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KATRINA AND CONTRACTING: BLUE ROOF, DEBRIS REMOVAL, TRAVEL TRAILER CASE STUDIES

HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

FIELD HEARING IN NEW ORLEANS, LA

APRIL 10, 2006

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KATRINA AND CONTRACTING: BLUE ROOF, DEBRIS REMOVAL, TRAVEL TRAILER CASE STUDIES

MONDAY, APRIL 10, 2006

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,
GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 11:30 a.m., at the Louisiana Supreme Court Building, 400 Royal Street, New Orleans, Louisiana, Hon. Tom Coburn, Chairman of the Subcommittee, presiding.

Present: Senators Coburn, and Carper.

Also Present: Senators Vitter, Landrieu, and Representative Jindal.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. The Subcommittee on Federal Financial Management, Government Information, and International Security will come to order. We will dispense with opening statements other than that I will summarize, and I think Senator Carper will, and I ask unanimous consent that my opening statement be made a part of the record, as well as other members of the panel. We're here not to put blame on any individual. We recognize the hard work of most of the people involved in the Hurricane Katrina and Rita disasters and we praise your effort and your dedication. What we are here to find out is what went wrong, why it cost more than it should, what can we change so we know what to do in the future so that we're more responsive or more efficient with our responsiveness and accountability that can be tracked at every level.

We have in front of us today, in our first panel, Tina Burnette, Deputy Director of Acquisitions for Hurricanes Katrina and Rita at the Federal Emergency Management Association (FEMA). Previously Ms. Burnette served as the Deputy Assistant Commissioner of Commercial Acquisitions at the General Services Administration's Federal Supply Services.

Lieutenant General Carl Strock is Commander in Chief of Engineers at the U.S. Army Corps of Engineers. Previously, Lieutenant General Strock served as Director of Civil Works at the U.S. Army Corps headquarters.

Matthew Jadacki is the Special Inspector General for the Gulf Coast Recovery of the Department of Homeland Security. He has previously served as the Chief Financial Officer for the National Weather Service and before that, he was acting CFO with FEMA.

Patrick Fitzgerald is Auditor General of the U.S. Army Audit Agency. Mr. Fitzgerald joined the Army Audit in 1980 and has held a variety of key positions in the agency field offices and operations.

Thomas Gimble is the principal Inspector General of the Department of Defense. He began his Federal civilian career with the Air Force Audit Agency when it was created in 1976. Since then, he has worked in several key positions within the Department of Defense.

I might note that Senator Carper and myself, along with Senator Obama, asked the President or Chief Financial Officer when this occurred. We were not successful in that. My hindsight is 20/20 and now says we should have had that because the effect of not receiving it means that the tracing of the accountability and responsibility is going to be more difficult. We are now looking at things after the fact instead of before we signed the check or signed the contract.

[The prepared statement of Senator Coburn follows:]

PREPARED STATEMENT OF SENATOR COBURN

Last August, Hurricane Katrina wreaked havoc upon the Gulf Coast. A few short months later, Hurricane Rita pounded the Gulf Coast, exacerbating the challenges of reconstruction. As you can see from the chart Congress has already appropriated $100.9 billion for the recovery efforts. Between recent approval of $3 billion by the Senate and a request by the President of $20 billion, we are looking at $123 billion dollars to date. As you can see from the graph, the money spent on this recovery effort is the most expensive rebuilding effort of all-time. To put this into perspective, Hurricane Katrina recovery funding will be over eight times the amount of Federal hurricane recovery aid for the entire 2004 hurricane season. Now, perhaps, Katrina was eight times worse than the previous year's season. There's a valid argument to be made. But with this level of disaster, it is all the more important that the money Americans have provided for their neighbors in the Gulf Coast not be wasted.

The Congress has held extensive hearings on Hurricane Katrina back in Washington. We're not here to assign blame and reconstructed a minute-by-minute account of failure. Rather, we're dealing here with a few case studies of financial management that I believe are symptomatic of government's inherent limitations. A Federal bureaucracy based in Washington is always going to come up short when it is trying to watch billions of dollars far from Washington. But the nature of this disaster is that the Federal Government will be spending money here for years to come.

So let's take a look at a few specific cases and see if we can learn something that we might apply not only across the rest of the recovery effort, but across other disasters in the future. Today, we will explore Federal contracting and management of three programs: The "Blue Roof" Program, debris removal, and the travel trailer program. While the audits of these programs have only just begun, initial reports from the media, the Government Accountability Office, and local officials paint a disappointing picture. We've heard about unreasonably inflated prices, excessive layers of subcontracting, and inadequate oversight for these three programs.

Last year, Senator Carper and I introduced with Senator Obama, a bill that would have created an independent chief financial officer. This CFO would be in charge of every penny that goes out the door. With the huge opportunity costs associated with wasted tax dollars, I know the American public and the people of the Gulf Coast deserve no less. The CFO would have been responsible for the efficient and effective use of Federal funds in all activities relating to the recovery from Hurricane Katrina. Unlike an inspector general which audits money after it has been spent, the CFO would have been responsible for preventing problems. Unlike the so-called "IG Council" that was put in charge of financial management for recovery, a CFO would have been a single accountable point of reference. In other words, the CFO's motto would be "the buck stops here."

We were promised that a CFO wasn't necessary. We were promised that every dollar would be tracked. When the Senate was presented with the first supplemental appropriations request for tens of billions of dollars, we were assured that the expenditure of this money would be accountable and responsible and the American people would not be embarrassed. After months of hearings and investigation, it seems that we had the oh-so-predictable waste and fraud that always accompanies huge money rolling out fast and unwatched by Washington.

As reported in recent news articles, there are cases where the price for putting a blue tarp on a roof costs close to the price of hiring a roofing company to install a new roof. We also hear reports of travel trailers that retail around $16,000 to $20,000 costing FEMA up to $60,000 for purchasing, hauling, installing, and removing. Two thirds overhead seems awfully high to me. There are reports of FEMA spending up to $400,000 to prepare lots for these travel trailers only to find out after the fact that local authorities either did not give authorization to build at those locations or communities weren't properly consulted. With debris removal, there are cases where top contractors are reportedly charging up to $30 per cubic yard while five sub-contractors deep, the workers actually doing the work receives sometimes as little as $6 per cubic yard.

Some may argue that inflated prices and multi-layering of contracts is to be expected due to the downsizing of Federal procurement staff. They say that it takes five layers of middle-men, each taking his cut, in order to get money from Washington to Biloxi. I'm not buying it. And Americans shouldn't stand for it.

The Government Accountability Office—that's Congress' investigation operation—has recently issued a report highlighting the systematic failures that are creating these types of problems: Inadequate planning and preparation, lack of clearly communicated responsibilities, and insufficient numbers and inadequate deployment of personnel. FEMA is only at 73 percent of its authorized staffing levels. In addition, FEMA still does not have a permanent director, four of the ten division chiefs and four of the ten regional directors are serving in an acting capacity. In another example, GAO reports that a contract worth $120 million was tasked to the General Services Administration by FEMA, and it took FEMA three weeks to pinpoint the person responsible for oversight on the contract.

There have been all kinds of new task forces, councils, and coordination models that have been born as reports of problems keep surfacing, but the problem with each is the same. You can't fix it after the fact. As former Secretary of State Colin Powell famously noted with respect to recovery of devastated regions: "You break it, you buy it." He wasn't talking about domestic disaster recovery, but the principle is the same. When we have funneled money through a broken system, Americans are on the hook to pay for the consequences of that system throughout the life of the reconstruction. But it's not just today's taxpayers who are on that hook. We have mortgaged this recovery on the backs of our children and grandchildren. Their future quality of life is in further jeopardy every time we fritter away another dollar.

Today we'll be looking at the following questions:

- How extensive is the problem of mismanagement and waste that is reported both by GAO and the media?
- What steps are FEMA and the U.S. Army Corps of Engineering taking for current and future contracts to ensure reasonable prices before a contract is signed?
- Is it possible to cut out some of the layers of sub-contracting that, in some cases, is over six levels deep?
- Is the Federal Government getting the oversight and management out of the prime contractors that we are paying for?
- What are we to expect from the Inspector General community regarding ongoing audits of the blue roof, debris removal, and the travel trailer program?
- Is the Inspector General community receiving adequate funding to handle the burden of the additional Katrina audits as well as audits for normal agency programs?

I want to thank all the witnesses for being with us here today, some of them taking time away from tireless and thankless work to answer our questions. I know that good people with good hearts are running these operations and we are not here to question anyone's motives. Thank you very much for your service to the region's recovery and to our country.

Senator COBURN. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks Mr. Chairman. Let me just say to our witnesses welcome, it's nice to see some of you again and to see others for the first time. We want to express our thanks to the staff here at this facility for the warm welcome that's been extended to us. It's great to be with our colleagues Senator Landrieu and Senator Vitter, and we thank you and your staff for your hospitality.

I have a statement I'd like to ask to be entered into the record. Let me just say very briefly when Senator Coburn and I hold hearings in Washington or actually around the country, and we do a fair amount of that, what we're looking for is not so much to pin blame or to assign blame, we're looking to find out how to learn from whatever mistakes we're making and to make sure that we won't make the same mistakes over and over and over again.

We all know that Katrina was well telegraphed and is not the last hurricane we're going to see in our country and certainly this part of the country and we need to be prepared whether, it's in New Orleans or some other place, Pensacola, or Corpus Christi. We need to be prepared for it to make sure that when we turn to the taxpayer and ask them to pay large sums of money to help those communities get back on their feet that they know their dollars are being well spent. So we look forward to learning a lot here and the other thing we look forward to doing is learning some lessons so that when this happens again, hopefully not here but some other place, we won't make the same mistakes. Thank you.

[The prepared statement of Senator Carper follows:]

PREPARED STATEMENT OF SENATOR CARPER

Thank you, Mr. Chairman, for taking the time to focus on these issues.

More importantly, thank you for holding this hearing in New Orleans so that we can see first hand the progress that has been made and the work still to be done in bringing this city back.

I'll start off by saying that I truly believe that FEMA and the agencies and contractors on the ground here and in Mississippi and Alabama following Hurricane Katrina worked as hard as they possibly could to provide goods and services to those in need following the storm. Anyone who turned on their television set the week of the storm, however, could see that the Federal Government's overall response to Katrina was confused and ineffective.

Poor planning at FEMA and elsewhere before the storm contributed, in all likelihood, to a tragic loss of life and property. While there are still audits and investigations underway, it's clear from the evidence before us today that poor planning contributed to a tragic waste of taxpayer dollars as well.

The people of New Orleans and the other communities affected by Katrina deserve every penny we've provided them as they've worked to pick up the pieces. At the same time, however, they also deserve to know that the money coming down here is spent appropriately and effectively.

I believe it's been a little over 7 months now since Katrina made landfall. The 2006 hurricane season is now right around the corner. we're going to learn a lot more today about what went wrong post-Katrina but, as a Senator from a State that's seen its fair share of hurricanes in the past, I'm also interested in learning what FEMA and the other agencies involved have done to set things right.

I believe this is the third time in the past year or so that we've heard testimony about FEMA waste. The full Committee held hearings following a 2004 hurricane in Florida and again during its Katrina investigation showing that the agency lacked the basic internal controls necessary to ensure that its post-disaster assistance funding goes only to those who are eligible to receive it.

Now we hear that, while residents of New Orleans and other communities are still struggling to find the resources to get their lives and their business back together, FEMA and the Corps have been wasting money on needless bureaucracy and to compensate for the fact that they just didn't plan ahead.

I look forward to hearing from our witnesses and from our colleagues from Louisiana about how we can do things better next time.

Senator COBURN. Before we get started, Ms. Burnette I noted that we didn't get your testimony until 5 p.m. Friday. I have a routine habit of hoping that we can expect compliance out of agencies. That undermines our effectiveness because I didn't get to read your testimony until this morning and I hope that would be communicated again to OMB because I know those testimonies have to go through them and if you would send that signal, I'd very much appreciate it. Each of you will be given 5 minutes. Your complete statement will be made a part of the record and then we'll have questions from both ourselves, Senator Vitter, and Senator Landrieu. Ms. Burnette.

TESTIMONY OF TINA BURNETTE,[1] DEPUTY DIRECTOR ACQUISITIONS FOR KATRINA, DEPARTMENT OF HOMELAND SECURITY

Ms. BURNETTE. I apologize for that. Mr. Chairman and Members of the Subcommittee, My name is Tina Burnette and I've been the Deputy Director of Acquisitions for Gulf Coast Recovery of FEMA since January of this year. Thank you for the opportunity to appear here today to discuss the successes of the Agency as well as the challenges and response to Hurricane Katrina. Prior to being named to my current position, I spent 90 days in Louisiana as the On Site Acquisition Support to the Katrina Recovery Office headed by Vice Admiral Thad Allen. I'm a career Federal executive and spent 16 years of Federal service in the procurement profession. As the Deputy Director, I supply oversight and support for those acquisitions issued in support of the Gulf Coast Recovery. In the days immediately following the disaster, the primary goal was meeting urgent and humanitarian needs. Clearly, an equally important responsibility in our office then and now is to stewardship of taxpayer dollars and insure integrity of the contracting process.

To insure integrity and transparency, the Department of Homeland Security established an Oversight Board which is chaired by the Under Secretary for Management and oversees hurricane funding that the Department receives. The Board recently established an Oversight group responsible for reviewing high risk Katrina contract actions which includes verifying what was purchased, the reasonableness of the price, and the extent of competition. Special attention is being paid to the individual assistants technical assistance contracts that were sole sourced to four companies: Fluor, Shaw, CH2MHill, and Bechtel. FEMA is preparing for the next hurricane season and has established a priority list of acquisitions that will enable a more responsive ordering process for the goods and services while ensuring a fair and reasonable price. FEMA is also working with the Defense Logistics Agency on assisting with commodity contracts and with the General Services Administration on the better utilization of their Agency's services. I know that there has been much stated about the recompeted of the IA–TAC. Let me be clear. It is being recompeted.

[1] The prepared statement of Ms. Burnette appears in the Appendix on page 51.

First, maintenance and deactivation of the temporary housing units will be assumed by approximately 36 small and small disadvantaged businesses, some of which have already been awarded. Other efforts are also being recompeted such as group site maintenance and infrastructure support. The new IA–TAC for the upcoming hurricane season will be awarded competitively on a national basis. We have already sent out for this requirement and a request for proposal will be issued very soon. FEMA is also in the process of increasing its Acquisition Corps to handle post-Katrina work by adding 60 positions that will include procurement and program management personnel. As of last week, we have hired 45.

I know that you're particularly interested in debris removal, the Blue Roof Program, and temporary housing. FEMA supports debris removal through the mission assignment issued to the U.S. Army Corps of Engineers, and also reimburses State and local government that contract with local debris contractors through the public assistance grants program. The Blue Roof Program is also supported through the U.S. Army Corps. FEMA's primary support of the program last year was through the purchase of blue tarps awards that were made to multiple vendors that could meet our required delivery date and the prices were consistent with past purchases. To provide timing housing assistance and meet one of FEMA's top mission goals of moving applicants out of shelters and into houses, we purchased temporary housing units from manufacturers and from dealer inventories. We purchased over 140,000 temporary housing units and expended approximately $2.7 million dollars. These costs included delivery to the logistical staging area but they do not include installation. We anticipate that 151,000 temporary housing units will be installed by the time this effort is complete. Currently, we have over 110,000 that are either occupied or are ready to be occupied. We've established a Program Management Office to ensure that funds are being expended appropriately and we use the Defense Contract Audit Agency to review proposals and make recommendations prior to final negotiations. Sub-contractual relationships are an integral part of this effort and are good for local businesses and for small businesses. As a result of these sub-contracts, FEMA now has a much larger pool of highly qualified small businesses that can compete directly for future disaster response efforts.

Mr. Chairman, in the days immediately following Hurricane Katrina, the primary focus of FEMA's procurement office and of the entire procurement community was to act as quickly as possible within the parameters of acquisition law and regulation and to obtain the materials and support desperately needed in the devastated areas. FEMA procurement professionals also recognize their responsibility and worked within the system to ensure that contracts were awarded correctly. Currently, DHS is reviewing transactions to ensure that proper procedures were followed and that appropriate decisions were made. We are using the reviews, the results of those reviews, to help us understand how to do better next time.

Thank you Mr. Chairman and I look forward to the Subcommittee's questions.

TESTIMONY OF LIEUTENANT GENERAL CARL A. STROCK,[1] CHIEF OF ENGINEERS, U.S. ARMY CORPS OF ENGINEERS

General STROCK. Mr. Chairman and Members of the Subcommittee, I'm Lieutenant General Carl A. Strock. I'm the Chief of Engineers. I thank you for the opportunity to testify before you today concerning the Corps' disaster relief contact procedures. With your permission, I'll summarize my statement here and provide my full statement for the record.

Senator COBURN. Without objection.

General STROCK. Under the National Response Plan, the Corps is assigned as the coordinator for Emergency Support Function or ESF–3, Public Works and Engineering. During disasters, the Corps is the primary agency for response activities such as ice, water, and temporary power. FEMA is the primary agency for ESF–3 recovery activities and assigns the Corps to assist in the execution of debris missions. The Corps is also a support agency to other ESFs such as ESF–6, which is mass care and housing by executing missions to provide temporary roofs. The Corps has started a program called the Advance Contracting Initiative or ACI under which we competitively award contracts for future use in the areas of water, ice, power, temporary roofing, and debris removal. Having these contracts in place allows the Corps to rapidly respond to emergency situations. We did, in fact, use our ACI contracts to support the Hurricane Katrina recovery and also in those areas impacted by Hurricanes Rita and Wilma. The Federal procurement system is based on the principle of full and open competition. Congress also realized that emergency situations sometimes require emergency actions. The Federal Acquisition Regulation known as the FAR is the implementing regulation for government-wide procurement. In most cases, the FAR mandates a 15-day advertising period and a 30-day proposal period. If you follow these usual rules for full and open competition, we would not have been able to award the contract to get the flood waters out of New Orleans until the end of October. The FAR allowed us to considerably shorten the time period for the award under the urgency exception and a contract was awarded on September 2, 2005.

The scope of the damage of Hurricanes Katrina, Rita, and Wilma was unprecedented with 90 thousand square miles of land significantly impacted. That's greater than the area of Great Britain. There is over 100 million cubic yards of debris that is eligible for Federal assistance. Tremendous progress has been made in removing debris over the last 7 months. The Corps is responsible for the removal and disposal of debris in 54 counties and parishes in four States totaling about 60 million cubic yards. In the first 7 months, 45 million cubic yards of this debris were removed. Due to the unprecedented and widespread devastation, the Corps needed to award additional debris removal contracts. We awarded four additional contracts for debris removal in Mississippi and Louisiana. Each contract valued at $500 million has a $500 million dollar option. This was open to any company and the Corps received 22 proposals. The contracts were awarded on the basis of the best value

[1] The prepared statement of General Strock appears in the Appendix on page 55.

to the government. The Army Audit Agency is currently reviewing the award and the administration of these four contracts.

The hurricanes of 2005 also had an enormous impact on homes to include damages to thousands of roofs. FEMA tasked the Corps to provide temporary roofs for over 194,000 homes in Florida, Louisiana, Mississippi, and Texas. This tremendous undertaking was completed over a few months and allowed thousands of disaster victims to return to their homes. The temporary roofs should not be confused with self-help tarps that are provided to homeowners. The temporary roofs installed by the Corps use sturdy plastic sheets, professionally installed and securely fastened, to provide an important degree of protection from the elements. Before plastic can be installed, roofs usually require some repair to roof the structure. There may also be a requirement to furnish and install joists and rafters. The Corps awarded several ACI contracts for temporary roofs in the Gulf region. Given the magnitude of the damage during the 2005 hurricane season, four additional contracts were awarded under urgency procedures utilizing the ranked proposals of the original competition. The Corps makes extensive use of standard authorities granted to us under the various small business set aside programs, especially in the area of the Small Business Administration registered 8(a) firms. We have instituted high goals for small business sub-contracting and include a reporting requirement that keeps focus on achieving results in these areas. We have been following an acquisition strategy for the continued mission from FEMA that includes opportunities at the prime level for local disadvantaged companies and a geographic set aside for the unrestricted portion of the strategy. Competition was limited to Mississippi companies for the Mississippi aspect of the mission and will be limited to Louisiana for the Louisiana mission.

The Corps of Engineers takes great pride in being a learning organization and every event is different. Mistakes can and do occur. There is also opportunity for unscrupulous individuals to take advantage of the system and we work hard to strike a balance between expeditiously providing relief to those in need while doing so in the most efficient and effective manner. One solution is to immediately deploy Corps internal auditors, teamed with the Defense Contract Audit Agency and the U.S. Army Criminal Investigation Command, to oversee all emergency response efforts to note actual or potential mistakes, help mission managers comply with their fiscal stewardship responsibilities, and to detect instances of fraud, waste, and abuse. Corrective actions are implemented immediately.

I welcome the reviews conducted by the external audit and investigative activities as they are also a valuable tool for us to identify potential vulnerabilities and weaknesses in the processes and procedures. Several years ago, the Corps instituted a formal procedure, our Remedial Action Program, to capture lessons learned and to adjust our processes for future events.

To close, I'd like to thank you again Mr. Chairman for allowing the Corps of Engineers the opportunity to appear before this Subcommittee to discuss contracting procedures during times of emergencies. Many Corps personnel have served our Nation by helping in the response to natural disasters in Texas, Louisiana, Mississippi, Alabama, and Florida, or elsewhere in the Nation and the

world. We are proud to do so and I'd be happy to answer any questions the Members of the Subcommittee may have. Thank you.

Senator COBURN. Thank you, General.

