria under the Stafford Act, and they fund the work from FEMA's disaster relief fund. Also, according to a FEMA public assistance official, direct congressional appropriations are not typically made for a specific disaster. The official explained that damaged facilities are identified within 60 days following a kick-off meeting to begin federal disaster assistance between FEMA officials and state and local officials of the area impacted by the disaster. Proposed work is then considered for eligibility and funded through "project worksheets"—applications for specific funding amounts to complete discrete work segments. Project worksheets document the scope of work, cost estimates, locations, damage descriptions and dimensions, and special considerations of each work segment. No limit is set on the dollar amount of eligible work that can be approved. As the response and recovery progresses, states reimburse applicants for all costs that meet the Stafford Act's public assistance eligibility criteria and FEMA reimburses the states for the federal share. A public assistance official noted that disasters remain open with FEMA long after public assistance funds have been obligated. For example, as of June 2003, the Northridge, California, earthquake was still an open FEMA disaster 9 years after it occurred due to large and long-term reconstruction efforts. Disasters are "closed" when the project is complete, the final costs are known, and all appeals of funding decisions have been resolved.

Following the terrorist attacks, however, the process of selecting projects that were eligible for funding and closing out the public assistance for the NYC area did not follow FEMA's customary process because FEMA had a set amount of funds available for public assistance efforts. Congress provided FEMA with specific appropriations for the terrorist attacks that resulted in a capped funding amount of $8.8 billion for its efforts to aid the NYC area from the President's pledge of at least $20 billion in federal assistance. In consideration of funding required for its other programs (assistance for individuals impacted by the disaster and hazard mitigation grants), $7.4 billion remained available for public assistance and public assistance-related projects. To help ensure that the amount of public assistance did not exceed this amount, FEMA asked that city and state officials prioritize their funding needs. As a result, about $400 million in funding initially budgeted for the Port Authority was eventually reallocated to other projects. FEMA also delayed a decision on funding for

city and state pension actuarial losses resulting from line of duty deaths of police and fire fighters at the World Trade Center site so that officials could be certain that the costs of the project would not cause FEMA to exceed its total appropriation for the disaster.

A second major difference from how FEMA typically manages a disaster occurred when it established a June 30, 2003, deadline for closing out the regular public assistance program and the disaster before work was completed. According to FEMA officials, they established this deadline for closing out public assistance projects eligible for funding under the Stafford Act so that any remaining funds could be used for work identified as high priorities by city and state officials in New York and authorized by Congress. They said that deadlines for closing out public assistance had not been set in any prior disaster until work was completed, but that they believed it was necessary for the NYC area to manage the available funds to ensure that its priorities are best met as quickly as possible.

Size and Type of Work Was Different Than Work in Other Major Disasters

The response to the NYC terrorist attacks was the largest public assistance effort in FEMA's history and by far its largest response to a terrorist event. Prior to the World Trade Center attacks, FEMA's most costly disaster assistance—almost $7 billion—was provided to aid in the recovery from the Northridge, California, earthquake in 1994. FEMA spent more than $1 billion for five other disasters in its history. Further, FEMA's experience with terrorism was limited to two occasions prior to the World Trade Center attacks. In April 1993, a major disaster was declared in the aftermath of an explosion caused by terrorism at the World Trade Center. FEMA spent about $4.2 million on that disaster recovery. In April 1995, an emergency and then a disaster were declared in Oklahoma City, Oklahoma, in the aftermath of the bombing of the Murrah federal building—FEMA spent about $530 million on that recovery effort.

In its response to terrorism in the NYC area, FEMA provided public assistance funds for the same types of projects that are funded after a natural disaster (e.g., removing debris, repairing roads, and replacing emergency vehicles that were destroyed). However, other work funded was quite different because of the magnitude and nature of the disaster. FEMA officials said that they determined that some non traditional work was eligible for its public assistance program using flexible interpretations of the Stafford Act. Examples of public assistance projects approved by FEMA that we identified as being different from traditional public assistance work due to their size and/or type of work done included

improvements to the Lower Manhattan transportation system and air quality testing. Some of these projects are discussed as follows.

Improving Lower Manhattan's Transportation System ($2.75 billion). Public assistance has traditionally been limited to repair of disaster-related losses and damages to existing infrastructure. Assistance has not generally been provided to enhance or modernize the infrastructure beyond its pre disaster conditions. In recognizing the interdependence of Lower Manhattan's transportation system, however, FEMA officials said that they broadly interpreted their guidelines to enter into an interagency agreement with DOT to rebuild physical facilities that were damaged from the attacks and construct new facilities that may improve the overall Lower Manhattan transportation system. FEMA attorneys said that they determined that the Stafford Act would permit funding for the restructuring of the Lower Manhattan transportation system because they concluded that repairing and replacing individual elements would not completely restore the system's functionality.

Testing air quality and cleaning buildings ($36.9 million). FEMA officials said that air quality testing and removing dust from buildings had not been an issue in prior major disasters, however, it was important to the physical and psychological well being of NYC citizens in the aftermath of this disaster. FEMA determined that the testing of air quality and cleaning were eligible for public assistance funding where the collapse of the World Trade Center buildings, resulting fires, and subsequent debris removal caused potential health issues related to air quality. To meet this need, FEMA entered into interagency agreements with EPA to sample and test air quality in the NYC area, as well as to test ways to clean potentially hazardous dust in building interiors. FEMA also provided funding to the New York Department of Environmental Protection for the exterior cleaning of 244 buildings and the interior cleaning of residences. EPA provided oversight over the interior cleaning program as part of the interagency agreement with FEMA.

Reimbursing costs for rescheduling New York elections ($11 million). According to a FEMA official, this disaster was the first during which elections were being held on the day of a federally declared disaster event. FEMA officials said that they considered whether the costs of canceling the elections statewide and rescheduling them at a later date were eligible for public assistance or were increased operating expenses for the state and local governments that are not considered to be eligible for assistance under the Stafford Act. After initially denying the public assistance application for reimbursement, FEMA officials reconsidered and

determined that the costs were eligible for reimbursement as disaster related expenses. NYC was also reimbursed for costs of damaged and destroyed computers, voting machines, and ballots as Stafford Act eligible public assistance.

Aiding WNET Public Television (covered completely by private insurance) and the Legal Aid Society of New York for Public Assistance ($1.6 million). According to FEMA officials, WNET, a nonprofit television station, requested reimbursement from the public assistance program for expenses for a communications antenna that was damaged in the World Trade Center attacks. The New York Legal Aid Society asked for reimbursement of disaster-related costs including repair of damages to its building and reconstruction of its data hub that was destroyed in the attacks. Although public television stations are not among the specific types of non profit organizations that are normally considered to be eligible applicants for public assistance because they provide essential government services (i.e. educational, medical, water, and sewer treatment facilities), FEMA determined that WNET was eligible as a public facility because it provided health and safety information to the general public during the crisis. Later, WNET received full coverage for its claims from a private insurance company, so FEMA funds were not awarded. Similarly, FEMA officials said that although legal aid societies are not generally eligible for public assistance, the Legal Aid Society of New York was eligible because it provided government services as the public defender for NYC. These projects were not traditional because they required flexibility in FEMA's interpretation of Stafford Act definitions of private nonprofit and public facilities that are eligible for public assistance.

Notwithstanding its efforts to be flexible in defining public assistance activities eligible under the Stafford Act, FEMA officials denied some applications because they determined they were not eligible for public assistance under the Stafford Act, but the Congress directed FEMA to reimburse the NYC area for some public assistance-related costs that would not otherwise have been eligible for funding. An estimated total of $2.2 billion of FEMA's public assistance funds—about 28 percent—will go to these costs.[15] This public assistance-related funding was different from work FEMA funds under the Stafford Act. The projects included

[15]The congressionally directed funding includes funding for projects that FEMA officials said were at least partially eligible for public assistance under the Stafford Act (i.e. the contractor portion of the $1 billion debris removal insurance fund to cover workers at the World Trade Center site.)

authorizing a debris removal insurance fund for workers at the World Trade Center site and reimbursing NYC agencies for the costs of providing heightened security after the terrorist attacks. In addition, as discussed on page 24 of this report, as we concluded our review, FEMA and NYC and state officials were considering projects to be funded with $1.2 billion that became available after the close out of traditional work in June 2003 for congressionally authorized purposes. None of these reimbursements were eligible for funding under FEMA's public assistance program. Reimbursements being considered included payment of increased costs of the Medicaid program to meet health needs of recipients after the attacks, a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks, and cost of living adjustments made to the pensions of survivors of firefighters and police officers killed in the line of duty in the terrorist attacks.

Descriptions of Three Projects and the Congressional Actions Taken to Fund Them Follow

Debris removal insurance for workers at the World Trade Center site ($1 billion). As discussed on page 15, this project establishes an insurance company to insure NYC and its contractors for claims arising from debris removal at the World Trade Center, including claims filed by workers who suffer ill health effects as a result of working on debris removal operations. FEMA officials said that the project is unprecedented in its size and complexity and because it involves long-term health and environmental issues of a scope FEMA had not considered in prior major disasters. Although officials said that FEMA has never established an insurance fund to manage claims from other major disasters, FEMA Office of General Counsel officials noted that FEMA does frequently pay for contractors' insurance because it is built into the contract between the public assistance applicant and the contractor. In this instance, workers rushed to the disaster site before any contracts were approved, and no private insurance company would carry the insurance because of unknown liabilities. FEMA officials said that the portion of the project pertaining to contractors qualified for public assistance under the Stafford Act and is a disaster-related cost that FEMA has traditionally assumed in major natural disasters. Expanding the coverage to include liability for claims filed against NYC or by city workers was an eligibility issue that was under consideration within FEMA when Congress authorized the funding in the Consolidated Appropriations Resolution for fiscal year 2003.[16]

[16]Pub. L. No.108-7.

Reimbursement for heightened security costs in the aftermath of the terrorist attacks (amount of funding not determined). FEMA denied applications for public assistance to reimburse city agencies, including the Departments of Environmental Protection, Corrections, Fire, and Transportation to cover costs for increased security (e.g., the Department of Environmental Protection took increased security measures to protect the city water supply). A FEMA official said that the applications were not eligible for public assistance because the work was of the sort that was being done nationwide after the terrorist attacks and were intended to prevent future attacks rather than respond to the disaster that had occurred. However, NYC Office of Management and Budget (OMB) officials said that some of the heightened security costs would be reimbursed as a result of the enactment of the Consolidated Appropriations Resolution for fiscal year 2003, which allowed NYC flexibility in covering disaster-related costs not otherwise reimbursable under the Stafford Act. At the time of our review, the amount of funding to be provided for heightened security costs had not been determined, but it was anticipated by FEMA officials to be over $100 million.

Reimbursement for instructional time for students to make up for days missed after the terrorist attacks ($19.3 million). FEMA initially denied a public assistance request to pay for additional hours of instructional time for students who missed school due to closures, delayed openings, and school relocations in the aftermath of the terrorist attacks. FEMA officials said that the application was denied because the after-school program designed by the NYC Board of Education to make up for the lost instructional time was predicated on direct FEMA funding, but it did not meet the standards of emergency work for which applicants must perform work immediately after a disaster, regardless of who will pay, to eliminate an immediate threat to health, life, and safety. However, FEMA was specifically directed by the congressional conference committee making supplemental appropriations for fiscal year 2002 to provide funds for the additional instructional time. The conference report also directed FEMA to provide compensation to the NYC school system for costs stemming from the terrorist attacks for services and supplies, including mental health and trauma counseling, guidance and grief counseling, and replacement of lost textbooks and perishable food.[17] NYC Board of Education had spent $19.3 million of a total $77.6 million approved for this

[17]House Report 107-593.

work as of April 30, 2003. The remainder of the funding was de-obligated to be used for public assistance related spending authorized by Congress.

Response to NYC Area Creates Uncertainties about How Assistance Would be Delivered in a Future Catastrophic Terrorist Event

Because the public assistance response to the NYC area after the terrorist attacks was unique and expanded in terms of the level and types of assistance provided, it creates uncertainty about how public assistance will be delivered if another catastrophic terrorist attack occurs. Both NYC and FEMA officials, including managers of the World Trade Center Federal Recovery Office and top officials of the NYC Offices of Emergency Management and OMB, agreed that they were uncertain regarding the level and type of future FEMA assistance. These officials stated that if another major terrorist disaster occurs, other communities might seek similar types of assistance as was received in the federal public assistance response to New York. In this regard, an official of the NYC OMB anticipated that one of the first calls by a mayor of a city that experienced a major terrorist event would be to NYC to discuss the decisions made in the aftermath of the World Trade Center attacks. FEMA Recovery Office officials agreed that the decisions made in New York would be on the table at discussions of federal assistance for any future terrorist event. They noted that it would remain to be seen whether an approach similar to the one that evolved in NYC, including a 100 percent federal share for public assistance funding, a capped funding amount, and flexibility in addressing needs, would be used following any future event.

The Congressional Research Service noted similar concerns in a June 2002 report about the implications that the response and assistance provided to the NYC area may have on future federal response to catastrophic terrorist events.[18] The agency's report pointed out that one of the long-standing principles of federal disaster assistance policies has been that federal aid should supplement—not supplant—nonfederal efforts and that the actions taken in the aftermath of the terrorist attacks might have established precedent for an expanded federal role in consequence management after terrorist attacks. The report noted that traditionally, the types and amounts of assistance provided after one disaster have been sought following succeeding catastrophes.

[18]Congressional Research Service, *Federal Disaster Policies After Terrorists Strike: Issues and Options for Congress* (Washington, D.C.: June 24, 2002).

The report also states that the overriding question is whether the range of existing federal policies for responding to disasters is appropriate if a terrorist attack more devastating than that of September 11 were to occur. This is a question to which NYC and FEMA officials have differing positions. With respect to the effectiveness of the Stafford Act in dealing with a major terrorist event of an impact equal to or greater than the World Trade Center attacks, the officials from NYC involved in the response and recovery efforts whom we interviewed did not believe that the act fully addressed the needs of the city and did not think it should be used to respond to major terrorist events unless it had significant amendments to address the unique challenges related to terrorist events. According to top officials of both the NYC Office of Emergency Management and OMB, the public assistance program authorized by the Stafford Act is not a good fit for the needs of a large municipal government that is coping with the effects of a terrorist event. They pointed out that the impacts of the terrorist attacks in NYC were different than impacts from the natural disasters that the act was created to address. For example, the Stafford Act does not address concerns such as the federal government's responsibility for addressing long-term environmental liabilities. Additionally, a NYC emergency management official noted that the Stafford Act lacked provisions for cities and states to be eligible for reimbursement of money spent to provide security in the immediate aftermath of terrorist attacks. The city officials noted that funding to help alleviate these impacts was eventually approved, but not without considerable discussion with FEMA officials and specific direction from Congress.

A key NYC OMB official also said that the Stafford Act is too restrictive for responding to a major terrorist event because it does not allow the reimbursement to affected communities for budget shortfalls resulting from lost tax revenues. The official said that NYC lost tax revenues, both from real estate taxes from the destroyed buildings and corporate, sales, and income taxes from displaced businesses and individuals that were eligible for reimbursement under the Stafford Act. He said that NYC requested $650 million in reimbursement for revenue shortfalls in fiscal years 2002 and 2003 that were directly related to the terrorist attacks. While FEMA officials agreed that the estimate seemed reasonable, the amount was not eligible for reimbursement under the Stafford Act. Congress recognized the problem and provided the city some flexibility to cover expenses in these areas. However, the New York OMB official said that a federal block grant would have allowed the city to spend the money in ways that were most needed without specific congressional authorization to do so; he viewed a block grant approach to providing

disaster relief as preferable to trying to obtain the funding under the Stafford Act.

In contrast, FEMA officials said that the Stafford Act worked appropriately for the NYC area. FEMA attorneys said that the Stafford Act contains enough flexibility to allow funding for non traditional activities. They added that every disaster has unique aspects, which continually challenge FEMA officials to exercise their discretion under the act to provide needed assistance. Furthermore, they point out that it is always the prerogative of the Congress to provide additional assistance to disaster-affected areas to address specific and unique needs. If Congress saw a need to fund public assistance-related work not covered under the Stafford Act in the event of another major act of terrorism, it could appropriate funds specifically for the disaster, as it did in NYC. Consequently, the FEMA officials are generally satisfied that they are able to apply provisions of the Stafford Act to respond to the terrorist attacks and, as of June 2003, did not believe significant changes to the legislation were necessary in the aftermath of September 11, 2001.

Nevertheless, FEMA recently initiated an effort to develop a concept for redesigning the public assistance program. A working group of the Public Assistance Program Redesign Project, formed at the request of the director of FEMA's Recovery Division, held its first meeting in May 2003. Members included FEMA public assistance and research and evaluation staff and state program managers to provide a broader perspective on the issues and concerns. The project was established to suggest proposals to improve the public assistance program and make it more efficient and capable of meeting community needs for all types and sizes of disasters, including those resulting from terrorism. Among other things, the project seeks to transform the program to one that:

- is flexible enough to meet the demands of disasters of all types and sizes,
- reduces overall resource requirements,
- offers incentive for timely close outs,
- places operational control principally with states and applicants, and
- eliminates redundancies in decision making and processes.

The working group will examine potential options for redesigning the program that include an annual block grant program managed by the

states, a disaster-based state-managed program, and a capped funding amount. The project is currently scheduled to hold a listening session for local officials and representatives of other organizations in August 2003, and develop a basic concept design for revising the program by September 30, 2003.

Conclusions

The public assistance program FEMA delivered in the NYC area after the terrorist attacks was substantially different in several ways from a "typical" FEMA public assistance response. For example, in the NYC area there was a lack of cost sharing with state and local governments; a smaller than usual federal share of hazard mitigation funding; a different process for project review, selection, and close out; and, most significantly, the size and scope greatly exceeds the traditional public assistance response after a major natural disaster. The reasons for these differences are many and include the President's early commitment to providing a specified amount of funding to New York, congressional direction on activities to fund, and FEMA's discretion under the Stafford Act.

Irrespective of the reasons for the differences in the way public assistance was delivered after the terrorist attacks, these differences raise questions about FEMA's response to any future major terrorist event in this country. The key issue is whether the differences in the ways the public assistance program in the NYC area was delivered will serve a baseline for the federal approach in the event of another major terrorist event. Should such a terrorist event occur, it is not unrealistic to assume that affected communities will expect to receive public assistance comparable to that provided for the NYC area to meet their needs.

DHS, within its Emergency Preparedness and Response Directorate, has an opportunity to assess the questions raised as a result of these differences and, if necessary, revise the public assistance program or provide Congress with suggestions for legislative changes that are needed so that it will be positioned to address new expectations for disaster assistance. The newly formed Public Assistance Redesign Project, established as we were concluding our audit work at the request of the Director of FEMA's Recovery Division, plans to address many of the issues raised in this report, including whether the approach used in NYC is the appropriate way to provide federal assistance for recovery from terrorist acts. It is too early for us to assess the impact the project will have on the public assistance program in the future; however, it is a promising first step toward addressing these issues and better ensures that DHS will have

a process in place to deliver public assistance that eliminates uncertainties and questions about the ways in which the needs of affected communities will be met in the event of another major terrorist attack.

Agency Comments

In commenting on a draft of this report, the Acting Director of FEMA's Recovery Division said that FEMA officials are proud of the agency's response in delivering public assistance programs to NYC and state, and that they are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York. The Acting Director did not take exception to any of the information provided in our report. FEMA's comments are reprinted in appendix II. FEMA also provided technical comments on our draft, which we incorporated into the report where appropriate.

As we agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this letter. We will then send copies of this report to the Secretary of Homeland Security and interested congressional committees. We will make copies available to others upon request. In addition, this report will be available at no charge on our Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me on (202) 512-2834 or at heckerj@gao.gov. Individuals making key contributions to this report are listed in appendix III.

JayEtta Hecker
Director, Physical Infrastructure Issues

Appendix I: Scope and Methodology

To determine what activities the Federal Emergency Management (FEMA) supported through its public assistance program, we analyzed published FEMA reports and FEMA's National Emergency Management Information System (NEMIS) data. NEMIS is FEMA's primary information system that manages disaster grant funding, and we analyzed NEMIS data on public assistance funding for this disaster. Though we were not able to completely assess the reliability of the published FEMA program data, we did perform logic tests of the data and found no obvious errors of completeness or accuracy. Also, according to FEMA officials, the published reports are the most reliable information available. The officials said that published FEMA reports were compiled based on NEMIS data, as well as the knowledge of public assistance program managers of funding for specific projects. We also updated spending amounts for some projects to reflect changes made after FEMA's June 30, 2003,closeout of the traditional public assistance program, based on technical comments to our draft report. We interviewed FEMA headquarters, regional, and recovery office officials in New York City, N.Y., and Washington, D.C. We analyzed FEMA, Office of Management and Budget (OMB), and Congressional Research Service reports on federal assistance to the New York City (NYC) area to recover from the terrorist attacks. We reviewed the Stafford Act and FEMA regulations for ensuring that public assistance program funds are spent appropriately on eligible work and discussed oversight processes with FEMA headquarters, regional, and recovery office officials. We also discussed the agreements that FEMA used to coordinate responses of other federal agencies. We selected and examined the FEMA agreements with the U.S. Army Corps of Engineers, Department of Transportation (DOT), and Environmental Protection Agency (EPA) and reviewed support documents. We met with officials of the FEMA Inspector General to discuss planning for full audits of selected projects within 3 years of their completion.

To determine how the federal government's response to the terrorist event differed from FEMA's traditional approach to funding public assistance in other disasters, we selected 10 projects for detailed review from an issue matrix created by the public assistance officer at the World Trade Center Federal Recovery Office. The issue matrix tracked 32 public assistance funding issues and other types of concerns that required higher than normal levels of review. In making our selection of projects, we consulted with officials of the FEMA Office of General Counsel in Washington, D.C., and FEMA officials at the World Trade Center Recovery Office in New York City, N.Y. For each project selected, we reviewed available written documentation such as project worksheets, case management files, letters, and memoranda. We reviewed the legislation that directed FEMA to fund

selected projects. Using structured interview instruments, we interviewed FEMA project managers and representatives of agencies that applied for public assistance to discuss how the challenging issues were considered and resolved. Table 1 lists the 10 projects we reviewed and the applicant organizations that participated in interviews on each of them. We also discussed FEMA's staffing processes with human resources officials at FEMA Headquarters in Washington, D.C., World Trade Center Federal Recovery Office managers, and representatives of each of FEMA's three technical assistance contractors who sent staff to NYC.

Table 1: Ten Projects We Reviewed and Applicant Organizations Interviewed for Each of Them

Project	Applicant organization
Debris removal insurance for workers at Ground Zero	• NYC OMB
Reimbursement for NYC budget deficits directly related to the terrorist attacks	• NYC OMB
Reimbursement for instructional time for students to make-up for days missed after the terrorist attacks	• NYC Department of Education
NYC share of reimbursement for pension actuarial losses resulting from line of duty deaths of police and firefighters at Ground Zero	• NYC OMB
Commuter train station construction costs	• Port Authority of N.Y. and N.J. • NYC Department of Transportation
Reimbursement for damage to voting equipment and rescheduling NYC elections	• NYC Board of Elections
Reimbursement for heightened security costs in the aftermath of the terrorist attacks	• NYC OMB • NYC Office of Emergency Management • NYC Fire Department • NYC Police Department • NYC Office of Corrections • NYC Department of Environmental Protection
Cleaning of dust and debris from emergency vehicles	• NYC OMB • NYC Office of Emergency Management • NYC Fire Department • NYC Police Department
WNET Public Television eligibility for public assistance for disaster-related costs	• Educational Broadcasting Corporation (WNET)

Project	Applicant organization
Legal Aid Society of N.Y. eligibility for public assistance for disaster-related Costs	• N.Y. Legal Aid Society

Source: FEMA.

To identify some of the implications these different approaches may have on the delivery of public assistance should terrorist attacks causing similarly catastrophic damage occur in the future, we interviewed FEMA officials in NYC, and FEMA and Congressional Research Service officials in Washington, D.C. We also analyzed our report and Congressional Research Service reports on federal emergency response and recovery policies, and we reviewed the Stafford Act and FEMA regulations.

