

Statement by

C. Ray Nagin

Mayor of New Orleans

before the

Subcommittee on Economic Development, Public
Buildings, and Emergency Management
Committee on Transportation and Infrastructure

U.S. House of Representatives

March 4, 2010

“U.S. Mayors Speak Out: Addressing Disasters in
Cities”

City of New Orleans
1300 Perdido Street
Suite 2E04
New Orleans, LA 70112
504-658-4010

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To Chairwoman Eleanor Holmes Norton, Ranking Member Mario Diaz-Balart, and to all distinguished members of the subcommittee, my fellow panel members Mayor Frank Cownie and Mayor Robert Duffy, other panel members and guests:

I am C. Ray Nagin, Mayor of the City of New Orleans. New Orleans is one of the most famous cities in the world. It also is one of America’s most beloved and culturally distinctive cities, and one which is of strategic importance because of its port system and its role in the energy, cultural production and seafood production industries. New Orleans is rebuilding following the devastation of Hurricane Katrina and the flooding that followed. Although the complicated maze of federal laws, regulations and policies and their implementation have led to major delays in our recovery, we are now creating a city that will be even better than it was before.

Much has been said about the lessons learned from the catastrophic disaster that New Orleans experienced, yet the structure under which we have struggled to recover remains largely unchanged today. Any city that faces a catastrophic disaster in the future will face the same challenges that we have had to overcome to rebuild New Orleans.

Thank you, Congresswoman Norton, for the opportunity to discuss needed reforms to the Robert T. Stafford Act. Thank you, also, for all that you have done to support New Orleans since Hurricane Katrina, and to help better prepare the country to respond to and recover from disasters. Many of the special one-time fixes that gave relief to New Orleans following the 2005 storms began with this subcommittee under your leadership, and you have also been a leader in initiating positive permanent changes to Stafford. You and your committee have championed our needs in New Orleans and those of all cities through your efforts to bring about long term changes in our disaster response system.

You’ve had some important partners in your efforts: I also want to take a moment to thank President Obama’s Administration and other key leaders in Congress who have worked to improve disaster response and recovery since the catastrophic events in New Orleans demonstrated the need so clearly. Congress has provided special legislative relief to the Gulf Coast, and begun to direct change for the future. The Obama Administration has brought fresh perspective to Gulf Coast recovery on a day-to-day basis, and is working to strengthen disaster recovery for the nation through efforts such as the recently

established Long Term Recovery Working Group of key administration officials. While these changes have been critically important to us, the overall structure of our disaster response policies and legislation still remains in need of overhaul.

One of my goals throughout our recovery from Hurricane Katrina has been to share what we have learned to help make sure that no other American city ever has to experience the difficulties that we have in New Orleans. Because disaster response and recovery is important to every city, the U.S. Conference of Mayors (USCM) asked that I lead a task force to formulate comprehensive recommendations for reforming the Stafford Act and how it is implemented.

Working with my co-chair, Sacramento Mayor Kevin Johnson, and with the participation of mayors, emergency managers and other staff from cities around the country, we have outlined a comprehensive set of reforms. These recommendations were presented to and approved by the USCM in January. A copy is attached to my written statement.

Our Task Force is comprised of cities that reflect wide geographic and risk diversity. Some have experienced disasters themselves; others have been host cities to citizens from communities that experienced them or offered their assistance to a disaster affected community. Sacramento has been identified as being one of the cities most at risk of catastrophic flooding. All of our cities recognize the urgency of ensuring that our country has put in place the resources and tools needed – after the lessons learned over the past few years – to support efficient and effective preparedness, response, mitigation and recovery in any community hit by a disaster.

The report, which is submitted in its entirety as an attachment to this testimony, includes recommendations that cover catastrophic disaster designation, hazard mitigation, individual and household assistance, insurance, other disaster grants, emergency preparedness and response and FEMA administration.