TESTIMONY OF MATTHEW JADACKI,[1] INSPECTOR GENERAL OF HURRICANE KATRINA OVERSIGHT, DEPARTMENT OF HOMELAND SECURITY

Mr. JADACKI. Good morning Mr. Chairman, Members of the Subcommittee, and guests. Thank you for the opportunity to be here today to discuss our overseeing of Federal pre-disaster planning and contract management issues in response and recovery efforts after Hurricane Katrina. In the aftermath of a major disaster such as Hurricane Katrina, the Federal Government is obligated to ensure that immediate steps are taken to protect the lives and property of its citizens and to mitigate any further damage or harm, to make sure that roads are clear of debris to allow emergency workers access to affected areas, to provide temporary shelter or housing to disaster victims who lose their homes, and to provide interim repair to buildings to enable victims to remain or return to their homes and prevent further damage.

As my testimony indicates, there are many weaknesses in the Federal Government's pre-disaster planning and contract management oversight efforts. We are still in the process of fully evaluating the overall contracting efforts related to Hurricane Katrina, however, our work thus far has disclosed that FEMA either purchased supplies, commodities, equipment, or other resources to support emergency and disasters response efforts in insufficient quantities or over purchased commodities because of requirement planning prior to Katrina was inadequate. The government, in many instances, did not pay reasonable prices for goods and services because competition was limited or non-existent and costs and prices were not always controlled because of the government's contract oversight and monitoring was inadequate. FEMA's core mission is to respond to emergencies and procure emergency supplies and equipment on a recurring basis. Therefore, planning for these procurements would represent sound business practice. Because of the unpredictable nature of emergency operations, such planning cannot always be used to select specific sources in advance of disasters. However, for each major type of procurement pre-disaster planning can address the following: Identify prospective sources of supplies and services, delineate how competition will be sought, promoted, and sustained during emergency operations, describe how Stafford Act requirements for preferences of firms affected by the disaster will be made, lay out source selection procedures for each type of procurement, and establish communications systems and processes and publicize them in order to have prospective sources know how to contact FEMA procurement personnel. The above pre-disaster planning did not take place, therefore FEMA found itself in an untenable position and hastily entered in contracts with little to no contract competition for disaster commodities.

[1] The prepared statement of Mr. Jadacki appears in the Appendix on page 59.

We are currently reviewing the entire process for accountability for the travel trailers from additional orders received by FEMA to final delivery to an evacuee. We have reviewed various reports all with the different sets of numbers as to what has been ordered, received, and occupied. These discrepancies suggest that FEMA and its contractors did not have sufficient controls or systems in place for the trailers and their ultimate disposition. Under the Stafford Act, States have the option of either using the Corps of Engineers to provide debris removal or enter into direct contracts and get reimbursed through the Public Assistance Program under the Stafford Act. We are in the process of auditing debris removal contracts awarded to the States. In the past, we have waited until all or most of the work has been completed before starting our reviews. The amount of destruction and resulting debris from Hurricanes Katrina, Rita, and Wilma created unprecedented debris removal operations estimated at several billion dollars. As a result of this massive effort, we initiated audits of a number of debris removal grants with the goal of identifying and preventing problems before they occur. Specifically, we're looking at the reasonableness of debris removal contracts, types of awards, and terms and conditions. In the past, we've found cases of price gouging, non-arms length transactions, bribery, and false or padded billings. Some of our work resulted in arrests and convictions, other work identified significant, ineligible, or questionable costs that required reimbursement to the government.

The Blue Roof Program provides roof tarps to homes that sustained some but not major roof damage. Additionally, FEMA asked the Corps of Engineers to install the roofs in mission assignments under a Presidential Disaster Declaration. FEMA purchases and stockpiles the tarps using its specifications for grade and quality. The Corps of Engineers is responsible for hire crews for tarp installation. I would like to note some of the activities of the Inspectors General. As a community, the Inspectors General throughout the Federal Government have committed to providing effective contract oversight and established a Hurricane Katrina contract audit task force to coordinate those efforts under my office. This group includes auditors from DHS, GAO, and the Department of Defense, including the service-oriented agencies from the Army and Navy, HUD, HHS, the Department of Energy, GSA, and the Environmental Protection Agency. One of the objectives of the contract audit task force is to provide consistent contract oversight across all government agencies involved Katrina.

In closing, through our oversight efforts, we have learned the following: FEMA scrambled to purchase supplies, commodities, and equipment and other resources to support emergency and disaster response efforts from numerous vendors because requirement planning prior to Katrina was inadequate. In many instances, the government did not pay a reasonable price for its purchases because competition was limited and the government's contract oversight and monitoring was inadequate resulting in cost and price variations. Because of the nature of disaster operations, we understand that acquisition planning has to be sufficiently flexible to address the impact of the disaster and the production capabilities and available onsite inventory. However, pre-disaster acquisition plan-

ning can balance the capabilities of distributors, wholesalers, retailers, and manufacturers, and call or standby contracts with prenegotiated prices, quantities, terms and conditions, and specifications could have greatly facilitated procurement operations.

As I pointed out, there are many weaknesses in the Federal Government's pre-disaster planning and contract management efforts. We hope that the lessons learned from our findings will help address weaknesses and be better prepared for future disasters. Mr. Chairman, this concludes my prepared remarks. I'll be happy to answer any questions.

Senator COBURN. Thank you General. We look forward to your report.

TESTIMONY OF PATRICK J. FITZGERALD,[1] AUDITOR GENERAL, U.S. ARMY AUDIT AGENCY

Mr. FITZGERALD. Mr. Chairman and distinguished Members, thank you for the opportunity to be here today to discuss with you our oversight work related to the Hurricane. As the Army's Auditor General, I'm responsible for the worldwide operations of the U.S. Army Audit Agency. Army Audit is the internal audit organization and we provide objective, independent audit services to the Army and to the Corps of Engineers in its disaster relief role.

After Hurricane Katrina, we met with the DOD and the GAO to design a plan to provide oversight for DOD funds for relief and recovery efforts. As part of the plan, we assumed the responsibility for the Corps' mission assignments for debris removal, demolition, and repair of hurricane protection systems. Today I'm going to focus my statement on debris removal and our audit results to date.

We began field work last October and are nearing completion of our initial audits. The scope coverage is debris contracts and the pending solicitations for the demolition contracts. In response to Hurricane Katrina, FEMA provided the Corps with the mission assignment of debris removal. The Corps has contracts in Mississippi and Louisiana. The first contract was awarded in November 2002 as an ACI contract. However, immediately after the hurricane, the Corps officially recognized that this contract did not have the capacity to handle the widespread destruction and cleanup. Within days, the Corps, prepared solicitations to award four indefinite delivery and indefinite quantity contracts, each with a $500 million limit and an option for an additional $500 million. The Corps awarded four contracts on September 15, 2005 and as of March 28, 2006, the Corps has obligated about $1.6 billion. The Corps' decision to award four large contracts of $500 million each led to multiple tiers of subcontractors. The private contractors did very little debris hauling. As a result, they sub-contracted a large majority of their work with most sub-contracts going to small and disadvantaged businesses located in the hurricane affected areas. We reviewed the costs proposals submitted by the private contractors that showed markups for management, overhead, and profit ranging from about 17 to 47 percent of the subcontractor's costs. During the audit, we recommended that the Corps award future contracts

[1] The prepared statement of Mr. Fitzgerald appears in the Appendix on page 69.

in smaller amounts. The Corps has agreed and has scaled back the scope of the new contracts for the demolition work to $150 million or less. Another area we reviewed was contract pricing. Although fixed price contracts were awarded, the Corps contracting officials negotiated higher prices for most of the tasks orders issued under three of the four contracts. Our analysis of the individual task orders showed that the negotiated prices were higher than both the initial bids and the government's independent estimate. We recommended, and the Corps has agreed, that the Defense Contracting Audit Agency review these negotiated task orders to determine the reasonableness of the prices. If defective pricing is found, the government would have an opportunity to recoup any overstated costs. We also looked at the Corps process for monitoring contractor performance. Although we found it adequate, we did identify some quality control practices that could be done more efficiently. We recommended that the Corps standardize its quality control requirements that it made with the contractors and that the Corps' quality assurance plans be fully developed and synchronized for both existing contracts and implemented for all future debris and demolition contracts. In conclusion, we have been working closely with the Corps to develop solutions to these issues. The Corps' management has addressed our concerns promptly and has been very responsive to our recommendations.

I appreciate the opportunity to testify before you today and will be glad to respond to any of your questions. Thank you.

Senator COBURN. Thank you Mr. Fitzgerald. Mr. Gimble.

TESTIMONY OF THOMAS F. GIMBLE,[1] PRINCIPAL DEPUTY INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Mr. GIMBLE. Mr. Chairman and distinguished Members, thanks for the opportunity to appear before the Subcommittee today to address our ongoing oversight work regarding Operation Blue Roof. My testimony today also describes the oversight activities within the Department of Defense regarding hurricane relief and recovery efforts. I should also note that I'm working in close coordination with other Federal inspectors general to ensure effective use of DOD resources in the relief and recovery efforts.

In total, my office, the service audit agencies, the Defense Contract Audit Agency and the defense criminal investigative organizations have employed a cadre of about 150 investigators, auditors, and inspectors to provide oversight of the contracts and operations. The DOD office of Inspector General also provided the facilities and personnel to stand up the hurricane fraud hotline. My office has currently 11 ongoing audits related to Hurricane Katrina. The service audit agencies have 14 additional ongoing audits projects. The audit projects are listed in the appendix of my prepared statement and cover the following areas: Contracting, contract data reporting, purchase card transactions, effects on information technology in the areas affected, accounting and oversight of obligations and expenditures, and use of DOD's resources supporting recovery and relief efforts. In addition, my investigators from the Defense Criminal Investigative Service (DCIS) received 21 criminal allegations related

[1] The prepared statement of Mr. Gimble appears in the Appendix on page 73.

to Hurricane Katrina. At this time, the DCIS has opened six cases involving bribery, kickbacks, and possible product substitution. Three of those relate to debris removal and one relates to blue roofs.

The Defense Contract Audit Agency (DCAA) is supporting both FEMA and the Corps of Engineers in their Hurricane Katrina recovery efforts. The DCAA has assisted the Corps with the blue roof and debris missions by verifying contractor compliance with terms and conditions of the contract. Regarding the blue roof mission. DCAA findings included a lack of initial estimates on Right of Entry forms, claimed quantities in excess of the actual physical roof area, incomplete certified payroll records, and safety violations. Regarding the debris mission, the DCAA findings included the need for improved observation tower locations at the dump sites, a lack of standard procedures for determining the amount of debris hauled to the dump sites, a lack of controls over the billing process and safety violations. The Corps of Engineers has taken or is in the process of taking corrective actions with responsible contractors.

Operation Blue Roof is a priority mission managed by the Corps of Engineers for FEMA. The program provides free temporary roofing for residential structures, schools, daycare centers, and all publicly owned facilities. On November 9, 2005, we announced an audit of the Army Corps of Engineers Operation Blue Roof Project. This audit is in response to a request we received from the House Committee on Homeland Security and also the Senate Committee on Homeland Security and Governmental Affairs. The objective of the audit is to determine whether the Corps properly awarded and administered the contracts for Operation Blue Roof. We're currently reviewing all seven contracts with 29 delivery orders for a total obligated dollar value of $277.5 million for temporary roofing work done in Louisiana and Mississippi. We plan to issue a draft audit report in June 2006.

Also, in preparation for the 2006 hurricane season, the Corps is planning to award new Operation Blue Roof contracts. On November 30, the Corps Mobile District posted a solicitation for Indefinite Delivery/Indefinite Quality (IDIQ) contracts for temporary roof repairs in 10 Gulf and East Coast States. The responses are currently in and are going through the source selection process. It is our understanding that the Corps plans to make multiple contract awards, both unrestricted and set-aside.

This June, in response to concerns related to subcontracting and contract pricing for Hurricane Katrina relief and recovery efforts, we plan to initiate an audit of the Corp's Blue Roof Mission to examine the costs contractors used to establish pricing, the percent of contract cost for overhead, and how many layers of subcontractors were used.

This concludes my statement and I'll be happy to answer any questions.

Senator COBURN. Mr. Gimble, thank you very much. We'll start out with a round of questions of 5 minutes apiece.

Ms. Burnette, what limits on overhead will be on the new recompeted contracts and can you document for this Subcommittee a reason ability analysis you perform before signing those new contracts?

Ms. BURNETTE. I'm sorry Mr. Chairman, are you referring to the recent maintenance and deactivation contracts?

Senator COBURN. Yes.

Ms. BURNETTE. The maintenance and deactivation contracts were a competitive acquisition and the majority of the work that was competed under them were from fixed price. And so in those situations you don't typically negotiate overhead or you do an elements of cost-type breakdown. It's just based on a scenario.

Senator COBURN. And how about the contracts that had no bids that are to be rebid?

Ms. BURNETTE. Mr. Chairman, we are in process of working with DCAA to ensure that the overhead costs are consistent with their best business practices that they charge to other customers. We have put a provision in each of the task orders that states that no final negotiated contracts, no final negotiated prices will be allowable until after DCAA has confirmed that both their overhead rates and their general administrative fees are confirmed to be reasonable.

Senator COBURN. General Strock, I know you're here on one of your days off. I appreciate your being here. Thank you. It is my understanding that the Army Corps offers local parishes two choices in Louisiana: One, allow the Army Corps to do the debris removal or, two, allow the parishes to do the work but pay 10 percent of the cost while the Army Corps pays 90 percent of the cost. Tell me why it's set up that way. What are the laws? Do we need to change something under the Stafford Act? What is it that we should be doing so that we can have more of the work done? My understanding is that we have a large number of community contractors in place that were not available for some of this contracting.

General STROCK. Sir, it was previously the policy that we would charge 90 percent Federal and ten percent local if locals went their own way on that. That has now been changed and FEMA no longer follows that process. They do go to a 90/10 percent cost share at some point following a disaster but when that kicks in, it will apply to both the work done by the Corps as well as by the locals.

Senator COBURN. So there wasn't necessarily an inhibitant 10 percent fee that we weren't working under that or we were but we changed our mind?

General STROCK. Sir, it was that way for a time. That was the understanding but given the magnitude of this disaster, that policy was changed so everything that is judged to be 100 percent Federal will be applied whether you do it locally or with the Corps of Engineers responsible.

Senator COBURN. I'd like to ask consent from the Subcommittee to introduce into the record a letter we received from the Congressional Research Service[1] on the Corp's contracting with the major contractors on debris removal and the fact that many of them were told not to give interviews, not to divulge their pricing. Is there any contract that the people of this country should not know what we're paying for and where the money went? Other than defense intelligence and national security issues, is there a reason why some-

[1] Letter from CRS, dated March 29, 2006, submitted by Senator Coburn appears in the Appendix on page 143.

body should not have their contract exposed to sunshine as to what they're getting paid, what the details of the contract are?

General STROCK. Sir, I think there are some situations in which there are proprietary processes involved and the cost of which give that contract a competitive advantage and they're reluctant to divulge those.

Senator COBURN. In debris removal?

General STROCK. Sir, I don't know to answer to that, whether the specific cost breakdown in the contract is something we can share. I don't believe we can. I think that's proprietary information but we can certainly share the overall——

Senator COBURN. That's something I assure you we're going to change. The people of this country have the right to know what we're paying and what we're getting. The fact that we would in the Federal Government contract then say we can't tell the American people what we're paying, or have an assessment of how we value it, has got to change. We cannot get what your actual contract's were when we talk to local contractors, and we can't find out whether or not they could have competitively bid it. We have anywhere from $27 to $32 per cubic yard and if you have 100 million cubic yards, you're talking $3.2 billion dollars. That ought to be in the sunshine. People ought to know. They ought to be able to see what we're paying and what we're getting and I would hope, I would think the Members of this panel would agree with that and that if we need to change some type of legislation, then that's what we will do here. That's one of the things that creates a competitive equality out there. Is there a law somewhere or a regulation that says you can't do that or is that part of your contract agreement that you won't?

General STROCK. No, it's certainly contained in the Federal Acquisition Regulation and I'm not sure whether that's statutory or policy. Perhaps I could get a head nod. It is the policy, sir.

Senator COBURN. It's the policy and not statutory? All right, thank you.

General STROCK. Sir, if I may comment also on the statement that some of our people were told not to talk and not to be interviewed. If that did occur, that's absolutely contrary to our policy. We believe in talking to anybody and explaining anything that they want to talk about.

Senator COBURN. It was not your people. The Corps of Engineers asked ECC not to give interviews. This is a direct quote from the CRS bulletin, page 4 issued to us March 29, 2006.

General STROCK. Then I'll need to look into that, sir, because that's certainly something we wouldn't do, normally.

Senator COBURN. Thank you. Senator Carper.

Senator CARPER. When I was a kid growing up, my father used to say to my sister and me, we have a job to do and we wouldn't do it very well. He was always saying if a job is worth doing, it's worth doing well. He was an old Chief Petty Officer in the Navy. We must have screwed up a lot because he said it a lot. My father would also say to my sister and me if we did some bone-headed stunt, he'd say just use some common sense. Just use some common sense. Everything I do, I know I can do better. I suspect the

same is true with you in the jobs that you lead and the people you work with.

I want to ask you to be thinking. I think what is a real value to me is a hearing like this. We have a lot of smart people here who thought and worked hard on a problem and see where you agree some things we ought to be doing differently. That's what I'm going to be asking. Where is some consensus on this panel to things we should be doing differently through legislation, through regulation, or just through policy that's within your own job.

While you're thinking about that, let me go back to the issue the Chairman touched upon and that's debris removal stuff. I understand the States have the option of working with the local contractors themselves and then getting reimbursed by the Federal Government. It seems that States have the incentive to go with the Army Corps contractors because the Federal Government picks up 100 percent of the cost. As a recovering governor, if I could get somebody else to pick up 100 percent as opposed to 80 or 70 percent, I'd look for 100 percent.

It seems there's an incentive that we have for States to go with the Army contracts because of this 100 percent policy and there's no State to match when the work is done in that way. In instances where the State is doing their own debris removal, do we see fewer of these multi tiered contracts? And, second, is the work done more cost effectively?

General STROCK. Sir, I can't comment directly on layers of tiering and local contracts. I don't know the answer to that but I can probably find out for the record, if you let me do that. In terms of the costs, I think intuitively there is a higher cost when you bring in our oversight. It's for many reasons. We have, well I hate to characterize us as more rigorous or stringent than locals in terms of things like safety or quantity. In audits, we bring in a full sweep of auditors and checkers when we come to the table. So I don't know that I can categorically state that our costs are higher but intuitively they may be a bit higher. We also had to bring in people from outside. We had over 3,000 people in the Corps of Engineers that had to come in from around the country and other agencies that responded so the rates we pay to our people are probably a bit higher than local people overseeing local work. But what we do bring is the ability to take that burden off the local population as they are trying to recover, that we can get the job done for them. They don't need to be subjected to audits and they don't need to worry about the safety of the operations. They can focus on other things and hand it off to us and certainly there was an incentive in the past when if locals did it, after a point they would pick up 10 percent of the cost so there are many incentives to using us. I think you have to look at all of that to make a full determination about the efficiency and effectiveness of the rates that the Corps charges.

Senator CARPER. Let me go back to my other question and that is where do you think you might agree as a panel on some things that we ought to do differently in terms of legislation, in terms of regulation, and just in terms of policies that you are aware of, and I'll just start here with Mr. Gimble because I like your first hand.

Mr. GIMBLE. Thank you, Senator. I think what we have going, the body work we have going to do the ideas—we're in the process—I think we're in the position if you take this and look at, if you're talking about overall contracting procedures, we probably have some ideas on that but when you look at a disaster of this degree and you look at all the things that we've done, I think when we get to look at the lessons learned, what I think we are going to be doing is that we will come up with some recommendations to increase competition, to improve oversight, probably will be some pre-planning that everybody said can be improved. So I guess I'm not really ready to comment on legislation——

Senator CARPER. When might you be?

Mr. GIMBLE. Probably at the end of the summer.

Senator CARPER. End of when?

Mr. GIMBLE. August time frame. As I said earlier, we have 11 audits ongoing dealing with contract issues and among other things, we've actually survived the audit's contract issues. We think it's going to give us a good basis to overall contracting and then some specific like ice water and the blue roof issue. We have some specific contracts on this. We ought to have a good array of what we think went wrong in terms of just overall contracting, contract negotiation, and pre-planning. At this point, based on just what happened with Hurricanes Katrina and Rita, we were not really firmed up on what the issues will end up being at this point.

Senator CARPER. And you won't be in a position to do that until the end of the summer?

Mr. GIMBLE. Well, we'll be, in the August time-frame.

Senator CARPER. My time is expired. Will we come back for a second round?

Senator COBURN. We'll try and do that. Senator Vitter.

OPENING STATEMENT OF HON. DAVID VITTER,[1] A U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator VITTER. Thank you Mr. Chairman. I want to thank you and the Ranking Member, Senator Carper, for bringing this field hearing to Louisiana. It's very important. We share your frustration with costs that are much higher than they have to be, waste of U.S. taxpayer dollars. In addition, we have two Louisiana frustrations. One, in the midst of this process, far fewer Louisiana firms are being used that could otherwise be used and that would help to do it differently and would help with our recovery, and two, it's really frustrating that all of this money, including this waste, is still being counted against us even though we're not seeing results or that waste here on the ground, so thank you for this hearing.

