

Background

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FEMA and Federalism: Washington Is Moving in the Wrong Direction

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Since Hurricane Katrina, Congress has focused too much attention on promoting Washington-centric solutions for dealing with disasters. Efforts to reform and restructure the Federal Emergency Management Agency (FEMA) are emblematic of the problem.

While building a more efficient and effective FEMA is important, that is not Washington's most important job. Congress can best contribute to building a resilient and sustainable national capacity to deal with disasters by fostering systems that are consistent with the best practices of governance. This means returning to a reliance on the principle of federalism, which respects the roles and responsibilities of local, state, and federal governments. Instead of focusing on Washington-centric answers, Congress should:

- Establish a higher threshold for what triggers a federal emergency declaration (e.g., a major disaster, emergency, or fire) and
- Focus FEMA primarily on preparing to respond to catastrophes, not routine emergencies.

Raising rather than lowering the bar for federal intervention during emergencies will increase FEMA's capacity to respond effectively to large-scale disasters that would overwhelm state and local governments—the kinds of catastrophes that demand a national response.

Government During Disasters

Disasters of all kinds have occurred throughout the history of the United States. For much of that history, disasters were dealt with at the local level, given the

Talking Points

- In the past 12 years, FEMA has focused too much on day-to-day disasters, from snow storms to forest fires, tripling the number of disaster declarations and overstressing its resources.
- Congress has exacerbated the problem by trying to micromanage the Department of Homeland Security, pushing FEMA to adopt Washington-centric solutions for dealing with disasters.
- The nation needs a disaster response system that is built on the principle of federalism, with big government intervening less, not more.
- FEMA should focus its efforts on preparing to respond to catastrophic disasters like Hurricane Katrina.
- Congress should establish a higher threshold for triggering federal disaster declarations and encourage states and local communities to implement responsible public safety and emergency response programs.

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physical inability of other government actors to assist. This did not change substantially until the height of the New Deal, when the Roosevelt Administration and Congress greatly expanded the federal government's role in disaster response by giving three entities enhanced roles:

- The Reconstruction Finance Corporation was permitted to provide loans following earthquakes.
- The Bureau of Public Roads was allowed to provide funds to repair roads and bridges after a hurricane.
- The U.S. Army Corps of Engineers received greater power to implement flood measures.

Despite these additional powers, state and local governments still handled most disasters over the next 30 years, as evidenced by the low number of declarations issued from the 1940s to 1972. Until 1972, the highest number of declarations issued in a year was 29.¹

From 1972 to 1979, the number of declarations averaged over 37 per year—more than twice the average for the preceding 20 years.² Mainly in response to hurricanes or earthquakes, the federal government added other federal powers to be used during disasters. In 1979, President Jimmy Carter created FEMA, which merged multiple agencies and programs with the object of providing a single federal coordinator for federal support after local disasters.

From 1980 to 1992, the number of declarations ranged from a low of 16 to a high of 53. On average, FEMA was involved in 33 declarations per year. During this period, FEMA dealt with 19 billion-dollar disasters that caused \$203 billion in damages and 18,012 deaths. Of these 19 disasters, almost half were hurricanes. The rest were storms, floods, droughts, and an earthquake.³

During President Bill Clinton's two terms, FEMA's involvement in disasters again increased dramatically. From 1993 to 2000, FEMA was involved in an average of 88 declarations per year—almost triple the average of the previous 12 years. From 1953 to 1992, the total number of declarations issued totaled 1,137, but in only eight years, FEMA issued 707 declarations. During President Clinton's two terms, FEMA dealt with 33 billion-dollar disasters that caused \$143.5 billion in damages and 2,034 deaths. Of these, six were hurricanes, one was an earthquake, and the other 26 were storms, floods, and droughts.⁴

FEMA was even busier under President George W. Bush. In the first six years of the Bush Administration, FEMA issued 760 declarations—an average of over 126 declarations per year. In March 2003, FEMA became part of the newly created Department of Homeland Security (DHS). From 2001 to 2006, FEMA dealt with 20 billion-dollar disasters that caused an estimated \$244.5 billion in damages and approximately 2,360 deaths. (Hurricane Katrina accounted for over half of the damages and deaths.) Of these 20 disasters, almost half were hurricanes, and the rest were storms, floods, and droughts.⁵