Congresswoman Norton, we also are very appreciative that you introduced HR 3377 “Disaster Response, Recovery, and Mitigation Act of 2009,” which would make some key changes in the Stafford Act – many of them changes which our Task Force report recommends. These include:

- Providing additional Hazard Mitigation funding to states and communities that are enforcing the most recent version of a nationally recognized model building code.
- Providing temporary mortgage and rental payments to individuals and families who are at risk of losing their homes because of the disaster.
- Enhancing case management capabilities under FEMA for survivors of disasters – a change that would help entire communities recover faster. We applaud your emphasis on helping the most vulnerable – children and individuals with disabilities.

- Improving cost estimation procedures to determine the level of damage to facilities to expedite recovery and, in the long run, save money.
- Reviewing of regulations and policies to simplify and expedite disaster recovery and assistance.
- Calling for the establishment of overdue criteria for hazard mitigation administration – something we hope will incorporate many of our suggested reforms in our report.
- Establishing Presidential authority to trigger “special procedures” in cases of “extensive and widespread damage” – a provision similar to our call for a catastrophic designation.

I must acknowledge that reforming the Stafford Act and FEMA is not the highest priority for many in Congress right now. We must ask, however, if when the next disaster strikes in the United States – and we know it is not a question of if but when – will we have taken steps to improve our disaster system based on the lessons learned from Hurricane Katrina? Not enacting needed Stafford Act reforms will demonstrate that we have ignored those lessons, and the next city struck by a major or catastrophic disaster will face the same struggles we have faced in New Orleans.

I realize that this is a short legislative session and that Congress is dealing with major concerns such as a jobs bill, the FY 2011 appropriations bills, healthcare bills and the budget. But while it may not be as visible, Stafford Reform is of critical importance to every American city and the entire country. The devastation in Haiti and the even more recent disaster in Chile are reminders that no area is immune.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act is the federal law that supports preparation for and response to disasters. It gives the President power to issue disaster declarations that authorize help for states and local communities overwhelmed by events that have disrupted their normal functioning. Though it was written to give much discretion to federal administrations for tailoring the response to the need, the flexibility in the Stafford Act is not adequate to handle the widespread destruction caused by a catastrophic disaster, and it is not always used to make the most effective decisions after emergency events in general. Response is frequently stymied by a limiting law, bureaucratic inefficiencies and conflicting or unclear policies and regulations.

This testimony focuses on five areas of great concern to both the City of New Orleans and USCM and summarizes some of the recommendations of the report. Those key areas are Catastrophic Disaster Designation; Removal of the \$5 million Cap on Community Disaster Loans; Direct Grant Funding to Cities; Adequate Funding For and Streamlining of Hazard Mitigation; and Full and Timely Cost Reimbursements for Host Cities.

Catastrophic Disaster Designation

Recommendation: *Provide for catastrophic disaster designation to speed up funding availability and recovery*

One of the major barriers to our recovery from Hurricane Katrina has been the lack of differentiation among disasters and the inability to designate those that are “catastrophic” and cause extensive and widespread damage and destruction. Events such as Hurricane Katrina are so great in scope and effect in more than just a local jurisdiction or region that they require special consideration for the response and recovery efforts. Unlike disasters which strike a limited area within a city, Hurricane Katrina left 80 percent of New Orleans under water and caused tens of billions of dollars in damages. For example, the damage to the New Orleans Recreation Department facilities alone totaled more than \$60 million, and more than 300 city facilities were either severely damaged or destroyed. In addition, more than 100,000 housing units were destroyed in the City of New Orleans. The damage to other parishes in the region was also severe in some cases. The entire economy of the United States was affected by the event.

The Stafford Act should be amended to differentiate “catastrophic disaster” as one which has a more devastating impact than a “major disaster.” Catastrophic events are currently defined in the National Response Framework as “any natural or manmade incident, including terrorism that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions.” A formula should be developed to determine if a disaster meets the criteria for catastrophic designation.