Ms. Burnette, I'm convinced from looking at this for months that the fundamental problem is the overall model which is used which is basically very large contracts under which grow layer upon layer upon layer of subcontractors. Blue roof contracts are the perfect example the prime getting between $150 to $175 per square foot and then six, seven, eight layers of subs underneath them and the per-

[1] The prepared statement of Senator Vitter with attachments appears in the Appendix on page 80.

son putting on the blue roof getting 10 cents or less per square foot. As you re-bid these contracts and move forward, what is going to change with regard to that basic model?

Ms. BURNETTE. Thank you, Senator Vitter. The IA–TAC which is in the process of being re-computed that will be used during the upcoming hurricane season. We're implementing a different type of strategy that I think will alleviate some of your concerns. The initial strategy is to go out on a full and open competition and allow all companies to bid on it because we recognize that under an urgent situation, you may need a contractor that has a lot of experience in those areas. The idea is that once the contractors come in and they kind of get the situation under control, we're also setting up regional BPAs and we're doing this through our partnership with GSA and they will be mostly made up of small businesses in different regions. So each region, depending on where the disaster happens, will be offered an opportunity to participate through a blanket purchase agreement. And last, the last phase of the strategy is once we can isolate the problem, which is what we've done recently where we went out and re-computed the maintenance and the deactivation and we had local firms and I mean to date we've had 36 awards that we're in the process of awarding and 28 of them are from the affected States. It will be a similar situation.

Senator VITTER. But you're still talking about very large prime contracts, correct?

Ms. BURNETTE. Initially we're talking about very large prime contracts. Senator Vitter, we had 487 subcontractors, which equated to over 10,000 people.

Senator VITTER. Let me throw this idea out in terms of further reform. Rather than a big traditional prime contract, why shouldn't we replace that with a project management contract so that the prime contractor gets a far smaller price to manage a lot of smaller subcontractors, including local contractors underneath them and has an incentive built in to save the government money? Right now, that prime has an enormous incentive to cut costs below him because he keeps all of that money. Under the new model, the government could keep most of that money.

Ms. BURNETTE. I think that's an interesting concept and I'd like to explore that further with my colleagues back in Washington.

Senator VITTER. General, I want to go back to this idea of the price of prime debris removal contracts because local government in this area has been trying to understand what you all are paying the primes for months and has done everything under the sun, including FOIA requests to get that information and still hasn't gotten it. Why can't the Corps release the basic contract prices? What could possibly be confidential about the basic contract price that you are paying to the prime?

General STROCK. You're speaking the price per cubic yard, sir?

Senator VITTER. Correct.

General STROCK. Sir, I don't know that. I know that we have published on occasion what those prices are. I'm not sure which the Congress before you request, but typically here in Louisiana and local parishes we're paying $25 to $26 per cubic yard. I'm not sure why we wouldn't divulge that.

Senator COBURN. Senator Landrieu.

OPENING STATEMENT OF HON. MARY L. LANDRIEU, A U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator LANDRIEU. Thank you Mr. Chairman. Let me join my colleagues in thanking both of you all, you and Senator Carper, for conducting this hearing because it has been such a tremendous source of frustration as we try to do our best in really a unprecedented disaster in terms of our delegation and local officials to understand the Federal rules and regulations regarding the recovery and trying to manage through all of the different layers of challenges that you can imagine, not just with debris clean-up and blue roofs but re-building, building levees, re-building lives, building dreams, churches, business, homes, etc. It's been extremely frustrating, as Senator Vitter pointed out, to not only have that work well but also to have it charged against us when it doesn't and it truly is really the shortcomings of the Federal policies and Federal rules that are causing a lot of this money to be spent with very little to show for it, so I want to thank you for focusing on this, Senator, because I think there will be a great deal of good that comes out of this hearing and changes.

Let me just follow up with the debris removal in this. I am very pleased to see that policy has been changed. It just has been a tremendous source of aggravation to our 19 coastal parishes and others throughout the State that had the challenge of this debris removal so I'm pleased that policy, General Strock, has been changed. I think it would be great to carry that policy on in the future so that 100 percent of the clean-up can be done by the local parish officials and their contractors that routinely are involved in clean-up, even without these large storms. We have all sorts of other smaller storms and problems that occur and they have local contractors that they are very used to working with that do good work and can do it for less so I want to encourage that.

Second, I want to support Senator Vitter's suggestion for this project manager. He and I have talked a great deal about this, he's done a lot of good work on it and as we see the incentives as he's outlined, that adds to our frustration. So a project manager approach for some of this would be terrific.

We've talked a lot about blue roofs and debris removal but maybe Ms. Burnette or Mr. Jadacki of Homeland Security, we had a policy on trailers, could you describe what it is and how we are evolving to a better policy on trailers relative to not just ordering but where they are going to be used, how we work with our local officials to provide adequate housing? Just be as short in your answer as you can. What have we learned and what are we changing right now about that?

Mr. JADACKI. Well as far as the purchases are concerned, when we did our work we found that a lot of purchases—because there was no pre-disaster planning for temporary housing, there was really no idea how many travel trailers were really needed. We understand that people were told to buy until you're told to stop buying. I understand they bought about 120,000 travel trailers and they're still being used extensively. However, there are some manufacturers that providing the travel trailers that were purchased, but there were shortages. There was, I think, over 300 vendors contacted at some point. What do you have on your lot, what can you

provide us, can you meet these specs? As a result the prices varied considerably between the price from the manufacturer versus the ones on the lots.

Senator LANDRIEU. Can I ask you one thing?

Mr. JADACKI. Sure.

Senator LANDRIEU. Are you aware that there was a project, Operation PAM, conducted just 6 months before the storm where it was estimated that "X" number of people would be without homes? When that information got to Washington, did anybody read it?

Senator LANDRIEU. I actually attended the Hurricane PAM exercise as my role as the FEMA CFO and I know specifically some of the scary scenarios that were described there such as 60,000 people possibly dying, hundreds of thousands of people, that would be homeless or displaced. I know that message did get back to Washington. I know for years FEMA had discussed the notion of catastrophic planning initiatives over the years and for whatever reason they just never followed it through to fruition. FEMA's been in and out of the travel trailer business and mobile home business for a number of years and it's just something that seems to reappear after every major disaster.

Senator LANDRIEU. Well, Mr. Chairman, my time is short and it's expired. Just for the record, that operation predicted tens of thousands of people losing their lives and hundreds of thousands of people homeless 6 months before the hurricane and to think that when the hurricane hit there was no plan for shelter either in hotels, temporary housing, or trailers is something that I hope your Subcommittee will focus on. Thank you.

Senator COBURN. I want to welcome Congressman Bobby Jindal to be here with us and we're going to afford you your time to do this. We're happy you're here and you have 5 minutes.

OPENING STATEMENT OF HON. BOBBY JINDAL,[1] A U.S. REPRESENTATIVE FROM THE STATE OF LOUISIANA

Mr. JINDAL. Thank you very much, Mr. Chairman. Senator Carper I want to thank you and Senators Vitter and Landrieu for not only coming but allowing me the privilege of sitting on this panel with you. If there are no objections, I have written a statement that I'd like to read.

Senator COBURN. Without objection it may be made part of the record.

Mr. JINDAL. Thank you Mr. Chairman. Several of my colleagues have made several of the points I wanted to make. I know my time is going to run out before I get to ask all of my questions. I will tell the panelist that many of my questions are contained in two letters that I sent to the Department of Homeland Security. The first, on October 11 of last year, talked about Section 307 in preferences of contracting with local businesses. The second, March 27 of this year, with some suggestions on how we might save taxpayer money and help those dollars go further on the ground. I have not received a reply to either letter.

[1] The prepared statement of Mr. Jindal with attachments appears in the Appendix on page 97.

As Senator Vitter said, we have two very strong reasons for being very concerned about the stories we've heard today and heard before today about not getting the best bang for the tax dollars being spent. First, not only as taxpayer but also as representatives many of our colleagues feel like almost $100 billion has been approved, they don't realize that there hasn't been $100 billion of relief on the ground and I think for every dollar that's not being spent effectively is another dollar that could have gone to help a family here in Louisiana or on the Gulf Coast.

The second reason for concern is that June 1 is right around the corner. The next hurricane season is about to be upon us. We want to make sure that whatever lessons need to be learned are learned before the next hurricane season. Now, I've got several questions and I want to focus on one area that hasn't been touched upon. If we have a second round of questions, I will certainly come back to debris removal. I want to focus on the trailers for just a second. My understanding is that FEMA may have spent as much as $3 million on 4,000 base camp beds that were never used, $10 million dollars to renovate and furnish 240 rooms in Alabama that housed only six evacuees before that was closed. My understanding is that we're spending, as taxpayers, between $60,000, and maybe as much as $77,000, for each mobile home, for each travel trailer, to provide about 18 months of temporary housing. I also understand that there are at least 10,000 trailers in Arkansas and maybe as many 20,000 that have currently been purchased and haven't actually reached the residents who they're intended to help.

If you look at the cost and look at the money that we've spent, it seems pretty self-evident that if you would have taken that money and been more flexible. For example, the local media reported that money could have easily paid for more than 18 months of rent, could have easily help owners repair their homes, and could easily paid for what are being called Katrina cottages and are more durable forms of housing. My question is two-fold. I guess I'll address it to Ms. Burnette to begin with. First, would you agree that if Congress were to change the regulations in the Stafford Act specifically to allow more flexibility to help residents use some of the money spent on their behalf to repair their homes instead of limiting those dollars to trailers, would you agree that the money would actually go further and maybe help more people? Second, would you explore the flexibilities you think you currently have to help break down the costs of those trailers so we're not spending that much money? What flexibilities do you think you currently have to help people either with more permanent housing or repairs to their housing?

Ms. BURNETTE. Congressman Jindal, I actually, because of my experience and because of my background is in procurement, that is a policy question that does need to be debated and I understand that it is being debated amongst the senior leadership. Right now the way the legislation does read is that FEMA is to provide temporary housing for applicants or evacuees when a catastrophic disaster hits.

Mr. JINDAL. Within temporary housing, do you think you have the ability to work with HUD, for example, instead of doing trailers if there were no other forms of temporary housing available? It's

not that it has to be trailers. I mean, if there were more cost effective alternatives.

Ms. BURNETTE. I think the idea that we've recently explored with just the apartments, where we've started to put people into apartments, I think that has been very favorable. I know in Houston that we're working to move 35,000 households out of the hotels and into those apartments and it is, in my mind, probably a better alternative. I certainly would prefer to be in an apartment rather than a trailer and it's certainly more of a long term solution.

Mr. JINDAL. And I would certainly encourage my colleagues for us to change the law. I would encourage FEMA to take as an expansive a view of the word temporary as possible? Again, I've got to reiterate for our constituents I strongly believe if they have access to those dollars they can make it go much further. If we gave them even a fraction of the $80,000 that is now being spent for 18 months—I believe and I'm certainly encouraged that if we bought these trailers that they would be used.

Gentleman, I know my time has run out. I'll just make one comment on debris removal. I won't ask you a question, it wouldn't be fair to do that as my time runs out. I know that we've got a Parish President and other local officials here. I certainly appreciate that we would not have been able to move as much debris as we removed without the Corps' tremendous help. The point I do want to make is that not only the cost is a strain but the paperwork requirements is quite onerous for local officials, when they're told that if you use a local contractor you may be audited, you may not be reimbursed in addition to the cost versus if you let us handle it you don't have to worry about the paperwork, you don't have to worry about the audit. Many of them said simply out of fear that they chose the later approach and some believe if they have control, as I said to FEMA, if individuals felt like they had control over the dollars spent for housing that those dollars would go farther, many local officials feel like if they have greater control over the money spent on debris removal in their parishes and their communities, they could have certainly made those dollars go farther. I'm not asking a question because my time has run out but I'll simply say it's not just the cost, but the paperwork requirements are also very daunting for local officials. Thank you.

Senator COBURN. Ms. Burnette, why do you all contract with the Corps? Why do you go through the Corps? Why have that extra layer? You all can't issue four contracts, five contracts, global contracts for debris removal and what are we paying for the Corps to do that?

Ms. BURNETTE. The Corps, we believe that the Corps just as we partner with other Federal agencies, to support catastrophic events such as this. We believe that they have the requisite experience that we don't have internally at FEMA. FEMA is much smaller in size than other government agencies so we rely on our partnerships to support those efforts.

Senator COBURN. FEMA is a big agency as far as I'm concerned. I still don't understand why you have to have the Corps to contract for debris removal, tarps, and everything else, and also I'm interested in something General Strock said is because the local governments are inadequately prepared for safety and oversight. I'm not

sure that's the case. As a matter of fact, I think we're ill-prepared for oversight. As a matter of fact, this hearing actually, and the testimony of the Inspectors General that we've had, says that we're ill-prepared for oversight. So I'm going to come back again. What is the rationale for FEMA contracting with the Corps, creating a layer of bureaucracy, rather than contracting directly with these major national contractors which we contract almost everything? The Corps contracts almost everything through these people all the time, whether it's through FEMA or through the EPA for cleanups or whatever. Why is it we have to have the Corps do that and why should we pay for an additional layer of bureaucracy to get it done?

Ms. BURNETTE. Mr. Chairman, we believe that there are advantages because of the expertise level that they bring to the table that we don't have. But we have recently started to explore what kinds of things would be better established with other agencies. Certainly housing, and the retooling issues that Secretary Chertoff has provided. He's looking at HUD as a possible alternative for providing housing which goes back to Congressman Jindal's question about apartments and partnering with them. So we are looking at those other alternatives.

Senator COBURN. Let me go back again to Senator Vitter talking to you about project manager. Isn't that what the Corps is for you? That's why you're contracting—they're not actually doing direct cleanup work. Aren't they a project manager? So if that's the case, why do we need those huge super large contracts that end up four, five, six, seven, eight tiers down and what do we get for that? Again, if the Corps is the contract manager for the project, then why do we need the massive, large national companies to do that and why don't we go direct to the regional contractors, regional subcontractors, or local contractors? Why add the two layers? If you're going to use the Corps, then why does the Corps have to use the national contractors?

Ms. BURNETTE. I, again, would go back to that we believe that the Corps has the requisite experience to do that. I think that the program management office is an interesting idea and is certainly something that we could explore.

Senator COBURN. You have a program manager. That's the Corps.

Ms. BURNETTE. Yes we do.

Senator COBURN. You have a program manager. So, again, my question is why is it necessary, if the Corps is the program manager, for them to then contract with a significant higher overhead to the larger national companies rather than regional companies?

Ms. BURNETTE. I think it's the staff that is involved in administering these contracts appropriately that is integral to ensure that it is done properly and meets all regulatory requirements and we believe that the Army Corps has the staff and the knowledge that they bring to the table to support this effort that we don't have internal to FEMA.

Senator COBURN. What you will find if you talk to the local contractors around here is the national companies came in and got the big piles, got paid the big bucks. They left when all the profit was taken out. Now they're going to give it to the small companies here in Louisiana and give them the hard work and not give them an

opportunity to make any money at it so the vast majority of the money got swept out of town, not into the local economy, and the details of the small debris removal is now left to the people to not make any money on it and to me, you can rationalize it. I don't think there's a rationalization. Either the Corps is the project manager and if they are, you don't need to pay a large corporation to do that. If they're not the project manager, then you don't need them.

Senator CARPER. I'm going to go back to my earlier question as far as Mr. Gimble who basically said that he thought he would be able to answer the question at the end of the summer. What I'm looking for from each of your guys and I would like to go to Mr. Fitzgerald next. When you look at the statues we have in place and when you look at some of the regulations that are in place at the relevant agencies and when you look at the policies that they are following, just in terms of common sense, saving money, what are a couple of major changes that you would bring to our attention for us as legislatures for the agencies themselves?

Mr. FITZGERALD. Senator, I don't know if I have statutory changes to recommend but one of the lessons learned, I think we saw was when we awarded these contracts——

Senator CARPER. I don't know that we can legislate common sense?

Mr. FITZGERALD. The Corps awarded these debris contracts as firm fixed price competitively awarded contracts. The Corps then negotiated task orders after the initial bids were in. That is an area we took issue with from our standpoint in the sense that we got bids that were competitive bids but then subsequent to that, we had to negotiate higher prices for those task orders because of some unknowns. Documentation wasn't available to show how exactly we got from the initial bid or the independent government estimate to the higher bid. Without that support in the contract files, there's really no way to determine whether those prices that we paid were justified. There are some explanations we got during our audit about why those things happened but we really think it's important that it is supported and documented exactly why we went from a competitively bid price to a negotiated bid price and why the increase was justified or needed. That's why we made a recommendation for the Defense Contract and Audit Agency to come in and look at the pricing to make sure that the increase pricing was totally justified. So the lesson learned, I think, is to make sure that we have the support and justification for negotiating higher prices than what was initially bid or cited in the independent government estimate. That's the lesson learned.

Senator CARPER. Mr. Jadacki, same question.

Mr. JADACKI. There was over 4,000 contracts that were let for over $5 billion dollars after the disaster occurred so the fact that there were a lot of negotiations going on and getting bids going in and out and lack of documentation makes it more difficult to contain costs. We're going to recommend that call or stand-by contracts. I agree with Ms. Burnette that the need for regional and possible local level are in place before these disasters occur. I know there's a lot of concern about June 1 is coming up and we're tracking, we're working closely with the DHS procurement folks about

how they are coming along on some of these contracts. We're pleased to see that some of the local awards were made on some of the travel trailer maintenance and deactivation were made, but a lot more needs to be done before hurricane season which is quickly coming towards us.

I also agree with Congressman Jindal about the cost of a travel trailer, the life cycle. We actually did some work in that and it does cost $50,000 to $70,000 to provide temporary housing for 18 months. Unfortunately, FEMA's hands are tied by the Stafford Act because they're not allowed to go out and build structures and things like that which could be cheaper. So, I think exploring some of those types of changes that would allow more flexibility would be something we should consider.

Senator CARPER. General Strock.

General STROCK. Certainly pre-planning needs to be improved. If I could just comment a bit on these negotiated prices. Certainly we do need to do a better job of documenting our decisions so we can follow that trail but this is a tough one when you have an advance contracting initiative. For example, it's based on—if it's for a region. You take the lowest labor price, in that demanded labor prices, in that region and you base your price on that. Then you get into a crisis situation and in a different part of the country you have to use different labor rates and that automatically drives the price up. We have things like hauling conditions. The contractor will bid on a general sense of what he's going to have to face and then you get into a situation where New Orleans is under water, and you're in tight streets where the work is much more difficult, than we should grant them the ability to come in and negotiate prices. In the early days, in response to New Orleans, every worker had to wear a tie-back suit because we weren't certain about the nature of the contaminants and so forth and that drives the prices up. So we have a mechanism that we can negotiate these prices and given the catastrophic nature of this disaster, the prices generally went up when we did that negotiation. But we did not document it as well as we could have and certainly we're working on that. Thank you.

Senator COBURN. Senator Vitter.

Senator VITTER. Thank you Mr. Chairman. Ms. Burnette, I want to go back to your answer about what's going to be different this next round because I'm not sure I understood it. I think one of the things you said is you're identifying local subcontractors ahead of time and having pools of those available or something like that. Are they still going to be employed under a mega—prime and if not, what will be the different arrangement?

Ms. BURNETTE. Actually no, they're not going to be underneath a mega—prime. They are going to be their own prime contractor. What we will do is with GSA, we will identify companies in different areas because we don't know where the next catastrophic event will happen and we'll have contractors come in and tell us their expertise. They'll basically compete on a technical and price situation response plan and then they will have agreements with us so that when a catastrophic disaster happens in that particular region, we will have a pool of qualified contractors that can respond to it.

Senator VITTER. And a negotiated price already?

Ms. BURNETTE. That is correct, under negotiated prices. Now the disaster could vary but so the pricing that's established will be based on what we know today not by some of what will happen in the future.

Senator VITTER. I also want to go back to Senator Coburn's question about the role of the Corps. What money does the Corps get to play the role that you're referring to in terms of these contracts which are ultimately FEMA's responsibility?

Ms. BURNETTE. They have, they are participants in accordance with the National Response Plan. They participate with us and they are our partners in the disaster and they receive an overhead for the amount of contracts that they put in place for those different supplies and services that we ask them to accomplish in accordance with the National Response Plan.

Senator VITTER. And how much is that?

Ms. BURNETTE. I am not a technical person and since this is not a procurement issue, we're not procuring with another contractor, we'll have to get back to you Senator.

Senator VITTER. And so it's a percentage of everything they put out?

Ms. BURNETTE. It's my understanding that it's a percentage of the dollars that they award and we are looking at that Senator.

Senator VITTER. OK. I think we would all like to know what the Corps makes by playing this role in the process, particularly when, from my vantage point, in the great majority of time they don't do significant work in that role, they push it on to mega—national contractors who essentially do that. So I think we would all like to know what the Corps makes in terms of dollars.

Chairman, I also want to go back to the debris removal issue. I am very glad also that this disparity between the 90 percent reimbursement and 100 percent if locals use your contracts has been done away with but I think it's still not an even playing field and the reason it's not is that, as you know, it's fine to say you're going to be reimbursed 100 percent but when that happens after reams of paperwork, or doing it three or four times, or a year after the fact, that's a major cost and a major risk to local government so I still think we've got further to go to have a true even playing field. Let me also back up and say that I disagree with any suggestion that the Corps brings higher standards to the table. I think the ultimate, and I know you didn't mean to denigrate local government, but I think the ultimate test there is the fact that locals actually live in those communities day in and day out. They have every incentive in the world to make sure it's done right, quickly, and safely. I think that is far more powerful than the reams of Federal regulations. What would be wrong in telling local government you can do it either way? You could use us, you could use your own locals. If you do it yourself, you're not only reimbursed 100 percent, but every dollar you save compared to our price, you get to keep 20 percent.