We conducted this review from August 2002 to July 2003. We performed our audit work in accordance with generally accepted government auditing standards.

Appendix II: Comments from the Federal Emergency Management Agency

Federal Emergency Management Agency
Washington, D.C. 20472

AUG 20 2003

Ms. JayEtta Z. Hecker
Director, Physical Infrastructure Team
U.S. General Accounting Office
441 G Street, N.W.
Washington, DC 20515

Dear Ms. Hecker:

Thank you for having provided FEMA the opportunity to comment on the United States General Accounting Office draft report entitled "Information on FEMA's Post-9/11 Public Assistance to the New York City Area." Your staff incorporated many of our suggestions and information, thereby making the report more accurate.

Given the enormous challenge presented by the September 11 terrorist attacks, we are proud of FEMA's response in delivering its Public Assistance programs to New York City and New York State. While FEMA does not have comprehensive authority to provide all assistance requested, we are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York.

Once the President declares a major disaster, FEMA implements its Public Assistance program to provide reimbursement for necessary assistance such as emergency protective measures, debris removal and infrastructure repair. While every disaster presents unique circumstances, FEMA's Public Assistance program and its processes and policies established prior to September 11 were implemented for New York with only slight modifications. This demonstrates the flexibility of FEMA's authority and its ability to provide essential Public Assistance regardless of the cause of the event.

More than 17 months after the disaster, Congress provided FEMA, in the Consolidated Appropriations Resolution, 2003, P.L. 108-7, additional authority to ensure that FEMA would be authorized to expend its full appropriation for the New York recovery effort. Only then was FEMA able to modify its Public Assistance program by implementing an expedited financial closeout to expedite the obligation of FEMA's remaining funds to New York.

We appreciate the opportunity you have given us to make meaningful contributions to your report. Please call me at (202) 646-3642 if you have any additional questions.

Sincerely,

Laurence W. Zensinger
Acting Director, Recovery Division
Emergency Preparedness and Response Directorate
Department of Homeland Security

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Acknowledgments

In addition to those named above, John E. Bagnulo, C. Vashun Cole, Kara Finnegan-Irving, Julian L. King, Deborah A. Knorr, and John A. Rose

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STATEMENT OF RICHARD L. SKINNER, DEPUTY INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY

Good morning Mr. Chairman and Members of the Subcommittee. I am Richard L. Skinner, Deputy Inspector General of the Office of Inspector General (OIG) for the Department of Homeland Security, which includes the Federal Emergency Management Agency (FEMA).

Thank you for the opportunity to be here today to discuss the work of the OIG in response to the unparalleled terrorist events of September 11, 2001, as well as our perspective on FEMA's merger into the new Department of Homeland Security.

First let me address our work in New York following the September 11, 2001, terrorist attacks.

OIG RESPONSE TO SEPTEMBER 11

September 11, 2001, resulted in catastrophic physical damage and loss to the business and residential infrastructure in the lower part of the Borough of Manhattan. FEMA applied the full range of authorized disaster assistance programs to the post-disaster needs of the city of New York and its individuals, including Public Assistance grants, Temporary Housing (specifically Mortgage and Rental Assistance), Individual and Family Grants, Disaster Unemployment Assistance, Crisis Counseling Assistance and Training, and Legal Services. FEMA, however, due to the unique circumstances of this disaster, (i.e., managing the consequence of a terrorist attack rather than the consequences of hurricanes, tornadoes, or floods), had to use its authorities and programs more broadly than it ever had before. FEMA's authorities were not adequate to meet everyone's expectations in recovering from the unprecedented needs created by this event.

The FEMA OIG deployed teams of auditors, inspectors, and investigators from Headquarters and various field offices in early October 2001 to the New York City Disaster Field Office (DFO). Our mission was to assist the Federal Coordinating Officer (FCO) in reviewing and assessing procedures, practices, and controls in place throughout the operation, to identify and prevent fraud, and to assure FEMA's Director that all possible actions were being taken to protect public welfare and to ensure the efficient, effective, and economic expenditure of Federal funds. One team of auditors and inspectors worked directly with the FCO and monitored set-up and operation of the DFO. Another team of auditors worked with the FEMA public assistance staff and a team of inspectors worked with the FEMA individual assistance staff. Several teams of investigators worked round the clock at the DFO and at ground zero.

GENERAL MANAGEMENT OVERSIGHT

We worked in direct support of the FCO to respond to specific requests and addressed matters that independently came to our attention. Some of the tasks we performed related to accounting and auditing, but some were as varied as tracking down missing copy machines. We worked closely with a team of FEMA comptrollers and OGC representatives, helping them with a wide assortment of financial matters. We also worked with other Federal agencies, as well as State and city organizations and voluntary agencies. Our support included establishing a partnership with program staff to identify and suggest courses of action with regard to potential and emerging issues regarding duplication of benefits, donations management, accountable property, program limitations and administration, DFO training, safety and security. We identified a number of significant issues and made recommendations for improvement.

INVESTIGATIVE INTIATIVES

Our Office of Investigations processed 787 fraud complaints and resolved or closed 771 of them. Sixteen complaints remain open. We continually receive new complaints through the DHS OIG fraud hotline, FEMA personnel, and numerous Federal, state, and local agencies. We have opened 112 criminal investigations and have received 89 indictments and arrested 86 individuals. We have recovered $922,028, received restitution of $6,729,728, issued fines of $1,686,538, and reported cost savings of $7,429,502.

PUBLIC ASSISTANCE OVERSIGHT

The FEMA OIG responded to the World Trade Center attack as a partner to FEMA's response and recovery components. We deployed a team of auditors to monitor public assistance operations and assist in reviewing requests for assistance. This team maintained a presence for more than a 1½ years working with FEMA

public assistance staff to ensure that recovery efforts were on track and complied with Federal laws and regulations.

Our efforts were far from the traditional role of the OIG, but this was an extremely unique situation, and we were able to contribute significantly to the effectiveness of FEMA's response by providing proactive oversight rather than hindsight. Early in the process we briefed applicants on how to qualify for FEMA assistance and maintain records, and we reviewed accounting systems of some of the local governments to ensure they were adequate for collecting necessary cost data.

We reviewed requests for funding and the detailed worksheets for proposed projects and met with public assistance program staff on a regular basis to provide them technical assistance on cost allowability. At FEMA's request, we reviewed questionable bills submitted by applicants for payment and FEMA's implementation of its policy on heightened security eligibility.

We did not conduct any traditional grant compliance audits of public assistance grants, nor did we audit any costs incurred under the Consolidated Appropriations Resolution Act of 2003, which provided that costs not eligible for public assistance funding, referred to as associated expenses, will be funded with the remainder of the $8.8 billion of authorized FEMA funding. FEMA estimates that $7.6 billion will be required for Stafford Act purposes and $1.2 billion will be used for associated expenses. Associated expenses include such costs as local government employees' salaries, heightened security costs, and the I Love NY campaign to encourage visitors to the state.

INDIVIDUAL ASSISTANCE REVIEW

In response to congressional inquiries, the FEMA OIG reviewed FEMA's delivery of individual assistance in New York after September 11, 2001. The review focused on issues that need to be addressed by both FEMA and Congress as they consider regulatory and legislative changes to improve FEMA's delivery of assistance to victims of future terrorist attacks that result in Presidential disaster declarations. Following is a summary of issues raised during our review.

Eligibility Issues in the Mortgage and Rental Assistance Program

FEMA historically has not had to implement the Mortgage and Rental Assistance (MRA) program on a large scale because previous disasters did not coincide with nor result in widespread unemployment and national economic losses. From the inception of MRA until September 11, 2001, only $18.1 million had been awarded under the program for 68 declared disasters, compared to approximately $76 million as a result of the New York disaster alone.[1] Because it was seldom used, Congress eliminated the program when it enacted the Disaster Mitigation Act of 2000 (DMA 2000) making the program unavailable after May 1, 2002.

FEMA had to face the challenge of implementing this program in a disaster that caused significant economic consequences, including not only the obvious economic impact of the incident itself but also the indirect economic effects felt throughout the country. The language of the Stafford Act's MRA authority establishes as a criterion for assistance a written notice of dispossession or eviction. The law is silent, however, on what constitutes a financial hardship. This omission required FEMA to interpret to what extent a personal financial loss constitutes a financial hardship, and to determine if that hardship resulted directly from the primary effects of the attacks or from secondary effects on the Nation.

The MRA program's limited use, the broad economic impact of this unprecedented event, and FEMA's challenge to differentiate between primary and secondary economic effects contributed to difficulties in delivering timely and effective assistance. The MRA program is unique because it addresses limited, individual economic losses versus physical damage resulting from a disaster. Traditional inspection of damages as a basis for program eligibility, therefore, does not apply to MRA. Individual financial hardships caused by the disaster must be evaluated case-by-case. FEMA attempted to clarify eligibility criteria that required a clear link between physical damage to the business or industry caused by the disaster and an applicant's loss of household income, work, and/or employment regardless of geographic location.

In summary, the MRA program, if reinstated, could continue to meet a fairly narrow economic need but would still require legislative revision to make it less complicated to administer. A broader, more flexible program, however, would more appropriately meet the range of economic losses experienced after events such as the September 11, 2001, terrorist attacks. The OIG believes FEMA should explore such

[1] FEMA's Recovery Division, December 2002.

a program with Congress. In doing so, Congress may wish to consider studying other existing mechanisms within the Federal Government as possible vehicles through which broader assistance could be provided.

State Capability to Implement the Individual and Family Grants Program

The Stafford Act authorizes the Individual and Family Grants (IFG) program to meet disaster related necessary expenses or serious needs of disaster victims that could not be met through other provisions of the Stafford Act or through other means such as: insurance, other Federal assistance, or voluntary agency programs. Eligible expenses may include those for real and personal property, medical and dental expenses, funeral expenses, transportation needs, and other expenses specifically requested by the State.[2]

Applications for IFG assistance rose sharply in June 2002, as applicants requested assistance for the air quality items. FEMA believes the increase in new applications coincided with public announcements being made by the U.S. Environmental Protection Agency (EPA) regarding the poor air quality in the city and the need for air-conditioning and related items because of the unusually warm spring and early summer. The State believes the surge in new applications coincided with the closing of the nonprofit programs. FEMA received an average of 7,660 applications per month from June to August 2002 for air-quality items. Applications for IFG assistance typically do not spike at this point in the recovery phase of a disaster.

The unanticipated increase in applications received after June 2002 also may be related to two other decisions regarding assistance for air-quality items. First, assistance was made available to all households in the five boroughs of New York City. The broad geographic eligibility was not related to the areas of actual impact. A better model might have been to limit eligibility to the same areas identified by EPA and the New York City Department of Health for purposes of the apartment cleaning and testing program. If the IFG program and the EPA testing and cleaning program had worked more closely together in terms of geographic eligibility, the program would have had reasonable and justifiable boundaries. Second, as a result of concerns expressed by certain advocacy groups, applicants were allowed to certify that they were unable to pay for the air-quality items (costing as much as $1600). Funding was advanced to those applicants and they were requested to provide receipts after purchase. There were few limitations placed upon who could qualify for this "unable to pay" option. This may also have increased the likelihood of fraud and abuse.

INTERAGENCY COORDINATION CHALLENGES

Responsibilities shared among FEMA, EPA, and the U.S. Department of Justice (DOJ) Office for Victims of Crime were not defined clearly enough to distinguish roles and establish the sequence of delivery of assistance. Recovery from the September 11, 2001, event highlighted the need for advance agreements regarding shared roles and responsibilities among key agencies likely to respond to future events.

Response to Residential Air Quality, Testing, and Cleaning Requires More Coordination

EPA was aware, based on its work in the aftermath of the 1993 WTC terrorist bombing, that the WTC towers contained asbestos material. Neither FEMA nor New York City officials, however, initially requested that EPA test or clean inside buildings because neither EPA nor the New York City Department of Environmental Protection (NYCDEP) could identify any specific health or safety threat. EPA nevertheless advised rescue workers early after the terrorist attack on the WTC that materials from the collapsed buildings contained irritants, and advised residents and building owners to use professional asbestos abatement contractors to clean significantly affected spaces. Directions on how to clean the exterior of buildings affected by dust and debris were provided to building owners by NYCDEP, and directions on how to clean interior spaces were provided by the New York City Department of Health.

Neither FEMA nor EPA traditionally has been involved in testing and cleaning private residences. Neither agency is specifically authorized to provide such services. However, when a potential health and safety threat was identified and New York officials documented that interior testing and cleaning would beneficially impact the city's economic recovery, FEMA used its debris removal authorities under the Staf-

[2] Because the September 11 event was both a disaster and a criminal act, programs of the U.S. Department of Justice's (DOJ) Office for Victims of Crime were also applicable. As a result, expenses related to medical, dental, and funeral were covered by DOJ.

ford Act to provide the necessary funding. Though the entire New York public cannot be serviced, the low level of applications for cleaning and testing, along with the low number of residences found with dangerous asbestos levels, may indicate that FEMA and EPA have addressed the need, or that individuals already have taken the initiative to clean their residences.

The program to test and clean residences in lower Manhattan did not commence until months after the disaster. Although FEMA has the responsibility to coordinate recovery from Presidentially declared disasters, FEMA must depend on the particular expertise of EPA in circumstances involving possible air contaminants or environmental hazards. EPA must confirm that such hazards constitute a public health and safety threat before FEMA can provide funding for emergency response. FEMA should be more proactive in requesting EPA to conduct necessary testing and/or studies to determine if a public health or safety threat exists in future, similar disasters so that cleaning efforts can begin much earlier in the recovery phase. FEMA also should address the roles of state and local agencies in such circumstances, as consultation with these agencies would provide useful information in review or evaluation.

Department of Justice Authorities Compliment FEMA Authorities

Because the September 11, 2001, terrorist attack sites were Presidentially declared disasters resulting from criminal actions, both FEMA and the DOJ's Office for Victims of Crime (OVC) had authority to provide victim assistance. FEMA's Crisis Counseling Assistance and Training Program (CCP) providers found it necessary to offer support services that went beyond the normal levels of CCP mental health programs. Too many entities were involved at the outset to ensure coordination and avoid potential confusion of services provided to victims.

The September 11, 2001, attacks uncovered potential DOJ-FEMA overlaps in some programs covering disaster areas that are also crime scenes. FEMA's CCP program funds crisis counseling and IFG program reimburse victims of disasters for medical, dental, and funeral expenses. The Victims of Crime Act of 1984, as amended (42 United States Code § 10603), authorizes DOJ's OVC to provide financial assistance to victims of Federal crimes and of terrorism and mass violence in the form of (1) grants to state crime victim compensation programs to supplement state funding for reimbursement of the same out-of-pocket expenses, including mental health counseling; and (2) grants to state victim assistance agencies in support of direct victim services, i.e., crisis counseling, criminal justice advocacy, shelter, and other emergency assistance services.

FEMA, OVC, and DOJ's Executive Office for United States Attorneys subscribed to a Letter of Intent to ensure that victims receive needed services and information and to articulate services needed in responding to catastrophic Federal crime. The Letter of Intent should serve as the foundation for future cooperative activities but more detailed and comprehensive guidance is necessary to ensure that services delivered to disaster victims who are also victims of crime are appropriate, consistent, and not duplicative. These objectives could be accomplished through a Memorandum of Understanding between FEMA and DOJ's OVC that formalizes the relationship, the responsibilities and authorities to be applied, programs, timeframes, and sequencing when a disaster is also a crime scene.

Coordination with Voluntary Agencies

Voluntary Agencies (VOLAGS) typically provide immediate emergency assistance to victims, FEMA addresses short and long-term recovery needs, and, near the end of the recovery cycle, VOLAGS address victims' unmet needs. After the September 11, 2001, terrorist attacks, individuals donated time, resources, and money in record volumes to a large number of VOLAGS. The overwhelming generosity and rapid influx of cash donations likely contributed to the ability of VOLAGS and other groups to provide higher levels of assistance. Since so many VOLAGS, ad hoc organizations, and other entities not traditionally in the sequence of delivery were distributing assistance, it was difficult to collect accurate information necessary to understand the scope of assistance being provided.

FEMA, attempting to bring order to the chaos created by the multitude of voluntary organizations, and developed a matrix of various government and non-government entities. At one point, this matrix included over 100 organizations and was used to identify their contributions to disaster recovery efforts and the types of assistance provided. FEMA validated the information and became familiar with the kinds of assistance being offered so that staff could make informed referrals. In spite of these efforts, FEMA was not able to ensure that all voluntary agencies were coordinated appropriately to ensure that benefits are not duplicated among disaster programs, insurance benefits, and/or any other types of disaster assistance.

Historically, FEMA has not considered the assistance of voluntary agencies to be duplicative under normal disaster conditions. In response to this event, however, VOLAGS far exceeded their traditional role in the provision of assistance. FEMA, to ensure timely assistance to victims, decided to activate its own IA program and to treat VOLAG and other non-governmental assistance as non-duplicative as it related to the events of September 11, 2001. Had FEMA expended the resources necessary to fully identify and quantify such assistance after September 11, 2001, the timely provision of urgently needed assistance would have been delayed. FEMA acknowledges, however, that some people may have received assistance for similar losses from more than one source.

Regardless of FEMA's decision to not identify and quantify voluntary agency assistance on a case-by-case basis, the potential that duplication occurred does exist although the nature and amount of duplication remain unknown. FEMA needs to be better able to anticipate the proactive role non-governmental organizations will play in disaster recovery operations and attempt to coordinate relationships with those organizations through protocols such as Memorandums of Understanding to alleviate the potential for duplicating benefits. The General Accounting Office (GAO) has also emphasized the need to improve coordination among charities and between charities and FEMA.[3]

UNMET NEEDS

Several gaps in authorizations appear to exist for FEMA and other Federal agencies to address recovery needs of certain individuals and businesses. The OIG believes these gaps may be of concern in future disasters.

Federal Public Benefit Classification Limits IA Eligibility

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires that Federal public benefits be provided only to United States citizens, non-citizen nationals, and qualified aliens. Under Title IV, the following FEMA IA programs authorized by the Stafford Act are considered Federal public benefits: Temporary Housing Assistance; Unemployment Assistance; Individual and Family Grants Programs; and Food Coupons and Distribution.

Temporary Housing Assistance and the IFG program have been repealed and combined into one grant program, the Individuals and Households Program, under DMA 2000. This new program falls under the Federal public benefit standard.

The recipient limitations imposed by the Federal public benefit standard do not apply to some types of post-disaster assistance. Any victim may receive short-term, non-cash, in-kind emergency disaster relief, including emergency medical care, emergency mass care, emergency shelter, and other assistance provided by VOLAGS. Other recovery tasks also must occur without regard to limitations. These include clearing roads; constructing temporary bridges needed to perform emergency repairs and deliver essential community services; warning of further risk or hazards; disseminating public information; assisting victims with health and safety measures; providing food, water, medicine, and other essential goods; transporting supplies or persons; and otherwise reducing immediate threats to life, property, and public health and safety.

The September 11, 2001, disaster affected victims who are not United States citizens, non-citizen nationals, or qualified aliens but who were lawful residents of the United States under a valid immigration category or classification. Because these residents are not granted an alien status that would allow them to receive a Federal public benefit, they were ineligible for assistance under the IA program. For example, individuals who possess an un-expired Employment Authorization Card, which permits lawful employment in the United States, are precluded from Federal public benefit assistance. One immigration advocacy group estimates that as many as 80,000 lawfully present individuals in New York are not qualified for Federal disaster assistance beyond the short-term emergency relief.[4]

FEMA should consider pursuing legislative changes that would exempt FEMA's IA programs from the Federal public benefit classification when victims needing IA are lawfully present in the United States at the time of the applicable disaster but may not have the qualified alien status required by Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

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[3] GAO draft report, "More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disaster," December 2002.

[4] The New York Immigration Coalition, "Recommendation to improve FEMA's Mortgage and Rental Assistance Program," June 23, 2002.

FEMA Assistance for Non-Critical Private Non-Profit Service Organizations is Limited

To be eligible for FEMA grant assistance, a Private Non-Profit (PNP) organization must fall within the Stafford Act's definition of a PNP that provides an essential service of a governmental nature. This was true prior to DMA 2000 and DMA 2000 did not change the definition of an eligible PNP applicant. However, with DMA 2000, Congress created a two-tiered system of reimbursement for FEMA-eligible PNP's. For eligible PNP facilities that provide "critical services," FEMA may provide assistance for eligible work just as it did prior to DMA 2000. For eligible non-critical PNP facilities, DMA 2000 now requires the PNP to first apply to SBA. FEMA can then provide the PNP assistance if the PNP does not qualify for an SBA loan or if it obtains one in the maximum amount for which it is eligible.

The intent of Congress to limit grant assistance to "critical" PNP organizations without applying first for a loan, is unambiguous. Even the discretion given to the President to add to the list of "critical" PNP services is limited to a few emergency-related activities. The attacks of September 11, 2001, enabled the first significant test of this new approach to funding PNPs, and the reactions were predictable. PNPs that lost immediate access to grants as a result of DMA 2000 Colleges, Universities, and various providers of social services understandably questioned the equity of the new law. While these changes were under consideration by Congress, concern surfaced that dividing PNP services into "critical" and "non-critical" categories would be perceived as inequitable and would, in fact, affect the relatively smaller and less well financially endowed organizations more substantially than larger organizations that enjoyed better, ongoing access to other forms of revenue.

On December 12, 2002, FEMA implemented a new policy, based on the President's announcement to strengthen the Administration's compassion agenda by making it easier for America's faith-based and community groups to work with the Federal Government. FEMA's new policy extends assistance to eligible and necessary faith-based organizations by broadening the eligibility of certain non-profit organizations to receive Federal disaster assistance. This policy recognizes the statutory eligibility of PNP organizations that provide necessary and vital functions to local communities and is retroactive to January 20, 2001.

Congress may wish to reconsider this "critical" and "non-critical" PNP approach and either require all PNPs to apply first for an SBA loan, which would achieve greater cost-savings, or require no PNPs to apply for loans before qualifying for FEMA grants, which would level the playing field but increase the amount of Federal grant assistance.

LEGISLATIVE ISSUES

Congress may wish to consider legislation to either reinstate the MRA program or develop a comparable program. Congress also might wish to consider whether FEMA or another Federal agency should administer grants to small businesses that have been adversely affected by a disaster.

MRA is Eliminated by the Disaster Mitigation Act of 2000

DMA 2000 amendments to the Stafford Act repealed the MRA program as a component of FEMA's Temporary Housing Assistance for disasters declared on or after May 1, 2002. FEMA received an extension from Congress and has made this effective for all disasters declared on or after October 15, 2002. DMA 2000 also establishes a $25,000 cap on the Individuals and Households Program. These new limitations raise serious issues for addressing economic losses and financial hardships suffered by victims of events similar to this one. Congressional consideration may be warranted to better position FEMA to address economic issues in future acts of terrorism.

Grants to Small Businesses Were Made on an Ad Hoc Basis

In its November 2002 report, *September 11, Small Business Assistance Provided in Lower Manhattan in Response to the Terrorist Attacks,* GAO documented assistance made available under various grant and loan programs to both public and private entities. GAO reported, "The September 11, 2001 terrorist attacks on the World Trade Center had a substantially negative impact on the New York City economy, strongly affecting businesses, both large and small, and as disparate as financial services firms, travel agencies, and retail stores. Some businesses were destroyed, some displaced, and still others could not operate because of street closures and the lack of utilities. Many businesses still face a diminished client base and uncertainty about the future redevelopment of the World Trade Center site." There is, however, presently no on-going Federal program that provides grant support to businesses ad-

versely affected by disasters, except in the instance of special legislation targeted to an event.

