

# Background

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## State and Regional Responses to Disasters: Solving the 72-Hour Problem

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On average, the federal government needs 72 hours to marshal national resources in response to an incident that has surpassed a state's response capacity. Usually, a 72-hour delay is not a problem. State and local governments manage most of the responders that arrive immediately at a disaster scene and, in most circumstances, have the critical assets needed to carry themselves through the first three days. This was largely the case even during terrorist attacks, such as the bombing of the Alfred P. Murrah Federal Building in Oklahoma City and both attacks on the World Trade Center in New York City. On the other hand, when catastrophic disasters overwhelm state and local governments at the outset, as in the aftermath of Hurricane Katrina, the 72-hour buffer disappears, and any delays in a coordinated federal, state, and local response have serious consequences.

Better planning at a regional level could prevent such shortfalls in disaster response. Such efforts should take the form of state-based regional programs that focus on ensuring that states are prepared to sustain themselves and that facilitate cooperation among federal, state, and local efforts. In the Homeland Security Act of 2002, Congress mandated that the Department of Homeland Security (DHS) set up a regional structure. Such a structure that coordinates and collaborates with state-based regional programs could help to close the 72-hour gap.

### What Is Missing

Emergency management follows a three-tiered approach. The first tier is composed of local authori-

### Talking Points

- Emergency management follows a three-tiered (local, state, and federal) approach. The federal government usually needs 72 hours to marshal national resources to respond to an incident that has surpassed a state's response capacity.
- The successful regional emergency response to the 9/11 attack on the Pentagon and the uncoordinated and unorganized response to Hurricane Katrina strongly indicate that the United States needs a regional emergency management system.
- A regional response system should be developed through a bottom-up process rather than a top-down approach, placing the states and their experts at the heart of the emergency management process. A top-down process would likely replicate existing problems, marginalize the necessary state role in emergency planning, and perpetuate an overall lack of situational awareness about individual state needs.

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ties and entities, which are responsible for incidents that occur within their jurisdictions. If the incident is too large for the local entities to handle alone, the second tier of state authorities responds. When the state is overwhelmed, the federal government provides support as the third tier.

However, a fourth, regional tier should be added to this process between the state and federal tiers. Regional programs, in conjunction with DHS regional offices, could provide states with needed support during incidents that are too large for an individual state to manage on its own but that also do not require a full federal response.

State-based regional programs would focus on ensuring that states are prepared to sustain themselves. Through regional programs, states could learn the capabilities of their partnering states and quickly tap or merge resources as needed. Most recent writing on the development of regional plans, programs, and entities provides for a top-down approach in which the federal government heads the effort. However, a top-down approach may lead to many of the same problems that have occurred during the past few years, such as the potential marginalization of the states by the federal government in emergency planning and response and an overall lack of situational awareness about particular state nuances.

Successful regional programs would focus not on federal structures in each region, but rather on regional emergency management programs and capabilities that are developed, coordinated, and managed by the states. Similar small-scale programs that use a regional model, such as the Emergency Management Assistance Compact (EMAC), have already proven successful. The regional program developed below expands on the idea and focus of EMAC.

## A Regional Solution

Based on experience from Hurricane Katrina and the attack on the Pentagon on September 11, 2001, as well as conclusions from the recently released DHS Nationwide Plan Review (NPR)

Phase 2 Report,<sup>1</sup> it is apparent that a new regional system is needed. A Regional Emergency Management Support System (REMSS), developed by self-selected states through interstate compacts, would allow states to work together to establish emergency preparedness, response, and recovery plans that would be triggered by preidentified events.

Under REMSS, each compact would have a regional implementing entity (RIE) that would work with each signatory state to strengthen the state's capabilities in all facets of the emergency management lifecycle. Staffed by emergency management experts from each state and representation from the federal government, each RIE would become the focal point for emergency response within its region. It would build baseline databases of resources available within each signatory state, coordinate interstate exercises, and work closely with first responders and others during triggering incidents. When a triggering event occurred, the RIE would quickly identify and locate needed resources and provide them to the affected state.

Given the focus on exercises, preparedness, and predetermined triggering events, RIE implementation of disaster response would be a relatively easy and effective process during any incident.

## The Role of the Federal Government

The RIEs should be state-based and managed by the states but should also work with or within DHS regional offices.