General STROCK. Sir, that's certainly a policy call. It would be out of my lane to comment on that but that could be done. Sir, may I comment a bit on what the Corps brings to this thing. We have what are called Planning and Response Teams. These are pre-

trained and ready teams that are ready to flow in. And as I mentioned on this thing of quality and safety and so forth, I said I'm reluctant to make any statements along those lines. We can flow, in fact, trained professionals into an area. We've flown over 3,000 people into this area when this disaster happened. They simply don't have the capacity at the local level. Where they do, then it should certainly be used. The State of Florida does not use the Corps for debris removal because they have a standing capacity. The way FEMA's or the National Response Plan works, locals use their capacity to the degree possible and then, and only then, turn to the Federal Government for assistance. So, really, it's in our best interests as an agency to help work with the locals to build their capacities so we're not required. But I think that the big challenge here was the catastrophic nature of this disaster and the need for a massive response. But we have professionals trained and ready to move it——

Senator VITTER. Let me say that I certainly agree that in this case all of the work could not have been done by purely local contractors but I still think its incumbent on us to go further to even the playing field.

General STROCK. Yes, sir, I agree with you that it should be local first and only as a last resort that the Feds are called in.

Senator COBURN. If that's the case, why do you need Bechtel and CM2HILL? Why do you need them?

General STROCK. Sir, you need them, I think, because they expand the capacity. In the Federal Government, we're prohibited from competing or having the capability that can be provided by the private sector and our job, as professionals, is to leverage the capabilities of the private sector. So we go to them for our work.

Senator COBURN. But they're going out and doing sub-contracting for 95 percent of this stuff so why can't you do it? If you have the professionals to do it, why do we need Bechtel?

General STROCK. We can do it when the situation allows that, sir, and we do that. In this case, we recognized the need for a massive mobilization of resources. There is no one contractor that can bring all of the capabilities to bear in a rapid way so we go to the larger ones that have industry connections that could quickly build alliances and relationships that certainly sometimes run many tiers but they actually pull together teams to get the work done. And it's done with competitive pricing, best value in mind.

Senator COBURN. I think we're going to find that when we're through the cost of debris removal was too high, the cost of blue roofing was too high, and the cost of trailers and their installation was too high compared to what common sense would dictate. I think that's what we're going to find. I'm not sure we're there yet, but I think that's where we're going. I've read all of the Inspector General's reports and that's where it looks like we're going to. So, if that's the case, then we didn't get good value. We may have got their services, we didn't get good value. Senator Landrieu.

Senator LANDRIEU. Mr. Chairman, you have been so gracious. I'm going to submit my questions for the record because I'm anxious to hear the next panel and I thank you.

Senator COBURN. Congressman Jindal.

Mr. JINDAL. Thank you Mr. Chairman. I want to just review because I haven't heard anyone dispute these facts. I want to review them and make some recommendations and see if the panel agrees with them. The numbers I want to submit for the record is that it is true that, and again, I'd love to be corrected. Is it true that FEMA spent $3 million dollars on 4,000 base camp beds that were never used? Is it true that FEMA spent $10 million dollars to renovate 240 rooms in Alabama that housed only six evacuees?

I've heard confirmation we are spending $50,000 to $75,000 per trailer. I've heard confirmation that there may be as many as 20,000 trailers not currently being used. I've heard that we spent $175 per foot to put the blue plastic on roofs and yet in some cases, after five layers of subcontractors, only $2 is actually given to the front-line contractors, in some cases, $10, and some cases as little as $2. One of the numbers that troubles me is that I'm hearing that within FEMA, and this is not something maybe Ms. Burnette can actually answer, but within FEMA there are only 55 acquisitions staff members and of those only 36 are being filled whereas some think we need as many as 172 to oversee the contract work. One estimate says that there were over 1,000 contracts valued in excess of half a million dollars but only half were awarded under full and open competition, which may be part of the explanation for some of the numbers that I read before. One of the most disturbing numbers is $175 per square foot for the blue plastic and we have local workers saying they could have put up permanent roofs with the money that has been spending. It goes back to my previous point that with the $50,000 to $75,000, we could have made permanent repairs to people's homes and let them come back permanently.

And the reason I emphasize that is housing is so critical to get people back into the greater New Orleans and Gulf Coast area and all of Louisiana. It's so critical to get our economy, our health care, and our education systems back and so I have focused quite a bit on housing. Those are some of the things that concern me greatly. As the Chairman said, I don't think that when the record is written on this that we will have gotten great value. I think if you survey local residents, local officials, they'll tell you over and over they could have done so much more with the money that's being spent down here.

My suggestion is that as we go forward to June 1 and as we continue to recover from Hurricanes Katrina and Rita, is that we absolutely have greater financial transparency. Along with the Chairman, I don't understand why we wouldn't want taxpayers to know what they're paying. It took quite a lot for the local contractors to figure out what was being paid to put the blue plastic on roofs. It took a lot of effort to get those numbers out there.

Second, let's explicitly limit the number of layers of subcontractors to reduce the overhead costs and let's publicly report how much is being spent at each layer of sub-contracting.

Third, I understand the need right after a storm to spend more than market rates to respond in the middle of a disaster but certainly after the initial emergency period expires, there's no reason for us to be spending, at the most, 25 percent above the market value or it could even be better than that, and yet we have many

reports where we're paying much above market rates long after the storm had passed and long after the emergency period had passed.

Fourth, the point I made earlier, I certainly hope that we have greater flexibility as we spend these dollars. Given whether it's FEMA or the local homeowners greater flexibility on how the money is spent on their behalf.

And, fifth, one thing we've not talked about as much and, again, it's not something that I expect Ms. Burnette to respond to, it's something I'd like FEMA to respond to, we'd like to have less turnover in the personnel on the ground. One of the things that is very frustrating to local officials and others is that as soon as a certain policy guidance is established, often times somebody new will come in and the person will rotate out and have to start all over again. And as Senator Vitter references when it came to debris removal, many local officials feel like after they've worked out the procedures for reimburse for using local contractors, as soon as a new local official shows up, they have to start back from square one.

And then finally something that's been hinted at, certainly I think we need to do a better job before June 1 in terms of pre-positioning and partnering with the private sector. Knowing that this is going to be a busier than normal hurricane season. I don't think there was an excuse last year and I don't think there will be any excuse at all after Hurricanes Katrina and Rita for us to be unprepared next year.

I know my time is short. I leave those suggestions with the panel. I've documented those in two letters.[1] The first letter, which I think is still very important is the use of Louisiana contractors. I know the Stafford Act 307 requires that. I don't know the record has gotten better as time has gotten further away from the storm. I still don't think we're doing as well as we could. I'd like us to do more to keep those dollars in the economy to keep people working here. It's not fair to ask how we respond to so many suggestions in such a short period of time. I would ask you to take a look at those letters. If there are things that you can do administratively, I'd encourage you to do them. There's certainly no reason to have 20,000 trailers out there when people need housing but there are things that we need to do to statutorily to amend the Stafford Act. I hope you'll support those changes and report back to us and we can pursue those changes in a bipartisan manner. Thank you Mr. Chairman.

Senator COBURN. Well, Congressman, you just demonstrated you know how to be a senator because you took 5 minutes and didn't ask a question. I want to thank our panelists. You will receive multiple questions from us. From the time that you receive those, we would like those back in 2 weeks if you can. And I would emphasize again what is it that we didn't do right, what have we learned from it, when all these reports are coming out in the summer what do we change. You have an obligation to communicate with us what will make you more effective, more efficient, and also more transparent to the American people. So I want to thank you for your time that you have given today and General Strock I know you took time out from your own vacation to be here. I appreciate

[1] The letters referred to appears in the Appendix on page 98.

that. It certainly shows a level of dedication that is admirable and we will dismiss this panel and look forward to your replies from our written questions.

The second panel can take seats, please. Our second panel consist of Steve Scalise. He's a third term Louisiana State Representative from the 82nd District of Louisiana. He was born and raised in the New Orleans area and serves on several committees including the Appropriations and Budget Committees. Welcome Representative Scalise.

William Woods is Director with the Acquisition and Sourcing Management at the U.S. Government Accountability Office. Prior to assuming his current position, Mr. Woods served as Assistant General Counsel in GAO's Office of General Counsel.

Derrell Cohoon is the CEO of Louisiana Associated General Contractors, welcome. And next is Kevin Davis who is the President of St. Tammany Parish. Hurricane Katrina's destruction to his parish includes 8 million cubic yards of debris, 3,000 miles of clogged drainage and 48,792 destroyed homes.

Each of your statements will be made a part of the record. You're recognized for 5 minutes. We would appreciate it if you could stay within that time.

TESTIMONY OF THE HON. STEVE SCALISE, REPRESENTATIVE, LOUISIANA STATE LEGISLATURE

Mr. SCALISE. Thank you, Mr. Chairman and Members, Senator Vitter, Congressman Jindal, and Senator Landrieu. I appreciate the opportunity as well as appreciate you coming down to New Orleans to hear this. For each of these three programs I would like to propose alternatives that could result in significant savings to the taxpayers while also providing better relief to the people that are most in need. Some of the things you've heard about already.

On the Operation Blue Roof, the biggest problem that we've experienced is the multiple level of subcontractors and some of the numbers that they've thrown out are right where the top contractor would get $175 per square. Ultimately it works its way down to the person that's actually putting on the piece of blue tarp making about $2. By streamlining that process you can significantly reduce the savings while providing that same service. It's been pointed out as well that you can put a brand new roof on somebody's house for the price that has been spent by the taxpayer by putting a piece of blue vinyl on a house.

For the public releasing of this information is also important because as we talk about the travel trailer program that's especially important to the State and local government because we are being asked to pay a percentage, a 10 percent match of the travel trailer program and it does have a lot of embedded cost. As we get into the overall cost. It's averaging about $75,000 of what we've been told a trailer to purchase, install and service. That housing alternative while the trailer itself costs about $20,000. The Federal Government is spending between $3,300 and $4,100 per month to keep a family in a trailer in front of their house or in a park. And obviously we feel that the taxpayer is not getting the best deal or the people that need temporary housing are not getting the best deal either for this expense.

The coordination of subcontractors is also a big problem because too many times we hear complaints from people who have a trailer sitting in front of their house for months while they're waiting to either get electricity hooked up to get their key for the trailer. I've had calls to my office from people who have a trailer in front of their house for 2 months but couldn't get into it because they didn't have the key because it was a different subcontractor. So clearly that coordination needs to be worked a lot better too because that ends up becoming a bigger frustration than the devastation that the person has from the hurricane when they're trying to find relief and it's sitting there in front of them and they can't use it. Some alternatives may be to provide travel vouchers or credits to people who purchase their own. I've had a number of people who could not wait any longer for a FEMA trailer and they went out and bought their own and spent about $18,000, $20,000 hooked it up themselves instead of the $75,000 the Federal Government's spending yet they can't get any reimbursement. So they're out $20,000 whereas if they would have waited the Federal Government would have spent $75,000 for the same alternative. It just doesn't seem to make sense as well as the businesses could be allowed credits, too. A lot of businesses right after the storm stepped up to get their businesses back up and running but their big problem was they didn't have personnel. So many of them took it upon themselves to find ways to get their people back and if they were allowed to have some credits so that they could buy the trailers as long as it costs less than what the government was spending, I think you would have seen a much expedited manner of getting people back into their communities while also getting our economy back up and running by having businesses and that would help people get a sense of normalcy. Many people expressed that getting back and working was a big method of relief from all the devastation and yet some people still haven't come back because there is no housing. So if businesses would be involved in that process I think it would help us some, too.

Regarding housing alternatives, modular housing, was brought up by Congressman Jindal. The Katrina cottages, I think you have a picture of one of those in your handouts that I gave you cost at most as much as FEMA is spending on trailers yet these are hurricane proof which the trailers are not and in many cases they can be made into permanent houses where you can actually turn them into a permanent house which provides a much better solution. There are some other alternatives that can be reviewed as well that would save money in this program, but also provide more relief because we're spending a lot of money on trailers and on hotels when there are other opportunities that are available.

Finally, with debris removal the multiple layers of subcontracts are again a big problem. I am very encouraged to hear what General Strock mentioned about allowing the reimbursement because many local governments mayors have said they had a lower priced contractor to remove the debris yet because of the way that it was structured they had to go through the Corps of Engineers because of the 100 percent reimbursement because they simply could not afford to pay that 10 percent cost when they were cash strapped. And many communities were in that problem.

What I would suggest that if that is in fact the policy that those local governments that did go on their own at a lower cost to the government have that 10 percent fee waived because many are still being told that they have to make that 10 percent payment and so hopefully we can get some of these improvements in place. I think your Subcommittee has started to point out and see some of the problems that we've been dealing with on the ground. I think there is a better way to do it. So I appreciate the opportunity to speak and would be happy to take any questions.

Senator COBURN. I noticed that the Corps is still here. Is someone still here from FEMA?

(No response.)

Senator COBURN. Nobody's still here from FEMA to listen? No, General, you're not from FEMA, you're from the Corps.

That's the problem. That is a big problem.

Mr. Woods, you may proceed.

TESTIMONY OF BILL WOODS,[1] DIRECTOR OF ACQUISITION AND SOURCING MANAGEMENT TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. WOODS. Good afternoon, Mr. Chairman, Members of the Subcommittee. Thank you for inviting me here this afternoon to represent the Government Accountability Office and its work in this area. Before I get to my specific findings I would like to just touch on three overall points. First, to describe the breath of the work that the Government Accountability Office has underway. Some of it completed, most still to be completed. A number of reports to be issued this year across a number of areas involving, for example flood insurance, the voucher program, we worked on the levees, healthcare, many issues that we've been involved in. General Walker recently testified before the full Committee of Homeland Security and Governmental Affairs and outlined some of our preliminary observations in that area.

The second general point is the extent of coordination that the Government Accountability Office has done with the rest of the oversight community. You heard reference to that in the first panel but particularly in the area of contracting we made an early and earnest effort to touch base with our colleagues in the oversight community to make sure that there was no duplication. To make sure we were doing the right work and that all of the work was being covered.

In the area of contracting the division of labor, if you will, that we decided on early on was that the other components of the oversight community would be looking at in the area of contracting at the award process and at the pricing of government contracts. We on the other hand, would be looking at contract execution. Sort of the back end of Federal contracting and asking ourselves the question, is the government, are the taxpayers getting a good value for the money saved? We are looking at contract monitoring, contract oversight, those sort of issues and those are the issues that I'd like to discuss with you today.

[1] The prepared statement of Mr. Woods appears in the Appendix on page 103.

And the third sort of overall comment that I wanted to make is to recognize the extraordinary hard work and dedication of the responders at all levels. We sent several teams down to this area. This is my second trip and I've been impressed with the enormous dedication of responders at all levels, the local, the State and the Federal and that's by Federal employees as well as by Federal contractors. There were heroic efforts and I think we all need to recognize that. We certainly do.

In terms of our specific findings, they fall into three categories. No. 1 is planning and preparation. That can't be understated. It is enormously important. The Corps of Engineers has a program that you heard about earlier called "Their Advanced Contracting Initiative." That enabled them to get, they were up and running and off the ground very quickly and they had contracts in place. The Federal Emergency Management Agency has some contracts in place, but not nearly enough and that's an area where they need to improve. Let me give you just a concrete example of where the advance contracting lead or the lack of advanced contracting lead to some unfortunate results. As you know, the Federal Emergency Management Agency task other agencies with contracting on their behalf. One particular case that we looked at, FEMA turned to the Corps of Engineers and asked them to contract for portable classrooms in Mississippi. They did that, but unfortunately that was a tasking that occurred after the event and the Corps did not have the opportunity to call on their advanced contract initiative to call on contracts already in place. They had to enter a market where it had very little experience, was facing a very tight time frame and as a result paid more than it probably should have and could have under normal circumstances. So that's a case where advanced planning could have helped save the taxpayer money.

Another area where advanced planning can be helpful—we've heard reference to the Stafford Act and the preference for local contractors. When we did our work and asked agencies how they were implementing that, all of the agencies that we talked to were aware of that requirement. Very few knew how to operationalize that. There's very little guidance in the Federal acquisition regulation about how to make that happen. We recently issued a protest decision where we had the State of Mississippi issuing a set aside under the Stafford Act. Contractors came in and said that's not permitted, we protest. Well, GAO took a look at that and decided yes, that's within the discretion of the Corps of Engineers in this case to have a set aside and to reserve contracts or just for firms that are either located or does their principle amount of business in Mississippi. That's the kind of guidance that was not in the Federal acquisition regulations. It took a protest and actually delayed proceedings.

Senator COBURN. Mr. Woods, can you summarize?

Mr. WOODS. The third area that we found could be improved is in the number of oversight personnel. We found in a number of incidents looking at blue roofs for example where they didn't have all of the monitors that they needed. In looking at the travel trailers, another example where agencies, FEMA in this case did not have all of the contract monitors that they needed to have in place. So in summary, it's planning, it's communications and it's having an

adequate work force. Those are the three key ingredients to successful contracting.

Senator COBURN. Mr. Cohoon.

TESTIMONY OF DERRELL COHOON,[1] CHIEF EXECUTIVE OFFICER, LOUISIANA ASSOCIATED GENERAL CONTRACTORS

Mr. COHOON. Thank you very much, Mr. Chairman, for the opportunity to come and address you. Thank you Senator Carper, and certainly Senators Landrieu, Vitter, and Congressman Jindal, for your continued help with this, if you will. For the record, I'm Derrell Cohoon. I'm CEO of Louisiana Association of General Contractors. We appreciate you doing a look back with respect to this issue, too, because we see a lot of things that we think need to be changed. In fact, we feel like we've been living the writing of the textbook for the last 7 months. We call it the new normal. For your information, the Louisiana Association of General Contractors represents 700 firms in the State of Louisiana. We've been in operation here since 1949. We represent contractors in the commercial, heavy, highway, and municipal utility areas as well as subcontractors and material suppliers.

Needless to say, the devastation that has been brought is large and obviously we need help within the construction industry from outside. We admit to that. However, when there are opportunities for some Louisiana firms to participate as subcontractors other firms have not had that opportunity or they've been offered prices so low that they can't afford to take that kind of work, something's wrong with the system. I think a lot of it relates to the nature, these very large primary contracts. We're relegated as Louisiana contractors to participate in these subcontracts through the websites of these primary contractors. It's very disheartening to go onto that website and find out we're number 3,422 of 9,722 and we never hear a response either. It's very disheartening. The appearance to us has to be that the storm chasers, those who follow these primary contractors, have an in. Obviously, they ended up as the first tier, second tier, third tier, and then on, and the Louisiana experience has been from the sixth tier on down. That's unfortunate. Obviously the difference between a hauling contract at $27 a yard and the $6 a yard we experience as a sixth-tier subcontractor is great, is very large. We saw other instances where subcontractors really only acted as brokers under this system with this multitude of vertical tiers for subcontracts. The press has collectively termed this vertical nature of these subcontracts the fifth-tier subcontractors and that's us. That's essentially what we are. The process allows the cost to be driven up. Ineffective management by the prime, decreased productivity, possibility of some subs only acting as brokers for other subs and the slow payment of bills as they pass down through subcontractors.

Compounding the problem is our perception of the Federal Miller Act. As you go down the tiers of subcontractors if you're not being paid by the prime in a timely manner. The Miller Act doesn't allow us to collect on a performance bond, which is of much concern to us. There are people who aren't being paid. The absolute irony is

[1] The prepared statement of Mr. Cohoon appears in the Appendix on page 113.

these very businesses, most of which are small businesses that we represent that are familiar with the area in the needs of local government and are supposed to be assisted through the Stafford Act are, in fact placed in areas that are not meaningful and certainly are not profitable.

We have some recommendations for you in an effort to resolve some of the issues. First, is that FEMA, the Corps of Engineers, the State and local government, whomever, give strong consideration to use of the project delivery method, construction management at risk, but with variations. Under this method, the owner, the Corps, FEMA, or whomever will maintain a contract with the CM-at risk primary contractor as a professional service. CM-at risk is to provide essential pre-construction services, over trade contract, take responsibility for the work and guarantee the construction cost and schedule. At the same time, strong consideration should be given to breaking these large contracts into smaller segments to afford more competition and they should be publicly bid. The Louisiana construction industry is accustomed to open competition and publicly bidding public contracts. We're comfortable with it. We should also consider requiring CM-at risk to break the subcontracts into horizontal tiers rather than vertical tiers. Again, vertical tiers make for people not being paid and inefficiency.

Senator COBURN. I'm going to get you to summarize for me.

Mr. COHOON. Yes sir. Most importantly, the CM should be tasked in subcontracting debris removal, demolition, etc. on a horizontal basis rather than current vertical basis. That will afford open competition and thereby the use of Louisiana firms for disaster cleanup for that matter other firms.

The system we're recommending certainly can be no worse than what we're experiencing today. In fact, we think it will assist you in better supporting taxpayers commitment to the reconstruction of Louisiana and certainly it would be more fair to the people who are trying to survive to participate in the rebuilding of the Louisiana that they built in the first place. I will be most pleased to answer any questions.

Senator COBURN. Thank you, Mr. Davis.

TESTIMONY OF KEVIN DAVIS, PRESIDENT, ST. TAMMANY PARISH

Mr. DAVIS. Good afternoon. Thank you, Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to be here this afternoon.

I want to just kind of go through a little bit of my statement for you so we can get to the questions and answers. Certainly I have to continue my dealings with the Corps and FEMA so they are going to be somewhat short in my discussion. But let me say from the outset that there are many fine people working for FEMA and I have had the opportunity to work with the JFO and others who I think are sincere and are really competent in trying to deal with the issues that we're dealing with. But there seems to be what I would call a great pillow in the middle from the top to those on the ground here with us.