FEMA is prohibited by the Stafford Act from providing disaster assistance to businesses of any size. The Stafford Act provides funding, principally in the form of grants, to individuals, state and local governments, and certain private, non-profit organizations adversely affected by a disaster. SBA is authorized to provide loans, not grants, to businesses adversely affected by a disaster. SBA is administratively prohibited, however, from making loans to businesses that do not meet specific and generally established eligibility criteria. SBA was unable, for example, to make loans to businesses that did not meet the agency's size standards or financial qualifications.

SBA's limited ability to assist businesses financially after the September 11, 2001, event was recognized early in the response phase. FEMA, under special legislation, was already involved in compensating businesses adversely affected by the May 2000 Cerro Grande fire in northern New Mexico. Some Members of Congress introduced legislation specific to the September 11, 2001, events that would allow FEMA to initiate a similar program in Lower Manhattan.[5] The bill would have authorized FEMA to compensate businesses in an amount generally not to exceed $500,000 for specified business losses. A companion bill was introduced in the House of Representatives. Neither bill, however, was enacted.

Alternatively, Congress enacted the Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act of 2002, a provision of which allowed the State of New York to use Community Development Block Grant (CDBG) funds administered by the U.S. Department of Housing and Urban Development (HUD) to make Business Recovery Grants. GAO noted that the Business Recovery Grants covered, in total, about 17 percent of business losses that were not covered by insurance and New York City and State grants. GAO further reported that the Empire State Development Corporation, which is administering the Business Recovery Grant program, planned to increase payments to some businesses and thereby reduce the amount of their uncompensated economic losses.

Congress may wish to consider whether the Federal Government should be the insurer of last resort for all or part of disaster-related business losses. Such a policy decision would eliminate the need to respond on an ad hoc basis after each terrorist attack that results in a Presidential disaster declaration. Factors that should be considered are whether the lack of such assistance in recovering from difficulties related to terrorist incidents could increase other Federal response costs, such as DUA and MRA; and the respective roles of FEMA, SBA, and HUD in administering financial assistance to small businesses.

TRANSITIONING INTO DHS

As Undersecretary Brown noted in his testimony, FEMA has not missed a step in responding to disasters since becoming a part of DHS. In May of this year, we sent a team of auditors to monitor FEMA's response and recovery efforts to a series of major tornadoes in Missouri. The caliber and effectiveness of FEMA's response was the same high standard we have seen in the past.

In addition, the consolidation of first responder organizations within DHS offers opportunities for a better coordinated, more responsive, disaster response and recovery capability. In particular, the addition of Department of Health and Human Services programs to DHS and the creation of a National Incident Management System and a National Response Plan should add to that capability. The OIG plans to review those areas in the near future. However, the OIG has also transitioned into DHS, and our ability to provide oversight has been diluted due to the many non-FEMA priorities and demands being placed on our limited staff.

Notwithstanding the continued success of FEMA's response and recovery efforts, there are still shortcomings in FEMA operations (see Attachment 2). Although we have not witnessed any changes in services, FEMA has many problems that need to be addressed and its ability to effectively address them is compounded by its merger into DHS. Areas of particular concern as FEMA transitions into DHS include FEMA's financial management, the security of FEMA's information technology (IT) systems, and grant management. Deficiencies in these areas could most certainly hamper the effective and efficient integration of FEMA programs and operations into DHS.

[5] Cerro Grande Fire Assistance Act, Division C. It should be noted that FEMA received substantial assistance from SBA in implementing the compensation program for businesses.

Regarding financial management, the OIG identified six material weaknesses in fiscal year 2002 related to FEMA's financial statement audit. For example, FEMA's financial system functionality and financial reporting process both need significant improvement. This problem is exacerbated by other DHS components having similar problems.

Regarding IT security, The Office of Management and Budget scored FEMA's e-gov status as unsatisfactory, and FEMA did not receive a passing grade for computer security from the House Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations. FEMA is aware of its problems in IT management and is working to address the weaknesses.

Regarding grants management, FEMA has had longstanding problems, although it has made improvements and worked to develop a viable grants management program. Previous FEMA OIG reports have identified significant shortcomings in the pre-award process, cash management, monitoring, and grant closeout processes. This in turn has allowed grant recipients to misuse millions of dollars in Federal funds each year.

In addition, although numerous grant programs are now consolidated within DHS, their management is divided among various components within the Department. Preparedness for terrorism is in the Border and Transportation Security directorate, while other preparedness efforts are in the Emergency Preparedness and Response directorate. This bifurcation will create additional challenges related to inter-departmental coordination, performance accountability, and fiscal accountability. Furthermore, program managers have yet to develop meaningful performance measures necessary to determine whether the grant programs being absorbed by DHS have actually enhanced state and local capabilities to respond to terrorist attacks and natural disasters. The OIG addressed these concerns in the early days of the Department's creation (see Attachment 3). It is our understanding that this problem is now being addressed legislatively. Further, Secretary Ridge recently announced plans to centralize these programs within a single office of the Department.

In summary, although FEMA has made progress in many areas, additional improvement is needed, and the remaining problems will make an effective transition into DHS more difficult.

CONCLUSION

This concludes my written statement. Again, I appreciate the opportunity to testify before you today. I would be happy to answer any questions that you may have.

ATTACHMENT 1.—FINANCIAL STATUS OF INDIVIDUAL ASSISTANCE PROGRAM AS OF NOVEMBER 1, 2002

Temporary Housing Assistance: Mortgage and Rental Assistance—$76,275,000; Minimal Home Repair—$1,450,000; Transient Accommodations—$1,225,000; Rental Assistance—$26,150,000.

Individual and Family Grants: $25,400,000.

Crisis Counseling Assistance and Training Program: $162,400,000*.

Unemployment Assistance: $13,200,000.

Legal Services: $2,000.

Total FEMA Individual Assistance for New York: $306,102,000.

ATTACHMENT 2.—FEDERAL EMERGENCY MANAGEMENT AGENCY, OFFICE OF INSPECTOR GENERAL, WASHINGTON, DC.

December 31, 2002

Memorandum for: Joe M. Allbaugh (Director Signed)

From: Richard L. Skinner, Acting Inspector General

Subject: Management Challenges

The Office of Inspector General has identified the most serious management and performance challenges we believe FEMA is facing and the progress FEMA is making in addressing those challenges. We are required to provide this statement to you under the Reports Consolidation Act of 2000. This statement is to be included in the consolidated report described by the Act.

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*Approved funding includes New Jersey, Connecticut, Massachusetts, and Pennsylvania.

We believe, based on our work and our general knowledge of FEMA operations and programs, that FEMA must continue to focus attention on the following management and program initiatives to ensure public accountability and improve program effectiveness. Although FEMA managers acknowledge most of these issues and are addressing them to varying degrees, much work is left to be done to ensure that business is conducted economically and efficiently, and that appropriate program results are achieved.

PROGRAM CHALLENGES

Homeland Security Transition.—The President established the Department of Homeland Security on November 25, 2002. The mission of the Department is to develop, coordinate, and implement a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Department is responsible for coordinating efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. FEMA will transfer into the Department on March 1, 2003, as part of the Emergency Preparedness and Response Directorate. FEMA will continue to lead and support the Nation in responding to and recovering from any destructive event, whether natural or man-made. FEMA will also continue its preparedness and mitigation programs for non-terrorist-related disasters. These programs will be coordinated with similar programs from the components of the Departments of Health and Human Services and Energy that are also transferring into the Emergency Preparedness and Response Directorate. FEMA will cooperate closely with the new Office for Domestic Preparedness in preparing for and mitigating terrorist activities. The challenges facing FEMA are many. There are concerns of FEMA losing its identity as an agency that is quick to respond to all hazards and disasters. Members of Congress and the general public have expressed concern that FEMA's disaster response and recovery and mitigation missions will be diluted as it is absorbed into a much larger organization and that funding issues will limit FEMA's ability to respond to disasters as it has in the past. Further, the integration of FEMA's many management and financial information systems with those of other entities that will be brought into the Department will be a daunting task. This is of particular concern because of problems plaguing FEMA's systems lack of integration, security issues, and non-compliance with the Federal Financial Management Integrity Act. There are also concerns relating to the workforce—FEMA's most important asset. As with all entities being transferred to the Department, employees are concerned about their role and how the transfer will affect their job. FEMA is well aware of these issues and is addressing them as they arise through active communication with staff. FEMA's experience in coordinating the Federal Response Plan will contribute to the success of the Department's transition and integration efforts.

Disaster Response and Recovery.—FEMA's largest spending category is disaster relief. According to the President's fiscal year 2003 budget proposal, $3.5 billion was obligated in that category in fiscal year 2001 and due largely to the World Trade Center attack, $8.7 billion was estimated to be obligated in fiscal year 2002. Managing disaster response and recovery continues to be one of FEMA's largest challenges. FEMA faces difficulties establishing disaster declaration criteria, reducing disaster response and recovery costs, managing its disaster workforce, ensuring the integrity of its many financial assistance programs, and improving program services. FEMA has begun to address all of these problems. FEMA recently centralized deployment of the Disaster Assistance Employee cadre, for example, to improve the efficiency of disaster staffing; but much remains to be done.

Recent amendments to the Stafford Act increased FEMA's challenges in managing disaster recovery. The amendments change estimating and payment procedures under the Public Assistance Grant Program, FEMA's largest grant program. Disaster grant applicants will be paid based on damage estimates rather than actual damage repair costs. FEMA tested a similar approach, called the Grant Acceleration Program, after the Northridge Earthquake in Southern California. The test results reflected inflated estimates, extreme overpayments, and ineligible work performed at taxpayer expense. Finding solutions to these problems and instituting other changes required by the amendments, such as establishing fixed management cost rates for grantees and subgrantees, will confront managers of FEMA's disaster assistance grants in fiscal year 2003.

Managing disaster response is a major challenge, particularly when the Federal Response Plan is activated and FEMA must coordinate the activities of dozens of Federal, State, and local organizations. FEMA also manages its own response assets to increase its ability to respond quickly, and its disaster response capabilities have improved substantially in recent years. Less than 3 hours after the World Trade

Center attack the first Urban Search and Rescue Teams were at the site. FEMA also has warehouses around and outside the country in which commodities and equipment are stocked to support disaster field offices. Commodities such as water, meals, generators, tents and blankets—that victims need immediately after a disaster—also are stocked at the warehouses. These facilities contain thousands of items valued at more than $40 million. Maintaining the warehouses, accounting for property, and the logistics of deploying, recovering, and refurbishing reusable items are continuing challenges for FEMA.

State and Local Preparedness.—The Director announced in November 2002 that FEMA will provide $225 million in grants to help State and local responders and emergency managers to become better prepared to respond to acts of terrorism and other emergencies and disasters. The funds are available through the fiscal year 2002 supplemental appropriation, a part of President Bush's First Responder Initiative. The funds will serve as down payments on resources for States and local communities to modernize plans and strengthen their preparedness for disasters of all kinds. The funds will flow through the States, with at least 75 percent going to local governments.

Roughly $100 million of the $225 million in supplemental funds will be used for updating plans and procedures to respond to all hazards, with a focus on weapons of mass destruction. Updated plans will address a common incident command system, mutual aid agreements, resource typing and standards, interoperability protocols, critical infrastructure protection, and continuity of operations for State and local governments. FEMA intends that the comprehensive plans will be linked through mutual aid agreements and that they will outline the specific roles of all first responders (fire service, law enforcement, emergency medical services, public works, etc.) to terrorist incidents and other disasters.

FEMA also will provide $56 million in 2002 supplemental funds to upgrade State emergency operations centers. States and territories will receive a base allocation but must submit grant proposals for additional funding. A total of $25 million is available for Citizen Corps activities, including Citizen Corps Councils, and expanded training for FEMA's Community Emergency Response Teams (CERTs) across the country. Other fiscal year 2002 supplemental fund allocations will include $7 million for secure communications, $5 million to begin laying the groundwork for a national mutual aid system, and $32.4 million for weapons-of-mass-destruction training for FEMA's urban search and rescue task forces.

Although funds have been set aside to address State and local preparedness issues, FEMA still faces the following challenges:

- Building and sustaining a national preparedness and response capability; and
- Coordinating national terrorism preparedness programs.

FEMA must continue to place a high priority on developing State and local capabilities to respond to acts of terrorism as well as natural disasters. FEMA must develop State and local capacity to respond to and manage small- to medium-sized disasters, particularly fairly predictable ones such as repeated flooding in flood-prone areas.

FEMA also must continue expanding the development of the National Hazard Loss Estimation Methodology for all hazards. Models for estimating potential losses from hurricane wind and riverine flooding are to be introduced in February 2003, but additional development is required with regard to thunderstorms, tornadoes, tropical cyclones, hail, and coastal flooding. The mounting dollar losses cannot be adequately addressed by a fragmented approach to natural hazards. Instead, estimated losses for other hazards are needed to support FEMA's risk-based approach to mitigation and emergency preparedness, and for comprehensive mitigation programs by local communities.

The increased threat of acts of terrorism spurred by the attacks of September 11, 2001, also indicates a need for FEMA to consider developing a terrorism-response methodology. Those attacks highlighted the need to fully equip and train fire departments so they will be better prepared to respond to terrorist events. FEMA is addressing this matter through the U.S. Fire Administration's (USFA) Assistance to Firefighters Grant Program (AFGP). FEMA and USFA also had awarded more than $170 million to 2,756 fire departments throughout the United States at the end of fiscal year 2002 under the AFGP. An additional $190 million is predicted to be awarded in the first quarter of fiscal year 2003. To date, nearly 5,500 fire stations have received funds for training or equipment upgrades and purchases since the inception of this program. It is likely that this program will continue indefinitely and probable that the amount of grant funds will be increased. It is imperative, therefore, that FEMA administer the program effectively and efficiently to ensure that funds are directed to those most in need and those most likely to be required to respond to a terrorist attack or natural disaster.

Mitigation Programs.—The President's fiscal year 2003 budget proposal includes $300 million under the National Pre-Disaster Mitigation Fund to initiate a competitive grant program for pre-disaster mitigation. FEMA is preparing to implement the program, which would replace the current formula-based Hazard Mitigation Grant Program, if enacted by Congress. FEMA is challenged with designing a program that ensures fair evaluation of all applicants and their proposed mitigation projects. Eligible activities include: risk assessments; State and local planning; the reinforcement of structures against seismic, wind, and other hazards; elevation, acquisition, or relocation of flood-prone structures; and minor flood-control or drainage-management projects. Program success will depend on the quality and effectiveness of FEMA's evaluation process and criteria. FEMA is taking into account stakeholder input to create the new program. Considerable work remains to be done, specifically the development of eligibility and evaluation criteria.

The OIG issued a report, "Status of Funds Awarded under the Hazard Mitigation Grant Program and Other Project Management Issues," in July 2001. In response, FEMA is strengthening its management of the HMGP by monitoring unliquidated obligations and deobligating unspent funds. The agency also is planning to publish new regulations that will address problems cited in our report, such as co-mingling of funds, the quality of applicant progress reports, and inadequate project timeframes. Challenges remain for FEMA to ensure that States and local governments are making the best use of Federal funds and carrying out their mitigation projects timely and in accordance with grant agreements.

Multi-Hazard Flood-Map Modernization.—Flooding stands out as the single most pervasive hazard facing the Nation, causing an estimated $6 billion in property damage annually. Much of the recovery spending could be avoided by efficient, upfront planning using accurate, up-to-date flood maps. Before flood maps can be used effectively, however, they must reflect current hydrological conditions. An aggressive program to update, modernize, and maintain the inventory of flood maps is essential.

Multi-hazard flood-map modernization, a Presidential initiative, is based on the need for FEMA to update its aging inventory of flood maps in such a way that they can accommodate other hazards. A recent assessment revealed that 67 percent of FEMA's flood maps are more than 10 years old and that the average age of a FEMA flood map is 14.1 years. Many of these maps do not reflect past development and, as a result, do not show changes in flood hazards. Reliance on these outdated flood maps in making decisions about new development harms commercial and residential property owners and the taxpayers who ultimately pay for flood damages. Accurate and useable flood maps are the foundation of good local planning and natural-disaster mitigation. New and updated flood maps will enable lenders, insurance agents, and many others to make critical decisions on where to build, where and when insurance is required, and what is an appropriate insurance premium.

FEMA is seeking $300 million in new discretionary appropriations in the President's budget for fiscal year 2003 for the multi-hazard flood-map modernization program. FEMA is also seeking roughly $300 million per year in its fiscal year 2004 and 2005 budgets. Approximately $1 billion may be spent over the next three fiscal years. With more than 19,000 communities in the National Flood Insurance Program (NFIP), FEMA faces a daunting challenge in setting priorities for areas to be mapped, keeping maps current, and creating new maps for participating, unmapped communities.

Another significant challenge for FEMA is effective collaboration with States and local entities through the Cooperating Technical Partners (CTP) Program. The CTP program gives States and local entities the opportunity to interject a tailored, local focus into the national map-modernization program. The partnership mechanism also provides for pooling resources, extending the productivity of public funds, and sharing successes among partners. FEMA must also continue to seek input from the Map Modernization Coalition, members of which are substantial users of flood maps.

National Flood Insurance Program.—The NFIP continues to be the largest single-line property insurer in the Nation with coverage in excess of $580 billion. Aside from the fiscal enormity of this program, FEMA faces an array of formidable management challenges that include:

- Increasing numbers of repetitively flooded structures that are subsidized by the NFIP,
- Continued development and uninsured property in special flood-hazard areas,
- Insufficient funds to mitigate repetitive-loss properties, and
- Lack of exposure to mitigation opportunities.

Subsidized and low-cost flood insurance, available to residents of NFIP-participating communities, helps to manage the risk of financial loss due to flooding. Much

more of the risk could be alleviated if homeowners would take responsibility for mitigation on their own property. Many property owners, however, fail to do so because (1) of the availability of subsidized insurance, premiums for which are typically a fraction of those for full risk-based policies; and (2) they know that, if flooded, their property will be repaired or rebuilt without penalty. Continuing to subsidize NFIP premiums fails to encourage owners of flood-prone real estate to move out of high-risk areas. This is no small problem, as the NFIP pays claims from floods in the same high-risk areas again and again, yet the policyholders are not required to pay risk-based premiums or to mitigate repetitive risks. This situation undermines the financial stability of the insurance program. On the other hand, if FEMA charged actuarially sound rates, owners could cancel their policies, pay nothing to the government, and rely on Federal disaster assistance after a flood, placing the recovery burden back on the American taxpayer.

Mitigation is rarely a priority of property owners before a disaster occurs but owners typically rush to have their property restored to its pre-disaster condition after an event. One of FEMA's main objectives in the response and recovery period is to get assistance to flood victims quickly so they can rebuild and get their lives back to normal. The opportunity to encourage mitigation at this time is usually lost. FEMA must improve its outreach programs.

About 7 million structures are estimated to be located in special flood-hazard areas. Less than 35 percent are covered by flood insurance. FEMA needs to maintain a sustained campaign to provide insurance coverage for the millions of uninsured properties still at-risk.

FEMA believes that most communities participating in the NFIP have effective floodplain-management programs and that new construction is in accordance with the minimum requirements of the NFIP. FEMA officials told us that communities participating in the Community Rating System are closely monitored and subject to periodic inspections.

The OIG issued reports in 2002 that discussed most of the issues noted thus far, and FEMA is addressing them or planning to do so. Solutions to these matters, however, will not prevent FEMA's need to address the following difficult future challenges:

- Effective enforcement of compliance with floodplain management criteria as a condition for maintaining NFIP eligibility,
- Effective monitoring of enforcement of mandatory flood insurance purchase requirements for property owners,
- Effective and reliable performance measurement criteria and information systems used to assess accomplishment of insurance goals and objectives, and
- Appropriate Community Rating System insurance premium discounts based on conditions in and mitigation actions taken by a community.

Public Building Insurance.—The Stafford Act requires State and local governments, as a condition of receiving Federal assistance, to obtain and maintain insurance coverage on insurable facilities for the life of the facilities. FEMA reviews insurance coverage during the project approval process to ensure that applicants satisfy the requirements.

We noted in a January 2001 OIG report that neither FEMA nor the States consistently maintain sufficient information to support their conclusions about applicants' insurance status. At the time the report was issued, only 39 percent of the project files in our sample contained acceptable evidence of insurance. In fact, insurance was not maintained in 34 percent of projects reviewed. We also determined that insurance reviews are not always timely or complete, and neither FEMA nor the States regularly monitors public entities that have received previous assistance to ensure that they are maintaining the required insurance. Keeping abreast of insurance status presents a significant challenge for FEMA.

Determining what constitutes the required "insurance" is another key issue confronting FEMA. The amount of assistance a public entity may receive depends on FEMA's definition of insurance. Several public entities seeking disaster assistance recently challenged successfully FEMA's interpretations that various reserve or contingency funds did not constitute "insurance." As a result, a higher percentage of the repair, restoration, or replacement costs of their damaged facilities became eligible for reimbursement by FEMA. FEMA faces significant hurdles in addressing the issues of (1) the absence in current regulations of an adequate definition of "insurance," and (2) incentives for entities to purchase insurance.

Underinsured applicants and regular monitoring of the insurance status of public entities also present challenges. Some FEMA applicants purchase less insurance than required or may reduce coverage after an insurance review. The fact of underinsurance may not be known for long periods to FEMA and/or States because they

do not regularly monitor public entities to ensure the maintenance of insurance on public buildings.

MANAGEMENT CHALLENGES

Information Technology Management.—FEMA is heavily dependent on information technology (IT) to accomplish its mission. The agency relies on technology for performing tasks ranging from emergency communications to remote data entry to automated processing of disaster assistance. Because of IT's importance, the agency must maintain secure systems that help to ensure the integrity, confidentiality, and availability of information FEMA needs to do its job. IT can be expensive and complex, however, so FEMA needs to have in place good capital planning and investment control procedures for managing IT projects. The e-gov initiative under the President's Management Agenda encompasses these challenges. Although the Office of Management and Budget (OMB) scored FEMA's e-gov status as unsatisfactory, it also indicated that improvements are underway.

FEMA made progress during fiscal year 2002 toward improving information security, primarily through establishing the Office of Cyber Security, designing an information security program plan, and developing a security certification and accreditation methodology. Much more work lies ahead. Like many other Federal agencies, FEMA did not receive a passing grade for computer security from the House Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations. FEMA has struggled to ensure that the agency's information security plan is practiced throughout the agency and applied to individual systems. As of the end of fiscal year 2002, however, no systems had received formal authorization, required by OMB, to process information, although FEMA's planned security certification and accreditation methodology will facilitate the approval process. FEMA is struggling to build security into its system business plans, also required by OMB. FEMA must begin to assess the system security controls in place at critical service-provider points.

FEMA management has acknowledged weaknesses in IT capital planning and investment controls. Improving procedures in these areas were key initiatives of the reorganization of FEMA's IT Services Directorate in fiscal year 2002. Improvement efforts have just begun. In a recent audit report, we recommended that FEMA consistently prepare current benefit-cost and alternative analyses, identify and maintain a current inventory of systems, provide more effective oversight of IT projects, conduct post-implementation system reviews to identify "lessons learned," and complete an Information Resources Management Strategic Plan and IT Capital Plan as required by OMB.

FEMA is working to address the weaknesses in IT management, security, and other areas. OMB's most recent scorecard rates other challenges that FEMA faces, including integrating itself smoothly into the new Department of Homeland Security, implementing its e-government agenda, managing its systems effectively in a rapidly changing IT environment, and meeting its human capital needs.

Financial Management.—FEMA continues to face significant financial management challenges but, over the past year, has been working very hard to overcome them. FEMA developed a detailed remediation plan, for example, that it uses regularly to monitor progress in addressing weaknesses we identified in the financial audit of fiscal year 2001. Although FEMA has not been able to achieve all of its goals, it has been making progress. FEMA still needs more time and resources and a continued commitment by management to achieve an appropriate level of financial management.

Major factors motivating to FEMA's progress were the qualification of the auditors' opinion on FEMA's fiscal year 2001 financial statements, and the auditors' identification of six material internal control weaknesses. Although the qualified opinion was disappointing, it helped to focus management's attention on long-standing problems. We had noted in previous audit reports that FEMA's financial reporting process was unstable and, in fiscal year 2001, after 3 years of unqualified opinions, the auditors could no longer attest to the accuracy of all balances presented in the statements. Specifically, the auditors could not verify (1) the reported obligations incurred and unobligated balances (because of an unsupported $77 million reduction to unliquidated obligations), or (2) the reported equipment balance.