DHS regional offices should strengthen state and local preparedness capabilities; facilitate regional cooperation among governments, the private sector, and nongovernmental organizations; and plan and exercise with federal entities that support regional disaster response. Such offices would enable regions to access and integrate their capabilities quickly and improve preparedness.<sup>2</sup>

DHS regional offices would have four key missions:

- Facilitating regional planning,
- Organizing regional exercises and training,

1. U.S. Department of Homeland Security, *Nationwide Plan Review: Phase 2 Report*, June 16, 2006, at [www.dhs.gov/interweb/assetlibrary/Prep\\_NationwidePlanReview.pdf](http://www.dhs.gov/interweb/assetlibrary/Prep_NationwidePlanReview.pdf) (July 9, 2006).

- Helping states and local communities to prepare for catastrophic events, and
- Coordinating critical infrastructure protection.

These missions cannot be carried out without key partnerships. The regional offices should work in partnership with state, local, and private authorities in their regions to identify critical gaps in preparedness and critical infrastructure protection. Rather than wield policymaking and grantmaking responsibilities themselves, the offices should communicate these needs to the DHS decision makers who allocate homeland security grants. Integral to any partnership is clear communication through a defined point of contact, and DHS regional offices could act as this point of contact for the DHS, Department of Defense (specifically, U.S. Northern Command), and states for joint Defense Department–DHS contingency planning and the implementation of REMSS compacts.

The state-based RIEs should be part of an integrated functional approach that follows the National Response Plan during a disaster that overwhelms the ability of an individual state government to respond. The DHS regional offices should enable the development of a strong federal incident management structure that encompasses the RIEs. Part of that structure includes information sharing and other forms of coordination among the states, the private sector, and federal officials in Washington that can be improved by utilizing the DHS regional field offices and the RIEs.

In the event of a large disaster, DHS regional offices, in coordination with the appropriate RIEs, would help to implement regional evacuation plans that consider both the backend capacity necessary to facilitate a regional evacuation and the needs of destination jurisdictions. Each regional office should provide a forum for the federal gov-

ernment, states, local governments, the private sector, nongovernmental organizations, and other stakeholders to develop and exercise these plans. This is yet another area where the RIEs could enable such assistance.

### Lives in the Balance

Two significant incidents during this decade demonstrate the effectiveness of and need for regional compacts and RIEs to respond to incidents. First, the successful response to the 9/11 terrorist attack on the Pentagon was at least partially attributable to prior regional agreements and collaboration among various entities throughout the National Capital Region. At the same time, the inability to respond to the destruction caused by Hurricane Katrina has been attributed, in part, to the lack of previously established regional coordination efforts. In addition to these incidents, the DHS NPR characterized states and key urban areas as only partially prepared in many areas of emergency management and concluded that states and urban areas would tend to continue to rely heavily on the federal government during incidents.<sup>3</sup>

**What Works.** At 9:37 a.m. on September 11, 2001, the hijacked American Airlines Flight 77, a Boeing 757, hit the Pentagon. Response teams established a command center within five minutes of the attack, and the Arlington County Emergency Communications Center contacted the fire departments of neighboring Virginia counties and Washington, D.C., to request mutual aid. Due to the Pentagon's location in Northern Virginia across the Potomac River from Washington, D.C., local, regional, state, and federal agencies responded immediately to the attack.<sup>4</sup> The response included approximately 50 public safety agencies, with almost 900 radio users.<sup>5</sup>

2. For more information on setting up regional offices of the DHS, see The Heritage Foundation and The George Washington University Homeland Security Policy Institute Task Force, "Empowering America: A Proposal for Enhancing Regional Preparedness," Heritage Foundation *Special Report* No. 06, April 7, 2006, p. 1, at [www.heritage.org/Research/HomelandDefense/SR06.cfm](http://www.heritage.org/Research/HomelandDefense/SR06.cfm).
3. *Ibid.*, p. 16.
4. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington, D.C.: U.S. Government Printing Office, 2004), p. 314, at [www.gpoaccess.gov/911/pdf/fullreport.pdf](http://www.gpoaccess.gov/911/pdf/fullreport.pdf) (April 6, 2006).