Given the tripling of declarations from 1992 to 2006, one would have expected a substantial increase in FEMA's budget. In 1992, FEMA had roughly 2,500 employees and a nominal appropriation of \$4,834,065,000. In contrast, it had roughly 2,000 employees in 2006 and a nominal appropriation of \$4,834,744,000.⁶ After 12 years in which its activity tripled and its staff was reduced by 20 percent, FEMA's lack of preparation for the next catastrophic event—Hurricane Katrina—should not be surprising.

1. U.S. Department of Homeland Security, Federal Emergency Management Agency, "Declared Disasters by Year or State," updated April 28, 2007, at www.fema.gov/news/disaster_totals_annual.fema (April 6, 2007).
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*
5. *Ibid.*
6. David Paulison, director, Federal Emergency Management Agency, briefing at the National Press Club, August 18, 2006, at <http://fpc.state.gov/fpc/70906.htm> (April 6, 2007), and U.S. Department of Homeland Security, "Budget-in-Brief, FY 2007," p. 17, at www.dhs.gov/xlibrary/assets/Budget_BIB-FY2007.pdf (April 30, 2007).

The Politics of FEMA

When President George H. W. Bush lost the election in 1992, one reason cited by analysts was the poor response by FEMA to Hurricane Andrew.⁷ With such a vivid reminder of how FEMA's execution can influence electoral politics, it came as no surprise that President Clinton actively increased FEMA's activity during his tenure. In fact, in the election year of 1996, FEMA dealt with 157 declarations—a record that still holds today.⁸ Over eight years, FEMA Director James Lee Witt oversaw 370 presidential disaster declarations covering over 6,500 counties in all 50 states.

Prior to the Clinton Administration, the FEMA director was usually a Washington bureaucrat or former military officer. This was in keeping with FEMA's role, which included Washington's traditional civil defense mission and planning for national mobilization, doomsday scenarios, and other high-threat contingencies associated with civil defense during the Cold War. In 1993, under Clinton, Mr. Witt became the first state emergency manager to head FEMA. Witt came from Arkansas, where he had worked for then-Governor Clinton as an emergency manager for four years. Prior to that post, he had been an elected judge for seven terms in Arkansas. Thus, his qualifications to serve as FEMA director were modest at best.

President Clinton understood the value of an activist federal government in responding to local disasters. "Clinton and Witt," wrote investigative journalists Christopher Cooper and Robert Block, viewed "disasters as golden opportunities to help regular folks connect to local politicians, and maybe pick up a few votes along the way.... But it wasn't just the stepped-up response that delighted Congress; it was FEMA's ability to deliver loads of pork

as well."⁹ President Clinton elevated FEMA to a Cabinet-level position, strengthening the impression that every federal response reflected an activist White House.

When President George W. Bush came to Washington, D.C., in 2001, he brought Joe Allbaugh with him from Texas to serve as director of FEMA. Allbaugh had served as a long-time political operative for President Bush, most recently in a high position in the Bush campaign during the 2000 presidential election. He was later succeeded as director by Michael Brown, who also had a political background and little experience in disaster response.

Arguably, the Bush Administration was merely following the Clinton tradition of ensuring that a dependable and savvy FEMA director was in place who would ensure that FEMA responses put the Administration in a positive light rather than creating political liabilities. Witt, Allbaugh, and Brown all understood very acutely the importance of a vibrant response—no matter how small the event.

Under the George W. Bush Administration, FEMA supported an average of 126 declarations per year, or one every third day of the year. When the Homeland Security Department was created in 2002, FEMA was moved into the department. Rather than being marginalized or forgotten as some post-Katrina critics contend, little changed in FEMA administration after the Cold War.¹⁰ The agency spent all of its time and resources responding in some form or fashion to the latest routine disaster. Little time or attention was spent building an organization able to respond effectively to a catastrophic event. FEMA's function continued to be avoiding another Hurricane Andrew problem and ensuring that no local disaster became a national political problem.