The six material internal weaknesses described in our audit report, on which FEMA's remediation plan is based, related to information system security, real and personal property, financial system functionality, financial statement reporting, account reconciliation, and accounts receivable.

• *Information System Security.*—FEMA has been able to address some of its more critical system security problems but other weaknesses remain. We again found

vulnerabilities in FEMA's internal network environment during our audit of fiscal year 2002 financial statements. FEMA's core financial system, the Integrated Financial Management Information System (IFMIS), still needs a back-up administrator, a contingency plan, policies and procedures for audit trail reviews, and a review of user access rights (currently underway). Although these issues have not been entirely addressed, FEMA has reported progress.

• *Real and Personal Property Accounting.*—FEMA simply does not have a property management system that supports property accounting requirements. A system acquisition moratorium due to FEMA's move to the new Department of Homeland Security has prevented FEMA from acquiring an acceptable system. As a result, FEMA has had to rely on inefficient, difficult, manually based processes to account for its property in fiscal year 2002.

• *Financial System Functionality.*—FEMA recently upgraded IFMIS and expects significant improvements in financial statement preparation and intragovernmental reconciliations, although the upgrade remains to be tested as part of the fiscal year 2002 financial statement audit. FEMA reports that it is working on vendor files and specific system-interface issues, although the interface issues are sometimes dependent on external business partners. FEMA also does not have a cost-accounting system that would allow FEMA managers to more effectively link performance measures and budget execution.

• *Financial Statement Reporting.*—FEMA has made progress in financial reporting by developing standard operating procedures for the preparation of financial statements. FEMA historically has not had routine procedures to guide production of the financial statements that link to other policies, procedures, and internal controls. Statements typically were prepared late in the audit process and required several revisions. We will test during the fiscal year 2002 financial statement audit whether the process has improved.

• *Account Reconciliation and Accounts Receivable.*—FEMA continued to have problems during the year with timely reconciliation of many accounts and has obtained assistance from a contractor. FEMA has also made improvements in accounts receivable.

Grants Management.—FEMA awards billions of dollars in grants each year to State and local governments and may become responsible for additional grants under the Department of Homeland Security. FEMA grants are used for a myriad of State and local preparedness, mitigation, and response and recovery projects. Although grant funds are spent at the State or local level, it is ultimately FEMA's responsibility to ensure that these funds are spent in accordance with Federal laws and regulations. To do this, FEMA must have an effective grants management system that fulfills both its program and fiduciary responsibilities and, particularly important, satisfies Government Performance and Results Act (GPRA) requirements. Not only must FEMA adhere to the procedural and compliance aspects of grants management, it must also focus on what grantees actually accomplish using FEMA grant funds. To demonstrate its own program efficiency and effectiveness, FEMA must require grantees to do the same.

FEMA's grants management system, prior to fiscal year 1998, did not ensure that grantees met programmatic and fiduciary responsibilities. We documented waste and mismanagement at grantee and subgrantee agencies throughout the country that resulted in the misuse of millions of dollars in Federal funds. FEMA acknowledged that major improvements were needed in its grants management system and began several initiatives to correct long-standing problems. FEMA created a Grants Management Office, issued improved policy guidance and standardized procedures, implemented training and credentialing for grant managers, and formed grant closeout teams to facilitate the timely closeout of grants and to provide technical assistance to regional office personnel in their closeout efforts.

Significant problems still need to be addressed. Our audits of States' management of FEMA disaster grants found an alarming number of recurring problems. For example, States often do not (1) monitor and accurately report on subgrantee performance and financial activities, (2) make payments or close out projects in a timely manner, (3) file accurate or timely financial status reports with FEMA, and (4) maintain adequate documentation to support their share of disaster costs and other financial transactions. These problems indicate that FEMA needs to continue to take the initiative to provide technical assistance and guidance to States to ensure that they have reliable disaster grants management systems to safeguard FEMA funds.

Improvements in FEMA's grants management system also will require resolution of issues of staffing and automation. FEMA must persist in efforts to ensure that implementation of its recent initiatives does not lose momentum when the next catastrophic disaster strikes and staff resources are stretched. FEMA recently began

to develop an agency-wide Strategic and Tactical Plan for coordinating the automation of its grant programs to comply with OMB's E-Grants initiative. FEMA plans to automate many processes by creating a comprehensive grants management system. Successful implementation, however, will require resources and will ultimately depend on top management's continued support of the system's development.

Property Management.—FEMA does not have a property management system that supports property accounting requirements. FEMA's primary property management system is the Logistics Information Management System (LIMS), that is used to track the location of personal property. LIMS cannot perform accounting functions and it cannot provide reliable accounting information, such as property values and acquisition dates. These deficiencies have required FEMA to conduct labor-intensive inventories and use manual procedures to support personal property accounting balances. FEMA also lacks an automated system to support accounting for real property and deferred maintenance. FEMA recognizes these problems but the systems moratorium during the transition to the new Department of Homeland Security has prevented FEMA from acquiring an acceptable system. Instead, FEMA is articulating requirements and options for an Enterprise Resource Planning (ERP) system that would support FEMA's property accounting and management needs.

Human Capital Management.—FEMA's most valuable asset is its human capital. Maximizing the value of that asset and increasing organizational performance are significant challenges for FEMA. How FEMA acquires, develops, and deploys its human capital will determine how effectively its mission will be accomplished.

Through its strategic planning process, FEMA is developing a 5-year, comprehensive, enterprise-wide human capital strategy that can be integrated with FEMA's mission, goals, operational requirements, and financial resources. The strategy will include workforce planning and initiatives to address imbalances between staff talents and skills and agency needs. It will address the anticipated surge of voluntary retirements over the next 3 to 5 years (FEMA estimates that 70 percent of its workforce is from 40- to 59-years old) and the attrition factors that normally affect the stability of the workforce. FEMA also analyzed its workforce for OMB. The results will support decisions about future management reform, budget planning, and performance goals. According to the GAO, FEMA's fiscal year 2003 performance plan does not contain performance measures that quantify progress toward achieving human capital-related goals.

The President has determined that nearly half of all Federal employees perform tasks that are readily available in the commercial marketplace, and that those tasks should be subject to competition. Public-private competition will generate savings and improve performance governmentwide. In fiscal year 2003, agencies will conduct public-private or direct conversion competitions involving 10 percent of the FTE listed on their Federal Activities Inventory Reform Act inventories above the number needed to meet fiscal year 2002 competition goals. The sweeping personnel changes accompanying FEMA's entry into the Department of Homeland Security will increase the challenges associated with this increase and with the overall management of FEMA's human capital.

ATTACHMENT 3.—DEPARTMENT OF HOMELAND SECURITY, OFFICE OF INSPECTOR GENERAL, WASHINGTON, DC

February 14, 2003

Memorandum for: The Secretary, The Deputy Secretary (Signed)

From: Clark Kent Ervin, Acting Inspector General

Subject: Controls Over Procurements and Grants

Two areas that DHS needs to get control of early to minimize waste and abuse are the procurement and grant (Federal assistance) management functions. Getting the right leadership and systems in place for both functions should be made a high priority. To assist the department in this regard, and per your request, I asked my audit staff to identify some specific controls and other issues that need to be addressed right away, as follows.

PROCUREMENT MANAGEMENT

DHS will be integrating the procurement functions of many constituent programs and missions, some lacking important management controls. For example, as reported by GAO, Customs has not begun to establish process controls for determining whether acquired software products and services satisfy contract requirements before acceptance, nor to establish related controls for effective and efficient transfer

of acquired software products to the support organization responsible for software maintenance. At TSA, the Transportation OIG found that procurements were made in an environment where there was no pre-existing infrastructure for overseeing contracts. TSA had to rely extensively on contractors to support its mission, leading to tremendous growth in contract costs. A recent Transportation OIG review of one TSA contractor found that, out of $18 million in expenses, between $6 million and $9 million appeared to be attributed to wasteful and abusive spending practices.

Also, some agencies have major procurement programs under way that need to be closely managed. For example, Customs' Automated Commercial Environment (ACE) project will cost $5 billion, and Coast Guard's Deepwater Capability Replacement Project will cost $17 billion and take two to three decades to complete. Both projects will continue to receive OIG and, most likely, GAO attention. GAO identified a performance and accountability challenge of enhancing Coast Guard acquisition management to maximize returns from investments of public funds in large, complex, high-cost procurements. Further, some contracts, regardless of their earlier merits, may no longer be necessary in accomplishing DHS' mission.

Early attention to strong systems and controls for acquisition and related business processes will be critical both to ensuring success and maintaining integrity and accountability. OIG would suggest the following:

• Review all contracts transferring to DHS to ensure they are relevant to DHS' mission and, particularly for systems development contracts, will not be affected by or conflict with DHS systems integration efforts. For example, TSA issued a 7-year, $1 billion task order to Unisys Corporation for enterprise operations center deployment and field/headquarters infrastructure deployment. Needless to say, close attention must be paid to a contract of this size and scope.

• Ensure that contracting officers and contracting officers' representatives are properly warranted, trained, and supervised, and that they maintain proper documentation in the contract files.

• Establish a robust and effective contract oversight function. Construction contracts and contracts for local guard services have been shown to be subject to waste and abuse if not closely monitored.

• Establish effective systems and controls for managing purchase and travel cards, including issuance of appropriate written guidance for card use, effective monitoring of card use and appropriate handling of card abuse, and elimination of excessive numbers of card holders.

GRANTS (FEDERAL ASSISTANCE) MANAGEMENT

DHS will be inheriting major grant programs from FEMA and Justice. Both agencies' programs will be problematic.

FEMA plans to award about $7.9 billion in grants this fiscal year. FEMA OIG reports on audits of grantees demonstrate that FEMA has not adequately accounted for or monitored its grant activities. These reports have identified shortcomings in the pre-award process, cash management, monitoring, and the grant closeout process. For example, FEMA does not have a comprehensive grants management tracking system, many grantees do not make required cost-share payments and draw down million of dollars in Federal funds in excess of immediate needs, and some grantees were not spending mitigation funds according to established time periods. Grant closeouts are also problematic; for example, FEMA still has a Disaster Field Office for the 1994 Northridge earthquake.

The DOJ Office of Justice Programs will be transferring the Office of Domestic Preparedness (ODP) to DHS. ODP is responsible for awarding grants to state and local governments to prepare for and respond to incidents of domestic terrorism involving chemical and biological agents, radiological and explosive devices, and other weapons of mass destruction. Between fiscal year 1998 through fiscal year 2001, ODP was appropriated $243 million to provide these grants. As of March 2002, approximately $141 million still had not been awarded.

In fiscal year 2002, ODP's appropriation was $651.5 million, but its fiscal year 2003 budget is $3.5 billion, the increase attributable to a new First Responder program. DOJ OIG has reported weak monitoring of grants by the Office of Justice Programs, and the size of the new program will severely test ODP's grant management systems.

OIG would suggest early attention to the following key controls:

• A comprehensive grants management system that complies with Grant Financial System Requirements issued by the Joint Financial Management Improvement Program (JFMIP). The JFMIP document (JFMIP-SR–00–3) provides functional requirements for 11 functions, namely: (1) commitments, (2) de-commitments, (3) obligations, (4) payments, (5) cost accruals, (6) financial reports, (7) interest collections,

(8) grant closeout, (9) records retention, (10) general system requirements, and (11) information technology in the grants process. In addition, DHS must ensure compliance with the Federal Financial Assistance Management Improvement Act of 1999, which requires, among other things, use of electronic application and reporting by grantees via the internet (E-Grants).

• Adequate monitoring of and assistance to states and other grantees in all phases of the grants management life cycle (i.e., from award to closeout)

• Assurance that grant closeouts (and required audits) are within established time periods, and extensions are adequately justified, approved, and documented.

• Adequate training and supervision of the grants management workforce.

In addition to conducting audits and evaluations of the procurement and grant functions, OIG would be happy to advise those officials establishing or enhancing controls in these areas. If you have any questions, or would like to discuss this matter further, please call me at 6–8310, or ask your staff to call J. Richard (Dick) Berman, Acting Assistant Inspector General for Audits, at 6–2125.

RESPONSES BY RICHARD L. SKINNER TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. EPA's Inspector General initiated an evaluation of the Agency's response to September 11, reviewing how EPA responded and how it could better respond in the future. The report described lessons that may prove valuable should such a tragedy happen again. Has the DHS Inspector General conducted a similar review and if not, will you consider doing so?

Response. The Department of Homeland Security (DHS) Office of Inspector General (OIG) has not conducted a similar review, but we will be looking at the coordination efforts of the Federal Emergency Management Agency (FEMA) and the Environmental Protection Agency (EPA) as part of our assessment of DHS' "National Response Plan," which was signed in draft by Secretary Ridge on October 10, 2003.

The FEMA OIG,[1] however, also conducted a review of FEMA and EPA's coordination and delivery of assistance in response to September 11th.[2] The FEMA OIG found that neither FEMA nor EPA traditionally has been involved in testing and cleaning private residences. Neither agency is specifically authorized to provide such services. Although FEMA has the responsibility to coordinate recovery from Presidentially declared disasters, FEMA must depend on the particular expertise of EPA in circumstances involving possible air contaminants or environmental hazards. EPA must confirm that such hazards constitute a public health and safety threat before FEMA can provide funding for emergency response. The OIG concluded that FEMA should be more proactive in requesting EPA to conduct necessary testing or studies to determine whether a public health or safety threat exists in future, similar disasters so that cleaning efforts can begin much earlier in the recovery phase. FEMA also should address the roles of State and local agencies in such circumstances, as consultation with these agencies would provide useful information in review or evaluation.

Question 2. In your testimony, you describe the challenges that arise because the grant making functions within DHS are distributed throughout several directorates. Can you articulate some of the challenges that have arisen due to this organizational structure?

Response. Although numerous grant programs are now consolidated within DHS, their management is divided among various components within the DHS. Preparedness grants for terrorism are in the Border and Transportation Security directorate, while other preparedness efforts are in the Emergency Preparedness and Response directorate. This bifurcation will create additional challenges related to inter-departmental coordination, performance accountability, and fiscal accountability. For example, there are several Federal grants programs that fund first responder training, activities, and equipment to prepare states and local communities better for responding to terrorism incidents, natural disasters, and other emergencies that are administered by DHS' State Homeland Security Grant program or the Assistance to Firefighters Grant program. While these programs reflect different objectives, both programs allow funding for certain items. There is a potential overlap of 113 distinct items in the areas of personal protective equipment, interoperable commu-

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[1] The Federal Emergency Management Agency Office of Inspector General transitioned into the Department of Homeland Security Office of Inspector General on March 1, 2003.

[2] FEMA's Delivery of Individual Assistance Programs: New York—September 11, 2001, December 2002.

nications equipment, detection equipment, and decontamination equipment, which can result in uncoordinated and overlapping grant decisions.

Close coordination between all programs is essential to ensure that: (1) duplication does not occur; (2) maximum effectiveness of available funding is realized; and (3) minimum confusion exists at State and local levels of government. Furthermore, program managers have yet to develop meaningful performance measures necessary to determine whether the grant programs being absorbed by DHS have actually enhanced State and local capabilities to respond to terrorist attacks and natural disasters.

The DHS OIG addressed these concerns in the early days of the Department's creation and it is our understanding that this problem is now being addressed legislatively. Further, Secretary Ridge recently announced plans to centralize these programs within a single office of the Department.

STATEMENT OF DALE SHIPLEY, EXECUTIVE DIRECTOR, OHIO EMERGENCY MANAGEMENT AGENCY, ON BEHALF OF THE NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

INTRODUCTION

Thank you Chairman Voinovich, Ranking Member Carper, and distinguished members of the Subcommittee for allowing me the opportunity to provide you with testimony on the public assistance program and emergency preparedness issues. My name is Dale Shipley and I am representing the National Emergency Management Association (NEMA) as the Vice-Chairman of the Legislative Committee and as a Past-President of the Association. My daily job is the Executive Director of the Ohio Emergency Management Agency. In my statement, I am representing the state emergency management directors in the 50 states, the District of Columbia, and the U.S. territories who are its core members. NEMA's members are responsible to their Governors for emergency preparedness, homeland security, mitigation, response, and recovery activities.

This is a historic time as the Congress and the Administration have reorganized to address the Department of Homeland Security, yet it is critical that we remember that all-hazards disaster preparedness is the basis that we have used to build homeland security preparedness. At no time was this made more apparent than in preparation for Hurricane Isabel last week and as the Mid-Atlantic States begin their recovery from damages caused by this ravaging storm. While focus remains high on homeland security, we as a Nation cannot forget the key programs related to natural disasters and the carefully crafted authority of the Stafford Act that governs our mitigation, preparedness, response, and recovery activities. Today, I'd like to tell you about how the current program is working and offer some suggestions that you might consider to make our disaster response and recovery program stronger.

FEMA IN THE DEPARTMENT OF HOMELAND SECURITY

NEMA supported efforts by Congress and the Administration to include the Federal Emergency Management Agency (FEMA) in its entirety in the new Department of Homeland Security. FEMA continues to maintain an all-hazards approach to disasters, which both NEMA and Secretary Ridge vigorously support. State emergency management agencies continue to interface with FEMA on a regular basis, as was the case before the Department was created. In Ohio, we have had two Presidential disaster declarations since March 2003. We have seen no changes in the speed, availability, or flexibility of assistance since FEMA has become a part of the Department of Homeland Security then we experienced with two Presidential disaster declarations before March 2003.

Certainly the aftermath of Hurricane Isabel has shown that regardless of the new focus on terrorism, we must continue all-hazards preparedness activities and all-hazards programs like the Emergency Management Performance Grant Program (EMPG). EMPG is the program that enables the emergency management infrastructure to work in state and local governments through its flexibility to address unique needs in each state. These funds and the requirements associated with them maintain the national system of preparedness and coordination of emergency response and recovery in the United States.

NEMA understands that in any new Department there is a learning curve and a meshing of cultures of the various agencies. We hope to continue an open dialog and good working relationships with key offices such as FEMA in the Department, as we develop new relationships with other agencies in the Department as they address new ventures.

PUBLIC ASSISTANCE

After a disaster, the Stafford Act provides for assistance to state and local governments and qualifies certain private non-profit facilities for disaster relief. In particular, public assistance helps to address debris removal, emergency protective measures, road systems and bridges, water control facilities, public buildings and their contents, public utilities, and parks and recreational facilities. Public assistance is particularly important for disaster relief because communities need to have vital functions restored in order to get back on their feet.

Ohio's current public assistance program addresses disaster impacts on government-related functions. After a disaster, the Ohio public assistance staff coordinates with FEMA to assist applicants with identifying eligible projects. During the last Federal fiscal year we had 4 Presidentially declared disasters in Ohio with $49 million of public assistance and 997 applicants.

Ohio has two full-time employees who manage the public assistance program and act as an interface for governmental entities, all applicants, and the Federal Government. The staff is charged with keeping all records, handling all reporting requirements, closing-out all the projects and disasters, and addressing the 25 percent cost-shares. The Ohio staff also trains local officials on debris removal, documentation, and damage assessment.

In addition, our staff manages one of the few state public assistance programs financed by state funds. Our public assistance officers handle damage under gubernatorial disaster declarations that are not large enough for Federal declarations. In the last Federal fiscal year, we have had four of these gubernatorial declarations amounting to $4.8 million of assistance and 83 applications. Routinely, public assistance reconstruction projects take up to 2 years to complete, so our staff in Ohio is very busy handling multiple projects and multiple disasters.

This spring, many state and local government had problems getting public assistance beyond categories A and B, which includes debris removal and emergency protection measures, due to the lack of funds in the disaster relief fund. In fact, a number of states are still in the process of receiving funds toward public assistance projects going back to the President's Day winter storms in some states. Absent Federal supplemental assistance, which is provided by law, state and local governments have to come up with other sources of funding to begin and complete these projects. In the tight fiscal environment, the lack of funding is particularly troubling, as poorer communities cannot afford to front the costs. State and local governments have had to front funds for projects while waiting until August for additional Federal appropriations for the disaster relief fund.

Appropriations for fiscal year 2003 only included $800 million for the disaster relief fund, while a typical appropriation in previous years has been around $1.8 billion to $2.2 billion, plus supplementals to address disasters. While we appreciate recent efforts of Congress to get disaster relief funds to state and local governments in August, 2003, we do not support this piecemeal approach to the disaster appropriations process. Assistance for reconstruction projects and for disasters victims must not be put on hold, since any deferment limits the ability for a community and of an individual or family to recover from a disaster. Delays in assistance mean delays in recovery, and overall those delays hamper our national economy.

I want to share with you some couple of examples that illustrate how important getting public assistance funding to communities.

• Southern Ohio Monroe County received a Presidential disaster declaration (FEMA disaster declaration 1453) for snow and ice storms in February 2003. The County had multiple needs for road repairs. The applicant was approved for $498,729, but Federal funds were not available to draw down for use until September 8, 2003. This same applicant was impacted by storms and flooding included in FEMA disaster declaration 1484 in August 2003. We have yet to determine if Federal funds are available for this recent declaration. Monroe County has a population of about 15,000, which is not a very large tax base to be able to front half a million dollars; and

• The city of Portsmouth in Scioto County.— As a result of an ice storm in which the city lost thousands of trees, the city was approved for $319,250 for debris removal. FEMA funds were not available for draw down until the last week of August 2003. The state had to help the city get an extension, since the debris removal category funds expire after 6 months.

The advent of terrorism-related attacks that involve the potential use of chemical, biological, radiological and explosives bring a unique challenge to programs that were designed to address natural and man-made disasters. Speaking as the Ohio Director, it may be appropriate to enlarge the scope of eligibility under terrorism and catastrophic disasters. Obviously, there is currently room for flexibility and ad-

justment in the Stafford Act and that flexibility was exercised by Federal officials following September 11, 2001.

FEMA is looking closely at the public assistance program and is exploring ways to allow states to manage some aspects of the program. NEMA is participating on a concept development working group to identify the needs of the public assistance program in the current environment and when several disasters occur simultaneously within a short-time period such as garden-variety disasters and catastrophic disasters. One scenario could be allowing states the option of state management of the public assistance program. My colleagues in Arizona have managed the Federal public assistance in the last three disasters. One of the things they find difficult is the lack of funding to maintain continuity and institutional memory for disasters, since many of these positions are temporary. Conversely, if a state is unable to manage the program it would need to have the option of utilizing FEMA's resources to manage the program. Ideally, Federal assistance would contribute toward a Public Assistance Officer (PAO) in each state who could provide training and awareness to applicants. Having a dedicated PAO could lead to greater consistency and faster recovery which could cause a reduction in overall disaster costs.

OTHER ISSUES

In addition to public assistance, there are other key pre- and post-disaster programs for which this committee has oversight that I wish to bring to your attention. We ask for your assistance to address these issues.

1. Individuals and Households Repair Cap Fix

When the Disaster Mitigation Act of 2000 (DMA2K) was signed into law, a provision was inadvertently changed in the bill that lowered the cap on assistance for individuals and households to repair damaged residences. This assistance includes from the cap includes repair of owner-occupied private residences, to a safe and sanitary condition. Repair assistance is used to allow disaster victims to continue living in damaged residences after a disaster and thus minimizing the overall disaster costs. Originally, the cap was set at more than $5,000, but could be increased to as much as $15,000. With DMA2K's enactment, the cap was lowered to $5,000. We call on this committee to address this error in correction legislation, so that disaster victims are not limited to $5,000 when no other assistance is available. We suggest calling this assistance "initial" and support FEMA's suggested language to fix the problem. This spring, many state emergency management directors found this provision hampering when responding to tornadoes and floods. Typically the persons who have no other means of assistance are those most highly impacted by this provision. We expect the cap to become an issue in the aftermath of Hurricane Isabel as well.