The FEMA employees and the FEMA contractors contract and in general they make our lives miserable, disrupt our attempts at re-

covery and ultimately require us to go to the FEMA managers that I just mentioned to get us moving again. Creativity and flexibility certainly are discouraged. And let me give you an example from the beginning. They commandeered fuel supplies that I had ordered from out-of-state; they commandeered generators donated by churches and faith-based organizations that I was able to get into my parish. Naturally FEMA was already frustrated in our efforts and our emotions before anyone from FEMA actually appeared on the scene to work with us.

Debris: St. Tammany Parish is a large parish. It's 900 square miles; 216,000 pre-storm population; 300,000 approximately now. As of today we picked up over 6 million cubic yards of debris from roadways in the parish at a cost of $148 million. Our draining debris clean-up will be another $60 million. Draining debris pick up is a major problem. First FEMA said we don't want to pick it up; then it was multi-agency jurisdiction on the same natural drainage ways.

Marsh grass issues: Marsh grass for those who aren't familiar it's out in our marshes. It actually was brought in about four miles inland and now because 7 months later it somehow attached itself to the ground it's not qualifying as debris pick up. So how do I help those citizens get that picked up.

Now we'll go past the June 100 percent funding deadline if I continue on this course. My probably only saving grace at this time with the debris and drainage ways is our drought because I'd probably have a larger population of flooding than Hurricanes Katrina or Rita.

Roadway debris already contracted prior to the storm, I heard the gentleman earlier. We do that every year. We're very accustomed to it in St. Tammany Parish. I give out a contract on a public bid process. We do it every February on our clean up. We had to do some minor amendments and at first FEMA was fine so we moved forward. But then they questioned the contractor while at the same time bring in the Corps of Engineers into my office and suggesting that I cancel that contract and use the Corps. Well, I believe that I made the right decision and I kept those contractors busy and I also believe that we saved the Federal Government close to about $42 million by using that contractor. Because our contractor's rates were $7 at the low end for C&D and $14 a yard on the high end for other debris. That's including hazardous materials. So it's $7 and $14.

Finally let me say one of the most frustrating thing about dealing with FEMA is the constantly changing personnel. We all deal with that every day. They make a decision and then they change their mind. And I don't know whoever thought up the idea of requiring exact latitude and longitude of every tree stump in my parish and every leaner and hanger. While we went through that process I had five of my citizens die in St. Tammany from trees falling on them. This is 4 months after the storm. While we're going through this process of longitude and latitude on every leaner and hanger and every stump in my parish. I want to read to you today, I got a memo from one of my engineers, "Stumps should remain in the ground. If they are removed then they are considered ineligible,

detached stumps." That's what FEMA tells us now. So now I can't pick them up if they got moved.

Travel trailers: We've had over 70 percent of the housing stock damaged by Katrina and over 20,000 houses had enough damage to require residents to ask for housing assistance. I have about 8,000 trailers on the ground right now. The same can be said about debris for travel trailers.

We actually tried some pilot program and maybe you'll ask me that question when we get to that point, but we believe, again, that the local national contractors the way it was done. And then also if you asked me the questions about changing rules for locals versus national firms, I'd be happy to answer those because I have specific details that I can express to you.

It has been a pleasure to be here with you this afternoon. Thank you.

Senator COBURN. Thank you, Mr. Davis. I wanted to do a little housekeeping just because I failed to mention earlier. I want to thank the Louisiana Supreme Court for all of their assistance and their staff today and also Senators Landrieu and Vitter for their aides and their help force. They've been very gracious and we're very appreciative.

Representative Scalise, I've heard all the testimony of everybody that's come to the table for this hearing and I'm certain when everything's said and done and has been looked at by all the inspectors general and the Government Accountability Office. The Government Accountability Office said there was terrible pre-planning. There are no lines of responsibility and accountability and transparency. There's a lack of clearly communicated responsibility and insufficient people put on the ground to provide for effective contractor oversight.

I'm certain that we paid too much for debris removal; we used some of the wrong people. I'm certain that we paid way too much for the blue roofing and I'm certain that the travel trailers cost us about twice as what they should have. When you talk to people here and mention the number that you did a minute ago, I can't remember what it was, but the average is somewhere between $60,000 and $70,000. The average true cost for the same on average home, travel home is less than $20,000. So we're spending anywhere from $40,000 to $50,000 contracting to get something set up and I know part of that is bringing power and sewer and everything else, to it. In Oklahoma we can build a nice, little home for $70,000 that's permanent and hurricane or tornado proof is what we call it. We don't have much trouble with hurricanes. Give me a summary of those three areas of what you're hearing again and what you would think we should do with them.

Mr. SCALISE. And unfortunately to many people in this region FEMA is viewed more as the problem than a solution and when you look at the amount of money that's been appropriated, $100 billion. To a lot of people in the country they think that the Federal Government, the taxpayers, have sent $100 billion down here to help us. When in fact, the vast majority of that money has not made its way to the ground to actually help the people that are most in need. So the frustration with people is they're seeing all this money being spent. They're also seeing the results of it to

them and their neighborhoods and their communities where they need relief and they're not getting that relief.

So it ends up creating more problems than it solves because to a lot of people the transparency is a big issue. We cannot get numbers. Our State Legislative auditor has tried to get numbers. We got a $156 million bill from FEMA. It was the size of a water bill. And it says you owe this money as your percentage match for the amount of relief that's been sent already. We asked for a break down of that and when I get a credit card bill they list everything that's on that item before I submit my check. We cannot get that detail breakdown and so the transparency, and you talked about the sunshine, it's been a big problem because we really can't get a grasp of what we're being asked to pay or what the taxpayers have paid for because much of that information is being disclosed.

Senator COBURN. Mr. Davis, I'd like for you to spend just a minute and talk to us about if you have been able to do what you would want to do outside of the bound of restrictions that have been placed on you. I'm looking at your numbers versus $27 to $32, which I can't find out for sure. As head of this Subcommittee, I can't find out what we contracted debris removal for, but I promise you I will find out. It sounds to me like you saved us about $10 a cubic yard, and if you can do it—and that goes back to Senator Vitter's point. We're not getting the value. We're getting charged for it but we're not getting the benefit of the dollars that are spent. What would you have us do?

Mr. DAVIS. I think that's a great question. Your aides and I were discussing some of those issues about the brainstorming of storm and just FEMA and all these agencies. I know what we do. It's just like now what am I going to do with 10,000 trailers in a flood plane. I've asked FEMA that question and I also asked if I would help you find a solution and we don't seem to get an answer. So we're going to have to deal with it on the local level and we do that through our brainstorming sessions and then find all the negatives and how we're going to fix them.

All I can do is submit to you that we publicly bid it. We had numerous bidders from around the country and also local contractors. It happened to be a local contractor who was the low bidder, and it's $7 to $14 depending on the type of debris. And I'll have it all picked up because it's my goal—I think a senator or congressman stated we—I want to get done by June because I've got hurricane season. I don't want this to drag on. I don't want any more Federal funds or the Nation to have to send us more. I want to get it over with. There just seems to be a lot of lack of brainstorming on finding solutions to all these answers. As I was hearing this morning from your earlier panelists not being able to even answer some of your direct questions. Maybe I didn't answer your question, sir, I'm sorry.

Senator COBURN. Senator Carper.

Senator CARPER. To each of you thank you. Thanks for joining us today and for your testimony. A question if I could for you Mr. Woods. And I might ask some of the other witnesses to comment too, but let me just direct these to you first. In your review were there any contracting practices that you or your folks might have

observed at other agencies that could be used to improve contracting operations during disasters like Hurricane Katrina?

Mr. WOODS. We've done a little bit of work looking at that, Senator Carper, and what comes to mind first is the forest service. They deal with similar situations in that we know every year there's going to be forest fires. We don't know exactly where or what intensity, but we know that they're going to occur and in roughly what geographic area. They do a much better job it seems to me in preparing for those and having advanced contracts in place and in getting base camps up and running in a very short period of time.

Senator CARPER. Why do you suppose they do a better job?

Mr. WOODS. I think it's the advanced planning aspect. They do advanced contracting and they have capabilities. Usually in the western part of the country most predominately but they know that they're going to need certain capabilities and they plan for that?

Senator CARPER. Why would they do the advanced planning and contracting in those areas but we wouldn't do it in areas that we know we're going to have hurricanes?

Mr. WOODS. Some agencies do a better job of that than others. For example, when we look at the Corps of Engineers they seem to do a better job of advanced planning and advanced contracting than some of the other agencies that we've looked at.

Senator CARPER. What advice would you have for us as legislators to urge more of the kind of approach they're using in the forest area?

Mr. WOODS. To be honest, I'm not sure that it's a legislative issue quite frankly. Most of the issues that we identified come down to fundamental management issues and as you eluded to earlier you can't legislate common sense. But the deficiencies and weaknesses that we identified in the areas of advanced planning and better communication and a more capable and larger work force to monitor contracts. Those are not issues, in my judgment that are capable of being addressed legislatively, but are issues for the agencies to address greater management attention.

Senator CARPER. OK. I want to stick with you, if I could, Mr. Woods. Are there any contracting examples from other disasters where there were not as many levels of contractors, we've been talking about the nesting and the tiering. But, do you know of any other examples where there were not as many levels of contractors and subcontractors? They appear to have been with the Army Corps contracts I guess for the tarps and the debris removal and, if so, any idea if the work was done at a better price as a result?

Mr. WOODS. Well, just sticking with the area of Hurricane Katrina, the one contract that we looked at in some depth where we looked at the layering issue was the contract for the portable classrooms in Mississippi that I referenced earlier. And there too, we found the same sort of layering. Let me just give you a sketch of that. There was a prime contractor who was an Alaska native firm. That prime contractor had two subcontracts and just working down the tier of one of those subcontracts that was a Maryland based firm. That Maryland based firm subcontracted yet again with a Georgia firm for the classrooms and that Georgia firm then went to a Georgia manufacturer before actually getting the class-

rooms. So there's an example in Katrina where we have four layers. Now if you're looking at other disaster or contingency contracting situations, it struck us in doing our work that there were a lot of similarities to what happened with our contracting situation in Iraq where again there was a need for acting quickly and there we found that in a number of instances they did go to the larger contractors in order to get the work done.

Senator CARPER. I understand that GAO during the response to Hurricane Katrina that there was not always a clear understanding amongst the different agencies involved who is actually responsible for what. What kinds of problems did this lead to on the ground and I assume there is at least some discussion of agency responsibilities during a disaster and a National Response Plan. Does that document need to be changed in your view in some way so we have more clarity in this area?

Mr. WOODS. Well, I think across a broad range of issues we're going to have to look at the national response plan and to see whether it's adequate to address the many issues that we've identified. But if you're asking me for a specific instance and I would elude to one of the examples highlighted in my written statement that I haven't touched on yet and that is, the renovation of the barracks in Alabama where there was a total lack of communication between the FEMA officials in Washington who said let's renovate those barracks and the local FEMA officials who said, "Hold off, we don't need it. That's going to be a waste of money." And it ended up that there were very few people who agreed to live in those renovated barracks and at the time they made the decision to close them there were only six people there.

Senator CARPER. Alright, thank you.

Senator COBURN. Senator Vitter.

Senator VITTER. Thank you, Mr. Chairman. Thank all of you for being here. Representative Scalise, thanks very much for your presentation. Just caught by one specific thing in your presentation I would like for you to quickly expound upon and that is the fact that in the present debris removal situation there really is no incentive to recycle recyclable material and actually save money in the process. Why don't you hit on that for a second.

Mr. SCALISE. Thank you. It's a good point because right now we're dealing with of course, we've had tons and tons, millions of tons of debris that have been deposited into local landfills. Because of Hurricane Katrina they've reopened some and it's a big NIVE issue. We have a limited space to place the debris and yet a lot of the recyclers, a lot of the debris haulers are carrying recyclable materials, steel, metal, even wood. I heard a story of a contractor that had a cypress stump that could have gotten a few thousand dollars on the market yet the way the policy works if they don't just go and haul it to the main site and they actually take the time and separate that material and take a separate trip to go somewhere where it's recyclable material, they have to turn over 100 percent of that money back over to FEMA.

So it cost them money to separate the materials. It would reduce the load that they're actually dumping in the landfills so it would reduce the cost that you are paying as the Federal Government and yet because of the structure there is not only a disincentive for

them to do it, but it would save money because if this was competitively bid they could factor that in, the fact that they could recycle. If that would not be remitted back to FEMA, they could build that savings into their price, charge a lower costs, they'll be putting less amount of debris in the landfills and then you get to recycle a lot of this material that's right now sitting in landfills being dumped. So it's a big issue and a big problem and as we run out of landfill space it only adds to that problem.

Senator VITTER. Thank you. Mr. Cohoon, I wonder if you could outline a little bit more of your alternative model for the way we approach this work in general in terms of the structure of the contracting method?

Mr. COHOON. Certainly, I'd love to. Basically it's the same thing the Subcommittee has been talking about earlier today, a program manager. I don't care if it's the Corps of Engineers or one of these multi-national companies that are in here doing this stuff right now. The way it's working right now is an absolute travesty. When you have $500 million ceiling and they're trying to bump against it and folks down below are being driven down. What we would recommend is that this guy be a CM, a manager if you will, to oversee subcontracts but rather than a vertical structured subcontract method which ends up hurting the very people we're trying to help make all of them horizontal, publicly bid them which has the affect of driving down the costs to the taxpayers but also opening up competition for Louisiana companies and for that matter others. We can compete.

Senator VITTER. Thank you. And President Davis, I really think the case of your parish with regard to debris removal gets to the core of this issue. Did you all take care of all of your needs within the parish with your pre-existing local contract?

Mr. DAVIS. No, the problem was the debris in canals and drainage ways was not in the original bid package so then we had to go back to FEMA and we're in that process now of bidding those.

Senator VITTER. Apart from canals and drainage ways was the capacity that your pre-existing local contract offered enough to get the job done in the parish?

Mr. DAVIS. Yes sir. And we didn't pay every year.

Senator VITTER. Right. And so in the case of your parish, and there was huge amounts of debris in your parish, you met your capacity need basically locally?

Mr. DAVIS. Yes, sir. I didn't understand that when they were making recommendations I guess—I don't know why FEMA and others don't deal directly with parishes or counties chief executive officers. As you had stated elegantly earlier, we know the lay of the land, we publicly bid everything and I told that to the President of the United States in private meetings. I'll personally be responsible, send your auditing team with us, don't send all the other stuff that we have to deal with. I've requested $1 billion for my parish and I thought I could get everything done.

Senator VITTER. In the case of your debris removal are you going to be stuck with the 10 percent bill for that period of time before they changed the policy?

Mr. DAVIS. If I don't get it done by June. Again, the local guy, the pressure is on him to complete the project.

Senator VITTER. But what about on the front end? In other words, they took a while until they changed that 10 percent match policy. Are you being forgiven that initial 10 percent?

Mr. DAVIS. Yes, because I personally—And parish government didn't use the Corps of Engineers. So I didn't have that requirement. But I have about seven municipalities and five or six of them came to me and wanted me to help them get out of that contract.

Senator VITTER. And the final question real quickly, am I to understand that there was a meeting at some point where the Federal agencies really pushed hard for you to abandon your pre-existing contract which ended up saving a lot of money and go with the Federal Government capability which by the way makes the Corps of Engineers money?

Mr. DAVIS. Yes sir. And that was a very uncomfortable situation. I almost think that if that was to happen to any elected official you would want your legal department with you. I put them in two different rooms. We had publicly bid our contract. That's the numbers I have given you which I will submit as back up documents. Then FEMA came in with the Corps and they said we're not supposed to do this, but the Corps' with us and we'll let the Corps explain to you the process and they happened to have, if I may, the name was Cirus I believe, was the national contractor. They were in the other room and I said we already have our contract. And they said, "Yes, but we can hire your local guys if you'll just give the contract to the Corps and I said I think we're getting into an area that's very gray and I don't want to be there."

Senator VITTER. Thank you very much.

Senator COBURN. Senator Landrieu.

Senator LANDRIEU. Thank you. President Davis, I just want to thank you for your steady leadership and your responsible management from the earliest days. We worked very closely with you as you have worked with all of our delegation and you've been admirably with your dealings with your parish and I think you've set a fine example.

I want to pursue a bit about this canal debris and waterway clean up because you have obviously done a good job getting the debris off your roads and your land. So for the record speak again about what some of these complications are and for the senators not from our area and I think both of you, not maybe so much from Oklahoma, Senator Coburn, but surely the Senator from Delaware understands waterways, water management, canals——

Senator COBURN. Hey, we have waterways, come on now.

Senator LANDRIEU. You have some in Oklahoma, you got a few but maybe not as many as we have on the coast. But managing to keep those waterways open and clear of debris is absolutely critical for safety of the residents but also, Mr. Chairman, for the businesses. Our shrimpers need to get back into that water. Their nets. I mean, I don't have to explain all of this, but tell us for the record, Mr. Davis, just a minute more about how the overlapping of Federal agencies are hindering your ability to get those waterways cleared and we don't even know how much debris is there but we're estimating quite a bit.

Mr. DAVIS. We're estimating about $60 million worth. At this point. I think—I get confused sometimes, we've been through 7

months of this, but I think it all goes back to the Stafford Act that creates a problem because that's where we get into this different agency and my understanding is, and I'm no expert, I'm just going by all these months of working with it, we have the NRCS who I want to tell you, and the Department of Agriculture, let them run this. Those folks have been super; NRCS, great; EPA, great; National Guard. Where we get into this conflict of these bayous and canals is, is it commercial, navigatable waterways because then FEMA says because of the Stafford Act another agency is tasked to do that. That would be the Coast Guard. But then you also have the Corps of Engineers; then we have NRCS who whenever I go to them they say, yes sir, we're going to take care of that. They have been great work. All of the other agencies can't figure out if it really is their responsibility.

Senator LANDRIEU. So what your testimony is today for our panel, there seems to be some confusion about the jurisdiction of these canals based on the nature of what they are and if we can help you get this cleared up because your parish is very typical of many parishes in Louisiana that lie low have a lot of waterways in and around and surrounding them.

One final question, Mr. Woods. You testified that you thought it wasn't necessarily the failing of the act or the law itself, but the management or lack of management therein that you have been finding as you investigate or look into. Would you elaborate on that? Did I misunderstand what you said because that's an issue I think this Subcommittee needs to look at. Being one thing, the law being insufficient or inadequate and the other is the law is fine, but the management is really short.

Mr. WOODS. I'm glad you gave me the opportunity to clarify. When I said that perhaps the law was sufficient in this area I'm referring to just in Federal contracting law and there we found that both the laws and the regulations provided sufficient flexibility for agencies to do the right thing.

Senator LANDRIEU. But it's not being used?

Mr. WOODS. It was not being used appropriately. The existing law and existing regulations were not being used appropriately in many cases. But there's no question that the Stafford Act, the law generally that governs the Federal response in these areas is going to have to be looked at across a broad range of activities. My comment just referred to the contracting area that the Stafford Act really does not deal with. That's not a primary piece of legislation in the contracting area.

Senator LANDRIEU. Thank you.

Senator COBURN. Representative Jindal.

Mr. JINDAL. I promised the Chairman I'll be quick so I'll make two quick statements and ask to very targeted questions. Mr. Scalise, I want to thank you for your testimony and I think your suggestion are exactly right. If we went to residents and said you have a choice of getting a trailer or you can have this much money to spend on your behalf, I imagine they would be much more efficient at buying trailers, fixing their homes, renting apartments. I thank you for your very specific and helpful suggestions.

Mr. Woods, I also want to thank you for being here. The comment that struck me the most out of the many good things you said

was that you can't legislate common sense. That some of these come down to management issues and I know we have many bills that we need to vote on and amend the Stafford Act and at the end of the day we need better execution and I thank you for that perspective.

Mr. Cohoon,, I've got a very quick question. I know one of the perceptions is that the government felt like it had to go to these large primary contractors. I believe they did a disservice to Louisiana contractors given their experience of handling large, industrial and other contracts even pre-Katrina. You may have heard FEMA talk about instead of doing $500 million no bid contracts, doing $150 million contracts. If you have the number at this time, in your mind what would be an ideal target number for the government to say we're going to try to break down the contracts to be no larger than this number to allow more competitive bidding. What would that number be that would allow local contractors to participate?

Mr. COHOON. Congressman Jindal, from my perspective if you're utilizing the services of a program manager, whether it's $500 million or $150 million or for that matter $20 million, it's irrelevant to me. What you've got to do is you've got to drive it down to the local level. Such as Mr. Davis said and you've got to bid it.

Mr. JINDAL. Thank you. And again I want to just reiterate we do have local contractors capable of doing very large projects. They built multi billion dollar plants. They're capable of doing this work.

Mr. Davis, my last question of the day is for you and I'll ask you to be brief for the sake of the time of the panel. Thank you for the great work you've done. I know we worked hard to make sure you could use local contractors. We've worked hard on the waterways issue. My question is for you just to quickly—St. Tammany in terms of pre-contracting out some of this work versus what the Federal Government does is a great example. It's a contrast of black and white about how it should have been done and how it could have been done. Could you just quickly tell the panel what you all did even before the storms to get ready?

Mr. DAVIS. From the debris standpoint?

Mr. JINDAL. Yes.

Mr. DAVIS. As I heard someone say earlier wherever you live you are accustomed to some disasters that are pretty much going to happen and we know hurricanes. So when I took my administration 5 years ago we pre-bid everything. Publicly bid, as the gentleman said earlier. We advertised the bid and then the low bidder is awarded that. Then when a storm comes in the Gulf we go into emergency operations and at a certain latitude we call our contractors and we bring them in prior to the storm. So we can look at what their deployment abilities are going to be able to function for us and everything else and they're on standby. Then the storm comes through, they come meet with us within 24 hours because all that's in the bid and then we go out and start clearing roadways.