7. Jennifer Loven, "Analysis: Bush Record Mixed on Disasters," *USA Today*, April 18, 2007, at www.usatoday.com/news/washington/2007-04-18-480171445_x.htm (May 1, 2007).

8. U.S. Department of Homeland Security, "Declared Disasters by Year or State."

9. Christopher Cooper and Robert Block, *Disaster: Hurricane Katrina and the Failure of Homeland Security* (New York: Times Books, 2006), pp. 63–64.

10. Despite Mr. Brown's claim that the use of roughly \$270 million by the DHS for other purposes deprived him of the ability to make the necessary changes, the total price tag for implementing the right reforms, given the scope of required changes, was far greater than that amount, and the time required to implement the reforms would have been greater than the 27 months that FEMA was part of the DHS before August 29, 2005.

FEMA's morphing into an agency of the routine over the past 15 years ensured that it would not be prepared for the next truly catastrophic event—Hurricane Katrina. After Hurricane Katrina and its impact on the 2006 election, no President will put FEMA in a position where it can be faulted for an anemic response effort. Thus, unless Congress acts, FEMA will continue to be an agency of the routine.¹¹

In the Wake of the Storm

After the deeply flawed national response to Hurricane Katrina, Washington continued to do more of the same rather than addressing the problematic trend that contributed to the failure. The Bush Administration and Congress spent much time and energy developing plans to “fix” FEMA.¹² In October 2006, Congress passed legislation that “strengthened” FEMA by placing most DHS preparedness functions within FEMA, making the FEMA director equivalent to the DHS Deputy Secretary and having the FEMA director report directly to the President during a disaster.¹³

Whether or not all of these reforms and others stuffed into the legislation will enable FEMA to balance preparedness and response missions effectively is far from clear. Given the importance that FEMA places on a successful response, nothing ensures that the preparedness mission will be insulated from the operational tempo of response activities. More likely, as in years past, preparedness will

be allowed to wither as resources are devoted to more pressing items.

In addition, state governments are clearly not sanguine about having the federal government play a larger role in directing local responses. In an opinion piece in *The Washington Post* on September 30, 2005, Governor Jeb Bush (R–FL) noted that:

The most effective response is one that starts at the local level and grows with the support of surrounding communities, the state and then the federal government. The bottom-up approach yields the best and quickest results—saving lives, protecting property and getting life back to normal as soon as possible. Furthermore, when local and state governments understand and follow emergency plans appropriately, less taxpayer money is needed from the federal government for relief. . . .

Before Congress considers a larger, direct federal role, it needs to hold communities and states accountable for properly preparing for the inevitable storms to come.¹⁴

In fact, *USA Today* found that at least 36 governors disagreed with a significantly greater federal role in disaster responses.¹⁵

Raising the Threshold

Congress needs to place a brake on FEMA's activities. The federalization of disasters is turning

11. The most recent case occurred in early March when President Bush and FEMA Director David Paulison went to Arkansas to survey the damage from a series of tornadoes. While the deaths from those tornadoes were tragic, given that the tornadoes hit and then dissipated fairly quickly as compared to a hurricane or a large earthquake, the destruction certainly did not reach a level of severity or magnitude that would overwhelm local and state governments as required by the Stafford Act. Nonetheless, Director Paulison declared the high-level federal attention to be part of the “new FEMA.” Deb Riechmann, “Bush Declares Alabama County Disaster Area,” Associated Press, March 3, 2007.
12. See the White House, *The Federal Response to Hurricane Katrina: Lessons Learned*, February 2006, at www.whitehouse.gov/reports/katrina-lessons-learned.pdf (April 6, 2007); Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, U.S. House of Representatives, Web site, at <http://katrina.house.gov> (April 30, 2007); and S. Rpt. 109–322, *Hurricane Katrina: A Nation Still Unprepared*, Committee on Homeland Security and Governmental Affairs, U.S. Senate, 109th Cong., 2nd Sess., 2006, at http://hsgac.senate.gov/_files/Katrina/FullReport.pdf (April 6, 2007).
13. Department of Homeland Security Appropriations Act of 2007, Public Law 109–295. The legislation returned to FEMA those elements transferred to the Office of Grants and Training in October 2006. The rest of the Preparedness Directorate remains outside of FEMA.
14. Jeb Bush, “Think Locally on Relief,” *The Washington Post*, September 30, 2005, p. A19, at www.washingtonpost.com/wp-dyn/content/article/2005/09/29/AR2005092901636.html (April 6, 2007).
15. Bill Nichols and Richard Benedetto, “Govs to Bush: Relief Our Job,” *USA Today*, November 2, 2005, at www.usatoday.com/news/washington/2005-10-02-gov-survey_x.htm (April 6, 2007).