2. Predisaster Mitigation

NEMA was instrumental in working with this committee during the development of the legislation that initially authorized a pre-disaster mitigation program through the Disaster Mitigation Act of 2000 (DMA2K) (P.L. 106–390). Pre-disaster mitigation is essential, but we need to ensure that pre-disaster mitigation corresponds with DMA2K that was passed overwhelmingly by the House and Senate and signed into law.

Title I of the DMA2K expires on December 31, 2003. While the House and Senate have appropriated funds for the program in their own versions of the Department of Homeland Security appropriations bills at $180 million and $150 million respectively, we need program reauthorization to prevent the program from being forgotten and not funded in future years. NEMA strongly believes that this program, coupled with the Hazard Mitigation Grant Program (HMGP) is effective at reducing the costs of disasters overall by saving lives and protecting property. Each program has a specific function that is relative to the environment that exists before a disaster and after a disaster. For example, it is easier to convince the homeowner of a waterfront property of the need to relocate from the floodplain after a disaster occurs and the home is filled with mud and water than it would be on a serene sunny day.

Fiscal year 2003, was the first year that FEMA received funding for the national competitive pre-disaster mitigation program. The funding level was $150 million and currently state and local governments are working cooperatively to complete project applications and to submit them to FEMA. As NEMA understand the process, initial reviews will begin in early October and the peer reviews will commence in late October. The pre-disaster mitigation program is in its infancy, as the first round of significant funding has only just been made available and not yet awarded. It would be a shame to let the program die at this time without having been able to make any demonstrable achievements in mitigation. NEMA believes that the value of the program will be evidenced after the projects are approved and imple-

mented. We therefore are asking this committee to reauthorize the program for 3 years, at which time FEMA should be asked to provide evidence to Congress of the achievements made as a result of the pre-disaster mitigation program.

Early on, NEMA believed that the pre-disaster mitigation program should not be a competitive program, however, the Administration's budget proposals to make the program competitive were affirmed by Congress in fiscal year 2003. FEMA began implementing the requirements of DMA2K 2 years ago with the requirement of state and local multi-hazard mitigation plans (Section 322 plans). With impending deadlines for these plans on November 1, 2003 and November 1, 2004 many state and local governments have submitted plans for consideration or are actively involved in developing these mitigation plans, despite the fact that no significant source of Federal funding was provided to state and local governments to accomplish this mandate. The 322 plans are essential to identifying key areas where mitigation resources are needed in each state and will work hand-in-hand with the pre-disaster mitigation program and the HMGP program. We were a bit surprised by some of the FEMA guidance on the pre-disaster mitigation program. In particular, NEMA is worried that the heavy focus of the program on repetitive loss priorities for floods will deflect from the program's intended all-hazards approach.

We are also concerned that management costs will not be available to state and local governments unless a project is approved. This will again place smaller and less affluent communities at a disadvantage, since they are not able to provide the costs associated with hiring a consultant to prepare the applications and an engineer necessary for the environmental and historical reviews, as well as the benefit-costs analysis. We suggest that future year programs allow for administrative costs out of the total program funds at the beginning of the notice of availability of funds. We also suggest that cost-share requirements may place some communities and states at a disadvantage and discourage them from applying for the pre-disaster mitigation program. Waivers in cost-share requirements would be a way to address this problem in a tough financial environment for state and local governments.

Because NEMA firmly believes in pre-disaster and post-disaster mitigation, we have re-energized the Stafford Act Coalition. A group of 13 associations representing a variety of interests, including the American Red Cross, the National Rural Electric Cooperative, the National League of Cities and the National Association of Counties have supported both pre-disaster mitigation reauthorization and restoring the HMGP formula to 15 percent. We believe that such wide and varied support, with no opposition known, shows the need to reauthorize the pre-disaster mitigation program and to keep the HMGP program in place at the 15 percent level.

3. Hazard Mitigation Grant Program

The Administration's budget proposal to eliminate the post-disaster Hazard Mitigation Grant Program (HMGP) in favor of funding a competitive pre-disaster mitigation program is wrong. While Federal costs toward disasters remain a concern, significant commitments must be made toward both pre-disaster and a fully funded post-disaster mitigation in order to lower overall disaster costs in the long run.

Last year, Congress changed the formula for post-disaster mitigation grants from 15 percent to 7.5 percent. This change limits the availability of funds for post-disaster mitigation and prevents the lessons learned from disasters from being immediately incorporated into mitigation projects to prevent losses of life and destruction of property. State governments no longer can offer buy-outs or mitigation projects to many disaster victims as a result. The months immediately following disasters provide unique opportunities to efficiently incorporate risk reduction measures in a very cost-effective manner, in many cases lowering the overall cost of the project by leveraging other funding sources including insurance settlements. We appreciate efforts by the Senate and the House to keep the 7.5 percent formula in place in the House and Senate versions of the Department of Homeland Security appropriations. NEMA supports keeping the program in place. As authorizers, we ask that you maintain the program and restore the formula to 15 percent.

The HMGP has proven to be a highly effective tool in steering communities toward risk reduction measures, in many cases breaking repetitive loss cycles that have cost other Federal disaster relief programs multiple times. Cost-benefit analysis is currently a requirement for pre-disaster mitigation programs. In a purely competitive grant program, lower income communities, often those most at risk to natural disaster, will not effectively compete with more prosperous cities. Also, disasters graphically and vividly expose the need for and value of mitigation projects. We must not lose these opportunities to initiate projects to enhance our communities and reduce future disaster costs. Damage caused by disasters would go largely unrepaired thereby further impacting the economic and social recovery of particular areas. There are not enough mitigation dollars available to address all of the

vulnerabilities that exist in this country. During Hurricane Isabel, 220 homes in the Bell Haven, North Carolina (Beaufort County) that were elevated with HMGP funds after Hurricane Fran in 1996 did not flood, despite significant flooding on the Pungo River. This example shows that HMGP works.

Making mitigation funds available only in a pre-disaster competitive environment will set this country's mitigation efforts back by removing the prime motivation factor, the disaster itself. The HMGP change is perhaps one of the most burning issues for emergency managers across the country. At this point we have not been able to quantify which projects were laid aside as a result of the change since HMGP funds for this year were on hold until additional funds were made available through a supplemental to the disaster relief fund. However, the program has literally been cut in half and that significantly reduces mitigation activities after a disaster, when the opportunity is most ripe for participation. Just imagine the opportunities that will be lost in the Mid-Atlantic states in the aftermath of the hurricane because of the formula change.

NEMA calls on Congress to maximize the benefits of both HMGP and pre-disaster mitigation. NEMA pre-disaster mitigation, but maintains that HMGP should be retained as a separate and fully funded post-disaster program. We need both.

CONCLUSION

As we work to implement a new Federal Department of Homeland Security, we must not forget about the all-hazards approach to emergency management and the role it plays in preventing our Nation from losing focus on the daily perils that we face in addition to new threats.

Whether it is a flood in Ohio, a hurricane in North Carolina, or tornadoes in Kansas, states need a Federal commitment to recognize that each state and local government has unique disaster mitigation, preparedness, response, and recovery needs that require flexible, predictable, and adequate funding assistance that is coordinated with the state emergency management plan. I thank you for the opportunity to testify on behalf of NEMA and welcome any questions that you might have. Only through a partnership of Federal, state, and local governments, can we prevent the loss of lives and property as a result of all disasters regardless of cause. Thank you for your consideration and partnership.

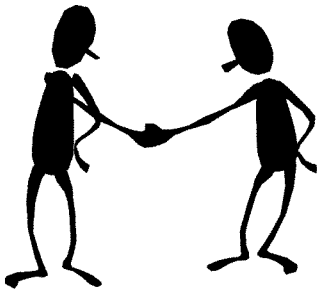
Ohio Infrastructure Impacts for Federal FY 2003

Event	No. of applicants	Total cost	Non-Federal Share (25%)
Public Assistant Program			
DR-1453, Severe winter storm, flooding	744	$36,552,402.09	$9,138,100.52
DR-1484, Flooding and tornado	253	$12,625,000.00	$3,156,250.00
Totals	997	$49,177,402.09	$12,294,350.52

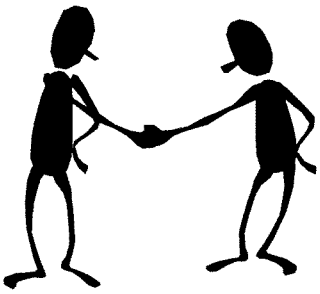
Event	No. of applicants	Total IHP cost	Non-Federal Share (25%)
Individuals and Households Program			
DR-1444, Severe Storms and tornadoes	726	$564,627.00	$69,217.00
DR-1453, Severe winter storm, flooding	3,026	2,596,111.00	246,908.00
DR-1478, Severe storms and flooding	2,049	1,918,966.00	123,706.00
DR-1484, Severe storms and flooding	39,684	38,177,945.00	3,588,351.00
Totals	45,485	$43,257,649.00	$4,028,182.00

Ohio Infrastructure Impacts for Federal FY 2003—Continued

Event	No. of applicants	Total cost	Non-Federal Share (75%)
State Disaster Relief Program			
November 2002, Tornadoes	22	1,258,533	$943,899.75
May 2003 flooding	6	1,119,161	$839,370.56
June 2003 flooding	8	1,131,117	848,337.75
July 4, 2003 flooding	47	2,975,369	2,231,526.79
Totals	83	$6,484,180	$4,863,134.85



APPLICATION PACKET FOR THE STATE DISASTER RELIEF PROGRAM



Ohio Emergency Management Agency
Disaster Recovery Branch

September 2001
(Replaces all previous versions)

INTRODUCTION

Disasters and the emergency response thereto often result in the use of local government personnel and resources and the loss of government-owned property which exhausts local government resources and for which no federal funds are available. In that event, the State of Ohio can offer some financial assistance to those political subdivisions and eligible private-non-profit organizations (PNP's) (herein, will be referred to as "applicant") which meet the eligibility criterion set forth in this manual. Funding can be requested from the Ohio Emergency Management Agency's (Ohio EMA) State Disaster Relief Program.

It is important to note that these funds are intended to **SUPPLEMENT NOT SUPPLANT** local government resources. Applicants must demonstrate, through locally approved budgets, what continuation level of expenditures for emergency response and recovery are anticipated, and that the maintenance of that effort will be accomplished. Emergency assistance funds may be denied by Ohio EMA if the applicant has not or is unable to document responsible, self-help actions through the use of local appropriations realistically budgeted for emergency purposes.

State disaster relief assistance is limited to reimbursement of 50 percent of eligible costs for snow emergencies and 75 percent of eligible costs for other natural disasters.

If you have any questions regarding this application packet or the State Disaster Relief Program, please contact the Disaster Recovery Branch at (614) 889-7160.

I. LETTER OF INTENT AND ATTACHMENTS

Within fourteen (14) days of the date of the local emergency declaration, a letter must be sent to Ohio EMA giving notice that an applicant intends to apply for reimbursement from the State Disaster Relief Program. The letter should include only minimal, preliminary information, with the understanding that further details will be provided at a later date. The letter should also state the name and address of a point of contact for all matters related to the request and should be addressed to the following:

LETTER OF INTENT *TO OHIO EMA WITHIN 14 DAYS OF THE LOCAL DECLARATION.*

Executive Director
Ohio Emergency Management Agency
2855 W. Dublin-Granville Rd.
Columbus, Ohio 43235

ADDRESS TO OHIO EMA

See, Appendix 1 for example.

Attachments to Letter of Intent

ATTACHMENTS

A. A copy of the emergency declaration by the chief executive officer(s) of the political subdivision. The emergency declaration should be executed within a short period of time following the disaster. (Emergency declarations executed after-the-fact, for the sole purpose of requesting state emergency purposes funds are not acceptable.) NOTE: For PNP's, attach a copy of the emergency declaration for the political subdivision in which it is located.

A) COPY OF EMERGENCY DECLARATION

B. A copy of the initial damage assessment. See, Ohio Emergency Management Agency publication, "Natural Disaster Damage Assessment Guide for Local Governments" for further information and timeframes. This information should be submitted on Form AGN-0035, "Ohio Emergency Management Agency Damage & Needs Assessment". This information will be updated and modified throughout the State Disaster Relief Program application process. If more information is required on Damage Assessment, contact the County EMA.

B) COPY OF INITIAL DAMAGE ASSESSMENT

C. Site Lists: Each applicant must submit site lists (see Appendix 2 for sample and format that must be used) detailing damage description, scope of work to be completed and estimate to make repairs (not required for snow emergencies).

C) SITE LISTS

D. **FOR SNOW EMERGENCIES ONLY**. A copy of the Governor's Proclamation declaring a state of emergency that includes the applicant.

D) SNOW ONLY COPY OF GOVERNOR'S DECLARATION

II. ELIGIBILITY

DO I QUALIFY?

A. Applicants

1. Political Subdivisions - Counties, townships, or municipal corporations within this state. See, Revised Code Section 5502.21 (M) also, Definitions, Appendix 11.

1) POLITICAL SUBDIVISIONS

2. Private Non Profit Organizations - Any educational, utility, emergency, irrigation, medical, or custodial care facility, including a facility for the aged or disabled, and other facility providing health and safety-type services to the general public. See, Definitions Section, Appendix 11.

2) PNP'S

3. Political Sub-Division's or PNP's Providing Mutual Aid – A political sub-division/PNP which provides mutual aid to the applicant, which has declared an emergency, may be eligible for funding from the State Disaster Relief Program under the following circumstances:

3) MUTUAL AID

   a) If there is a written mutual aid agreement in effect between political sub-divisions or PNP's which provides for reimbursement of costs, the reimbursements are eligible costs for the applicant under the State Disaster Relief Program;

a) MUTUAL AID REQUIRING REIMBURSE-MENT

   b) If there is a written mutual aid agreement in effect prior to the emergency which does not provide for reimbursement of costs, or there is no written mutual aid agreement in effect prior to the emergency, those costs incurred by the responding political sub-division or PNP in assisting the applicant are eligible, so long as all other eligibility criteria of the State Disaster Relief Program have been met by the responding political sub-division or PNP;

b) MUTUAL AID NOT REQUIRING REIMBURSE-MENT, OR NO MUTUAL AID AGREEMENT

   For these cases, the application packet should be prepared and submitted by the responding political sub-division or PNP.

UNDER b) THOSE ENTITIES PROVIDING MUTUAL AID MUST SUBMIT THEIR OWN APPLICATION PACKET

   NOTE: In the event a presidential declaration is sought and received for the effected entity, mutual aid costs may not be eligible for reimbursement from the federal government.

4. National Flood Insurance Program Participation (Flood Emergency Only) - Applicants that are not participating in or that are not complying with the provisions of the National Flood Insurance Program are NOT eligible to apply for reimbursement of emergency response costs from the State Disaster Relief Program. (Ohio Revised Code Section 1521.14. Such participation or compliance must be effective at the time of the application to Ohio EMA. See, Appendix 3.

4) NFIP REQUIREMENTS

NOTE: For PNP applicants, the political subdivision in which it is located must be a participant in or be compliant with the provisions of the NFIP.

5) ALTERNATE FUNDING SOURCES

5. Alternate Funding Sources - Applicant must demonstrate the efforts taken to locate alternate or additional funding sources. Following receipt of applicant's Letter of Intent, Ohio EMA, Disaster Recovery Branch (DRB), will contact the following agencies on behalf of the applicant to ascertain whether there is funding available. DRB will then advise the applicant, through the point of contact included in the letter of intent, within seven (7) days, of the results of their inquiry and the next step that the applicant must pursue. NOTE: This is only the initial contact. Official application process is the applicant's responsibility. Within the Narrative Letter (See, III., A. below), each applicant must demonstrate a good faith effort to pursue these other funding sources. See, Appendix 4.

OHIO EMA INITIAL CONTACT TO OPWC, DOD, OWDA

APPLICANT COMPLETES NECESSARY APPLICATION

Ohio Public Works Commission (OPWC) – An applicant should only contact OPWC if there are projects that have an immediate impact on the jurisdiction, i.e. road closed that is an emergency or school route. Assistance for routine repairs (ditching, replacing road surface) should not be directed to OPWC

Ohio Department of Development

Ohio Water Development Authority (OWDA)

WHAT TYPE OF COSTS QUALIFY?

B. Costs - Applicants should refer to Appendix 5 for details regarding eligible costs for snow emergencies and to Appendix 6 for details regarding eligible costs for other natural disaster emergencies. Eligibility of costs not specifically addressed in these procedures (appendices) will be based on criteria of the FEMA Public Assistance Program.

III. SUPPORTING DOCUMENTS TO APPLICATION

WHAT DO I TURN IN?

Within two (2) months of the date of declaration for a snow emergency or within six (6) months of the date of a declaration for all other natural disasters, a Final Request Packet must be submitted to the Ohio Emergency Management Agency. That Final Request Packet must include the following information and supporting documentation:

A) NARRATIVE LETTER

A. Narrative Letter - The narrative letter should be addressed to the Executive Director, Ohio EMA, and **shall** include the following information: See, Appendix 7 for an example.

1. Description of disaster – Applicant must provide additional detail about the disaster, including the period of the emergency declaration, the local resources utilized, other disasters which have occurred over the past one year period, and any other relevant information.

1) DESCRIPTION OF THE DISASTER

2. Point of contact - Applicant must include a local point of contact for their request. This person should be the individual who is most familiar with the documentation of costs and the type of work that was completed to respond/recover. The point of contact may or may not be the same as identified in the Letter of Intent.

2)POINT OF CONTACT

3. Alternate funding - Applicant must include certification of other sources of funding received or pursued. As explained in Section II, A, 5, DRB will make the initial contact to other applicable agencies. If funding may be available through these sources, it is the applicants' responsibility to apply to these agencies. Proof that the applicant pursued these other funding sources and if applicable, received funding, must be included in this narrative letter.

   If funding is received, applicant must include in their packet, from whom, how much, and for what those funds were utilized.

3) ALTERNATE FUNDING INFORMATION

B. Local Budget Impact - Applicant must provide a copy of the local budget for the fiscal year in which the emergency occurred. (A combined statement of funds is sufficient documentation.) Applicant must identify specific areas of its budget which have been or will continue to be impacted by the response to the disaster. Applicant must also provide a statement explaining the impact of unexpected costs and the ability of the applicant to continue to meet financial obligations related to the health and safety of its citizens. NOTE: Eligible costs totaling less than ½ of 1% of the applicant's total usable budget will not be considered for reimbursement. Expenditures from bond proceeds are excluded from that amount.

B) COPY OF BUDGET AND IMPACT STATEMENT

NOTE: *IMPACT OF LESS THAN ½ of 1% WILL NOT BE CONSIDERED*

C. Current IRS Form W-9 - Applicant must provide this form in the Final Request Packet. A state warrant cannot be processed nor issued without this completed form.

C) CURRENT W-9

D. Documentation of Costs - Applicant must provide itemized details of all costs submitted in the Final Request Packet. Eligible costs must be divided into the following categories: 1) Labor costs, 2) force account equipment costs, 3) material costs, 4) rented equipment, and 5) contract costs. These categories should be grouped by department or function, i.e., Police or Fire Department costs, debris removal, road repairs, etc. See, example record forms in Appendix 8. The State Disaster Relief Program cannot reimburse an applicant for un- documented costs. Applicants **do not** need to submit invoices, vouchers, or any other type of back up documentation. The forms have an area at the bottom to certify that the information included is true and accurate.

D) DOCUMENTATION OF COSTS

E. Insurance Requirements - Applicant must disclose any insurance proceeds which were available for the losses experienced or the costs claimed. Briefly, any insurance proceeds received by the applicant will be set off against any amount requested from the State Disaster Relief Program. Ohio EMA has the discretion to require the applicant to purchase and maintain adequate insurance to cover losses from future disasters. For additional details and to assure compliance, See, Appendix 3.

E) INFORMATION ON INSURANCE, IF APPLICABLE

F. Mutual Aid – If the application packet includes mutual aid costs, the applicant should include a copy the agreement, if a written agreement exists.

F) INFORMATION ON MUTUAL AID, IF APPLICABLE

IV. TIME EXTENSIONS

ADDITIONAL INFORMATION

Applicant may be granted a one-time 45-day time extension in which to submit a Final Request Packet. Requests for the extension must be submitted to the Executive Director, in writing, at least 14 days prior to the end of the 6-month or 2-month period of time for submittal of the Packet. The letter should indicate the justification for the request and a date-certain for submittal of the Final Request Packet.

TIME EXTENSIONS- ONE-TIME 45-DAY

V. AUDITS AND RECORDS RETENTION

All records, including the Final Request Packet and all supporting documentation (invoices, vouchers, etc.), shall be maintained by the applicant for a minimum of three (3) years after receipt of reimbursement. The Auditor of State will be notified of State Disaster Relief funds provided to applicants. If an audit reveals inappropriate use of state funds or if documentation is not available to justify expenditure of the state funds, the Attorney General's Office will be notified and recoupment proceedings may be initiated.

AUDITS- MAINTAIN DOCUMENTS FOR 3 YEARS

VI. OHIO EMA AUTHORITY

AUTHORITY

All Ohio EMA decisions regarding program eligibility, allowable costs and amount to be reimbursed are final.

VII. OHIO TASK FORCE 1

OHIO TASK FORCE 1

Ohio EMA will reimburse the sponsoring organization of the Urban Search and Rescue Task Force 1 (US&R) in accordance with Appendix 10 of this document.

Eligible applicants to the SDRP who utilize the services and assets of the US&R for locally declared events may be reimbursed in accordance with the Mutual Aid Policy of this document or as a reasonable contract cost, whichever is applicable.

APPENDIX 1

SAMPLE LETTER OF INTENT

Executive Director
Ohio Emergency Management Agency
2855 West Dublin Granville Road
Columbus, Ohio 43235-2206

Dear _____:

The **(Village/City/Township/County/PNP)** intends to request supplemental financial assistance for damage caused by the **(disaster type)** on **(date)**, from the State Disaster Relief Program.

We have designated **(name of individual, title)** to be the contact person for **(name of applicant)** in all matters pertaining to this request. This individual will ensure that all required information is sent to the Ohio Emergency Management Agency within the required time frames and may be reached at **(phone number)**.

We declared an emergency on **(date)**. A copy of our declaration of emergency is included with this letter. A copy of our Initial Damage Assessment is also included for your information.

SIGNATURE

(Chief Executive Officer)

APPENDIX 2

DAMAGE ASSESSMENT SITE ESTIMATE

Sheet ____ of ____ Sheets

PART I - APPLICANT INFORMATION			
COUNTY	NAME OF APPLICANT	NAME OF LOCAL CONTACT	PHONE NUMBER

PART II - SITE INFORMATION

KEY FOR DAMAGE CATEGORY (Use appropriate letters in the "category" blocks below)

a. DEBRIS REMOVAL	d. WATER CONTROL FACILITIES	g. FACILITIES UNDER CONSTRUCTION
b. PROTECTIVE MEASURES	e. PUBLIC BUILDINGS	h. PRIVATE NON-PROFIT
c. ROADS AND BRIDGES	f. PUBLIC UTILITIES	i. PUBLIC RECREATION

SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)		
DESCRIPTION OF DAMAGE				
IMPACT:			% COMPLETE	COST ESTIMATE
SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)		
DESCRIPTION OF DAMAGE				
IMPACT:			% COMPLETE	COST ESTIMATE
SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)		
DESCRIPTION OF DAMAGE				
IMPACT:			% COMPLETE	COST ESTIMATE
SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)		
DESCRIPTION OF DAMAGE				
IMPACT:			% COMPLETE	COST ESTIMATE

APPENDIX 2

DAMAGE ASSESSMENT SITE ESTIMATE

Sheet ___ of ___ Sheets

PART I - APPLICANT INFORMATION

COUNTY	NAME OF APPLICANT	NAME OF LOCAL CONTACT	PHONE NUMBER
Scioto	Washington Township	James Smith	(740) 444-4444

PART II - SITE INFORMATION

KEY FOR DAMAGE CATEGORY (Use appropriate letters in the "category" blocks below)

a. DEBRIS REMOVAL	d. WATER CONTROL FACILITIES	g. FACILITIES UNDER CONSTRUCTION
b. PROTECTIVE MEASURES	e. PUBLIC BUILDINGS	h. PRIVATE NON-PROFIT
c. ROADS AND BRIDGES	f. PUBLIC UTILITIES	i. PUBLIC RECREATION

SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)
1	A	Township Wide

DESCRIPTION OF DAMAGE

Flood waters/high winds deposited woody materials, other debris on Township roads and along the right-of-way. Debris removed by combination of contract and force account work. Estimate of 500 cy of woody material removed. Contract cost $2,000; Force Account Expenses $3,000.