The 9/11 Commission considered the disaster response to the Pentagon attack a success, which it attributed primarily to three factors:

- Strong professional relationships and trust established among first responders from throughout the region,
- A previously adopted Incident Command System (ICS), and
- The use of a regional approach to the response.<sup>6</sup>

In fact, at the time of the attack, several of these public safety agencies were involved in regional exercises in preparation for International Monetary Fund and World Bank meetings.<sup>7</sup>

**What Needs Fixing.** Conversely, when Hurricane Katrina struck the Gulf Coast on August 29, 2005, the response was uncoordinated and unorganized at the local, state, and federal levels. The White House issued its assessment of the response in *The Federal Response to Hurricane Katrina: Lessons Learned*, identifying four critical flaws in national preparedness:

- The absence of a process for unified management of the national response,
- Lack of command and control structures within the federal government,
- Lack of knowledge of preparedness plans, and
- An absence of regional planning and coordination.

With respect to regional planning and coordination, the report found that the DHS did not main-

tain the needed personnel or resources in its regional offices, which are responsible for meeting state needs during an incident. In addition, the absence of a regional database of shelters contributed to inefficient and ineffective evacuation and sheltering processes. A lack of regional resource tracking led to supplies and equipment not being delivered to specification, being delivered late, or not being delivered at all.<sup>8</sup> These problems served only to reduce communication and understanding of on-site needs, further delaying an effective federal response.

The report recommended an increase in regional response capabilities. It specifically called on the DHS to build its regional structures to integrate state and local strategies with response capabilities and to “encourage and facilitate” regional partnerships.<sup>9</sup> It recommended that the DHS develop Homeland Security regions that could manage and coordinate all preparedness activities in any emergency that may require a federal response.<sup>10</sup> These regions would be staffed with subject-matter experts from across the federal government, who would work with the states as they prepare for and respond to emergencies.<sup>11</sup>

In June 2006, the DHS, in cooperation with the U.S. Department of Transportation, completed the DHS NPR, a nationwide review of emergency plans of all 50 states and the nation’s 75 largest urban areas.<sup>12</sup> This review found that most states and urban areas are not adequately prepared for incidents and that their emergency preparedness plans

5. Public Safety Wireless Network, “Answering the Call: Communications Lessons Learned from the Pentagon,” January 2002, at [www.safecomprogram.gov/NR/rdonlyres/8839D9BA-9104-4EE1-BC43-E8431C500F95/0/AnsweringCallLessonsPentagonAttack.pdf](http://www.safecomprogram.gov/NR/rdonlyres/8839D9BA-9104-4EE1-BC43-E8431C500F95/0/AnsweringCallLessonsPentagonAttack.pdf) (April 6, 2006).
6. *Ibid.*
7. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*.
8. The White House, *The Federal Response to Hurricane Katrina: Lessons Learned*, February 2006, at [www.whitehouse.gov/reports/katrina-lessons-learned.pdf](http://www.whitehouse.gov/reports/katrina-lessons-learned.pdf) (April 6, 2006), pp. 5, 52–53, and 325.
9. *Ibid.*, pp. 70 and 82.
10. *Ibid.*, p. 89. These regional entities are federally focused, with response coming from the federal government to the states rather than from the state and local levels.
11. *Ibid.*, p. 90. The White House recommendations focus on federal experts rather than on developing a cadre of experts at the state and local levels.
12. U.S. Department of Homeland Security, *Nationwide Plan Review*.



are only partially compliant with applicable federal guidance. As a result, during a major incident, states will likely need to rely on the federal government for response support.

### Creating a Regional Structure

The lessons learned from the attack on the Pentagon and Hurricane Katrina and the findings in the DHS NPR emphasize the need for adding a fourth tier—a strong regional response capability—to the current three-tiered emergency management process. By providing a state-based regional response, states could rely on each other before reaching out to the federal government and coordinate the response during the 72-hour gap when the federal government is in the process of responding to a state's request. Regional response should be developed through a bottom-up process rather than a top-down approach, placing the states and their experts at the heart of the emergency management process.

**Beyond EMAC.** As guaranteed by the 10th Amendment to the U.S. Constitution, each state is responsible for the health and welfare of its citizens and may call on the federal government only when an incident overwhelms its capabilities. The state governor has the authority to request federal assistance.<sup>13</sup> States may also request support from each other through the Emergency Management Assistance Compact, a national state-based compact that allows states to draw on resources from other states to manage any emergency or disaster that is declared by the governor of the affected state. EMAC also provides for mutual cooperation in emergency-related exercises, testing, and other training activities.<sup>14</sup>

While EMAC is a successful tool for states to respond to incidents on a regional basis, it has its limitations.

*First*, EMAC is not triggered until a governor declares a state of emergency or disaster.<sup>15</sup> While this allows the governor to maintain control of the response within the state, it also increases the likelihood of delayed response to incidents and needs.