The Catastrophic designation would trigger “special procedures” similar to the concept of “extensive and widespread damage” as in HR 3377 to give the President authorization to expedite the repair, restoration, reconstruction or replacement of eligible facilities. While we believe this would be a valuable addition, we propose a catastrophic designation that would trigger a number of additional actions, as outlined in the USCM report. Among those actions are the following:

- Give the President the authority to waive Stafford Act provisions and regulatory compliance following a catastrophe;
- Provide automatic 100 percent federal funding for all categories of eligible work for the duration of a disaster. Because the Stafford Act requires cities to pay a portion of the cost of emergency services, such as debris removal, we began seeking 100 percent funding for these costs immediately after the storm. This funding was necessary in order to assure that we could meet these needs, despite our depleted budget and non-existent economy. In a special Katrina and Rita fix, Congress approved 100 percent funding for eligible costs but not until May of 2007. This special relief would not be in place for a future catastrophic event.
- Mandate the immediate release of federal funding for 50 percent of the Preliminary Damage Assessment (PDA) estimate for all grant programs. Currently it can take 60 to 90 days to access “Immediate Needs Funding” and it is not available for initial recovery work on critical infrastructure, including public

safety facilities and equipment. In devastated cities, there is no money available to sustain operations and other costs while waiting for this period. This leads to unnecessary layoffs and delays in contracting that leaves the municipalities unable to move forward with critical services.

- Establish a 90-day “hold harmless” period for the procurement of goods and services at the beginning of a disaster so that local and state governments can respond quickly to meet urgent needs. Charleston Mayor Joe Riley told us that after Hugo when Charleston needed generators, FEMA said they hadn't done an assessment. While FEMA now encourages pre-disaster contracting for anticipated needs, Mayor Riley believes that there should be a hold harmless period for unforeseen urgent needs, pointing out that in catastrophic disasters especially, every second counts.
- Lengthen and align deadlines for all grant categories for a minimum of one to five years based on the requirements of the grant program. For example, Emergency Work should be extended to one year and Hazard Mitigation should be extended to a minimum of five years to allow the affected communities time to plan, recover, and rebuild. Then after the initial period of stabilization, extensions can be applied if needed.

In New Orleans, much time and energy was spent to keep track of short term deadlines immediately after Hurricane Katrina struck and when the city was still in a dire emergency situation. The extent of the destruction meant we needed extensions that amounted to years for debris removal and other emergency services. Each time a deadline approached, we had to reapply and then wait for a response, uncertain whether the extensions would be approved or if we would have to discontinue our emergency operations. There are still deadlines on many programs and issues that we are coming up against that may make sense under normal emergency and major disaster circumstances, but not in catastrophic events.

- Assure that all modalities of mental health treatment (in addition to Crisis Counseling Assistance and Training) are available and funded to provide psychiatric services and medications to the affected population. In catastrophic events, the personal lives of huge segments of the population are in crisis; damage to the basic health and mental health infrastructure will prevent adequate help from being provided to meet the severe and prolonged mental health needs in the affected communities. Mental health services also need to be provided to long-term evacuees in their host communities.

The flooding in New Orleans had a crippling effect on the city's healthcare and mental health infrastructure. Though mental health counseling was covered, longer-term mental health care and medications provided by doctors in emergency clinics or in host cities were not eligible for reimbursement as eligible costs of disaster assistance. It is clear that at some point the community must again

assume the costs of providing health care, but the extent of the destruction in a catastrophic events means the “emergency” period and the seriousness of the effects are much longer. New Orleans is still experiencing the negative effects of the catastrophe and the need for mental health services has increased dramatically. Incidents of suicides and attempted suicides are at an all-time high; police are transporting more mental patients in crisis; and the World Health Organization has documented severe levels of depression.

