

# **Stafford Act Changes to provide Hurricane Katrina and Rita fixes**

## **Policy Position Paper**

### **Background**

The Stafford Act has proven to be inadequate to handle catastrophic disasters of unprecedented proportions like Hurricanes Katrina and Rita. Key grant programs have not been able to provide the swift and effective relief needed for devastated communities to recover. To facilitate recovery, we ask Congress to provide impetus for quick administrative relief and/or legislative fixes to the Public Assistance and Hazard Mitigation programs for Hurricanes Katrina and Rita.

**Public Assistance** funding has been slow to get into the hands of local jurisdictions. As of February 29, 2008, the City of New Orleans' estimated cost for emergency work and repair or replacement of damaged public buildings, infrastructure, vehicles and equipment is approximately \$1.14 billion. Of that amount, \$452 million or about 40% has been obligated by FEMA and half of the obligated amount, \$226 million, has been paid to the City. Of the \$226 million paid, only \$40.8 million was for rebuilding costs, with \$184.7 million covering Emergency Measures. Though the law was written to give broad administrative discretion, many Public Assistance issues that could have been resolved administratively remain unsettled almost three years after the events.

**Hazard Mitigation** funding has also presented obstacles to its effective use. Hazard Mitigation measures, such as the relocation and elevation of high risk properties, will reduce the risk of property damage and decrease the overall cost of future disaster recovery. Current Stafford Act and FEMA regulations prevent the effective use of Hazard Mitigation Grant Program funding in disasters of the magnitude of Hurricanes Katrina and Rita by requiring inefficient and time-consuming procedures that delay the process rather than reducing future risk. The City of New Orleans recommends language changes to guarantee the effective use of Hazard Mitigation funds in its recovery.

### **Change the Public Assistance and Hazard Mitigation programs in Stafford in order to provide relief for critical recovery issues related to Hurricanes Katrina and Rita**

- **Provide impetus for administrative relief or legislate changes to increase the pace and efficacy of the Public Assistance Program**
- **Change Hazard Mitigation language to guarantee the effective use of current and future Hazard Mitigation funds**

### **Recommendation (Detail)**

**Public Assistance** - Increase the pace and efficacy of the Public Assistance Program by rendering decisions and getting funding to local jurisdictions more quickly.

- **Alternate Dispute Resolution:** Establish an alternate dispute resolution process utilizing a neutral third party for versions and appeals when damage assessments, cost estimates, scopes of projects and other issues cannot be agreed upon.
- **Alternate Projects:** Remove the penalty for alternate projects on vital public safety, health, library, and recreation facilities.
- **Insurance (NFIP) Reduction Issue:** Calculate insurance reduction on the basis of the entire campus as opposed to on an individual structure basis. This has been allowed for schools and will have a significant impact on the redevelopment of key facilities, including the Criminal Justice Complex, Joe Brown Park, and the Milne facility if allowed for the City.
- **Vehicles and Equipment Replacement:** Mandate for FEMA to implement replacement of vehicles and equipment that cannot be repaired, and for which a comparable used replacement cannot be found within a reasonable time and cost, per its existing policy. The Regional Transit Authority (RTA) had 205 buses that were flooded. It is beyond the “reasonable” test to have the RTA purchase 10 year old buses in California that are being sold by current owners because they are approaching the end of their useful life, meaning they break down more frequently. It is not an effective use of taxpayer dollars for those buses to travel great distance to have the necessary air conditioning equipment installed, which will take beyond a reasonable time, increasing the age of the buses making them even less reliable upon their eventual arrival for use in New Orleans. The City of New Orleans faces a similar situation with ambulances. FEMA is requiring the remounting ambulances “boxes” on new truck chassis. The resulting vehicle will not be as reliable as a new ambulance, something critical to public safety. FEMA is also asking for the city to pay the difference between the cost of 224 new Category B vehicles and equipment that were acquired to replace flooded emergency vehicles, and the bluebook value of what they replaced. This could amount to the City paying back \$5 – 6 million dollars in residual costs to FEMA for vehicles and equipment it has been using for several years. Lastly, the city is asking for reimbursement for 487 Category E vehicles and equipment at the Improved Project Rate of 100% of the obligated amount. This would follow the example set in the November 6, 2007 FEMA memo on “Public Assistance Innovation” from Gil Jamieson to the Transitional Recovery Office Directors.
- **Concrete Slabs and Foundations-on-grade:** Designate removal of slabs and foundations remaining after authorized demolition of property as an eligible cost for reimbursement. They are costly to remove, and present a significant impediment to the recovery of the city.
- **Reconstruction Debris:** Designate “reconstruction” debris as eligible for Right of Way (ROW) debris removal. The magnitude of the property damage that was caused by the failure of the levees is unprecedented. It is unreasonable to expect that residents of New Orleans had enough insurance to cover the removal of reconstruction debris that was never expected to be needed. Most insurance policies, and even the State’s Road Home Program, do not cover the entire cost of removing reconstruction debris, which has