*Second*, while EMAC requires states to review plans and procedures, it does not provide for an entity that supports the development of state capabilities. EMAC has tools that could support the states, but the role of EMAC is to support needed response rather than to help the states become better prepared.

*Third*, EMAC is a standardized agreement that does not account for the specific needs, capabilities, and nuances of individual states. Because it is a standardized agreement, congressional approval is not required for any state that signs the agreement.

That said, an agreement that specifies the needs of the state may prove more effective in a situation that needs an immediate response. While EMAC is considered successful for what it does, discussion about modifying EMAC to add these features may hinder its current capabilities and success.

**Functions.** To enhance state capabilities, a Regional Emergency Management Support System should be developed to establish an emergency preparedness, response, and recovery framework from a partnering state perspective. REMSS would be based on interstate compacts and their accompanying RIEs and would contribute to the region through its system of response, mitigation, and recovery. This regional approach focuses on a bottom-up process, with primary efforts centered on the needs and capabilities of first responders and states.

When a predefined triggering incident occurs, the REMSS compact (and its RIE) would be activated automatically. While activation would not require a governor's declaration, a governor could

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13. 42 U.S. Code § 5191(a) (2000). Under the Stafford Act, when submitting a request, the governor must identify the resources needed from the federal government and must state the resources already used or in use by the state to respond to the incident. The President may then determine that the disaster is of such proportions that it is beyond the capacity of the state and local governments to respond and that federal assistance is necessary.

14. Public Law No. 104-321, Article I.

15. *Ibid.*, Article IV.

activate a REMSS compact through a request for assistance, even if a triggering event has not occurred.

REMSS is not a replacement for EMAC, but rather a supplement.

*First*, REMSS would consist of compacts among self-identified states rather than a grouping of all 50 states or a federally identified region. Each compact would be customized for the special needs of each state. Thus, each compact could be different. In creating regional offices for disaster response, the DHS should consider following the patterns of self-identified regions wherever possible, building on standing local knowledge, relationships, and trust.

*Second*, triggering events would activate a REMSS compact, allowing for a rapid response once the compact is in place.

*Third*, each RIE should develop a series of resource databases to allow signatory states to identify and distribute resources more quickly.

*Finally*, REMSS compacts would function under the assumption that the incident commander (IC) would remain at the state level until the RIE's capacity is overextended. Adding this regional tier, in coordination with or within a DHS regional office, is anticipated to provide support to the state in less than the 72 hours required for a federal response.

**Responsibilities.** Each RIE would have a board of directors consisting of two representatives from each signatory state as well as a federal government designee. The federal designee would be responsible for frequent and continuous communication with the federal government regarding REMSS implementation and overall preparedness of signatory states. This would provide the federal government with direct involvement in any regional response while ensuring that the lead for response remains with the states and region. The board would appoint the RIE's director and establish its policies and strategic vision.

Each REMSS compact would specify the criteria that would trigger a disaster response. These crite-

ria should be developed based on specified circumstances of signatory states. Even activating a compact would not ensure that resources from other signatory states would automatically be dispatched to the incident site. This would occur only after the IC speaks with the RIE director or designee and the needs are determined.

Some types of incidents that signatory states might want to consider as triggers to activate REMSS compacts include hurricanes above a class determined by the states; tornados that cause damage to designated numbers of regions and communities; power outages that affect a designated number of personnel for a designated period of time; storms that damage a certain number of communities or regions within a state; any chemical, biological, or radiological incident (including pandemic outbreaks); floods affecting a designated number of communities within the state; and knowledge that any of these incidents is imminent.

If an incident occurs without triggering a REMSS compact but is still significant for the state, the compact would still be available as a resource. The governor or appropriate designee could activate the compact through a specified request.

While the White House report recommends the development of a cadre of federal experts, REMSS experts and staff would be predominantly state-based.<sup>16</sup> This staff could prove especially useful in achieving the following major responsibilities of a proposed REMSS compact:

- Developing relationships with key first responders, both within each state and among the states, to ensure that they are familiar with their neighboring counterparts.
- Establishing a cadre of experts within the states to support various facets of emergency management.
- Assessing each state's internal level of preparedness, including strengths and weaknesses in preparedness, response, and recovery.
- Assessing each state's resources and their potential availability.