Community Disaster Loan Program

Recommendation: *Remove the \$5 million cap on the Community Disaster Loan (CDL) program – the amount available for loan funds should match the amount of revenue lost. Decisions on loan repayment or cancellation can be made after clear analysis of a jurisdiction’s ability to pay back the loan in part or in full without undue hardship.*

Hurricane Katrina and the extent of the destruction forced the complete shut-down of the New Orleans economy. As a historically poor city, we did not have major reserves to which we could turn to continue our basic operations. Even cities wealthier than ours would find that a complete economic shut down seriously impedes its ability to function. We were not sure how we would make payroll so that we could to employ the people needed to continue search and rescue operations and begin the clean up and recovery process. We were also concerned about defaulting on public bonds and the subsequent damage to our credit rating. Unfortunately, the main operational relief offered by Stafford is the Community Disaster Loan program, which is not only slow but inadequate for a major American city that has experienced a catastrophic disaster. Its \$5 million cap and limit of up to 50 percent of revenue loss means that a community in the throes of an emergency must wait for the slower processes of legislative relief to have a reasonable amount of funding made available.

In early September of 2005, with the flood waters still covering most of our city, we began to request immediate funding for these and other costs. With no immediate resources available, we were forced on October 4, 2005, to lay off 3,000 employees, approximately half of our workforce. Not only could many of these performed valuable roles in our recovery process, but many also were dealt the double blow of losing their homes and their jobs. The cuts also meant that our remaining employees were asked to perform the work of two to three people, a reality that continues today in much of City government.

Through Congressional legislation in October of 2005, the \$5 million cap on the Community Disaster Loans was lifted for Katrina and Rita, but Presidential discretion for forgiveness of these special loans also was taken away. In October of 2006 – over a full year after the event -- Congress provided the City and other affected entities the authority to borrow up to 50 percent of annual revenue loss for operating. Then, in May 2007, Congress reinstated the President’s discretion to forgive the loans.

Under normal CDL processes, the City of New Orleans would have been able to apply for forgiveness in January 2009, which would have been three full fiscal years following the disaster. However, because the loans we received were considered “special” and outside the regular provisions of the Stafford Act, there were no rules in existence for this forgiveness. Rules were written and promulgated a few weeks ago and the City of New Orleans is now in the process of applying for forgiveness. We are confident that this forgiveness will be granted because our needs are so great in comparison to need stemming from other disasters that have been forgiven. In the future, however, no communities should have to walk the financial tight rope mandated by these limitations on funding. If they do they will lose valuable time and energy that should be used in stabilizing and rebuilding their city.

Direct Funding for Cities

Recommendation: Give grant standing to local jurisdictions that are CDBG Entitlement Communities -- *Local governments that are Community Development Block Grant entitlement communities should have standing as grantees for all disaster grant programs so that they may deal directly with the federal government.*

Mayors are on the front lines of efforts to mitigate, respond to and recover from disasters. Our residents look to us for speedy action and for reassurance that their lives and communities will quickly return to normal. Yet, current law denies us the ability to access federal resources directly, requiring instead that we work through state governments, which are often grappling with their own disaster response efforts. We are left in the impossible position of being responsible to our constituents without having the authority or resources to adequately respond to their needs.

New Orleans could serve as a case study on the negative impacts of using states as intermediaries between the federal government and local communities for disaster recovery funding. Having to go through the state to request extensions, project worksheet approvals and reimbursements for disaster grant programs slows down funding, adds unnecessary bureaucracy and impedes recovery. In the past, the State of Louisiana also engaged in a system of pre-audits that significantly slowed access to funding. Despite the best of intentions, the additional bureaucracy at the State level meant that citizens – the people most impacted – had even longer waits before they would see community improvements implemented.

We have had similar experiences with the Long Term Recovery Disaster Community Development Block Grant (D-CDBG) funds that have gone through the state. The City of New Orleans, which received 57 percent of the damage from Hurricanes Katrina and Rita, has been granted only \$411 million in Disaster Community Development Block Grant funds out of the billions of dollars Congress appropriated for Gulf Coast recovery. We have programmed all of that funding and are currently in the process of implementing programs to draw it down. More than \$1 billion in unspent recovery funds, however, remain in the State of Louisiana’s coffers. We contend that these funds would best be

used at the local level and should be distributed proportionately based on damages, consistent with Congressional intent.