the principle that all disasters are local on its head so that all disasters become federal issues. While some may want to turn more over to Washington, little evidence suggests that a beefed-up federal response effort can accomplish much more than it has done previously in the critical 72 hours after a disaster strikes. Fundamentally, moving federal assets into a disaster area still involves a logistical lag time between an event and in-theater arrival, especially when a disaster occurs without warning. Hence, state and local response capabilities are vital to insure against the lag time of a federal response.

An enhanced, FEMA-led national response has a role, but it is solely in responding to catastrophic disasters in which local and state governments will be overwhelmed and only national assets can close the 72-hour gap. This cannot happen if FEMA must focus on everyday disasters. If the federal government releases its response assets for every fire, drought, freeze, snowstorm, tornado, landslide, or tropical storm that occurs in America, state and local leaders will divert their finite resources away from disaster response preparedness to other pressing needs like education and health care.

In addition, if the federal government provides the resources, state and local leaders will react to this incentive exactly as they have to date: by requesting emergency declarations for even the smallest events, regardless of whether or not those events are “of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary.”¹⁶ With the federal government providing funds to states and localities for homeland security, governors and mayors are spending their surpluses on health care, education, and transportation projects.¹⁷

The reality is that most catastrophic disasters occur in the 12 states along the Gulf Coast and the southern Atlantic coast of the United States. At some point, it becomes fundamentally unfair for

taxpayers in the rest of the United States to continue to subsidize disaster assistance to those few states that possess higher risks from natural disasters. This trend should be reversed and the burden of routine disasters placed back on state and local governments where it belongs. This reallocation of the risk will allow lower-risk state and local governments to address their needs more properly and concomitantly allow higher-risk states and localities to invest in greater response capabilities. FEMA can then focus its resources on a regional basis, with greater resources in those regions with greater disaster activity.

To accomplish this, Congress should:

- **Establish clear requirements that limit the situations in which federal emergency declarations can be issued.** One way to accomplish this is to align declarations with the various scales used for disasters (e.g., the Saffir–Simpson Scale, the Richter Scale, and the Fujita Scale). For example, limiting disaster declarations to Category 1 hurricanes and above would eliminate all tropical storms that cause some damage, but are not “of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary.”¹⁸
- **Entirely eliminate certain types of disasters from FEMA’s portfolio.** For example, burdening FEMA with administering disaster relief after a freeze that destroys agriculture crops and does little else is highly inefficient. Similarly, droughts are tragic but generally affect only the agricultural community. Insurance markets and state and local governments can deal with these two types of disasters more efficiently than the federal government can. Finally, while severe storms and tornadoes tend to be localized events that cause property damage and cost lives, they rarely outstrip the abilities of state and local governments.

16. 42 U.S. Code § 5191(a).

17. Christopher Copper, “Forget Austerity, State Spending Ratchets Up,” *The Wall Street Journal*, February 24, 2007, p. A1, and Stephen Moore, “State Spending Spree,” *The Wall Street Journal*, March 22, 2007, p. A16.

18. 42 U.S. Code § 5191(a).