Mr. JINDAL. Thank you, Mr. Chairman.

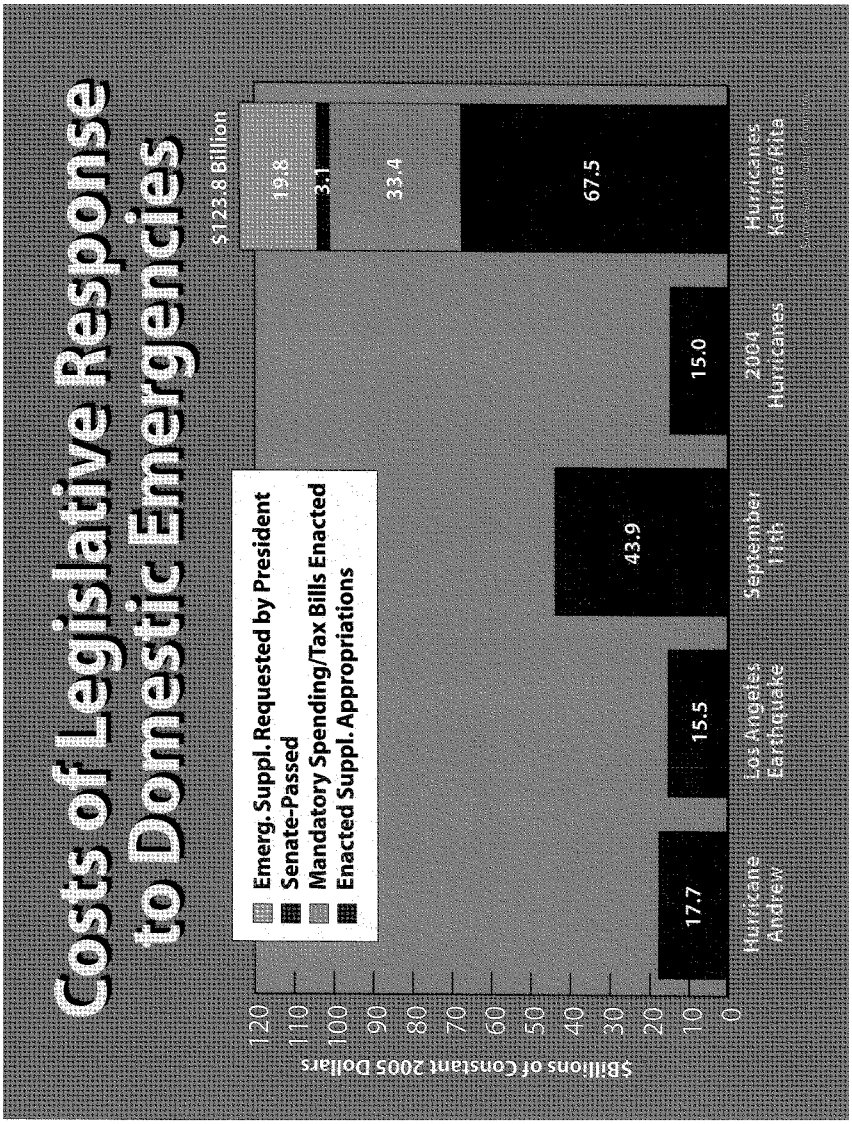
Senator COBURN. Let me thank each of you for spending the time here before us today. We will be submitting some additional ques-

tions if you will be so kind to respond to those within 2 weeks. The Subcommittee hearing is adjourned.

[Whereupon, at 1:47 p.m., the Subcommittee was adjourned.]

APPENDIX

Hurricane-Related Spending
LEGISLATION (enacted)
Emergency Supplemental #1 $10.5 Billion
Emergency Supplemental #2 $51.8 Billion
Flood Insurance Borrowing Auth. $15.0 Billion
Provisions of Tax Relief Act $7.7 Billion
Katrina Short-Term Tax Relief Bill $6.1 Billion
Emergency Supplemental #3 $5.2 Billion
Provisions of Deficit Reduction Act $2.0 Billion
Flood Insurance Borrowing Authority $2.0 Billion
TANF Disaster Relief $0.29 Billion
UI Provisions of H.R. 3971 $0.16 Billion
Redistribution of Campus Student Aid $0.36 Billion
Byrd Unemployment/HHS IG Amend. to H.R. 3863 $0.019 Billion
Pell Grant Relief $0.002 Billion
Louisiana Highway Provisions $0.002 Billion
National Hurricane Center Provisions $0.001 Billion
Community Disaster Loan Act $0.00 Billion
SBA Disaster Loan Program $0.00 Billion
TOTAL: $100.94 Billion
LEGISLATION (passed by Senate)
Flood Insurance Borrowing Authority $2.7 Billion
Katrina Emergency Assistance Act $0.115 Billion
Katrina Education Reimbursement Bill $0.260 Billion
TOTAL: $3.075 Billion
PRESIDENT'S PROPOSED LEGISLATION:
Emergency Supplemental Request $19.8 Billion
GRAND TOTAL: $123.9 Billion


Costs of Legislative Response to Domestic Emergencies
$123.8 Billion
Emerg. Suppl. Requested by President
Senate-Passed
Mandatory Spending/Tax Bills Enacted
Enacted Suppl. Appropriations
$Billions of Constant 2005 Dollars
120
110
100
90
80
70
60
50
40
30
20
10
0
17.7
15.5
43.9
15.0
19.8
3.1
33.4
67.5
Hurricane Andrew
Los Angeles Earthquake
September 11th
2004 Hurricanes
Hurricanes Katrina/Rita

WRANGLER

TESTIMONY OF
TINA BURNETTE
FEMA
DEPUTY DIRECTOR ACQUISITION KATRINA/RITA
BEFORE THE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY
APRIL 10, 2006

Mr. Chairman and Members of the Committee, my name is Tina Burnette. I have been the Deputy Director of Acquisition for Gulf Coast Recovery in the Federal Emergency Management Agency (FEMA) since January of this year. Thank you for the opportunity to appear here today to discuss the successes of the agency as well as challenges faced by FEMA in its response to Hurricane Katrina.

Prior to being named to my current position, I spent 90 days in Louisiana as on-site acquisition support to the Katrina Recovery Office headed by Vice Admiral Thad Allen. I am a career Federal Executive and have spent 16 years of Federal service in the procurement profession. As the Deputy Director for Acquisition, Gulf Coast Recovery, I provide oversight and support for those acquisitions issued in support of the Gulf Coast response and recovery.

In the days immediately following the disaster, the primary goal of FEMA's contracting office was to prioritize the urgently needed support to respond to this catastrophic event. Clearly, an equally important responsibility for our office was our fiduciary responsibility to ensure that the contracts we issued were awarded in accordance with applicable rules and regulations, provided cost-effective results, and precluded waste, fraud, or abuse.

As the relief effort progressed, an oversight board was formed at the Department called the "Hurricane Internal Control /Procurement Oversight Board," which is chaired by the Under Secretary for Management and established to ensure financial and procurement control and integrity over hurricane funding that the Department receives. This Board coordinates internal control policy and management oversight issues in the appropriate use of hurricane related funding. Board members include the Under Secretary for Management, the Chief Financial Officer, the General Counsel, the Chief of Operations at FEMA, and the Chief Procurement Officer. In addition, the DHS Inspector General advises the board and participates in oversight and compliance reviews.

DHS Acquisition Policy and Oversight Division personnel are reviewing high-risk Katrina contract actions to verify what was purchased, the reasonableness of the price, and the extent of competition. Special attention is being paid to the Fluor, Shaw, CH2MHill, and Bechtel contracts because of the large dollar value and the fact that they were awarded without full and open competition – a situation I will discuss in further detail.

Since the disaster, the Oversight Division has reviewed more than 13,000 purchase card transactions and is in the process of reviewing more than 250 purchase orders. All contract actions over $25 million will be individually reviewed. All contract actions over $5 million that were awarded without full and open competition will be individually reviewed. For smaller actions within the simplified acquisition threshold, a sample of actions will be reviewed. In addition to these reviews the Inspector General plans to review the Katrina files in April 2006.

Shortly before and immediately after Hurricane Katrina made landfall on August 29, 2005, acquisition personnel within FEMA and other agencies worked long hours to meet pressing humanitarian needs, protect life and property, and provide support to victims. The need for quick response is the fundamental reason why we are here today examining the results of FEMA's actions.

FEMA has established a priority list of acquisition needs for which contracts will be awarded prior to the onset of the hurricane season. These contract vehicles will enable a more responsive ordering process

of goods and services while ensuring fair and reasonable prices. FEMA is currently working with other agencies, such as the Defense Logistics Agency to put in place commodity contracts to support the upcoming hurricane season. FEMA is also working with the General Services Administration (GSA) to better utilize that agency's services in the future.

In your letter requesting the agency's testimony, you asked that FEMA specifically address contract management for debris removal, the blue roof program, and trailers. I will address FEMA's oversight and actions of these efforts and share with you steps that FEMA is taking to ensure the integrity of the contracting process.

Debris Removal
FEMA supports debris removal through mission assignments issued to the U.S. Army Corps of Engineers, and also reimburses State and local governments that contract with local debris contractors, through the public assistance grants program. FEMA reviews State and local projects and resulting contracts for cost reasonableness and assesses the adequacy of competition and to ensure that non-competitive selections are properly justified. Our review of these agreements focuses on ensuring that State or local governments have written contracting procedures and that they also use competitive procedures as much as practicable. Based on a request by the State of Louisiana, we are awarding a contract specifically to review grantee procurement systems to ensure that these systems protect the financial and other interests of the Federal Government

Blue Roof Program
The majority of the blue roof program is supported through a mission assignment with the Army Corps. FEMA's primary support of the program last year was through the purchase of blue tarps. FEMA assisted the Army Corps by ordering $9,996,600 worth of blue tarps in the early part of the disaster. FEMA awarded these contracts to multiple vendors that could provide the required specifications and estimated delivery dates, and the prices were determined to be fair and reasonable based on prices paid for prior purchases of similar items.

Trailers
The Robert T. Stafford Disaster Relief and Emergency Assistance Act (The Stafford Act) authorizes FEMA to purchase or lease temporary housing units. A temporary housing unit is defined as a travel trailer, park model, or manufactured home – all of which vary in size and appearance, but provide basic shelter. To provide timely housing assistance and meet one of FEMA's top mission goals of moving applicants out of shelters and hotels or motels, we purchased temporary housing units through manufacturers and from dealer inventories.

FEMA's contract manufacturers produced and delivered travel trailers to logistical staging sites in the affected areas. To sustain the level of required inventory, FEMA also awarded several contracts from dealer inventories as a supplement to the supply from manufacturers. As of March 24, 2005, FEMA purchased 143,699 temporary housing units, with 99,197 units from the manufacturer contracts and 44,502 units from dealer inventories. FEMA expended approximately $2.655 billion for these purchases, approximately $1.708 billion to manufacturers and $947 million for dealer inventories. These costs include delivery to the logistical staging area, but not installation.

The initial manufacturing contracts for temporary housing units were awarded on a non-competitive basis to geographically dispersed vendors to meet the immediate humanitarian need. Local vendors were not able to meet the immediate need. The average unit prices paid by FEMA under these contracts, including delivery to staging areas, are as follows: mobile home - $36,501, travel trailers - $12,128, and Park Model - $24,774. The unit prices under these initial contracts were determined to be fair and reasonable by comparing them to prices obtained under prior competitive contracts issued by FEMA. Subsequent manufacturing contracts were awarded based on limited competition to vendors licensed to perform work in the affected state.

On April 3, 2006 FEMA's contracting office was notified by a contractor of a $2.3 million overpayment on a contract valued at $287.5 million. The overage is associated with excessive mobile home delivery cost, which was issued on a not-to-exceed basis. FEMA has initiated a comprehensive program to test randomly for improper payments across programs and activities that are at risk. The contractor has agreed to reimburse the Government immediately.

Trailer Installation:
In the aftermath of the disaster, FEMA awarded sole source contracts to four companies: Bechtel, CH2MHill, Fluor, and Shaw. These contractors supported the installation of temporary housing units, among other tasks, which is called Individual Assistance – Technical Assistance Contracts (IA-TAC). Based on company size and previous disaster experience, these four firms were determined by FEMA to be highly qualified to support this effort. We have committed to monitoring closely their costs, schedule, and performance

FEMA anticipates that 151,000 trailers will be installed by the time this effort is complete, which includes addressing the housing needs of victims of Hurricane Rita. Currently, we have over 110,000 temporary housing units that are either occupied or are ready to occupy in the States of Louisiana, Mississippi, Alabama, and Texas. Temporary housing units are installed on three types of site. The first is an individual site, which is often adjacent to an applicant's damaged home. The second is a commercial job site, which includes commercially operated manufactured home parks and recreation vehicle (RV) parks where FEMA leases a parcel of land from the owner. The last is a group site, where FEMA develops a site and installs the temporary housing units. Additionally, in Louisiana we provided large industrial employers with temporary housing units that have been installed on their property to house eligible employees.

The total costs to date for installing temporary housing units has been $1.028B, which is in addition to the cost of purchasing the temporary housing units. The estimate to complete the housing mission in the gulf states is $2.7B. In the Gulf Coast Region, the average cost to install a temporary housing unit on a homeowner's site is approximately $10,000 and the average cost to design and construct a new group site is $30,000 per temporary housing unit installed. Actual costs vary widely depending on a variety of factors.

Contract and Subcontract Management and Support
To support the management of these contracts, FEMA established a Program Management Office (PMO) staffed by talented acquisition specialists and program and project managers. This team implemented a number of control systems to ensure effective accountability of funds being expended in this effort. For example, a tracking system monitors all aspects of each project assigned to a contractor. This system includes tracking the project's period of performance and costs associated with each effort. We are also proactively looking for potential improper payments to reduce the risk to the Government.

DHS obtained Defense Contract Audit Agency (DCAA) on site support to review contract proposals. DCAA is providing assistance in support of hurricane relief efforts for FEMA contracting officers by reviewing, auditing, evaluating, and analyzing costs to ensure they are properly allowable and allocable to task orders. Application of Federal costs principles and support from the DCAA help ensure that the prices charged by each company are based on actual expenses incurred. DCAA analyzes each contractor's proposal and makes recommendations prior to the final negotiations. DCAA's support includes an evaluation of direct hourly labor costs and indirect costs, to include overhead and general and administrative expenses. The percent of overhead varies for each of the companies and is established by DCAA. The FAR establishes parameters for fee or profit, which is based on the level of performance risk assumed by the contractor and varies with each project assigned to the contractor.

Subcontracting relationships are an integral part of our success. Many aspects of subcontracting are good for local businesses and for small businesses. For example, of the actual subcontracting dollars expended by the four large contractors, small businesses and local businesses received the following percentages:

	Bechtel	CH2MHill	Shaw	Fluor
Small Business	83.6%	77.5%	61.4%	60.1%
Local Business	67.0%	48.2%	83.0%	49.5%

Another benefit is that the relationships these contractors have formed ensure that qualified subcontractors mature their skills in each mission area and build capacity to support future FEMA's needs. As a result of these subcontracts, FEMA now has a much larger pool of highly qualified Section 8(a) and small businesses that could compete directly for future prime contracts and support our future disaster response efforts.

Under these prime contracts, approximately 487 subcontractors, employing over 10,000 people, performed substantial work for FEMA. FEMA has found that utilizing private sector expertise to manage the projects, including overseeing the performance of the subcontractor work, is the most efficient method for responding to a large-scale disaster. FEMA retains oversight through its program management office, which is constantly interfacing with the prime contractors to ensure that the contractor is complying with contract requirements.

The Future

As recovery work continues, and in preparation for the upcoming hurricane season, FEMA is engaged in several initiatives to compete contracts for new work. Specifically, the four technical assistance contracts that provide ongoing support primarily for housing disaster victims will be re-competed using a two-pronged approach.

The maintenance and deactivation work for those temporary housing units installed under the IA-TAC, and other related work, will be assumed by approximately 36 small or small, disadvantaged businesses under contracts to be awarded shortly. Other efforts that are being supported under the IA-TAC will also be re-competed, such as group site maintenance and infrastructure support.

The new contract for the installation of the temporary housing units for the upcoming hurricane season will be awarded competitively on a national basis. We have already synopsized this competitive contract and a Request for Proposal will be issued soon.

FEMA is in the process of increasing its acquisition corps to handle post-Katrina work by adding 60 positions that will include procurement and program management personnel. We have been working to hire talented and qualified individuals for these important acquisition positions. To date we have hired 45 acquisition professionals, which includes 21 contracting professionals, and 24 technical representatives.

Summary

Mr. Chairman, in the days immediately following Hurricane Katrina, the primary focus of the FEMA procurement office, and of the entire procurement community, was to act as quickly as possible within the parameters of acquisition law and regulation to obtain the materials and support desperately needed in the devastated areas. FEMA procurement professionals also recognized their fiduciary responsibility, and worked within the system to ensure that contracts were awarded correctly. Currently, DHS is reviewing transactions to ensure that proper procedures were followed and that appropriate decisions were made. We are using the results of those reviews to help us understand how to do better next time. As you know, many of the reports issued on the response to Hurricane Katrina have found that having strong situational awareness of local needs, regional priorities, and national resources is critical to making the right decisions. This is true for the procurement and contracting effort as well.

Thank you, Mr. Chairman. I look forward to the committee's questions.

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

LIEUTENANT GENERAL CARL A. STROCK
CHIEF OF ENGINEERS

U.S. ARMY CORPS OF ENGINEERS

BEFORE THE

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

Management and Oversight of Federal Disaster Recovery: Debris Removal, Blue Roof Program, Haul and Install Case Studies

April 10, 2006

INTRODUCTION

Mr. Chairman and members of the Subcommittee, I am Lieutenant General Carl A. Strock, Chief of Engineers. Thank you for the opportunity to testify before you today concerning the Corps' disaster-relief contracting procedures. The Corps of Engineers practices the principle of openness. We strive to maintain transparency in our contracting activities and welcome oversight of our activities. From a contracting perspective, this visibility and transparency is best demonstrated by the publishing of our contract listing on our web site where we give specific contract information, to include the contractor, dollar value, and purpose of the contracts for all to see.

I would like to divide my statement into four parts, pre-disaster planning, contracting during the "emergency" situation, "a return to normalcy", and I will finish with comments on small and local business utilization.

PRE-DISASTER PLANNING

Under the National Response Plan, the Corps is assigned as the "Coordinator" for Emergency Support Function (ESF) #3, Public Works and Engineering. During disasters, the Corps is the primary agency for response activities such as ice, water and temporary power. The Federal Emergency Management Agency (FEMA) is the primary agency for ESF #3 recovery activities and assigns the Corps to assist in the execution of debris missions. The Corps is also a support agency to other ESFs, for example, the Corps supports ESF #6, Mass Care and Housing, by executing missions to provide temporary roofs. Having these responsibilities, the Corps has created a program called the Advanced Contracting Initiative, or ACI. Under the ACI program, we competitively award contracts for future use in the areas of water, ice, power, temporary roofing, and debris removal. Having these contracts in place allows the Corps to rapidly respond to emergency situations. We did in fact use our ACI contracts to not only support the Katrina recovery, but in those areas impacted by Hurricanes Rita and Wilma as well. We also used the contracts to support recovery efforts in the Southeast after several hurricanes during last year's hurricane season. The ACI program has been in place for about six years.

EMERGENCY

Turning to the emergency situation, the Federal procurement system is based upon the principle of full and open competition, as provided in the Competition in Contracting Act (CICA). However, Congress also realized in the CICA that emergency situations sometimes require emergency actions. The Federal Acquisition Regulation (FAR) is the government-wide procurement regulation implementing the CICA. In most cases, the FAR mandates a 15 day advertisement period and a 30 day proposal period. If we were to follow these usual rules for full and open competition, we would not have been able to award a contract to get the flood waters out of the city of New Orleans until the end of October. Clearly the people of New Orleans could not wait. In fact, the FAR allowed us to considerably shorten the time period of the award under the urgency exception in the CICA. The Corps' contracting officer contacted four companies on September 1, 2005. Of those four companies, only Shaw Environmental, Inc., of Baton Rouge, Louisiana, could respond in a timely manner to begin the unwatering effort. Contract award was made on September 2, 2005.

In our other efforts to support relief efforts in response to this emergency situation, the Corps considered and used the entire suite of available contracting options authorized under the FAR, including verbal and letter contracts. Using these methods, the Corps procured such critical items as sand bags to be used to stop the flow of water into New Orleans. You probably saw pictures of helicopters dropping these huge sand bags into the various levee breaches. It was an

urgent situation, which required expedited procurement. Additionally, we made use of a Naval Facilities contract to assist in the unwatering of the city.

Due to the magnitude of Katrina and the wide-spread devastation, the Corps needed to award debris contracts in excess of those contracts pre-placed under the ACI program. Based on the large scale of the work that needed to be performed, we awarded four more contracts following the emergency to remove debris in Mississippi and Louisiana. Each contract is valued at $500M with a $500M option. This requirement was open to any company, under a shortened advertisement and proposal period. The Corps received 22 proposals in response to the advertisement. The contracting officer awarded the contracts on a best value to the government basis. The Army Audit Agency is reviewing the award and administration of these four contracts.