IMPACT:	% COMPLETE	COST ESTIMATE
5 Township roads temporarily closed by debris	100%	$5,000

SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)
2	B	Township Wide

DESCRIPTION OF DAMAGE

High water required deployment of emergency assets (fire/police) to place high water/road closure signs, evacuate citizens and conduct search and rescue operations. Work completed by force account. Labor $2,500; Equipment $3,000; Materials $250 (new signs).

IMPACT:	% COMPLETE	COST ESTIMATE
5 Township roads temporarily closed	100%	$5,750

SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)
3	C	Township Road 23

DESCRIPTION OF DAMAGE

Floodwaters washed out culverts, berms and gravel surface. Culverts (2): 24 in x 40 ft ($1,200) and 30 in x 30 ft ($1,080), Berm: 0.5 miles ($1,300), and Gravel Surface: 3 sites, 700 ft x 18 ft x 6 ft ($3,000).

IMPACT:	% COMPLETE	COST ESTIMATE
Road closed two days for culvert placement	50%	$6,580

SITE NO.	CATE-GORY	LOCATION (Use map location, address, etc.)
4	C	Township Road 48

DESCRIPTION OF DAMAGE

Floodwaters filled maintained ditches and washed out chip and seal surface. Ditching: 0.3 miles ($800), and Chip and Seal: 3 sites, 300 ft x 18 ft ($1,000).

IMPACT:	% COMPLETE	COST ESTIMATE
Road surface degraded at 4 sites	0%	$1,800

APPENDIX 3

INSURANCE REQUIREMENTS

GENERAL

1. Actual or anticipated insurance recoveries will be deducted from eligible costs.

2. Purchase of insurance is not required when the total loss is less than $5,000 (only insurable items such as buildings and equipment).

3. When insurance is required as a condition of approval, the applicant must provide the State with acceptable assurances that the applicant, at a minimum, has or obtains, and maintains insurance for the amount of loss.

4. No reimbursement can be provided for damage to a facility for which assistance was previously received unless insurance was obtained and maintained as required.

FLOOD INSURANCE

Where a building damaged by flooding is located in a special flood hazard area, and such building and its contents are not fully covered by flood insurance, reimbursement of eligible costs is reduced. The amount of the reduction is the value of the building immediately prior to the damage, or the maximum amount of the insurance proceeds which were received had the building and its contents been covered by a standard flood insurance policy, whichever is less.

The State will require flood insurance for flood-damaged buildings located outside the base floodplain which such insurance is reasonably available, adequate and necessary.

OVERVIEW OF OHIO FUNDING SOURCES FOR LOCAL INFRASTRUCTURE FINANCING

PROGRAM	ELIGIBLE PROJECTS	WHO MAY APPLY	CRITERIA/REQUIREMENTS	LOAN/GRANT LOAN/TERMS	$$ AVAILABLE
Water and Sewer Rotary Commission ORC 1525 & 929 (614) 466-2285	Sewer Lines and Water Lines Only	Municipality, County, or ORC 6119 District	Apply any time; Assessment Project; Agricultural Lands; Jobs/Pollution; Other	Interest-free loans only; Indefinite or 20-year term; Repay when land changes use; No limits	Varies
Ohio Public Works Commission (OPWC): S121 and LTIP2 S12 - ORC 164 LTIP - HB 381 (614) 466-0880	Roads, Bridges, Solid Waste, Sanitary/Waste Water, Fresh Water, and Storm Water	County, City, Village, Township, Water/Sewer Districts	Apply once each year; Application must be accompanied by 5-year Capital Improvements Plan, priority ranking list, and 2-year maintenance of local effort report. In addition, the project must be selected by local District Integrating Committee.	Up to 90% grant for repair/replacement projects; Up to 50% grant for new/ expanded infrastructure; A portion of available S12 $$ must be in the form of loans or loan assistance.	$12-$108 million (allocated between 19 Districts) LTIP - $55-60 million SMALL GOV'T FUND $12 million (pop. Under EMERGENCY FUND $2.5 million
Ohio Department of Development Office of Local Government Services (OLGS); CDBG3 (614) 466-2285	Water, Sewer Lines, Roads, Bridges, etc.	4County, City, Village, Township	Apply anytime (some exceptions); Must benefit LMI households.	Project loans/grant via: - Economic Development - Formula - Comp. Housing5 - Discretionary Fund - Imminent Threat - Downtown Revitilization5	$35-45 million (1995)
Ohio Water Development Authority ORC 6121 (614) 466-5822	Drinking Water, Waste Water Construction Projects; Planning	County, City, Village, Water/Sewer District, Conservatory District	Apply anytime; Loans made monthly at Board Meetings.	Market Interest rates with 10 25 year payback4; Borrower Maximum $75 million	No limit; Average Year $95 million
Ohio Environmental Protection Agency (OEPA): Ohio Water Pollution Control Loan Fund ORC 6111.036 (614) 644-2870	Publicly-owned Wastewater Treatment Facilities/Nonpoint source water pollution control projects	Municipality, County, Sewer District	Nomination to priority list, Approval of facilities plan and detail plan.	Below market rate loans (current rate = 2%-5%)	$120 million

NOTE: Any grant/loan from the above-named programs may be leveraged against the other.

1 State Issue 2 Program
2 Local Transportation Improvement Program
3 Community Development Block Grant
4 Certain Restrictions Apply
5 Competitive Programs

APPENDIX 5

SNOW EMERGENCY

ELIGIBLE ITEMS

LABOR COSTS - **OVERTIME ONLY**

1. Plow operator(s)
2. Dispatcher(s) directing operations
3. Other - applicant must include policy that requires for more than one operator at a time operating equipment (i.e., one road worker operating snow plow with second operator accompanying for safety purposes). This policy must have been in effect prior to the event.

EQUIPMENT COSTS - Reimbursement will be based on the most current Federal Emergency Management Agency schedule of equipment rates. See, Appendix 9.

1. Plow equipment (total hours)
2. Police escort, if required (total vehicle hours)
3. Equipment rented for snow removal, if cost is borne by the applicant.
4. Emergency towing of snow removal equipment only.

For each hour a piece of equipment is operated an hour of labor must be identified. List all labor hours (regular and overtime) associated with equipment usage, even though regular time will not be reimbursed.

MATERIALS COSTS - Reimbursement for cost of materials used during the eligibility period to ensure safety of travel (salt, sand, cinders, grit, etc.), will be based on reasonable use (i.e., approximately 2 tons of a particular material, per vehicle, per hour).

INCIDENT PERIOD - Costs may be submitted as eligible for reimbursement from the period beginning at 12:01 am on the first day of the Governor's declaration of emergency and ending at midnight the day the Governor's emergency order is lifted. See, Definitions, Appendix 11.

INELIGIBLE ITEMS

1. Regular time labor.

2. Traffic control costs (labor and vehicles)

3. Consequential damages to road surfaces, curbing, fire hydrants, guard rails, or other highway facilities and vehicles in roadway.

4. Search and rescue and other similar emergency measures.

APPENDIX 6

OTHER NATURAL DISASTERS

ELIGIBLE ITEMS

LABOR COSTS-**OVERTIME OR CALL-IN TIME ONLY**

1. Response personnel (police, fire, EMS, EMA, etc.)
2. Recovery personnel (public works, road department, etc.)

EQUIPMENT COSTS - Reimbursement will be based on the most current Federal Emergency Management Agency schedule of equipment rates. See, Appendix 9.

1. Police vehicles, fire equipment used in response.
2. Dump trucks, graders, etc., used in recovery.
3. Rented equipment used in recovery efforts, if cost is borne by the applicant.
4. Equipment damaged during life saving activities.

For each hour a piece of equipment is operated an hour of labor must be identified. List all labor hours (regular and overtime) associated with equipment usage, even though regular time will not be reimbursed.

MATERIALS COSTS - Cost of materials and supplies used in the response/recovery (from stock, or purchased during the emergency).

CONTRACT WORK – Response/recovery activities accomplished by private enterprise through standard or emergency contractual procedures.

CAPITAL PROJECTS – These items will be addressed on a case by case basis with repair costs for the structure being the first option for reimbursement. Replacement costs will not be fully covered for structures with pre-existing damage or deferred maintenance.

INCIDENT PERIOD – Reimbursement for response activities will be limited to the incident period as identified in the applicant's Letter of Intent. Recovery work eligible for reimbursement must be completed within six months of the incident, however, exceptions can be made for large capital projects.

INELIGIBLE ITEMS

1. Regular time labor.

2. Consequential damages to road surfaces, curbing, fire hydrants, guard rails, or other highway facilities and vehicles.

3. Equipment damaged or destroyed during response/recovery.

APPENDIX 7

SAMPLE NARRATIVE LETTER

Executive Director
Ohio Emergency Management Agency
2855 West Dublin Granville Road
Columbus, Ohio 43235

Dear _____:

On June 2, 1997, Franklin Township, Belmont County, was affected by a severe rain storm. Over 6" of rain fell in the County within 24 hours resulting in flooded roadway and scattered debris. County and Township crews responded to the event by removing debris from roadways and doing emergency work on damaged roads. Dispatchers from the local police department worked around the clock directing response personnel to high risk areas, such as washed out roadways and locations where barricades needed to be placed. The emergency declaration was lifted on June 7, 1997. Our Township crews have completed repairs on washed out berms and culverts and have disposed of all debris. We contracted work to a local company to repair one large culvert because our Township does not own the necessary equipment.

In January of this year, our Township was also affected by a large snow storm. Nearly 50% of our snow removal budget was utilized to recover from that event but no additional assistance was requested.

We were informed through our local EMA Director and the Response and Recovery Branch, Ohio EMA, that the Ohio Public Works Commission may have funding available to help our Township recover from this event. We contacted our District Representative and explained to her the work we needed to do. She was unable to offer any assistance to us. We also contacted the Department of Development, but they were also unable to offer any assistance.

Enclosed is all information necessary to complete our Final Request Packet. If you have any questions, please contact Jane Smith, Township Clerk at (614) 888-8888 wk or (614) 777-7777 hm.

Sincerely,

_____, President of Trustees

APPENDIX 8

Force Account Labor Summary Record Instructions

Force account is the term to refer to your own personnel and equipment. Keep the following points in mind when compiling force account labor information:

- Record regular and overtime hours separately.
- Record the benefits separately for regular and overtime hours. Most overtime hours include fewer benefits than regular hours.
- Attach a Fringe Benefits Rate Sheet giving a breakdown of what is included in your benefits, by percentages, i.e., social security-15.2%, worker's compensation-4.3%, insurance-18.5%, etc. You can use an average rate if you have different benefit rates for different employees.

Complete the Record as follows:

- Heading:
  - **Applicant Name:** Enter your organization's name.
  - **FIPS #:** Enter the computer tracking number that FEMA assigns to your organization. This is also referred to as your PA-ID number. Your PAC can tell you what it is if you don't know it.
  - **Disaster Number:** Enter the declaration number for this disaster here. The PAC can tell you what it is if you don't know it.
- **Project Number:** Enter your project number (PW number).
- **Employee Name:** Enter the names of each employee who worked on the project (please remember to include trustees, if applicable, even though reimbursement of their hourly rate is not eligible).
- **Title/Occupation:** Enter the title or occupation of each employee who worked on the project.
- **REG:** Enter the regular hours that each employee worked on the project.
- **OT:** Enter the overtime hours that each employee worked on the project. **REMINDER: Only overtime is eligible for reimbursement for emergency work. Record both regular and overtime hours, so that personnel hours can be compared with equipment use hours, if necessary.**
- **Total HR:** Total the hours for each employee and enter the result in this block.
- **Rate/Hr:** Enter each employee's hourly rate.
- **Benefits/Hr:** Enter each employees hourly benefit rate. There should be different percentages for benefits pertaining to regular and overtime wages.
- **Total Rate/Hr:** Add the employee's hourly rate in the Rate/Hr block and the hourly benefits rate in the Benefits/Hr block and enter the result here.
- **Total Cost:** Multiply the entries in the Total Hr and Total Rate/Hr blocks and enter the result here.
- **Total Cost for Force Account Labor Regular Time:** Add the entries in the Total Cost, REG block for each employee and enter the results here.
- **Total Cost for Force Account Labor Overtime:** Add the entries in the Total Cost, OT block for each employee and enter the results here.

FEDERAL EMERGENCY MANAGEMENT AGENCY

FORCE ACCOUNT LABOR SUMMARY RECORD

1. APPLICANT	2. PA ID	3. PW #	4. DISASTER NUMBER
FRANKLIN TOWNSHIP	N/A	N/A	N/A

5. LOCATION/SITE	6. CATEGORY	7. PERIOD COVERING
TOWNSHIP ROAD 25		8/7/99 to 8/9/99

8. DESCRIPTION OF WORK PERFORMED

DITCH CLEANING AND SHAPING, CHIP AND SEAL

NAME / JOB TITLE	DATES AND HOURS WORKED EACH WEEK								COSTS				
	DATE	8/7/99	8/8/99	8/9/99					TOTAL HOURS	HOURLY RATE	BENEFIT RATE/HR	TOTAL HOURLY	TOTAL COSTS
NAME JOHN JOHNSON		10.0	10.0	8 0					28.0	$ 0.00	/	$	$ 0.00
JOB TITLE TRUSTEE										$	/	$	$
NAME JULIE JONES		8.0	8.0						16.0	$ 10.52	31% /	$ 13.78	$ 220.48
JOB TITLE- ROAD SUPERVISOR		2.0	2.0	8.0					12.0	$ 15.78	31% /	$ 20.67	$ 248.06
NAME PHIL PHILLIPS		8.0	2.0						10.0	$ 7.00	0 /	$ 7.00	$ 70.00
JOB TITLE PART-TIME ROAD WORKER			6.0	8.0					14.0	$ 7.00	0 /	$ 7.00	$ 98.00
NAME ANDREA ANDREWS									0.0	$	/	$	$ 0.00
JOB TITLE EXTRA HIRE ROAD WORKER		8.0							8.0	$ 5.00	0 /	$ 5.00	$ 40.00
NAME										$	/	$	$
JOB TITLE										$	/	$	$
													$ 290.48
													$ 386.06

I CERTIFY THAT THE ABOVE INFORMATION WAS OBTAINED FROM PAYROLL RECORDS, INVOICES, OR OTHER DOCUMENTS THAT ARE AVAILABLE FOR AUDIT.

CERTIFIED	TITLE	DATE
LISA RICHARDS	CLERK	8/15/99

FEMA Form 90-123, NOV 98

APPENDIX 8

Fringe Benefit Rate Sheet Instructions

Fringe Benefit Calculations

Fringe benefits for force account labor is eligible. Except in extremely unusual cases, fringe benefits for overtime will be significantly less than regular time.

The following steps will assist you in calculating the percentage of fringe benefits paid on an employee's salary. Note items and percentages will vary from one entity to another.

1. The normal year consists of 2080 hours (52 weeks x 5 workdays/week x 8 hours/day). This does not include holidays and vacations.
2. Determine the employee's basic hourly pay rate (annual salary/2080 hours).
3. Fringe benefit percentage for vacation time: Divide the number of hours of annual vacation time provided to the employee by 2080 (80 hours (2 weeks)/2080 = 3.85%).
4. Fringe benefit percentage for paid holidays: Divide the number of paid holiday hours by 2080 (64 hours (8 holidays)/2080 = 3.07%).
5. Retirement pay: Because this measure varies widely, use only the percentage of salary matched by the employer.
6. Social Security and Unemployment Insurance: Both are standard percentages of salary.
7. Insurance: this benefit varies by employee. Divide the amount paid by the local government by the basic pay rate determined in Step 2.
8. Worker's Compensation: this benefit also varies by employee. Divide the amount paid by the local government by the basic pay rate determined in Step 2. Use the rate per $100 to determine the correct percentage.

Note: Typically, you should not be charging the same rate for regular time and overtime. Generally, only FICA (Social Security) is eligible for overtime; however, some entities may charge retirement tax on all income.

Sample Rates

Although some rates may differ greatly between organizations due to their particular experiences, the table below provides some general guidelines that can be used as a reasonableness test to review submitted claims. These rates are based on experience in developing fringe rates for several state departments, the default rate is that used for the state of Florida, following Hurricane Andrew (August 1992) and the review of several FEMA claims. The rates presented are determined using the gross wage method applicable to the personnel hourly rate (PHR) method. The net available hours method would result in higher rates.

Paid Fringe Benefits		
HCA Matching	7.65%	(or slightly less)
Retirement – Regular	17.00%	(or less)
Retirement – Special Risk	25.00%	(or slightly more)
Health Insurance	12.00%	(or less)
Life and Disability Insurance	1.00%	(or less)
Worker's Compensation	3.00%	(or less)
Unemployment Insurance	0.25%	(or less)
Leave Fringe Benefits		
Accrued Annual Leave	7.00%	(or less)
Sick Leave	4.00%	(or less)
Administrative Leave	0.50%	(or less)
Holiday Leave	4.00%	(or less)
Compensatory Leave	2.00%	(or less)

Rates outside of these ranges are possible, but should be justified during the validation process.

FEDERAL EMERGENCY MANAGEMENT AGENCY

APPLICANT'S BENEFITS CALCULATION WORKSHEET

PAGE _____ OF _____

1. APPLICANT	2. PA ID
3. DISASTER NUMBER	4. PW #

[illegible]	REGULAR TIME [illegible]	[illegible] OVERTIME [illegible]

COMMENTS

I CERTIFY THAT THE INFORMATION ABOVE WAS TRANSCRIBED FROM PAYROLL RECORDS OR OTHER DOCUMENTS WHICH ARE AVAILABLE FOR AUDIT.

CERTIFIED BY	TITLE	DATE

FEMA Form 90-128, NOV 98

APPENDIX 8

Force Account Equipment Summary Record Instructions

Complete the record as follows:

- Heading
  - **Applicant Name:** Enter your organization's name.
  - **FIPS #:** Enter the computer tracking number that FEMA assigns to your organization. This is also referred to as your PA-ID number. Your PAC can tell you what it is if you don't know it.
  - **Disaster Number:** Enter the declaration number for this disaster here. The PAC can tell you what it is if you don't know it.
- **Project Number:** Enter your project number.
- **Date:** Enter the dates for each day the project was worked on.
- **FEMA Code:** Enter the FEMA cost code for the equipment from the Schedule of Equipment Rates.
- **Equipment Description:** Enter a brief description of the equipment, including the rated horsepower or capacity of the equipment. Be sure to include this information if you also use a trade name or common name to describe the equipment, i.e. Ditch Witch.
- **Operator:** Enter the equipment operator's name.
- **Hours Used:** Enter the hours the equipment was used on the project.
- **Cost/Hour:** Enter the hourly cost to use the equipment.
- **Total Cost:** Multiply the number of Hours Used block by the number in the Cost/Hour block and enter the result here.
- **Total Cost for Force Account Equipment:** Add the numbers in the Total Cost blocks and enter the result here.

FEDERAL EMERGENCY MANAGEMENT AGENCY

FORCE ACCOUNT EQUIPMENT SUMMARY RECORD

1. APPLICANT	2. PA ID	3. PW #	4. DISASTER NUMBER
FRANKLIN TOWNSHIP	N/A	N/A	N/A

5. LOCATION/SITE	6. CATEGORY	7. PERIOD COVERING
TOWNSHIP ROAD 25		8/7/99 to 8/9/99

8. DESCRIPTION OF WORK PERFORMED
DITCH CLEANING AND SHAPING, CHIP AND SEAL

[redacted]			DATES AND HOURS USED EACH DAY								COSTS		
[redacted]			8/7/99	8/8/99	8/9/99					TOTAL HOURS	EQUIPMENT RATE	TOTAL COST
GMC DUMP 10 CY	8526	PHIL PHILLIPS	8.0	8.0	8.0					24.0	$ 24.00	$576.00
GRADER CHAMPION 720 A, 204 HP	8226	JOHN JOHNSON	10.0	10.0	8.0					28.0	$ 31.00	$868.00
LOADER W30 CASE, 3 CY	8266	JULIE JONES	10.0	10.0	8.0					28.0	$ 23.00	$644.00
											$	$
											$	$
											$	$
											$	$
[redacted]										80.0	[redacted]	$2,088.00

I CERTIFY THAT THE ABOVE INFORMATION WAS OBTAINED FROM PAYROLL RECORDS, INVOICES, OR OTHER DOCUMENTS THAT ARE AVAILABLE FOR AUDIT.

CERTIFIED	TITLE	DATE
LISA RICHARDS	CLERK	8/15/99

FEMA Form 90-127, NOV 98

APPENDIX 8

Material Record Summary Instructions

Complete the record as follows:

- Heading:
  - **Applicant Name:** Enter your organization's name.
  - **Applicant's Project Number:** Enter the number you have assigned to this project.
  - **FIPS#:** Enter the computer tracking number that FEMA assigns to your organization. Also referred to as your PA-ID number. Your PAC can tell you what it is if you don't know it.
  - **Disaster Number:** Enter the declaration number for this disaster here. Your PAC can tell you what it is if you don't know it.
- **Invoice Number:** Enter the invoice number.
- **Date:** Enter the date on the invoice.
- **Vendor:** Enter the name of the supplier if the material was bought specifically as a result of the disaster.
- **Description:** Enter a brief description of the supplies or materials used or purchased.
- **Invoice Total:** Enter the total cost listed on the invoice.
- **Total Cost for Material:** Add the numbers in the Invoice Total block and enter the result here.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MATERIALS SUMMARY RECORD

Page 1 of 1

1. APPLICANT	2. PA ID	3. PW #	4. DISASTER NUMBER
FRANKLIN TOWNSHIP	N/A	N/A	N/A

5. LOCATION/SITE	6. CATEGORY	7. PERIOD COVERING
TOWNSHIP ROAD 25		8/7/99 to 8/9/99

8. DESCRIPTION OF WORK PERFORMED
DITCH CLEANING AND SHAPING, CHIP AND SEAL, REPLACE CULVERT

[illegible]	[illegible]	QUAN	UNIT PRICE	TOTAL PRICE	DATE PURCHASED	DATE USED	INFO FROM (CHECK ONE) INVOICE	STOCK
COUNTY GARAGE	# 57 SLAG, C17	10	$ 12.05	$ 120.50	6/30/99	8/7/99	☐	☒
COUNTY GARAGE	# 57 SLAG, C53	10	$ 12.05	$ 120.50	6/30/99	8/7/99	☐	☒
GRIMES	# 57 GRAVEL, C17	10	$ 8.00	$ 80.00	8/7/99	8/7/99	☒	☐
COUNTY GARAGE	CULVERT 18'	1	$ 11.50	$ 11.50	8/7/99	8/7/99	☒	☐
			$	$			☐	☐
			$	$			☐	☐
			$	$			☐	☐
			$	$			☐	☐
			$	$			☐	☐
			$	$			☐	☐
			$	$			☐	☐
			$	$			☐	☐
[illegible]				$ 332.50	[illegible]			

I CERTIFY THAT THE ABOVE INFORMATION WAS OBTAINED FROM PAYROLL RECORDS, INVOICES, OR OTHER DOCUMENTS THAT ARE AVAILABLE FOR AUDIT.