resulted in our citizens bearing additional costs. Covering reconstruction debris as eligible ROW debris removal is not a duplication of benefits, and is necessary to make our citizens whole.

- **Insurance Duplication of Benefit Issue:** Mandate for Katrina and Rita that FEMA apply Stafford Act section 312 (b) (1) which allows FEMA to fund eligible portions of a project completely even if duplicate benefits (i.e. insurance claims) may eventually be obtained. Whatever insurance settlement is received can then be reimbursed to FEMA.

**Hazard Mitigation: Change Hazard Mitigation language to guarantee effective use of current and future Hazard Mitigation funds (see Attachment A)**

- Environmental Review, using “streamlined” criteria\*\*
- Demolition-Rebuild\*\*, with adjustments for “structures”
- Hazard Mitigation deemed “cost effective,” no Cost-Benefit Analysis
- Require Uniform State and Federal Application Methodology

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\*\* See also S 1668, the Landrieu-Dodd bill plan

**ATTACHMENT A**  
**Requested language changes to Hazard Mitigation Grant Program of the Stafford Act**

<b>Issue</b>	<b>Requested changes – City of New Orleans</b>	<b>Notes</b>
Environmental Review	“developing a streamlined environmental review process to significantly speed the approval of project applications.” (See also S 1668, Sec. 101(a)(6)(B)(ii))	
Demolition-Rebuild	“covering all or a portion of the cost of (i) the demolition of any structure deemed to be more than 50 percent damaged as a result of an inspection; and (ii) the reconstruction of another structure on the same property on which a structure was demolished under clause (i), including site preparation, utility connection, and transactional costs, such that the newly constructed structure is elevated so the lowest habitable level will be at least 1 foot above the base flood elevation or the elevation described using the current best available data from the Federal Emergency Management Agency, whichever elevation is higher.” (See also S 1668, Sec. 101(a)(2)(C)(i)(ii))	The City of New Orleans would like hazard mitigation dollars to cover the demolition and rebuilding of structures as a permanent program within Stafford. (City of New Orleans – Stafford Act and Disaster Policy Changes – March 2, 2007)
Cost Effectiveness	“The Congress finds that hazard mitigation projects related to Hurricanes Katrina and Rita are cost effective and that the benefits of such projects exceed the costs.”	Rather than conduct a cost-benefit analysis, the City of New Orleans would like all hazard mitigation projects to be deemed “cost effective.”
Uniform State and Federal Application Methodology	Develop a uniform Hazard Mitigation Application methodology for Katrina and Rita through FEMA, and require states to implement the methodology accordingly. Methodology to include streamlined documentation process for closeout with regard to private citizens and businesses.	FEMA and the State have different requirements for Haz. Mit. Applications, and they are constantly changing. This has caused a major delay in the application process for the City of New Orleans.