The possibility of natural and man-made disasters in other cities means that this is an issue that Congress likely will face again. Our citizens will be best served if the dollars are immediately available at the level of government closest to them – the city government level. This will allow the speedy action residents expect and deserve. In the process, the costs of providing these grants will be greatly reduced with the elimination of the additional level of bureaucracy.

Hazard Mitigation Grant Program

Recommendation: *Adequately fund and streamline the Hazard Mitigation Grant Program*

Hazard Mitigation is an important part of any recovery because it has proven to be effective in reducing property damage, costs of repair and replacement, and loss of life. The Federal Emergency Management Administration's (FEMA) Hazard Mitigation Grant Program (HMGP) provides funding to assist communities to implement long-term hazard mitigation measures as they repair or rebuild following a disaster. Public facilities, critical infrastructure, and private homes and businesses can be retrofitted and hardened with the grant dollars made available after a disaster. New construction and development patterns can follow best practices to prevent the waste of future resources for repairing what could have been mitigated. A Congressionally mandated study for FEMA estimated that \$4 can be saved for every dollar spent to mitigate.

Many cities have called for changes in the Hazard Mitigation Grant Program. More funding should be made available for hazard mitigation after a disaster and there should be more funding and financial incentives for hazard mitigation programs in communities that are at high risk. The funding must be available more quickly and should be awarded directly to cities with a proven capacity to administer them – Community Development Block Grant entitlement communities. Additionally, the entire hazard mitigation grant process should be streamlined so that less funding is spent on complex and bureaucratic administration and more on the actual construction of safer structures. Some of these changes can be accomplished administratively, and the Obama administration is working on some of these issues. Some changes require legislative action.

Louisiana has been allocated about \$1.5 billion for 404 Hazard Mitigation for Hurricanes Katrina and Rita. New Orleans, which experienced 57 percent of the damage in Louisiana, has been officially awarded \$30 million for disaster-specific FEMA grants. It is expected that the amount will increase to approximately \$60-70 million. Applications for these grants were developed with help from FEMA and the State of Louisiana, but the rules are so complex that huge grant proposals requiring reams of paper had to be submitted multiple times before they were awarded, with most of these awards being made just last year in 2009.

Among the recommended changes to the program, which are essential to saving future costs, property, and lives:

- Provide the President with discretion to increase the federal cost share to 100 percent for hazard mitigation, as in other disaster programs. This is particularly important for communities that have experienced catastrophic destruction where neither the agencies nor the residents are able to financially afford the match but have great need and opportunity for mitigation.
- Direct hazard mitigation funding to the impacted community in proportion to the damage done by the event. New Orleans has received less than its proportionate share of grant dollars and has had to compete within the state for funding beyond the original allocation offered by the state.
- Make initial hazard mitigation funding available immediately, based on the Preliminary Damage Assessment (PDA) estimates. Cities across the country have noted that the program is too slow. By providing dollars immediately based on PDAs, communities will be able to more quickly help their citizens who are trying to make critical decisions about their homes and lives, and will be able to invest in mitigation measures more expeditiously.
- Require 75 percent of the allowable administrative costs to be provided by the grantee to the subgrantees as funding for their implementation costs or as services performed by the grantee for jurisdictions without administrative capacity. If a city is funded through the state for HMGP, it should receive a reasonable amount of the administrative funding to effectively implement and monitor the program. One recent grant to the City of New Orleans was awarded with an administrative allowance of less than one per cent, which is not enough to administer and monitor appropriately.
- Increase the amount of Hazard Mitigation Grant Program funding by 4 percent of the estimated aggregate amount of the grant for both state and local jurisdictions that have building codes consistent with or more stringent than the most recent nationally recognized model building codes if adopted within six years of the most recent version of that code. States and communities should be rewarded for adopting and enforcing safer building codes.
- Permanently adopt the Demolish-Rebuild (Pilot) Program developed after Hurricanes Katrina and Rita and make it an eligible activity under HMGP. Current law favors that demolished property be bought out and turned into green space permanently, which is not practical in the middle of cities. The pilot allows mitigation funds to be used for rebuilding safely on a lot where a damaged structure has been demolished. This pilot program should become permanent law.

