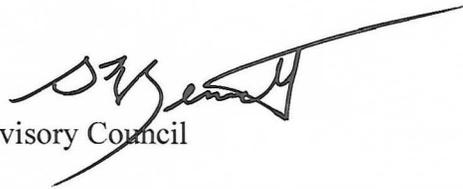




August 24, 2009

MEMORANDUM FOR: W. Craig Fugate
Administrator

FROM: Dr. G. Kemble Bennett 
Chairman, National Advisory Council

SUBJECT: Recommendations on the Stafford Act and Related Federal
Policies: Public Assistance and Individual Assistance Issues

In July 2008, the Federal Emergency Management Agency (FEMA) proposed that the National Advisory Council (NAC) provide initial conceptual input on potential regulatory reform and associated policies that could simplify administration of select public and individual assistance programs. At that time, FEMA provided the NAC with specific issue areas and possible resolutions for substantive review and possible recommendations. The NAC reviewed three public assistance (PA) and four individual assistance (IA) regulatory issues and provided recommendations to the Administrator on August 19, 2008.

FEMA also sought input on ten PA and IA policies, some of which supplement the regulations. FEMA asked the NAC to review those policies with regard to agreement of the issues and proposed solutions, and to provide additional suggestions, input and justification behind potential policy changes. On December 18, 2008, the NAC provided a recommendation to the Administrator on six public assistance (PA) and four individual assistance (IA) policy issues. On April 22, 2009 FEMA responded to the NAC by stating that the recommendations are actively under consideration as they work to develop and revise policy issues.

At the July 2009 meeting, The National Advisory Council's Stafford Act Subcommittee reviewed and provided recommendations on statutory changes related to one PA issue, two IA issues, one Mitigation issue and a general issue. On July 29, the full council voted unanimously to send these recommendations to the Administrator.

Statutory Issue #1 - Public Assistance

- 1. Provision to allow FEMA to provide block grants or other similar mechanisms to States.**

Issue:

Post disaster recovery for States, tribes and local government is difficult, labor intensive, and complex. The current Public Assistance grant process (Categories A through F) can be cumbersome, slow, and costly. Block grants are flexible funds that provide monies to communities to address a wide range of unique community development needs.

Proposed Solution:

The NAC recommends that FEMA seek statutory change to allow an option of a block grant program with suitable controls and accounting mechanisms.

Discussion:

FEMA should provide the option of large grants with flexible spending guidelines that will allow subgrantees to determine and address post disaster response and recovery needs (Categories A through F) quickly without extensive paperwork. Funding will be formula-based and consistent with current Public Assistance program reimbursement guidelines. In addition to allowing State, tribal and local governments greater flexibility and potentially reducing costs at all levels, it will allow for greater consistency, particularly during long-term recovery.

Statutory Issue #2 - Individual Assistance**2. Consideration of Mortgage and Rental Assistance Program (MRA) options****Issue:**

A large disaster causing physical impacts on places of business (like in NYC post-9/11) can produce widespread loss of employment, resulting in survivors who face losing their homes, not because of physical impact, but because they have lost the ability to pay their mortgage or rent.

Proposed Solution:

FEMA should explore options for an MRA-like program for specific instances.

Discussion:

The MRA Program was the most important FEMA relief program in New York City following 9/11. Some 16,500 households, who lost jobs and were facing eviction or foreclosure as a result of the attack, had their rents and mortgages paid by FEMA for up to 18 months, at a total cost of \$200 million. This critical program expired in November 2002. Since then, this important safety net has been tragically unavailable, most egregiously in New Orleans. In New York and other cities, there are no voluntary, state or local government funds to prevent disaster-caused eviction and foreclosure.

Statutory Issue #3 – Individual Assistance**3. Amend Sections 403 and 408 of the Stafford Act to specifically provide authority for Rental Repair Program****Issue:**

There is a need to augment rental housing capability when no other existing housing is available. This need was apparent to FEMA following the Katrina disaster and had been anticipated in FEMA 2002, 2004 and 2005 plans as well as a ‘lesson learned’ following the 2004 Hurricane

Pam exercise. In the New Orleans area, where rentals were the primary housing option for 66% of the population, the absence of a repair program caused avoidable hardship and homelessness.

Proposed Solution:

Amend Section 403 and 408 to allow rental repairs and authorize the use of Disaster Recovery Funds (DRF) for such repairs; mandate a Rental Repair program fully articulated and with the capacity for full implementation when no other existing housing is available.

Discussion:

- This proposed solution should be put into place when either the housing stock does not exist or it is overwhelmed due to a major disaster event.
- The NAC encourages the development of a mechanism to ensure that participants in the program have purchased appropriate insurance, maintained the property, and participate fully during future Federal emergency housing situations. The NAC also recommends consideration of a lien on the properties commensurate with the repair dollars to ensure accountability for the above activities.

Statutory Issue #4 - Mitigation

4. Provide Authority to Increase Federal Contribution for Hazard Mitigation

Issue:

There are circumstances when the magnitude of a major disaster is so significant that the federal contribution under Public Assistance for repair and recover can be increased to 90 percent. It is appropriate that the same flexibility be authorized for the Hazard Mitigation Grant Program. An increasing number of states and communities work to coordinate mitigation projects for public buildings and infrastructure facilities that are eligible for both Public Assistance (Sec. 406) and HMGP (Sec. 404).

Proposed Solution:

Allow FEMA the flexibility to recommend an increase in the Federal cost share for Hazard Mitigation Grant Program (Sec. 404) grants.

General Issue and Recommendation (Non-Statutory)

Multi-Agency Coordination Issues in a Recovery Environment (Other Federal Agencies, Public Assistance Guide, FEMA 322, Pages 23-26)

Issue:

The bifurcation of authority to administer programs so similar in nature increases both the costs of emergency and permanent repairs to damages sustained in a disaster and the time that it takes a community to return to its pre-disaster state.

Proposed Solution:

FEMA should address the bifurcation under their role in coordinating Federal response and recovery resources.

Discussion:

As an example of the problem, the Department of Agriculture National Resources Conservation Service administers the Emergency Watershed Protection Program. The NRCS has the authority to repair flood control works in drainage basins of 400 square miles or less. As part of their authority, they are responsible for reimbursement of costs for removing debris from stream channels, road culverts and bridges, as well as permanent repairs for any damages sustained beyond the roadway. A road and shoulder washout requires an applicant to facilitate a project worksheet for FEMA to reimburse the cost of the road repair and then facilitate an inspection and report with NRCS to reimburse the costs of soil and sod eroded from the shoulder of the road. Similarly, applicants must prepare a spreadsheet dividing highways into segments in order to receive reimbursement from the Federal Highway Administration for the portion of the road under their jurisdiction, as separate from the portions of the road under FEMA's jurisdiction.