CERTIFIED	TITLE	DATE
LISA RICHARDS	CLERK	8/15/99

FEMA Form 90-124, NOV 98

APPENDIX 8

Rented Equipment Summary Record Instructions

Complete the record as follows:

- Heading
  - **Applicant Name:** Enter your organization's name.
  - **FIPS#:** Enter the computer tracking number that FEMA assigns to your organization. Also referred to as your PA-ID number. Your PAC can tell you what it is if you don't know it.
  - **Disaster Number:** Enter the declaration number for this disaster here. Your PAC can tell you what it is if you don't know it.
- **Project Number:** Enter your project number.
- **Date:** Enter the dates for each day the project was worked on.
- **Company:** Enter the name of the company that rented or leased the equipment to you.
- **Equipment Description:** Enter a brief description of the equipment that you leased or rented.
- **Hours Used:** Enter the number of hours that the equipment was used on the project.
- **Cost/Hour:** Enter the hourly rental or lease cost of the equipment. Indicate if the equipment was rented on a daily, weekly, or monthly rate, instead of an hourly rate. Indicate if the hourly rate was with or without an operator. **NOTE: Determine that the rental rate is fair and reasonable and has not been raised to an unacceptable rate because of the disaster.**
- **Total Cost:** Enter the cost from the renter's invoice.
- **Total Cost for Rented Equipment:** Add the numbers in the Total Cost blocks and enter the result here.

FEDERAL EMERGENCY MANAGEMENT AGENCY

RENTED EQUIPMENT SUMMARY RECORD

1. APPLICANT	2. PA ID	3. PW #	4. DISASTER NUMBER
FRANKLIN TOWNSHIP	N/A	N/A	N/A

5. LOCATION/SITE	6. CATEGORY	7. PERIOD COVERING
TOWNSHIP ROAD 25		8/7/99 to 8/9/99

8. DESCRIPTION OF WORK PERFORMED
DITCH CLEANING AND SHAPING, CHIP AND SEAL

[redacted]	DATE(S) HOURS USED	RATE PER HOUR STD	RATE PER HOUR OPR	TOTAL COST	[redacted]	INVOICE NO.	DATE AND AMOUNT PAID	CHECK NO.
GMC DUMP	8/7/99 10.0		35.00	$ 350.00	JAY'S CONSTRUCTION	8206	8/14/99 $ 350.00	852
				$			$	
				$			$	
				$			$	
				$			$	
				$			$	
				$			$	
				$			$	
[redacted]							350	

I CERTIFY THAT THE ABOVE INFORMATION WAS OBTAINED FROM PAYROLL RECORDS, INVOICES, OR OTHER DOCUMENTS THAT ARE AVAILABLE FOR AUDIT.

CERTIFIED	TITLE	DATE
LISA RICHARDS	CLERK	8/15/99

FEMA Form 90-125, NOV 98

APPENDIX 8

Contract Work Summary Record Instructions

Complete the record as follows:

- Heading
  - **Applicant's Name:** Enter your organization's name.
  - **Applicant's Project Number:** Enter the number you have assigned to this project.
  - **FIPS#:** Enter the computer tracking number that FEMA assigns to your organization. Also referred to as your PA-ID number. Your PAC can tell you what it is if you don't know it.
  - **Disaster Number:** Enter the declaration number for this disaster here. Your PAC can tell you what it is if you don't know it.
- **Invoice Number:** Enter the invoice number.
- **Date:** Enter the date on the invoice.
- **Contractor:** Enter the name of the contractor receiving the contract.
- **Description of Work:** Enter a brief description of the work being performed.
- **Invoice Cost:** Enter the total dollar figure listed on the invoice.
- **Total Cost for Contract Service (includes contract labor):** Add the numbers in the Invoice Cost column and enter the result here.

FEDERAL EMERGENCY MANAGEMENT AGENCY

CONTRACT WORK SUMMARY RECORD

Page 1 of 1

1. APPLICANT	2. PA ID	3. PW #	4. DISASTER NUMBER
FRANKLIN TOWNSHIP	N/A	N/A	N/A

5. LOCATION/SITE	6. CATEGORY	7. PERIOD COVERING
TOWNSHIP ROAD 25		8/7/99 to 8/9/99

8. DESCRIPTION OF WORK PERFORMED
REPLACE DAMAGED CULVERT

DATE WORK	CONTRACTOR	BILLING INVOICE NUMBER	AMOUNT	COMMENTS—SCOPE
8/8/99 to 8/8/99	MIKE AND SONS' CONSTRUCTION	1101	$ 150.00	REPLACE DAMAGED CULVERT
to			$	
to			$	
to			$	
to			$	
to			$	
to			$	
to			$	
to			$	
to			$	
			$ 150.00	

I CERTIFY THAT THE ABOVE INFORMATION WAS OBTAINED FROM PAYROLL RECORDS, INVOICES, OR OTHER DOCUMENTS THAT ARE AVAILABLE FOR AUDIT.

CERTIFIED	TITLE	DATE
LISA RICHARDS	CLERK	8/15/99

FEMA Form 90-126, NOV 98

FEDERAL EMERGENCY MANAGEMENT AGENCY, RESPONSE AND RECOVERY DIRECTORATE
INFRASTRUCTURE DIVISION, WASHINGTON, D.C. 20472

APPENDIX 9

SCHEDULE OF EQUIPMENT RATES

The rates on this Schedule of Equipment Rates are for equipment in good mechanical condition, complete with all required attachments. Each rate covers all costs eligible under PL 93-288, as amended, for ownership and operation of equipment, including depreciation, all maintenance, field repairs, fuel, lubricants, tires, OSHA equipment and other costs incident to operation. Standby equipment costs are not eligible. Equipment must be in actual operation to be eligible. LABOR COSTS OF OPERATOR ARE NOT INCLUDED and should be approved separately from equipment costs.

will be furnished by FEMA upon request. Any appeals shall be in accordance with 44 CFR 206.

THESE RATES ARE APPLICABLE TO MAJOR DISASTERS AND EMERGENCIES DECLARED BY THE PRESIDENT AFTER THE DATE OF PUBLICATION OF THIS SCHEDULE.

COST CODE	EQUIPMENT	CAPACITY	SIZE	HOURLY RATE	COST CODE	EQUIPMENT	CAPACITY	SIZE	HOURLY RATE
8010	AIR COMPRESSOR	TO 125 CFM	TO 65 HP	$8.60	8181	BUS		TO 210 HP	$14.75
8011	AIR COMPRESSOR	TO 250 CFM	TO 95 HP	$9.25	8182	BUS		TO 300 HP	$20.00
8012	AIR COMPRESSOR	TO 450 CFM	TO 150 HP	$15.50	8190	CHAIN SAW	25 INCH		$2.40
8013	AIR COMPRESSOR	TO 600 CFM	TO 200 HP	$20.00	8200	CHIPPER	7 INCH	TO 30 HP	$5.90
8014	AIR COMPRESSOR	TO 750 CFM	TO 240 HP	$25.50	8201	CHIPPER	12 INCH	TO 65 HP	$8.00
8015	AIR COMPRESSOR	TO 900 CFM	TO 260 HP	$29.00	8202	CHIPPER	12 INCH	TO 125 HP	$12.00
8016	AIR COMPRESSOR	TO 1200 CFM	TO 325 HP	$41.00	8203	CHIPPER	12 INCH	TO 171 HP	$14.50
8020	AIR CURTAIN BURNER	IN GROUND	TO 30 HP	$4.80	8204	CHIPPER	18 INCH	TO 250 HP	$24.50
8021	AIR CURTAIN BURNER	IN GROUND	TO 60 HP	$7.40	8205	CHIPPER	19 INCH	TO 350 HP	$59.00
8022	AIR CURTAIN BURNER	IN GROUND	TO 90 HP	$9.75	8206	CHIPPER	19 INCH	TO 475 HP	$63.00
8023	AIR CURTAIN BURNER	ABOVE GR.	TO 30 HP	$5.80	8207	CHIPPER		TO 650 HP	$87.00
8024	AIR CURTAIN BURNER	ABOVE GR.	TO 60 HP	$8.25	8210	CLAMSHELL & DRAGLINE		TO 128 HP	$67.00
8025	AIR CURTAIN BURNER	ABOVE GR.	TO 90 HP	$10.75	8211	CLAMSHELL & DRAGLINE		TO 250 HP	$74.00
8040	AMBULANCE		TO 150 HP	$13.75	8220	COMPACTOR		TO 10 HP	$3.20
8041	AMBULANCE		TO 210 HP	$21.00	8221	COMPACTOR		TO 50 HP	$6.80
8060	AUGER, PORTABLE	12 INCH	TO 5 HP	$0.70	8222	COMPACTOR		TO 80 HP	$11.25
8070	AUTOMOBILE		TO 130 HP	$.30/MI	8223	COMPACTOR		TO 110 HP	$15.50
8071	AUTOMOBILE, POLICE		TO 250 HP	$.35/MI	8224	COMPACTOR		TO 150 HP	$21.00
8072	AUTOMOBILE, POLICE		TO 250 HP	$8.50	8225	COMPACTOR		TO 186 HP	$25.50
8810	BACKHOE, SMALL	SEE LOADER-BACKHOE			8226	COMPACTOR		TO 210 HP	$42.00
8820	BACKHOE, LARGE	SEE HYDRAULIC EXCV.			8227	COMPACTOR		TO 318 HP	$70.00
8110	BARGE, DECK	7.25'x30'x120'		$19.00	8228	COMPACTOR, TOWED	DRUM		$1.00
8111	BARGE, DECK	7'x45'x120'		$28.50	8230	CRANE, LIFTING	8 TONS	TO 80 HP	$14.50
8120	BARGE, HOPPER	12'x35'x195'		$31.00	8231	CRANE, LIFTING	16 TONS	TO 150 HP	$36.00
8050	BOARD, ARROW, TRAILER		TO 8 HP	$1.50	8232	CRANE, LIFTING	32 TONS	TO 210 HP	$55.00
8051	BOARD, MESSAGE, TRAILER		TO 5 HP	$5.10	8233	CRANE, LIFTING	55 TONS	TO 325 HP	$81.00
8131	BOAT	5'x13'	TO 50 HP	$7.20	8250	DOZER, CRAWLER		TO 70 HP	$16.50
8830	BOAT		TO 100 HP	$17.00	8251	DOZER, CRAWLER		TO 115 HP	$21.50
8831	BOAT		TO 150 HP	$22.00	8252	DOZER, CRAWLER		TO 160 HP	$31.00
8832	BOAT		TO 200 HP	$27.00	8253	DOZER, CRAWLER		TO 240 HP	$40.00
8833	BOAT		TO 250 HP	$33.00	8254	DOZER, CRAWLER		TO 310 HP	$70.00
8834	BOAT		TO 300 HP	$38.00	8261	DOZER, WHEEL		TO 210 HP	$38.00
8840	BOAT, AIR		TO 100 HP	$12.00	8262	DOZER WHEEL		TO 310 HP	$55.00
8841	BOAT, AIR		TO 200 HP	$18.00	8263	DOZER, WHEEL		TO 454 HP	$89.00
8842	BOAT, AIR		TO 300 HP	$28.00	8280	EXCAVATOR, HYDRAULIC	0.5 CY		$29.00
8133	BOAT, PUSH	16'x45'	TO 435 HP	$76.00	8281	EXCAVATOR, HYDRAULIC	1.0 CY		$34.00
8134	BOAT, PUSH	21'x54'	TO 525 HP	$103.00	8282	EXCAVATOR, HYDRAULIC	1.5 CY		$44.00
8130	BOAT, ROW			$0.55	8283	EXCAVATOR, HYDRAULIC	2.0 CY		$57.00
8132	BOAT, TENDER	7'x14'	TO 75 HP	$13.50	8284	EXCAVATOR, HYDRAULIC	2.5 CY		$73.00
8140	BOAT, TUG	16 FOOT	TO 100 HP	$16.50	8300	FORK LIFT	4000 LBS	TO 50 HP	$4.50
8141	BOAT, TUG	18 FOOT	TO 175 HP	$26.00	8301	FORK LIFT	11000 LBS	TO 100 HP	$8.25
8142	BOAT, TUG	26 FOOT	TO 250 HP	$33.00	8310	GENERATOR	5 KW	TO 11 HP	$1.20
8143	BOAT, TUG	40 FOOT	TO 380 HP	$81.00	8311	GENERATOR	15 KW	TO 30 HP	$3.00
8420	BREAKER, PAVEMENT		TO 80 HP	$15.00	8312	GENERATOR	40 KW	TO 57 HP	$6.00
8421	BREAKER, PAVEMENT		TO 137 HP	$31.00	8313	GENERATOR	65 KW	TO 92 HP	$10.25
8150	BROOM, PAVEMENT	72 INCH	TO 32 HP	$6.20	8314	GENERATOR	110 KW	TO 160 HP	$15.50
8151	BROOM, PAVEMENT	84 INCH	TO 96 HP	$9.75	8315	GENERATOR	125 KW	TO 200 HP	$22.00
8170	BROOM, PAVEMENT, MTD.	72 INCH		$1.60	8316	GENERATOR	270 KW	TO 390 HP	$26.50
8171	BROOM, PAVEMENT, MTD.	72 INCH	TO 18 HP	$2.50	8317	GENERATOR	400 KW	TO 570 HP	$38.00
8160	BROOM, PAVEMENT, PULL	84 INCH		$3.30	8318	GENERATOR	500 KW	TO 715 HP	$56.00
8180	BUS		TO 150 HP	$9.50	8319	GENERATOR	750 KW	TO 1050 HP	$75.00

8340	GOLF CART	2 PASSGR		$1.80
8330	GRADER	16' BLADE	TO 100 HP	$15.00
8331	GRADER	12' BLADE	TO 140 HP	$25.00
8332	GRADER	12' BLADE	TO 200 HP	$31.00
8350	HOSE, DISCHARGE	3 INCH		$0.05
8351	HOSE, DISCHARGE	4 INCH		$0.10
8352	HOSE, DISCHARGE	6 INCH		$0.15
8353	HOSE, DISCHARGE	8 INCH		$0.20
8354	HOSE, DISCHARGE	12 INCH		$0.35
8355	HOSE, DISCHARGE	16 INCH		$0.75
8360	JACKHAMMER			$0.60
8370	LIFT, SCISSOR	1500 LBS	TO 20 HP	$4.70
8380	LOADER, CRAWLER	0.5 CY	TO 32 HP	$7.75
8381	LOADER, CRAWLER	1.0 CY	TO 70 HP	$14.00
8382	LOADER, CRAWLER	1.5 CY	TO 90 HP	$17.50
8383	LOADER, CRAWLER	2.0 CY	TO 120 HP	$26.00
8384	LOADER, CRAWLER	2.5 CY	TO 150 HP	$35.00
8385	LOADER, CRAWLER	3.0 CY	TO 170 HP	$40.00
8540	LOADER, SKID	1000 LBS	TO 27 HP	$4.90
8541	LOADER, SKID	2000 LBS	TO 73 HP	$7.40
8542	LOADER, SKID	4000 LBS	TO 94 HP	$15.50
8390	LOADER, WHEEL	0.75 CY	TO 63 HP	$7.30
8391	LOADER, WHEEL	1.0 CY	TO 74 HP	$9.75
8392	LOADER, WHEEL	1.5 CY	TO 75 HP	$15.00
8393	LOADER, WHEEL	2.0 CY	TO 115 HP	$18.00
8394	LOADER, WHEEL	2.5 CY	TO 144 HP	$20.50
8395	LOADER, WHEEL	3.0 CY	TO 160 HP	$25.00
8396	LOADER, WHEEL	3.5 CY	TO 196 HP	$29.50
8397	LOADER, WHEEL	4.0 CY	TO 248 HP	$36.00
8570	LOADER-BACKHOE, WHEEL	1.03 CY	TO 74 HP	$10.00
8571	LOADER-BACKHOE, WHEEL	1.5 CY	TO 95 HP	$14.50
8572	LOADER-BACKHOE, WHEEL	1.75 CY	TO 115 HP	$19.00
8410	MIXER, CONCRETE, PORT	6 CF	TO 7 HP	$1.50
8411	MIXER, CONCRETE, PORT	12 CF	TO 9 HP	$2.10
8400	MIXER, TRAILER, MOUNTED	6 CF	TO 18 HP	$3.80
8401	MIXER, TRAILER, MOUNTED	16 CF	TO 25 HP	$7.50
8632	MULCHER, TRAILER, MTD.		TO 35 HP	$4.80
8430	PAVER, ASPHALT	8 FOOT	TO 35 HP	$8.50
8431	PAVER, ASPHALT	8 FOOT	TO 71 HP	$19.50
8432	PAVER, ASPHALT	10 FOOT	TO 130 HP	$49.00
8433	PAVER, ASPHALT	10 FOOT	TO 200 HP	$65.00
8434	PAVER, ASPHALT	10 FOOT	TO 234 HP	$80.00
8450	PLOW, GRADER, MTD.	10.5 FOOT		$6.90
8440	PLOW, TRUCK MTD.			$3.60
8470	PUMP	2 INCH	TO 8 HP	$2.10
8471	PUMP	3 INCH	TO 12 HP	$2.80
8472	PUMP	4 INCH	TO 30 HP	$6.00
8473	PUMP	6 INCH	TO 60 HP	$8.50
8474	PUMP	8 INCH	TO 70 HP	$12.75
8475	PUMP	10 INCH	TO 85 HP	$15.00
8476	PUMP	12 INCH	TO 90 HP	$17.50
8463	PUMP EXTENDER	20 FOOT		$0.80
8460	PUMP W/O POWER	6 INCH		$1.50
8461	PUMP W/O POWER	12 INCH		$2.00
8462	PUMP W/O POWER	24 INCH		$4.70
8510	SAW, CONCRETE	14 INCH	TO 20 HP	$2.40
8511	SAW, CONCRETE	26 INCH	TO 35 HP	$5.70
8512	SAW, CONCRETE	36 INCH	TO 65 HP	$9.25
8520	SCRAPER	11 CY	TO 180 HP	$47.00
8521	SCRAPER	21 CY	TO 330 HP	$78.00
8522	SCRAPER	31 CY	TO 450 HP	$102.00
8560	SNOW BLOWER		TO 472 HP	$56.00
8561	SNOW BLOWER		TO 500 HP	$60.00
8562	SNOW BLOWER		TO 600 HP	$68.00
8550	SNOW BLOWER, TRK MTD.		TO 30 HP	$7.10
8551	SNOW BLOWER, TRK MTD.		TO 66 HP	$12.75
8552	SNOW BLOWER, TRK MTD.		TO 100 HP	$21.00
8553	SNOW BLOWER, TRK MTD.		TO 340 HP	$31.00
8554	SNOW BLOWER, TRK MTD.		TO 400 HP	$34.00
8630	SPRAYER, SEED, TRAILER	500 GAL.	TO 20 HP	$4.80
8631	SPRAYER, SEED, TRAILER	1000 GAL.	TO 35 HP	$7.50
8423	SPREADER, CHIP	14.5 FOOT	TO 150 HP	$30.00
8424	SPREADER, CHIP	14.5 FOOT	TO 210 HP	$26.50
8425	SPREADER, CHIP, MTD.	8 FOOT	TO 7 HP	$1.20
8426	STRIPPER	12 GAL.	TO 10 HP	$1.40
8427	SWEEPER, PAVEMENT		TO 109 HP	$22.00
8428	SWEEPER, PAVEMENT		TO 160 HP	$29.00
8429	SWEEPER, PAVEMENT		TO 190 HP	$35.00
8260	TRACTOR, WHEEL		TO 87 HP	$6.60
8580	TRAILER, ASPHALT DIST.	1000 GAL.		$6.20
8590	TRAILER, DUMP	18 CY		$4.60
8591	TRAILER, DUMP	24 CY		$10.25
8600	TRAILER, EQUIPMENT	20 TONS		$3.20
8601	TRAILER, EQUIPMENT	40 TONS		$7.50
8602	TRAILER, EQUIPMENT	50 TONS		$8.50
8640	TRAILER, OFFICE	8'x24'	DAY	$10.75
8641	TRAILER, OFFICE	8'x32'	DAY	$12.75
8610	TRAILER, WATER	3000 GAL.		$10.00
8611	TRAILER, WATER	6000 GAL.		$12.75
8612	TRAILER, WATER	9000 GAL.		$14.75
8613	TRAILER, WATER	12000 GAL.		$16.50
8650	TRENCHER		TO 35 HP	$3.80
8651	TRENCHER		TO 85 HP	$15.50
8652	TRENCHER		TO 115 HP	$31.00
8653	TRENCHER		TO 175 HP	$49.00
8290	TROWEL, CONCRETE	46 INCH	TO 8 HP	$1.40
8710	TRUCK, BUCKET	30 FOOT	TO 150 HP	$12.50
8711	TRUCK, BUCKET	60 FOOT	TO 210 HP	$26.00
8712	TRUCK, CLEANING	5 CY	TO 150 HP	$19.00
8713	TRUCK, CLEANING	14 CY	TO 210 HP	$28.50
8680	TRUCK, CONCRETE	8 CY	TO 235 HP	$39.00
8681	TRUCK, CONCRETE	12 CY	TO 285	$43.00
8720	TRUCK, DUMP	8 CY	TO 180 HP	$14.25
8721	TRUCK, DUMP	10 CY	TO 235 HP	$22.00
8722	TRUCK, DUMP	12 CY	TO 255 HP	$26.00
8723	TRUCK, DUMP	18 CY	TO 325 HP	$32.00
8690	TRUCK, FIRE		TO 200 HP	$24.50
8691	TRUCK, FIRE		TO 300 HP	$35.00
8692	TRUCK, FIRE		TO 400 HP	$45.00
8700	TRUCK, FLATBED	6000 LBS	TO 140 HP	$8.75
8701	TRUCK, FLATBED	15000 LBS	TO 210 HP	$11.25
8702	TRUCK, FLATBED	25000 LBS	TO 210 HP	$13.75
8730	TRUCK, GARBAGE	25 CY	TO 255 HP	$26.00
8731	TRUCK, GARBAGE	32 CY	TO 325 HP	$32.00
8714	TRUCK, LINE		TO 150 HP	$26.00
8715	TRUCK, LINE		TO 210 HP	$31.00
8803	TRUCK, PICK UP	0.50 TON	TO 130 HP	$.30/MI
8800	TRUCK, PICK UP	0.50 TON	TO 130 HP	$5.60
8801	TRUCK, PICK UP	0.75 TON	TO 130 HP	$6.30
8802	TRUCK PICK UP	1.00 TON	TO 180 HP	$7.50
8790	TRUCK, TRACTOR	30000 LBS	TO 210 HP	$18.50
8791	TRUCK, TRACTOR	35000 LBS	TO 265 HP	$23.50
8792	TRUCK, TRACTOR	50000 LBS	TO 310 HP	$26.00
8780	TRUCK, WATER	2000 GAL.	TO 175 HP	$16.00
8781	TRUCK, WATER	3500 GAL.	TO 250 HP	$19.00
8620	TUB GRINDER		TO 425 HP	$46.00
8621	TUB GRINDER		TO 450 HP	$63.00
8622	TUB GRINDER		TO 550 HP	$81.00
8623	TUB GRINDER		TO 650 HP	$102.00
8624	TUB GRINDER		TO 800 HP	$129.00
8625	TUB GRINDER		TO 1000 HP	$147.00
8321	VEHICLE, RECREATIONAL		TO 10 HP	$1.80
8750	VEHICLE, SMALL		TO 30 HP	$3.40
8761	VIBRATOR, CONCRETE		TO 8 HP	$1.20
8770	WELDER	200 AMP	TO 16 HP	$1.90
8771	WELDER	300 AMP	TO 34 HP	$3.90
8771	WELDER	400 AMP	TO 50 HP	$5.60

APPENDIX 10

URBAN SEARCH AND RESCUE (Task Force 1)

The Ohio EMA will reimburse the Sponsoring Organization of Task Force 1 when activated under a Governor's Proclamation of Emergency. The Sponsoring Organization will be reimbursed 100% of eligible costs, as outlined below:

Labor
Agency Personnel
Over/Comp Time costs; including fringes, for *deploying* personnel and those involved in mobilization, support and demobilization. Eligibility period is Portal-to-Portal time frame, including up to 72 hours past deactivation date for rehabilitation activities. Program Labor Form(s) will be submitted as part of Final Claim.