Increase Support for Communities Hosting Evacuees and Cities that Provide Direct Assistance to Disaster Affected Communities

Recommendation: *Allow for 100 percent reimbursement for affected communities and host communities for personnel costs and lost revenue incurred to manage and implement assistance for evacuees.*

In the wake of disasters, neighboring communities and those in other states incur extraordinary costs for providing housing and support to displaced disaster victims, as well as by sending assistance to the community experiencing the event. Their efforts should be applauded, not penalized. Federal dollars must flow more quickly to compensate these communities for the full cost of their efforts.

Fort Worth, Texas provides an excellent example of how host cities are being impacted by the current law and regulations. The State of Texas has designated the Fort Worth/Dallas Metroplex as the host area for Harris County (Houston) citizens who evacuate in the event of a hurricane. Whenever Fort Worth operates shelters, it incurs significant expenses in permanent employee straight-time salaries. However, under current law, only overtime spent on disaster response by permanent employees is eligible for reimbursement from FEMA. In the case of Fort Worth, these straight-time expenses are borne by its citizens, thus putting the City in the position of underwriting the costs for people who live on the coast, hundreds of miles from Fort Worth. During Hurricane Katrina and Hurricane Gustav, Fort Worth was asked to shelter evacuees from Louisiana as well as from the Texas coast.

In addition to these costs, host cities also incur revenue losses when they have to close revenue generating facilities in order to accommodate and house evacuees. To make serving as a host city more attractive and equitable, the Stafford Act should be revised to reimburse host jurisdictions for 100 percent of their lost revenue for facilities such as convention centers that are used as mass care shelters.

Host cities that participated in the work of the task force concur that it would be best for the funding to come from FEMA directly to cities rather than through the state. In late 2009, Dallas was still awaiting reimbursement from the State of Texas for host city expenses it incurred a year earlier during Hurricanes Gustav and Ike. This could be expedited by granting host cities direct standing as grantees with FEMA, rather than requiring the cities to apply to the state as an intermediary, with the state subsequently applying to FEMA.

Recommendation: *Facilitate expeditious direct reimbursement to cities that provide mutual aid by:*

- Authorizing city-to-city and/or state-to-state mutual aid agreements to immediately trigger funding and liability protection during major or catastrophic emergencies without having to wait until a formal disaster is declared and

assistance is granted through the Emergency Management Assistance Compact (EMAC) system.

- In the event of a federal declaration of emergency, reimbursing costs associated with emergency protective services through mutual aid assistance from the time at which the state declared the emergency.

Recommendation: Honor certifications and licenses across state lines – Since the provision of regional mutual aid will frequently require emergency service professionals to perform duties outside the boundaries of their home states, state-based professional licenses or certifications should be honored across state lines in the event of a disaster or emergency event.

- Reimbursement for eligible costs incurred in providing mutual aid must be quicker and less bureaucratic in order to encourage more critically needed cooperation without penalizing those who want to help. Federal assistance with coordination across state lines and regions would encourage more cooperation.

Thank you, again, for your focus on this important issue and for the commitment that you have demonstrated to our city. Despite the challenges we have faced, New Orleans is rebuilding and will be a stronger, smarter and better city than ever before.

As I prepare to leave office in May, I remain as committed as I was just after Hurricane Katrina to making certain that no other city faces the recovery and rebuilding difficulties that we have in New Orleans. It has been my honor to lead the task force on behalf of the U.S. Conference of Mayors. Our recommendations are based on actual experiences and actual frustrations in working within a structure that must be overhauled to better serve the American people. Reform of the Stafford Act is critically important to the future of our cities and our nation.