Prior to Hurricane Katrina making landfall, the Corps had competitively awarded several contracts in the Gulf region for temporary roofs. A full and open competition was conducted during the Summer of 2005 for the anticipated roofing effort in Mississippi and Louisiana. The Corps received 23 proposals and made a best value selection in July resulting in a $10 million Indefinite Delivery, Indefinite Quantity contract. Given the magnitude of the damage during the 2005 hurricane season, four additional contracts were awarded by the Corps after FEMA tasked the Corps to install over 190,000 temporary roofs in Florida, Louisiana, Mississippi and Texas. The four additional contracts were awarded under Urgency procedures utilizing the ranked proposals from the original competition. Additional urgency increases brought the total of these five contracts to $330 million. The contractors furnish and install structural panels, joists and rafters, make small roof repairs and install government furnished plastic and furring strips. The temporary roofs allow disaster victims that are living in shelters or other temporary facilities to return to their homes to begin the recovery process.

RETURN TO NORMALCY

In the immediate aftermath of Hurricane Katrina, it was of course not prudent to follow the full waiting periods that apply in normal circumstances before awarding contracts. It was our goal, however, to return to standard procurement operations as soon as possible and the Corps has done that. We are currently advertising our requirements in accordance with standard synopsis periods prescribed in the Federal Acquisition Regulation, we are attempting to give prospective contractors as much time as possible to prepare their proposals, and we are using Federal Acquisition Regulations principles and competitive awards to the maximum extent possible. The situation still requires us to complete our work quickly. Our highest priority is to assure that citizens who have been impacted by this event can return to their normal lives as quickly as possible.

UTILIZATION OF SMALL AND LOCAL BUSINESSES

The Corps has made extensive use of standard authorities granted to us under the various small business set aside programs, especially in the area of Small Business Administration registered 8(a) firms. Section 8(a) is a Small Business Administration business development program for firms owned by socially and economically disadvantaged individuals. The 8(a) Business Development program seeks to foster the business growth and development of firms by providing business development (i.e. management, technical, financial and procurement) assistance. The overall objective of the program is to enable participants to develop the necessary infrastructure to compete in the market place upon completion of their nine-year tenure in the program. Most participants can receive non-competitive awards up to $5 million for manufacturing contracts and up to $3 million for all other contracts. Many of these small companies are local and therefore are already in the area and available quickly to participate in recovery efforts. We have also targeted work for firms located in economically distressed areas, known as Historically Underutilized Business Zone, or HUBZone companies and for Service-Disabled Veteran Owned companies.

We will continue to hold competitions in which only 8(a) firms from designated areas can compete. In those areas where we have awarded contracts to large businesses, we encourage use of local business subcontractors. We have instituted high goals for small business subcontracting and a reporting requirement that keeps them focused on achieving results in these areas. These contractors report their sub-contracting efforts to us weekly for the first 90 days, and monthly thereafter instead of every six months, the typical reporting requirement. We also include clauses citing the preference for use of local subcontractors.

We have been following an acquisition strategy for the continued mission from FEMA, which includes opportunities at the prime level for local disadvantaged companies and a geographic set aside for the unrestricted portion of the strategy. Competition was limited to Mississippi companies for the Mississippi aspect of the mission and will be limited to Louisiana for the Louisiana mission. Although this strategy would ensure award to local companies, the process has been hindered by protests. Mississippi debris removal efforts are projected to be completed by May 31, 2006.

The Corps of Engineers takes pride in being a Learning Organization. We have learned that every event is different. Our goal is to provide the required, immediate relief services to the impacted populations. In the course of doing so, mistakes can and do occur. There is also opportunity for unscrupulous individuals to take advantage of the system. We work to strike a balance between expeditiously providing relief to those in need and limiting the opportunities for malefactors. Our solution is to immediately deploy Corps' internal auditors, teamed with the Defense Contract Audit Agency and the U. S. Army Criminal Investigation Command, to oversee all emergency response efforts (both Corps and contractors' operations) to help detect – early in the process – actual or potential mistakes, help mission managers comply with their fiscal stewardship responsibilities, and detect instances of fraud, waste, or abuse. Corrective actions are implemented immediately to address problems or weaknesses identified by these teams. We have learned that by doing so, we not only improve our processes, but avoid unnecessary or wasteful expenditures, and become more efficient. I welcome the reviews conducted by external audit and investigative activities as they are also a valuable tool to help us identify potential vulnerabilities and weaknesses in processes and procedures.

Part of being a Learning Organization is implementing actions to correct our mistakes and strengthen our weaknesses. Several years ago the Corps instituted a formal procedure, our Remedial Action Program, to capture lessons learned and adjust our processes for future events. Simply put (although this is not a simple process) for each emergency event we prepare After Action Reports which include issues and weaknesses identified from all sources during our response efforts. We attempt to correct or strengthen our procedures and adjust supporting Standard Operating Procedures (SOPs). Personnel are trained on the new procedures and then we conduct exercises which help us determine whether the corrective actions were effective. Where necessary, the procedures and SOPs are adjusted and placed in readiness for the event. We then start this process all over again.

SUMMARY

To close, I would like to thank you once again, Mr. Chairman, for allowing the Corps of Engineers the opportunity to appear before this Committee to discuss contracting procedures during times of emergencies. Many Corps personnel have served our Nation by helping in the response to natural disasters in Texas, Louisiana, Mississippi, Alabama, Florida, or elsewhere in the nation or the world. We are proud to do so. I would be happy to answer any questions Members of the Committee may have.

Thank you.

STATEMENT OF MATT JADACKI

SPECIAL INSPECTOR GENERAL

GULF COAST HURRICANE RECOVERY

OFFICE OF INSPECTOR GENERAL

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,

GOVERNENT INFORMATION, AND INTERNATIONAL SECURITY

UNITED STATES SENATE

NEW ORLEANS, LOUISIANA

APRIL 10, 2006

Good morning Mr. Chairman, Members of the Subcommittee, and guests.

Thank you for the opportunity to be here today to discuss our oversight of the federal government's pre-disaster planning and contract management issues in the response and recovery efforts after Hurricane Katrina. I will focus my remarks on the Department of Homeland Security (DHS), Federal Emergency Management Agency's (FEMA) contract oversight and monitoring, including transitional housing (travel trailers and mobile homes), debris removal, and the Blue Roof program.

In the aftermath of a major disaster such as Hurricane Katrina, the federal government is obligated to ensure that immediate steps are taken to protect the lives and property of its citizens and take measures to mitigate further damage or harm. Among its responsibilities is to ensure that roads are cleared of debris to allow emergency workers access to affected areas, provide temporary shelter or housing to disaster victims that lose their homes, and provide minimum repairs to buildings to enable victims to remain in their homes and prevent further damage. It is also critical that the federal government provide these services quickly and at a reasonable cost.

My testimony will discuss how well the federal government planned for and managed these activities. Unfortunately, as my testimony indicates, there are many weaknesses in the federal government's pre-disaster planning and contract management efforts. These findings are not only emerging from our work, but from that of other federal agencies. The Government Accountability Office (GAO), Congress, and the Administration are all finding that the government's planning, contracting, and contract monitoring fell woefully short in response to this season's Gulf Coast hurricanes.

We are still in the process of fully evaluating the overall contracting efforts related to Hurricane Katrina. However, our work thus far has disclosed that:

- FEMA either purchased supplies, commodities, equipment and other resources to support emergency and disaster response efforts in insufficient quantities or over-purchased commodities, because requirement planning prior to Katrina was inadequate,
- The government, in many instances, did not pay reasonable prices for goods and services because competition was limited or non-existent and,
- Costs and prices were not always controlled, because the government's contract oversight and monitoring was inadequate.

OVERSIGHT:
PRE-DISASTER PLANNING AND CONTRACT MANAGEMENT

The Role of the Federal Inspectors General

To understand the oversight work that's being conducted and how it's managed, it is necessary to get a comprehensive picture of the collaboration within the federal Inspector General (IG) community. In the wake of Hurricane Katrina and due to the large sums of money made available for the recovery effort, the need for oversight was unprecedented. The federal IGs, through the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE), offered the capacity needed for consistent reporting and the preventive interaction to oversee the billions in recovery dollars. The federal IG community was a natural fit for oversight and stewardship of the recovery funding effort.

Just prior to Hurricane Katrina, the PCIE/ECIE had established a Homeland Security Roundtable to deal with government-wide homeland security related issues. After Hurricane Katrina, the Homeland Security Roundtable served as the forum for the IG community to plan and discuss hurricane recovery oversight. The Roundtable members meet regularly to share information and collaborate. Each participating IG provides oversight of federal dollars for their respective agencies whether the funding was from a direct appropriation or through a mission assignment from FEMA.

The result being that no one agency is responsible for all oversight and stewardship activities. The benefit of this organizational structure is that each agency is best able to monitor and investigate its own recovery responsibilities. As a result, greater oversight is taking place and oversight efforts are not being duplicated. In addition, the PCIE/ECIE established a central hotline to handle reports of fraud, waste, and abuse throughout the Gulf Coast.

Pre-Disaster Planning and Acquisition

The Federal Acquisition Regulation (FAR) requires agencies to perform acquisition planning and conduct market research for all acquisitions in order to obtain competition to the maximum extent practicable. According to the Homeland Security Acquisition Manual and the FAR, formal acquisition plans are not required for emergency acquisitions, i.e., when the need for the supplies/services is of such an unusual and compelling urgency that the government would be seriously injured if the supplies/services were not immediately acquired.

FEMA's core mission is to respond to emergencies and procure emergency supplies and equipment, e.g., travel trailers, mobile homes, base camps, food, ice, etc., on a recurring basis. Therefore, planning for these procurements would represent sound business practice. Because of the unpredictable nature of emergency operations, such planning cannot always be used to select specific sources in advance of a disaster. However, for

each major type of procurement, i.e., travel trailers, mobile homes, base camps, etc., pre-disaster planning can address the following:

- Identify prospective sources of supplies and/or services, including sources identifiable through government-wide and industry association databases using market survey approaches;
- Delineate how competition will be sought, promoted, and sustained during emergency operations;
- Describe how Stafford Act requirements for preferences of firms affected by the disaster will be met;
- Layout source-selection procedures for each type of procurement;
- Establish communications systems and processes and publicize them in order that prospective sources know how to contact FEMA procurement personnel.

The above pre-disaster planning did not take place; therefore, FEMA found itself in an untenable position and hastily entered into contracts with little to no contract competition for disaster commodities.

Although every disaster is unique, many of the response requirements are the same. Pre-disaster planning should include establishing standby or call contracts with vendors to provide essential goods and services required to facilitate immediate response operations or to meet the needs of disaster victims. Call contracts for ice, water, food, tarps, transportation, travel trailers, and other items commonly procured shortly after disasters strike should be in place and ready to execute on short notice. A call contract allows for costs, specifications, terms and conditions to be negotiated in advance negating the need for intensive contract negotiations during a crisis. This is a common business practice in other federal agencies, including the Corps of Engineers and the Forest Service.

Competition in Contracts

Understandably, in the aftermath of a disaster, government agencies award contracts under expedited contracting methods, as authorized by FAR, in order to provide a timely response to victims' needs. In response to Katrina, DHS alone awarded approximately 3,400 contracts worth approximately $5.3 billion. More than 1,000 of the contracts were valued in excess of $500,000, but less than half were awarded under full and open competition. We are currently reviewing the terms and conditions of all contracts over $500,000 and other Offices of Inspector General (OIG) are doing the same. In addition, we are conducting reviews of invoices, focusing on high-risk contracts.

Shortly after Hurricane Katrina struck, FEMA awarded four major contracts for technical assistance in the gulf region. Technical assistance primarily involves the installation, operations, maintenance and deactivation of housing facilities such as travel trailers and mobile homes. We reviewed the source selection process for each of the major Technical Assistance Contracts (TAC), but could not find complete written records of the source selection process to determine how these firms were selected.

FEMA awarded contracts to the TAC contractors under a sole source basis. The four major TAC contractors are among the top 50 construction contractors in the country according to the Engineering News Record (ENR) magazine, therefore are technically qualified to perform the work. However, FEMA did not provide sufficient documentation regarding the process used to select these firms over other firms listed in ENR's Top 50 Engineering Firms. Of the companies selected by FEMA, one ranked first and a second ranked fourth, while another ranked 15th and the fourth ranked 50th. The lack of source selection documentation created the appearance of bias or favoritism.

We understand that FEMA is in the process of re-competing each of these contracts. And, recently, FEMA awarded more than 20 contracts to local and small businesses in the Gulf Region to perform some of the work (maintenance and de-activation of travel trailers) previously performed by the large TAC contractors.

Additionally, FEMA made use of what it termed "limited competition" procedures in awarding contracts in response to Hurricane Katrina. As FEMA defined it, "limited competition" involved calculating a unit price range that FEMA determined was reasonable for the products or services being procured, such as travel trailers, and awarded contracts to contractors who were contacted by FEMA and provided quotes within unit price range determined to be reasonable. The term "limited competition" is not a process that is recognized by the FAR, although it does allow agencies to obtain competition "to the maximum extent practicable" for compelling and urgent reasons. While the practice of using "limited competition" provides a means of ensuring contracts are awarded with unit prices that are determined to be reasonable, the lack of objective evaluation criteria for determining which firms received smaller contracts and which firms received significantly larger contracts again provides a basis for charges of bias or favoritism.

To be effective in fostering competition to the maximum extent possible, acquisition plans should use public information strategies to identify FEMA procurement points of contacts and proposal evaluation criteria for major products. Therefore, well-connected vendors would not have a significant advantage in contacting FEMA procurement personnel following a disaster and receiving the lion's share of the contract awards. State economic development offices, chambers of commerce, and industry associations could be used by FEMA in developing appropriate public information strategies. Here again, this approach could have helped prevent charges of favoritism and more equitably distributed contract awards as well as address the issues of fair and reasonable pricing and Stafford Act requirements for local preferences.

Price Reasonableness

Limited competition results in limited assurance that the prices the government pays are reasonable. The media has already reported many cases in which procurement personnel authorized contractors to begin work without a definitive statement of work, often on a sole-source basis with no attempt to independently estimate costs. While many

contractors performed their work efficiently and in good faith, there were instances where there were problems. In some cases, the government will have little legal recourse to recoup payments from contractors awarded questionable contracts.

Also, FEMA maintained little or no documentation regarding price reasonableness in many contract files. The FAR requires contracting officers to document the determination of fair and reasonable pricing. It also requires that the company size standard be specified in the solicitation so that offerors can appropriately represent themselves as small or large businesses. Further, according to the FAR, "All factors and significant subfactors that will affect contract award and their relative importance shall be stated clearly in the solicitation."

In many of the files that we reviewed, there were no contract files checklist or record of supervisory review and approval. With the high volume of procurement activity within such a short period of time, documentation providing an explanation of the source selection process and the determinations of cost reasonableness was not prepared for many contracts. While we recognize that Hurricane Katrina was a disaster of major proportions, use of streamlined documentation procedures to meet the FAR requirements would not have appreciably impeded FEMA's contracting efforts to provide expedited assistance to the disaster victims.

Contract Oversight and Monitoring

Effective contract oversight and monitoring is necessary to ensure that the government gets what its contracts call for and that costs are controlled. However, it requires sufficient numbers of adequately trained staff to ensure that this occurs. Inadequate contracting staff and a shortage of Contracting Officer Technical Representatives (COTRs) hampered FEMA's ability to effectively monitor Katrina response contracts.

According to the Center for Strategic Supply Research, contracting personnel industry-wide are responsible for an average of $21.1 million annually. As of March 13, 2005, FEMA awarded $5.3 billion in procurements to support the Gulf Coast recovery efforts. FEMA had approximately 55 contracting personnel that were assisted by temporary deployments of General Services Administration contracting personnel. Based on these data, we estimate that each of the contracting staff was responsible for an average of $163 million on an annualized basis. This $163 million average is more than seven times the industry average. The workload simply overwhelmed the capacity of the contracting staff. Additionally, requirements of various federal procurement regulations, including the FAR, the Small Business Act, and the Stafford Act, further exacerbated the problems faced by the contracting staff.

Once contracts were awarded, lack of trained and experienced staff to oversee the contracts was evident. Contract oversight is essential to ensure that the government receives the goods and services it procured consistent with the terms of the contract. However, there were instances where contractors were delivering products, such as trailers and mobile homes, where the products were not inspected before acceptance, and

the cognizant FEMA Contracting Officer Technical Representative was 50 miles away at a separate receiving station. Additionally, GAO has reported that FEMA's contracts for installing temporary housing in four states had only 17 of the 27 technical monitors that had been determined necessary to oversee contractor performance.

FEMA is aggressively recruiting contracting officers and COTRs to augment its contract staff. In addition, it established a separate contract office to handle procurement activity for the gulf region. These are important first steps to provide additional oversight, controls, and support for recovery operations throughout the gulf coast region. More importantly, it positions FEMA to better meet the procurement demands for future disasters.

TRAVEL TRAILERS/MOBILE HOMES

In response to Hurricane Katrina, there was little evidence of either formal or informal acquisition planning processes in the majority of FEMA procurements awarded for transitional housing, including travel trailers and mobile homes. Many contract files did not contain any source selection information and there was no apparent source selection process for the contract awards. For example, while some large contracts were awarded to firms who were well-established leaders in the industry, other large contracts were awarded to firms with little or no industry experience for the product procured.

In its effort to provide travel trailers to victims quickly, FEMA purchased over 27,000 travel trailers "off the lot" from 300 local firms. In this case, the immediate need for housing likely overshadowed the need for planning, but nonetheless, FEMA risked receiving unusable trailers when it did not include any specifications in the contract.

Additionally, FEMA did not use standard templates for contract specifications for many of the products or services being procured despite the fact that they were procured on a regular basis. For example, we reviewed a number of procurements for off-the-lot purchases of travel trailers and there were no minimum government requirements listed in the contract, only the travel trailer vehicle identification number. Since no minimum government requirements were listed, the contractors did not have any requirement to provide trailers in working order. In other purchases, the only specification requirements listed were, "Must have furniture, AC/Heat and Microwaves (basic amenities only)" and "No toy haulers, 5th wheels or pop ups." While the above requirement is better than no specification, it does not clearly state the government's minimum needs. Therefore, vendors could submit trailers with significantly different levels of amenities, i.e., with or without bathroom, beds, dinettes, refrigeration, electrical outlets, water heaters, ranges, etc., that may or may not meet the government's minimum needs.

FEMA purchased 24,967 manufactured homes at a cost of $862.7 million and 1,755 modular homes at a cost of $52.4 million in response to the need for transitional housing to assist displaced evacuees from Hurricanes Katrina and Rita. Due to the large number of homes purchased and the need to prepare sites before distributing the homes, FEMA

granted a mission assignment to the United States Forest Service to set up eight emergency housing storage sites, including one in Hope, Arkansas and one at Red River Army Depot (RRAD) in Texarkana, Texas. Most importantly, FEMA had no plans for how the homes would be used before they were purchased. Subsequently, there are currently 17,055 mobiles homes and 5,707 travel trailers staged at eight emergency housing sites waiting to be used.

GAO reported that, in November, FEMA's contracts for installing temporary housing in four states had only 17 of the 27 required monitors. Even now, FEMA staff in New Orleans have related to our auditors that there is inadequate monitoring of the TACs because there are too few COTRs, their rotation periods do not overlap so the arriving COTR has not been sufficiently briefed by the departing COTR, and many of the COTRs are borrowed from other agencies and are not familiar with FEMA temporary housing contracts. Some FEMA staff alleges that the TAC contractors are "running the show." We are conducting a comprehensive review of the four TAC contractors and plan to issue a report on their performance later this year.

We also found that FEMA's Housing Area Command (HAC), responsible for coordinating temporary housing throughout the affected area, worked independently of other FEMA field organizations and contributed to problems with contract oversight. The HAC did not communicate its activities and requested contractors to perform additional work without coordinating or receiving approval of the COTR. Consequently, the COTRs were not afforded the opportunity to effectively document and oversee the TACs' work. One of our concerns is the rejected sites for placing travel trailers for evacuees. We are reviewing nine sites that were rejected, for various reasons, after an estimated total of $3.7 million was spent preparing the sites.

DEBRIS REMOVAL

Under the Stafford Act, states have the option of using the Corps of Engineers (COE) to provide debris removal or enter into direct contracts. When using COE, FEMA will pay the full cost of debris removal during the response period, usually the first 72 hours after the disaster declaration, but often extended during a catastrophic event. For example, the response period in Louisiana has been extended to June 30, 2006. FEMA will pay 100 per cent of all debris removal costs performed by the COE through the end of June. After June, if the response date is not extended or state matching requirements waived, the state will be expected to pay a matching share of the costs. If a state decides to contract directly, it will be reimbursed by FEMA under a Public Assistance grant, but must pay a matching share unless waived. In Louisiana, about half of the parishes are using the COE and the rest are contracting for debris removal work to be reimbursed by FEMA.

We are in the process of auditing debris removal grants awarded to the states. In the past, we have waited until most or all the work was completed before starting the audit. The amount of destruction and resulting debris from Hurricanes Katrina, Rita, and Wilma created unprecedented debris removal operations estimated at several billion dollars. As

a result of this massive effort, we initiated audits of a number of debris removal grants with a goal of identifying and preventing problems before they occur. Specifically, we are looking at the reasonableness of debris removal contracts, the types of awards, and the terms and conditions. In the past, we found cases of price gouging, non-arms length transactions, bribery, and false or padded billings. Some of our work resulted in arrests and convictions. Other work identified significant ineligible or questioned costs that required reimbursement to the government.

Effectively monitoring debris removal contracts is especially critical. We are reviewing local governments contracts for debris removal to make sure they have adequate controls for monitoring. Local governments in Alabama have awarded $37 million in debris removal contracts. Thus far, we are finding that local governments are complying with procurement requirements and including adequate monitoring provisions in the contracts. However, there are problems. For example, one local government hired a contractor to monitor the debris removal contractor, but the monitoring contractor was charging a significantly higher pay rate, one equal to an experienced engineer rather than a professional or supervisory staff. Based on past experience, we believe the pay rates for debris monitors should be significantly lower.