Preparing for the Big One

By shifting the responsibility for routine disaster response back to the states and local governments in the areas where these disasters occur, the federal response can be enhanced as recommended by the post-Hurricane Katrina reports, but this enhancement should focus on responding to catastrophic events in which state and local assets are truly overwhelmed, not just when the costs are high. In a post-9/11 and post-Katrina environment, America can ill afford to maintain incentives or disincentives that burden FEMA and the rest of the federal government with 126 declarations per year. Such an approach will only degrade the federal response as assets are mobilized and used, staff are overworked, and reform efforts are sacrificed to the operational tempo of a response agency.

From an information technology standpoint, many systems that FEMA used during Hurricane Katrina and still uses today date back many years and are not interoperable. For example, the National Emergency Management System (NEMIS) allows FEMA to register and manage disaster victims, among other things. NEMIS dates back to at least the mid-1990s, but it is not linked to the Automated Deployment Database system or the Logistics Information Management System, so FEMA has no real way to deploy the right people and commodities to the right places in the right amounts. Hence, FEMA delivers too much water to one location where blankets are needed and too many blankets to another location where water is needed.

Another problem is that many FEMA systems are entirely paper-based, meaning that information is entered into the system only after paper documents are received, such as invoices and requests for commodities. For example, commodities might be ordered and delivered to a warehouse for the upcoming hurricane season, but the purchase order would need to be received and entered into the system before FEMA would know that the commodities are in stock. The total lack of transparency in the supply chain—e.g., not using radio frequency identification technology (for inventory and delivery) and global positioning systems (for delivery)—further hampers operations.

Finally, FEMA systems have fallen behind technological advances. For example, disaster victims can register by phone or Internet or in person at disaster relief centers, but FEMA cannot merge all of the data in real time to prevent duplicate registrations. This failure contributes to waste, fraud, and abuse by encouraging situations in which, for instance, multiple checks are sent to the same household because of duplicate registrations.

To be prepared for future catastrophic events, FEMA needs to be transformed into a 21st century agency with 21st century tools and technologies. Implementing these reforms will take time. Recent congressional efforts have not helped by burdening FEMA with implementing organizational changes, saddling it with additional responsibilities that would be better supervised by the Undersecretary of Preparedness, and raising expectations that FEMA will continue to respond to every disaster instead of focusing on the critical mission of catastrophic response.

Instead, Congress should ensure that FEMA is constructed, staffed, and empowered as a catastrophic response agency rather than as an agency for routine disaster response, which is what it has become over the past 15 years. Congress should change course by:

- **Requiring FEMA to evaluate and align its regions in accordance with the actuarial data that FEMA has amassed over the past 60 years.** This realignment means that staffing levels and disaster assets should differ greatly so that regions (Regions VI and IV) that experience far higher volumes of catastrophic events (Category 1 or higher hurricanes) have far greater capabilities than regions with less catastrophic activity (Regions VIII and V). This action would place the people and assets closer to disasters so that time is not wasted transporting people and assets from other regions.
- **Restricting homeland security grants to funding only the 37 capabilities on the DHS Target Capabilities List,** which is an all-hazards package that covers the prevention, protection, response, and recovery spectrum. This would contribute to ensuring that federal grants to the

states help to preclude the need for federal assistance for routine disasters and to prepare states to work with Washington in responding to catastrophes.

- **Demanding that the DHS and other federal agencies identify their catastrophic capabilities gaps and report on their plans to fill them.**

Keeping Disasters Local

All disasters are local. Yet, over the past two decades, Washington has tried to federalize more and more disaster response efforts as FEMA declarations and federal funds tied to those declarations have significantly increased. While a robust federal response capability is needed in light of lessons learned after September 11 and Hurricane Katrina, those assets should be deployed only when a significant disaster threshold is crossed.

FEMA will never prepare for catastrophic disasters if it continues to spend its finite time, money, resources, and personnel on every disaster that hap-

pens somewhere in America. Landslides, severe storms, and tornados may be disastrous for the people affected by them, but in most cases, state and local resources are more than adequate to deal with such events. The longer Congress supports the federalization of state and local disasters, the more difficult it will become for FEMA and its dedicated staff to perform the mission for which they are needed in the 21st century—catastrophic disaster response and recovery.

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