Non-Agency Personnel
Cost incurred in accordance with use of non-agency members under the Task Force Pay Policy: Non-Agency Personnel. Rates will be based on the current AGREEMENT FOR REIMBURSEMENT FOR SERVICES; NON-AGENCY PERSONNEL (Appendix 1 to this Agreement). (Labor Form).

Lodging/Meals
Meals and lodging costs for Portal-to-Portal operations, including rehabilitation activities. (Materials Form-meals, Contract Form, lodging).

Transportation
Reasonable costs incurred in transporting personnel or equipment from the Point of Assembly to the Point of Departure, including hiring of equipment for this purpose. The FEMA Schedule of Equipment Rates will be utilized when Organization equipment is utilized for this function. (Contract Form-external resources, Equipment Form-organizational equipment).

Equipment
Organizational equipment utilized for S&R activities in the field will be reimbursed under the FEMA Schedule of Equipment Rates or a reasonable hourly rate for equipment not listed on the FEMA Schedule. (Equipment Form).

Materials
Supplies and materials consumed during deployment/performance of S&R duties. (Materials Form).

APPENDIX 11

DEFINITIONS

1. CAPITAL PROJECTS - Work involving the repair/replacement of a facility or structure (part of the infrastructure) that meets a need of the general public; examples include bridges, public buildings, public works.

2. CONTRACT WORK - Process of acquiring a private company or individual to complete all or part of an emergency response or recovery project.

3. DAMAGE ASSESSMENT - The systematic process of determining and appraising the nature and extent of the loss, suffering, and/or harm to a political subdivision resulting from natural or human-made disasters.

4. GOVERNOR'S DECLARATION OF EMERGENCY - A proclamation, signed by the Governor, and filed with the Secretary of State, authorizing state resources to assist the named political subdivisions in emergency response and recovery. The Governor will not issue a proclamation unless local resources have been utilized and are exhausted. A separate document signals termination of the period of the emergency.

5. MUTUAL AID AGREEMENT – An agreement between political jurisdictions or agencies to provide services across boundaries in the event of an emergency. The conditions of the agreement can be to provide reciprocal services or direct payment for services.

6. PERIOD OF THE STATE OF EMERGENCY - Time between the first date set forth in the chief executive officer's declaration of emergency and the date set forth in the termination of the emergency.

7. INFRASTUCTURE - Basic facilities, equipment and contents required to support the services provided by a political subdivision for the benefit of its citizens.

8. INITIAL DAMAGE ASSESSMENT - A general overview of the types of information included in a final, completed damage assessment.

9. POLITICAL SUBDIVISION - A county, township, or municipal corporation in this state. See, Ohio Revised Code Section 5502.21 (M).

10. PRIVATE NON-PROFIT ORGANIZATIONS (PNP) - Any private non-profit educational, utility, emergency, irrigation, medical, or custodial care facility, including a facility for the aged or disabled, and other facility providing health and safety type services to the general public. Further definitions are as follows:

    a. Educational facilities: means classrooms plus related supplies, equipment, machinery and utilities of an educational institution necessary or appropriate for instructional,

administrative, and support purposes, but does not include buildings, structures, and related items used primarily for religious purposes or instruction.

b. Utility: means buildings, structures, or systems of energy, communication, water supply, sewage collection and treatment, or other similar public service facilities.

c. Emergency facility: means those buildings, structures, equipment, or systems used to provide emergency services, such as fire protection, ambulance, or rescue, to the general public, including the administrative and support facilities essential to the operation of such emergency facilities even if not contiguous.

d. Irrigation: mean water for essential services of a governmental nature to the general public, such as fire suppression, generating and supplying electricity and drinking water supply, but does not include water for agricultural purposes.

e. Medical facility: means any hospital, outpatient facility, rehabilitation facility or facility or long term care as such terms are defined in Section 645 of the Public Health Service Act (42 U.S.C. 2910) and any similar facility offering diagnosis or treatment of mental or physical injury or disease, including the administrative and support facilities essential to the operation of such medical facilities even if not contiguous.

f. Custodial care facility: means those buildings, structures, or systems including those for essential administration and support, which are used to provide institutional care for persons who require close supervision and some physical constraints on their daily activities for their self-protection, but do not require day-to-day medical care.

g. Other essential governmental services facilities: means facilities such as community center, libraries, homeless shelters, senior citizen centers, shelter workshops, and similar facilities which are open to the general public.

11. RECOVERY - Includes all those activities required and necessary to return an area to its former condition to the extent possible following the occurrence of any hazard or disaster. See, Ohio Revised Code Section 5502.21 (N).

12. RESPONSE - Includes all those activities that occur subsequent to any hazard or disaster and that provide emergency assistance from the effects of any such hazard or disaster, reduce the probability of further injury, damage, or destruction, and are designed or undertaken to speed recovery operations. See, Ohio Revised Code Section 5502.21 (O).

13. SPECIAL FLOOD HAZARD AREA - Area of land in the floodplain subject to a 1% or greater chance of flooding in a given year - designated by FEMA as Zone A, AE, AH, AO, A1-30, or A99.

NATIONAL EMERGENCY MANAGEMENT ASSOCIATION (NEMA), ISSUES AND RECOMMENDATIONS FOR CONGRESS TO CONSIDER FOR AMENDING THE STAFFORD ACT TO BETTER ADDRESS CATASTROPHIC DISASTERS

At the request of United States Senator, George Voinovich (OH), the National Emergency Management Association (NEMA) has identified a series of issues and recommendations for Congress to consider for amending the Stafford Act to better address catastrophic disasters, including acts of terrorism. NEMA established a small working group of those entities having experienced terrorist attacks: New York Oklahoma, Virginia, and the city of New York The State of Ohio was also included in the work group as the home State of Senator Voinovich, and as a State that has experienced large disasters in recent years.

GENERAL STATEMENT

The focus of any amendments to the Stafford Act should be on catastrophic disasters regardless of cause. The impacts of a major hurricane, earthquake or epidemic could result in as catastrophic a disaster as a terrorist act.

NEMA believes there should be financial commitments for State and local governments in disaster response and recovery. We are not advocates for increased assistance across the board for those disasters typically addressed through the Stafford Act. We do feel strongly however, that for catastrophic disasters requiring actions above and beyond typical disasters there should be triggers or thresholds established for increased assistance to State and local governments. There must also be statutory authority for the Federal Government to provide increased assistance without delay.

ISSUES IDENTIFIED AFTER SEPTEMBER 11, 2001 AND LIKELY TO OCCUR AGAIN

Disaster response and recovery needs resulting from the terrorist attacks on September 11, 2001 in New York City and at the Pentagon revealed limitations in the type and amount of assistance that could be provided to State and local governments through the Stafford Act. The law and the disaster assistance programs it authorizes had never before been applied in a terrorist incident of this magnitude. Repeatedly, policy decisions on reimbursement had to be determined by FEMA or by Congress, outside the parameters of the Stafford Act. FEMA broadly interpreted its provisions within the Stafford Act, and Congress authorized FEMA to compensate the cities and states for costs that it could not otherwise have funded within the current Stafford Act.

The following issues were identified from the September 11 terrorist attacks and will likely occur again in another terrorist attack, or other catastrophic disaster:

• *Increased Costs for Security.* The Stafford Act lacks provisions for State and local governments to receive reimbursement for certain costs—including extensive additional security across a geographic area which may be significantly broader than the physically impacted disaster site, and security required for a period of time longer due to ongoing terrorist threat. We know that following a terrorist act, there will be a need for increased security at critical infrastructure sites, historical sites, government facilities, along transportation routes, bridges and tunnels, etc. all of which will result in extraordinary costs to State and local governments.

Recommendation: The Stafford, Act should include increased security as an eligible cost reimbursement for catastrophic disasters.

• *Insurance.* The availability of liability insurance coverage for cities and contractors as it relates to debris removal is absolutely vital. The appropriate level of coverage for a terrorist incident is not available on the private market and what is available covers only a fraction of the cost to local government. This issue still hasn't been resolved more than 2 years after September 11, 2001.

Recommendation: Congress should provide Federal indemnification for State and local governments (and their agents) for prudent actions (such as debris removal) taken in response to a catastrophic or terrorist disaster. This is especially important in disasters, such as WTC, where there are significant environmental concerns.

• *Debris Removal.* Currently, debris removal is limited to the impacted area. In New York City, debris including human remains and dust from the collapse of the towers was discovered outside the immediate vicinity of Ground Zero.

Recommendation: The removal of any debris such as this, as well as debris that is potentially hazardous to the public should be reimbursed as long as it is a result of the catastrophic event.

• *Mass Evacuation.* The Stafford Act does not provide for post reimbursement for states and localities outside the declared disaster area. The need for mass evacu-

ations into other cities, counties and states will continue to be necessary in catastrophic events.

Recommendation: Entities outside the declared disaster area that mobilize to receive and care for evacuees should be eligible for reimbursement.

• *Lost Government Revenue.* New York City estimated losses in tax revenue of almost $3B in 2002 and 2003 directly attributable to the attack and independent of the economic slowdown. These losses were due to decreases in city personal income taxes, business taxes and reduced sales tax. In addition, the destruction of property, the virtual closing of Lower Manhattan and the significant effect on travel and tourism had a significant impact on tax revenues. The Stafford Act does not allow FEMA to provide reimbursement for lost tax revenue to local governments. The Community Disaster Loan Program is capped at only $5M—a fraction of the costs from a catastrophic disaster. At a minimum, this arbitrary cap should be eliminated in catastrophic events.

Recommendation: Congress should take into consideration the impact on local budgets and establish triggers or thresholds at which Federal disaster assistance is provided for catastrophic events. One approach may be to trigger assistance when catastrophic disaster costs exceed the local budget by more than 1 percent. Non-Federal cost share requirements should be considered as well and perhaps a sliding scale created based on the size of the event and the overall impact on State and local budgets.

• *Special designations for certain for-profit organizations within the Stafford Act definition of "critical facilities".* For-profit entities are not eligible for Stafford Act assistance and certain non-profit facilities are eligible for grants for the reconstruction and repair of damaged facilities. The September 11 attacks disrupted services provided by utilities, transportation, communication, educational and medical care facilities. Congress later appropriated funds to help meet these costs.

Recommendation: The Stafford Act should allow, in catastrophic events, the flexibility for special designations to be given to certain for-profit entities that provide government type services for assistance deemed essential.

• *Individuals and Households Repair Assistance Program.* When The Disaster Mitigation Act of 2000 was signed into law, a provision was inadvertently changed in the bill that lowered the cap on assistance for individuals and households to repair damaged residences. The assistance under the cap severely limits assistance for repair of owner-occupied private residences, utilities, and residential infrastructure damaged by a major disaster to a safe or sanitary living or functioning condition. Repair assistance is used to allow disaster victims to continue living in damaged residences after a disaster and thus minimizing the overall disaster costs, especially rental and transportation assistance, and availability of rental property. Previously, the cap was set at more than, $15,000, but with DMA2K the cap was lowered to $5,000 without any avenues for any additional assistance should other assistance programs fail. Typically the persons who have no other means of assistance are those most highly impacted by this provision.

Recommendation: Congress should expeditiously address this error in corrective legislation, so that disaster victims are not limited to $5,000 when no other assistance is available. We suggest calling this assistance "initial" and support FEMA's suggested language to increase the cap as appropriate while remaining within the overall $25,000 limit for assistance to individuals.

• *The Mortgage and Rental Assistance Program was eliminated in the Disaster Mitigation Act of 2000.*

Recommendation: Re-instate the Mortgage and Rental Assistance Program under the Stafford Act.

• *Long-term Economic and Societal Recovery.* The magnitude of destruction caused by catastrophic disasters, the losses to the economy and the psychological impact on individuals and communities requires long-term recovery efforts. In the area of crisis counseling assistance, only individuals from a declared disaster area are eligible to receive counseling services and for a short period of time. In catastrophic disasters there may be a need for assistance to be provided to individuals not only outside the immediate disaster area, but also in other states.

The Stafford Act does not currently provide Federal authorities adequate flexibility to coordinate and monitor Federal rebuilding efforts that may be required after catastrophic events. In addition, there is no formalized Federal coordination point to—assist state, and local governments with identifying and accessing all the assistanoe available to them from the Federal Government. A one-stop-shop approach is needed to assist states with long-term recovery.

Recommendation: FEMA should be held accountable for coordinating assistance on behalf of all Federal agencies so that State and local governments have a single point of contact for collecting information and resolving issues.

Statutory and administrative requirements placed on disaster assistance programs may, at times, delay the delivery of assistance. Congress should provide flexibility for the President or the director of FEMA to waive regulations or extend deadlines for providing assistance in catastrophic situations when economic and societal impacts require broader provisions of assistance and for longer time periods.

ADDITIONAL ISSUES TO CONSIDER

1. Re-examine Public Assistance Program eligibility requirements of private nonprofit organizations.
2. Ensure a methodology for FEMA to use to address incremental costs to State and local governments.
3. Clarify agencies' authorities and ensure immediate environmental hazard assessment, monitoring and reporting to emergency responders.

STATEMENT OF BUD LARSON, ASSOCIATE DIRECTOR, NEW YORK CITY OFFICE OF MANAGEMENT AND BUDGET

Good Morning Chairman Voinovich, Senator Carper, our own New York Senator, Senator Clinton, and distinguished Members of the Subcommittee. My name is Bud Larson, and I am the Associate Director of the New York City Office of Management and Budget. My responsibilities include, among others, coordinating and processing all of the FEMA claims by the city of New York, and I am thankful for the opportunity to share the city's experiences in this process over the last 2 years. In particular, I would like to provide you with some insight on how the city and FEMA responded to certain limitations in the Stafford Act.

Immediately following the attacks of September 11th, 2001, the President and Congress committed over $20 billion of much needed aid to the city of New York. This aid included a $5 billion Liberty Zone Tax Incentive Package, over $3 billion in Community Development Block Grants for economic development, almost $2 billion to the U.S. Department of Transportation for downtown transit upgrades, and over $8 billion to FEMA for transit improvements, individual and family assistance grants and the public assistance program. Of these, the city of New York is eligible to make direct claims for reimbursements of disaster-related costs only through FEMA's Public Assistance program. The City's claims have totaled approximately $3.5 billion.

Overall, FEMA has been remarkably efficient and flexible in reimbursing the city, given the constraints of the Stafford Act. Since the 9/11 terrorist attack was the largest disaster ever in the United Sates, the associated costs borne by the local government was the largest FEMA has ever had to deal with. FEMA recognized very early on in the process that they had entered into new, un-chartered territory, as this disaster was unlike any they had ever responded to, and FEMA officials were willing to work as hard as possible in order to provide the necessary reimbursements to the city of New York.

The City has already received almost 100 percent of all claims filed and currently eligible to be reimbursed, excluding the $1 billion insurance fund. A large portion of the balance of Public Assistance funds have been earmarked for transportation improvements for a new transit hub in Lower Manhattan, and will be provided to the appropriate entity when the expenses occur. This success is attributable to the staff at FEMA, the State of New York, all of our City agencies and the assistance of our congressional delegation, including Senator Clinton.

While we greatly appreciate the work done by the staff at FEMA in providing the city with appropriate reimbursement, there are a number of limitations in the Stafford Act that did not make this an easy process. If not for congressional action, the city would still not have received the reimbursement necessary to cover the unique expenses a local government incurs when responding to a terrorist attack. In fact, there are some instances where the city will never receive the appropriate reimbursement due to these limitations.

First and foremost, due to the extent of the damages and the destruction of the financial center of the Nation, the city and State lost a substantial amount of tax revenue as a direct result of this terrorist attack. The City estimated substantial losses in tax revenue of almost $3 billion in the 2002 and 2003 City fiscal years directly attributable to the attack and independent of the economic slowdown. These losses were due to decreases in City personal income taxes, business taxes and reduced sales taxes. In addition, the actual destruction of property, the closure of Lower Manhattan and the significant effect on travel and tourism to New York in particular, also had devastating affects on our tax revenues. While some have argued that it is impossible to link the loss of these revenues to the terrorist attack,

the General Accounting Office issued a report on July 26, 2002 reviewing these estimates and noted that the tax revenue loss estimates for 2002 "appear to reasonably approximate the impact of the terrorist attacks on tax revenues".

I also want to make it clear that the city did not receive any Federal funds based on the city's experiencing a budget shortfall as a result of these lost tax revenues.

Currently the Stafford Act does not allow FEMA to provide any reimbursement for lost tax revenue to local governments. While a Community Disaster Loan Program currently exists, the loan amount is capped at only $5 million not even a fraction of the costs associated to such a large terrorist attack in a major metropolitan city. Since the Stafford Act does not accommodate this very real need for disaster-stricken local governments, the people of the city and State of New York have been forced to shoulder these additional financial burdens caused by an act of war.

Another limitation of the Stafford Act is its lack of provisions for local governments to receive reimbursement for unique expenses associated with a terrorist attack. New York City was a direct target as was the Pentagon and the District of Columbia; and as a direct target, the city needed to take action immediately by heightening security in all parts of the city. Prudence demanded that the entire City needed to be shut down, bridges and tunnels into Manhattan needed to be closed, subway lines and railroads needed to be suspended and security at the United Nations and other key locations was immediately heightened. These costs were incurred directly as a result of the city being a terrorist target. However, the Stafford Act does not recognize these expenses as eligible reimbursements since these additional expenses did not occur at the actual site of the "disaster". While FEMA worked to interpret the act as broadly as possible, under the narrow confines of the Stafford act, FEMA could not grant reimbursement. It took a special act of Congress to allow FEMA to provide reimbursement to the city of New York for these costs, which would clearly not have been incurred but for the terrorist attacks. After receiving congressional authorization, FEMA responded diligently and effectively in processing these new claims. But the fact remains that in any future terrorist attack there will be significant related costs incurred by local government that will be ineligible for reimbursement under the Stafford Act.

Finally, one of the most complex obstacles to full reimbursement under the Stafford Act encountered by the city involved environmental liability as it relates to debris removal. Immediately after the attacks on September 11th, the city responded by deploying police officers, firefighters, EMS workers and other employees to the site for search and rescue. At the same time, the city contacted four construction companies to begin the process of debris removal. These companies acted with a sense of patriotism, and worked without contracts, insurance or indemnity. This response by the municipality and its contractors were immediate and necessary, and both parties took substantial risks. In order to protect against liability for the city and its contractors, the city sought to obtain insurance on the private market, but was able to obtain only $79 million of general liability coverage; and even that coverage came with significant exclusions. The City and its contractors accordingly sought legislation providing for Federal indemnification of these claims, but without success. Finally, as a result of congressional action, FEMA set aside approximately $1 billion for an insurance fund to protect the city and its contractors from claims relating to the debris removal process. While the city and contractors will benefit from this substantial coverage, the amount of coverage is only a fraction of the $12 billion of damages already claimed against the city.

The creation of this insurance fund was difficult and complex, and this was aggravated because the Stafford Act provided no facility for its funding. In fact, even after 2 years since the attack and 7 months after additional congressional action, this insurance fund has yet to be created and negotiations between FEMA, the city and its contractors are still ongoing. This is clearly an unfortunate circumstance, and no one local government or contractor should have to deal with. In fact, this experience may cause governments and others to think twice before responding to a terrorist attack. The Federal Government must address this issue, by either enacting Federal indemnification or an insurance plan to protect municipalities and their contractors.

While the city's experiences with FEMA have not been without some difficulties—as I just explained—I want to be very clear that this was in no way due to the staff or mission of the agency. I have the utmost respect for the professionalism and diligence of the people at FEMA. It was the constraints in Federal statute that proved to be difficult. I urge you to examine these issues and determine the best course of action, so local governments and taxpayers are protected from the additional financial burdens of a terrorist attack.

I thank you for your patience and would be glad to take any questions.

RESPONSES BY BUD LARSON TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1a. The GAO report cites $8.6 million that went to the New York Department of Environmental Protection for exterior building cleaning. Who decided that New York would take the lead for this function, how were buildings to be cleaned selected, what precautions were taken to protect the workers conducting this cleaning, pedestrians, and other people in the area of these clean-ups?

Response. I, Bud Larson, am not the expert and would defer to New York City Department of Environmental Protection on the following question. The following answer is provided by NYC Deputy Commissioner Chris Ward:

Question 1b. Who decided that New York would take the lead for this function?

Response. The USEPA and FEMA decided that DEP should retain the contractors for the exterior building cleaning program after DEP proposed the program in a multi-agency meeting that had been convened by the EPA in February 2002. NYC DEP, in coordination with U.S. EPA developed cleaning protocols and it contracted with qualified firms to undertake the necessary cleaning. This program became part of a broader, U.S. EPA-lead, effort to take the necessary steps to rid the downtown area of air quality concerns, which required the cleaning of building interiors.

Question 1c. What precautions were taken to protect the workers conducting this cleaning, pedestrians, and other people in the area of these clean ups?

Response. All contractors were required to perform cleaning in compliance with USEPA, OSHA, NYSDOL, NYS DEC, NYCDOS, NYCDOH, and NYCDEP regulations, as well as contractual protocols assuring that all necessary precautions were put in place to protect those performing the cleaning, and those in the area. For example, multiple roofs were cleaned simultaneously in order to ensure that one roof waiting for a clean up would not have wind disperse debris from it onto other already cleaned rooftops. The Clean-up Program included low-pressure washing and HEPA vacuuming to remove visible debris.

The DEP applied for permits from the NYC DOT to close streets, or lanes of traffic, and sidewalks as necessary to protect pedestrians and others in the area. Work was planned to limit impact on the public and to businesses whenever possible. Some work was only performed on nights and weekends.

All workers were required to wear full coveralls, gloves, and a minimum of half-face air purifying respirators equipped with HEPA filters.

Question 1d. How were the buildings to be cleaned selected?

Response. New York City Department of Environmental Protection field staff with representatives from the NYS Department of Labor and the United States Environmental Protection Agency inspected 1,073 buildings beginning at ground zero and proceeding outward. Buildings where WTC debris was observed were identified for clean up and notices were provided to each building owner. Once the Exterior Cleaning Program was established, buildings where debris had been observed were re-inspected. If debris was still present, the owner was offered participation in the program.

Question 2. The GAO report states that NYC was not required to pay the 25% cost share that is normally required of communities that receive Federal disaster assistance. GAO reports that the President capped the spending on this disaster at $20 billion, rather than using the normal process for disaster spending. GAO also reports that the President reduced the amount of Hazard Mitigation Grant Program Funds to 5 percent rather than the standard 15 percent of the amount spent on the disaster. Do you believe that the city ultimately received less or more Federal assistance than they would have if the normal Stafford Act procedures were followed?

Response. As discussed in my prepared remarks, much of the costs incurred by the city as a direct result of the disaster were not eligible under normal Stafford rules. Because Congress and the President authorized FEMA to use a portion of the capped funds to pay for these Stafford-ineligible costs, the city ultimately received more FEMA assistance than under normal Stafford Act procedures and rules. The authority to use funds for Stafford-ineligible costs was necessary because the Stafford act was not and is not designed to respond to a terrorist attack, particularly on the scale of September 11.

However, because of the $20 billion cap and the prohibition against reimbursing the city for lost revenues, the reimbursement received was still substantially less than the true cost to the city of the disaster.

Question 3. The GAO report describes $1.7 to $2 billion of the $4.6 billion in FEMA and DOT funds for which uses had not been determined as of June 2003. Potential projects under consideration were improving access to JFK airport and Long Island, improvements to West Street Route 9A, and a tour bus facility. Have

you determined how these funds will be used and if so, what criteria were used to select those projects that will receive funds?

Response. To date, $2.85 billion has been allocated of the $4.55 billion in FEMA/DOT funding.

The three projects included in this allocation are the replacement of a commuter train from New Jersey to Lower Manhattan (the PATH train), a subway hub on Broadway, and a renovation of the subway station at South Ferry, which was the first subway station ever built in New York City.

The criteria are improving access to the area, modernizing its transportation facilities, and improving the experience of using Lower Manhattan's transportation system.

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