16. The White House, *The Federal Response to Hurricane Katrina: Lessons Learned*, p. 90.

- Developing mutual aid agreements such as memoranda of understanding (MOUs) among different state and local agencies that would fall under the compact. The MOUs would further detail state and local government efforts and their capacities to support each other in times of need and their willingness to exercise.
- Leading regional exercises, delivering after-action reports, and then working with the states to develop more effective emergency management plans.
- Further developing a command and control structure for all incidents within the region. States and cities may need to modify their current structure, but the new structure should ensure that first responders throughout the region understand the response process and procedure as well as the ICS structure and process.
- Developing a communications plan to ensure that a system exists that allows all key players to communicate with each other during an incident.
- Establishing a generalized logistics plan for incidents to ensure that proper supplies are available and up-to-date to respond to incidents as they are needed.
- Working with the signatory states to implement EMAC effectively.

When an incident triggers a REMSS compact, the RIE director or the director's designee would contact the IC to determine immediate needs. The director would then contact the predesignated state lead of emergency management and lead emergency management representatives for other signatory states to determine resource availability and allocation.

Drawing on the previously established databases of signatory resources, the director would quickly identify potential resources to provide to the IC. After confirming availability with the providing states, resources would be sent to the receiving state. The compact would remain active until the governor of the affected state or the governor's designee notifies the RIE that no further regional assistance is necessary. While the compact is automatically triggered, the onus is ultimately on the

receiving state to declare that no additional assistance is necessary.

This structure maintains a bottom-up approach, providing the IC and first responders the opportunity to determine the severity of the situation and their overall need for support. The focus should always emphasize empowering the first responders. Only after the RIE is unable to provide adequate support to the signatory state would the governor of the affected state formally request federal assistance by declaring a disaster and making a specific request.

Given that the federal designee is housed within the RIE, as stated within the compact, the RIE should continue as the coordination point for federal response, with the federal designee becoming the principal federal official for the incident response. Since the RIE would be working closely with a DHS regional office, coordination among local, state, and federal entities would be streamlined.

Using this methodology, the DHS and the federal government in general would have a smaller role, while the states and regions would maintain ownership of their individual incidents. As a result, overall reliance on the federal government for direct support would also diminish.

## The Way Forward

A fourth tier focused on regional response is needed in addition to the typical three-tiered (local, state, and federal) emergency management process. State-based regional entities would fill this current gap.

To develop this fourth tier, states and the Department of Homeland Security should work together to:

- **Determine** the best bottom-up approach to respond to specific types of incidents and which states would lead which efforts;
- **Identify** key partnering states as well as potential triggering incidents that would activate the REMSS compact;
- **Collaborate** on the development of interstate compacts that set out the structure and role of REMSS and RIEs;
- **Leverage** studies already conducted, such as the DHS NPR, to identify state resources and gaps

and then develop a database of resources that could be tapped as needed through REMSS;

- **Identify** leading emergency management experts within partnering states to support the development and implementation of REMSS compacts and RIEs;
- **Determine**, in addition to the federal designee, additional roles for federal regional entities to ensure close collaboration between the federal government and the RIEs;
- **Develop** short-term, medium-term, and long-term plans for finalizing REMSS compacts and establishing RIEs throughout the United States;
- **Identify** mechanisms to ensure that regional response remains state-based to the maximum extent possible; and
- **Establish** regional DHS field offices to work in conjunction with RIEs.

There is a need for congressional action as well. Specifically, Congress should:

- **Strengthen** legislation such as Section 5122 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act<sup>17</sup> to define “state” more clearly to include interstate emergency preparedness authorities. This would ensure that federal funding is available for states that work regionally as well as for REMSS and RIEs.
- **Adequately fund** the DHS to establish DHS regional field offices, including monies directed to education, training, accreditation, and sala-

ries of all DHS personnel and federal inter-agency personnel in the regional offices.

## Conclusion

The states, the Department of Homeland Security, and Congress should add a fourth, regional tier to the current emergency management process along with an implementing system such as REMSS. A regional tier would enable states to respond to incidents beyond their immediate capacities without waiting for a response from the federal government.

While REMSS would not eliminate the need for federal response, it would maximize the skills and strengths of those working in the region to respond to almost any incident. Focusing on the strengths of each signatory state and building their capacity from the bottom up would better prepare first responders and empower them to lead the response to incidents of any proportion. By collaborating together, states could break the current 72-hour barrier.

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17. 42 U.S. Code § 5122 (2000).