We have also identified instances where the lack of competition has created contracting problems. In Louisiana, approximately half the debris removal is being accomplished under contracts with the COE. For the remaining half, parishes are awarding contracts for debris removal. We have performed partial reviews of the contracts in St. Bernard, Tammany, and Washington Parishes. In some cases the parishes had existing contracts that were competitively bid before the hurricane struck. The prices appear to be reasonable and the contracts well monitored. After Hurricane Katrina struck, other contracts were awarded with very limited competition and no price analysis. Some of these prices are excessive in comparison to industry standards. Our reviews are ongoing in Louisiana and Mississippi. We plan to continue our debris removal oversight throughout the response and recovery period.

THE BLUE ROOF PROGRAM

The Blue Roof program provides roof tarps for homes that sustained some, but not major, roof damage. The tarps are a short-term preventative measure to mitigate further home damage until permanent repairs can be made. In most cases, it allows victims to return to their homes shortly after the disaster thereby decreasing the need for temporary housing or shelters.

Traditionally, FEMA tasks the COE to install the blue roofs through mission assignments under a Presidential disaster declaration. FEMA purchases and stockpiles the tarps using its specifications for grade and quality. The COE is responsible for hiring crews for tarp installation.

There are a number of manufacturers that provide the tarps meeting the FEMA specifications. A sufficient inventory of the tarps were readily available after Hurricane Katrina and that prices paid were consistent with other disasters. We plan to continue to monitor the blue tarp purchases during the recovery efforts.

In closing, through our oversight efforts we have learned:

- FEMA scrambled to purchase supplies, commodities, equipment and other resources to support emergency and disaster response efforts from numerous vendors, because requirement planning prior to Katrina was inadequate;

- Call or standby contracts with pre-negotiated prices, quantities, terms and conditions, and specifications could have greatly facilitated post disaster procurement operations;

- In many instances, the government did not pay a reasonable price for its purchases, because competition was limited; and

- The government's contract oversight and monitoring was inadequate, resulting in cost and price variations.

Because of the nature of disaster operations, we understand that acquisition planning has to be sufficiently flexible to address the impact of the disaster on production capabilities and available on-site inventory. However, pre-disaster acquisition planning can balance the capabilities of distributors, wholesalers, retailers and manufacturers, and maximize the use of licensed manufacturers and dealers.

Although expedited contracting is an acceptable practice immediately after a disaster, it is reasonable that the government re-compete contractual requirements once the emergency period is over in order to introduce competition into the process and ensure that the government is getting a fair price. That is sometimes not being done in the post Katrina environment.

In our contracting reviews we have noted problems with inadequate contract files. Often there is little or no information on how price reasonableness was determined, whether specifications were included, and whether there was supervisory review. Specifications were especially poor for travel trailers purchased off the lot and for base camps set up to house evacuees, workers, and volunteers.

The issues raised in this hearing relate to the federal government's ability to make needed purchases in response to a disaster in a timely manner and for a fair price. In essence, the federal government's ability to plan effectively, contract and subsequently monitor disaster contracts. There were many weaknesses in the federal government's pre-disaster planning and contract management efforts. However, we hope that the lessons learned from our findings will help address weaknesses and be better prepared for future disasters.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions.

STATEMENT BY MR. PATRICK FITZGERALD

AUDITOR GENERAL OF THE ARMY

BEFORE THE

SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

ON

"MANAGEMENT AND OVERSIGHT OF FEDERAL DISASTER RECOVERY: DEBRIS REMOVAL, BLUE ROOF PROGRAM, HAUL AND INSTALL CASE STUDIES"

109TH CONGRESS

April 10, 2006
New Orleans, LA

Mr. Chairman and distinguished Members of the Subcommittee, it is my pleasure to be here today and to have the opportunity to discuss with you the oversight work we are doing related to Hurricane Katrina.

As the Army's Auditor General, I am responsible for the worldwide operations of U.S. Army Audit Agency. Army Audit is the Army's internal audit organization, and we provide objective and independent auditing services that help Army leaders make informed decisions, resolve issues, use resources effectively and efficiently, and satisfy statutory and fiduciary responsibilities. The scope of our audit responsibility includes U.S. Army Corps of Engineers and its role in disaster response and recovery.

After Hurricane Katrina, we met with the Office of the Inspector General, DOD; Air Force Audit Agency; Naval Audit Service; and the U.S. Government Accountability Office to design a plan to provide oversight of DOD funds in support of Hurricane Katrina recovery and relief efforts. As part of the plan, we assumed responsibility for oversight of the Corps of Engineers' mission assignments for debris removal and demolition, and repair of the Hurricane Protection System. We are also providing oversight of the costs Army units charged in support of various other mission assignments.

Today I will focus my statement on the debris removal contracts and our audit results to date related to the Corps' acquisition strategy and contract monitoring procedures. We began fieldwork last October and are nearing completion of our initial audits. The scope of our audit covered the five debris contracts and contract solicitations for the pending demolition contracts. We plan to issue a draft report on our debris removal audit in May 2006.

In response to Hurricane Katrina, the Federal Emergency Management Agency provided the Corps of Engineers with a mission assignment for debris

removal in designated areas. The Corps had five contracts for debris removal in Mississippi and Louisiana. The first contract was awarded in November 2002 as an Advanced Contracting Initiative (ACI) contract. Immediately after Hurricane Katrina, Corps officials recognized that the contract didn't have the capacity to handle the widespread destruction and cleanup. Within days, Corps contracting personnel prepared a solicitation to award four Indefinite Delivery Indefinite Quantity (IDIQ) contracts, each with a $500 million limit and an option for an additional $500 million. The Corps awarded four contracts on 15 September 2005. As of 28 March 2006, the Corps had obligated about $1.6 billion against the five debris contracts:

Contract Number	Contractor	Date of Award	Work Location	Amount Obligated (as of 28 MAR 06)
DACW29-03-D-0009	AshBritt	11/29/02	Mississippi, Louisiana	$70,947,464
W912P8-05-D-0025	AshBritt	9/15/05	Mississippi	489,445,571
W912P8-05-D-0022	Phillips & Jordan	9/15/05	Louisiana	408,467,452
W912P8-05-D-0023	Environmental Chemical Corp.	9/15/05	Louisiana	347,975,009
W912P8-05-D-0024	Ceres Environmental Services Inc.	9/15/05	Louisiana	325,279,582
			Total	$1,642,115,078

I will focus my discussion in two areas where we made recommendations to improve debris removal operations: Acquisition Strategy and Contract Monitoring Procedures. The Corps' decision to award four large contracts of $500 million each led to multiple tiers of subcontractors. The prime contractors did little, if any, debris hauling. As a result, they subcontracted from 70 to 99 percent of their work, with most subcontracts going to small or disadvantaged businesses located in hurricane-affected areas. We reviewed cost proposals submitted by the prime contractors that showed markups for overhead and profit from 17 to 47 percent of subcontractor costs (an average of about $5.19 a cubic yard). We were unable to determine subcontractor markups below the first tier of subcontractors. During the audit we recommended that the Corps award future

contracts in smaller amounts. The Corps agreed and scaled back the scope of new contracts for demolition to $150 million or less. The Corps is also considering limiting the number of tiers of subcontractors for future contracts.

Another concern we had with the Corps' acquisition approach was the method it used to establish prices. Although it awarded IDIQ, fixed-price contracts, Corps contracting officials negotiated higher prices for most task orders issued under three of the four contracts. Our analysis of the individual task orders showed that the negotiated prices averaged as much as $4.85 more a cubic yard than what the contractors initially bid, and as much as $4.86 a cubic yard greater than the independent government estimate. Contract files didn't include explanations of how the government estimate was reconciled with the final agreed-to price.

For negotiated contracts, Defense Contract Audit Agency (DCAA) normally would audit the contractor proposals for reasonableness. However, because these contracts were awarded as fixed-price contracts, the contracting officer did not request a DCAA audit. We recommended, and the Corps agreed, that DCAA review each task order. If the agency finds defective pricing, the government can recoup overstated costs from the contractors.

The Corps' process for monitoring contractor performance was adequate to prevent overpayment, but the process was somewhat costly and inefficient. Some of the excessive oversight included keeping government quality assurance representatives onsite with each contractor cleanup crew versus doing spot checks of contractor quality control practices. We also identified some process improvements the Corps can make to reduce its contract monitoring costs—the most significant is automation of the load ticket process. Based on our recommendation, the Corps has taken action to require contractors to submit automated load ticket information.

In conclusion, we have been working closely with the Corps to develop solutions to these issues, and Corps management has been responsive to our recommendations. I appreciate the opportunity to testify before you today and will be glad to respond to your questions.

April 10, 2006

Hold for Release
Expected 11:30 a.m.

Statement
of
Mr. Thomas F. Gimble
Principal Deputy Inspector General
Department of Defense

before the

Subcommittee on Federal Financial Management, Government Information, and International Security
Senate Committee on Homeland Security and Governmental Affairs

on

Management and Oversight of Federal Disaster Recovery: Operation Blue Roof

Mr. Chairman and Members of the Senate Subcommittee on Federal Financial Management, Government Information, and International Security:

Thank you for the opportunity to appear before the subcommittee today to address our ongoing oversight work regarding the U.S. Army Corps of Engineers' Operation Blue Roof Program. We are working in close coordination with other Inspectors General through the President's Council on Integrity and Efficiency (PCIE) Homeland Security Roundtable on Hurricane Katrina to ensure effective use of DoD oversight resources in the relief and recovery efforts. Specifically within DoD, the DoD Office of Inspector General, the Army Audit Agency, the Naval Audit Service, the Air Force Audit Agency, the Defense Contract Audit Agency, the Defense Criminal Investigative Service, and the Army Criminal Investigation Command have employed a cadre of about 150 auditors, investigators, and inspectors who have provided professional oversight of contracts and operations related to Hurricane Katrina relief and recovery efforts. We have deferred other audit work to ensure resources are available for this important effort.

The subcommittee has called this hearing to discuss the preplanning and contract management of federal recovery efforts in the aftermath of Hurricane Katrina. More specifically, the subcommittee has expressed particular interest in the contacting for debris removal, blue roofs, and trailers. The DoD Office of Inspector General has not

performed work regarding the procurement of trailers. Further, the Auditor General of the Army Audit Agency is here today to discuss its ongoing work related to debris removal. My testimony today will describe the DoD Office of Inspector General activities as they relate specifically to the Operation Blue Roof Program.

Operation Blue Roof

The Department of Homeland Security's Federal Emergency Management Agency (FEMA) is responsible for coordinating Federal response to emergencies and disasters. One means of managing disasters is through mission assignments issued under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, its implementing regulations, and the National Response Plan. Mission assignments direct Federal agencies to perform certain tasks in anticipation of, or in response to, the President's declaration of disasters or emergencies.

The Operation Blue Roof Program is a priority mission managed by the U.S. Army Corps of Engineers (Corps) for FEMA. The Operation Blue Roof Program provides a free temporary roof for residential structures, schools, daycares, and all publicly owned facilities. These temporary roofs provide short-term relief until the owner can make permanent repairs.

Requests Related to Operation Blue Roof

We received a request on November 1, 2005, from the House Committee on Homeland Security that asked us to review the Army Corps of Engineers' accountability and oversight of the Operation Blue Roof Program. The request specifically asked that we:

- Obtain and review the request for proposal for the Blue Roof project.
- Obtain and review the responses, detailing the winning bid submissions, from The Shaw Group, LJC Construction, Simon Roofing, and their subcontractors.
- Obtain any documents concerning complaints or negative contractor performance evaluations of prime contractors on the Hurricane Katrina Blue Roof project.
- Determine the rationale by which DoD determined that Operation Blue Roof contracts could not be awarded to small, minority, or locally owned firms as prime contractors.

In addition, we received a request on November 3, 2005, from the Senate Committee on Homeland Security and Governmental Affairs that asked us to review the efficiency of the Corps' management of the emergency services mobilization. Specifically, we were requested to:

- Determine whether the Corps had in place adequate indefinite-delivery, indefinite-quantity (IDIQ) contracts before the hurricane to procure essential assistance, and if not, whether the lack of such contracts resulted from the Corps' failure to plan

and award such contracts or from FEMA's failure to issue mission assignments to the Corps to award such contracts.

- Determine whether FEMA and the Corps should, in the future, employ multiple award IDIQ contracts for essential goods and services in advance of disasters.

Operation Blue Roof Audit

On November 9, 2005, we announced the "Audit of the Army Corps of Engineers' "Operation Blue Roof" Project in Response to Hurricane Katrina," Project No. D2006-D000CG-0081.000, in response to these requests. The objective of the audit is to review the award and administration of Operation Blue Roof contracts for the Hurricane Katrina recovery efforts. The fieldwork for this audit is not complete. We plan to issue a draft report in June 2006.

Contract Award Process

On June 23, 2005, the Corps St. Louis District posted a solicitation for an IDIQ contract with a value not to exceed $10 million for temporary roofing repairs on structures damaged by natural disaster in Louisiana and Mississippi. However, the Government reserved the right to mobilize additional contractors if it was in the Government's best interest and necessary to meet disaster response mission requirements. The solicitation was open to large and small businesses and specified open competition and best value. The solicitation also stated that technical factors, when combined, were significantly more important than cost or price.

On July 8, 2005, the Corps St. Louis District awarded one contract with a value not to exceed $10 million for temporary roofing repairs on structures damaged by natural disaster in Louisiana and Mississippi. After Hurricane Katrina struck the gulf coast on August 29, 2005, the Corps St. Louis District awarded four additional blue roof contracts, each with a value not to exceed $10 million. As the need for temporary roofing repairs continued to rise, the Corps modified the five contracts to increase their capacity and dollar value.

On October 4, 2005, the Corps Vicksburg District awarded to a small disadvantaged construction firm a contract with a value not to exceed $12 million for repair work in Mississippi. On October 18, 2005, the Corps St. Louis District awarded another contract to a small disadvantaged construction firm with a value not to exceed $50 million for repair work in Louisiana.

Scope of Work

We are currently determining whether the Corps properly awarded and administered Operation Blue Roof contracts for Hurricane Katrina. Specifically, we are reviewing all 7 contracts (29 delivery orders) with a total obligated dollar value of $277.5 million for temporary roofing work performed in Louisiana and Mississippi. We have visited or contacted Corps Headquarters, Washington, D.C.; Corps Omaha District, Omaha, Nebraska; Corps St. Louis District, St. Louis, Missouri; Corps Vicksburg District, Vicksburg, Mississippi; Corps Baton Rouge Recovery Field Office, Baton

Rouge, Louisiana; Corps Finance Center, Millington, Tennessee; and Corps Mobile District, Mobile, Alabama.

New Contracts for Operation Blue Roof

The Corps is planning for the award of new Operation Blue Roof contracts prior to the 2006 hurricane season. On November 30, 2005, the Corps Mobile District posted a solicitation for IDIQ contracts for Contingency Contract Initiative Temporary Roof Repairs in 10 states: Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. Responses were due February 2, 2006. The solicitation specified competitive best value. The Corps plans to make multiple contract awards: three unrestricted awards; one Historically Underutilized Business Zone set-aside contract; one Service-Disabled Veteran-Owned Small Business; and two contracts per state to small disadvantaged businesses, with the business being certified in the state in which the contract is awarded. The estimated maximum dollar value of the five contracts awards to other than small, disadvantaged businesses is $100 million per contract. Those five contracts have provisions allowing for an increase in total award value if warranted due to the magnitude of storm devastation experienced over the life of the contract. The estimated maximum dollar value of the awards to small disadvantaged businesses is $25 million per contract. The Corps is currently in the source selection process.

Plans for Continued Audit Coverage

In response to concerns raised by the public and Congress, specifically related to subcontracting and contract pricing for temporary roofs, we plan to initiate an audit in June 2006 on contractors' costs used to establish pricing, the percent of contract cost for overhead, and how many layers of subcontractors were used.

Other Ongoing Oversight by DoD Office of Inspector General

I would like to bring to the attention of the Subcommittee the fact that the DoD Office of Inspector General has 11 additional ongoing audits related to Hurricane Katrina. These audits cover contracts on ice, water, subsistence, and construction capabilities; expanded micro-purchase authority for purchase card transactions; effects on information technology resources in affected areas; accounting and oversight of obligations and expenditures related to DoD Hurricane Katrina efforts; and the use of DoD resources supporting recovery and relief efforts.

In addition to audit coverage, the Defense Criminal Investigative Service (DCIS) has received 21 criminal allegations related to Hurricane Katrina. Of the 21 allegations, eight were determined to be unfounded; one was referred to the Department of Homeland Security Office of Inspector General; six are being examined to determine if a case initiation is warranted; and six resulted in opened cases. The opened cases deal with bribery, kickbacks, and possible product substitution; three of those relate to debris

removal, and one relates to blue roofs. The allegations originated from Government agencies, subcontractors, and private citizens.

Regarding coordination and oversight, DCIS conducted 34 mission or fraud awareness briefings. Currently, DCIS is working joint investigations with the U.S. Army Criminal Investigation Command and the Federal Bureau of Investigation. In addition, DCIS is supporting the following groups:

- The Hurricane Katrina Task Force Command Center, headquartered in Baton Rouge, which consists of senior law enforcement and U.S. Attorney's Office personnel. This group coordinates investigations and collects and analyzes criminal investigative data.
- The joint law enforcement and U.S. Attorneys' Offices working group headquartered in Covington, Louisiana, and the Joint Criminal Investigative Task Force headquartered in Mississippi—both of which are looking into hurricane-related fraud and corruption.

Other Ongoing Oversight

The Defense Contract Audit Agency (DCAA) is supporting both FEMA and the Corps in their Hurricane Katrina recovery efforts.

DCAA's support to FEMA is focused on FEMA's four largest reconstruction contractors: Bechtel, CH2M Hill, Fluor Federal, and Shaw Environmental. The audit

effort has included forward pricing reviews, reviews of costs billed under Government contracts and preaward accounting system surveys, as well as support of Source Selection Evaluation Boards.

DCAA has also provided direct support to the Corps emergency response mission. DCAA provides professional advice on accounting and financial matters to assist in the negotiation, award, administration, repricing, and settlement of contracts. DCAA has been primarily involved in the Corps missions related to installation of temporary roofing (Blue Roof Mission) and debris removal (Debris Mission). This effort involves verifying contractor compliance with the terms and conditions of the contract. DCAA conducts audit steps such as on-site visits, physical observations, and verification of contractor records to ensure compliance with contractor policies and contract terms. For the Blue Roof Mission, DCAA's findings have included lack of initial estimates on Right of Entry forms, claimed quantities in excess of actual physical roof area, incomplete certified payroll records, and safety violations. For the Debris Mission, DCAA's findings have included the need for improved observation tower locations at dump sites, lack of standard procedures for determining the amount of debris hauled to dump sites, lack of controls over the billing process, and safety violations.

These observations and recommendations are recorded and reported to the Corps on a real-time basis. The Corps has taken corrective action on an ongoing basis or is in the process of taking corrective actions with the responsible contractors.

Further, the Army Audit Agency, the Naval Audit Service, and the Air Force Audit Agency have each provided audit oversight. These audit agencies currently have 14 ongoing audit projects that cover the areas of contracting, financial accounting and reporting, contract data reporting, and purchase cards.

This concludes my statement, I will be happy to answer any questions that the Subcommittee may have.

APPENDIX

DEPARTMENT OF DEFENSE HURRICANE KATRINA OVERSIGHT

Issued Audit Reports

Naval Audit Service

Report N2006-0015, Chartered Cruise Ships, February 16, 2006.

Ongoing Audit Projects

DoD Office of Inspector General

Audit of the DoD Contract Support for the Hurricane Katrina Recovery Effort, Project No. D2005-D000CH-0309.000, September 15, 2005.

Audit of the Effects of Hurricane Katrina on DoD Information Technology Resources in Affected Areas, Project No. D2005-D000AS-0310.000, September 15, 2005.

Audit of the Use of DoD Resources Supporting the Hurricane Katrina Disaster, Project No. D2006-D000LA-0009.000, September 19, 2005.

Audit of Accounting and Oversight of Obligations and Expenditures Related to the DoD Hurricane Katrina Reconstruction Effort, Project No. D2006-D000FE-0010.000, September 19, 2005.

Audit of Expanded Micro-Purchase Authority for Purchase Card Transactions Related to Hurricane Katrina, Project No. D2006-D000CK-0019.000, September 23, 2005.

Audit of the International American Products, Worldwide Services, Ice Delivery Contract for the Army Corps of Engineers, Project No. D2006-D000CG-0075.00, November 8, 2005.

Audit of the Army Corps of Engineers' "Operation Blue Roof" Project in Response to Hurricane Katrina, Project No. D2006-D000CG-0081.000, November 9, 2005.

Audit of USACE's "Emergency Water" Contractor, Project No. D2006-D000FE-0091.000, November 17, 2005.

Audit of Costs Incurred Under the CONCAP Contract Task Orders for Hurricane Relief Efforts, Project No. D2006-D000CH-0110.000, January 9, 2006.

Audit of Defense Logistics Agency Subsistence Contracts used for the Hurricane Katrina Recovery Efforts, D2006-D000CG-0121.000, January 23, 2006.

Audit of Disaster Recovery Efforts Related to Hurricane Katrina on Army Information Technology Resources, Project No. D2006-D000AS-0135.000, February 13, 2006.

APPENDIX

Army Audit Agency

Audit of Army Fund Accountability for Hurricane Relief Efforts, Project No. A-2006-FFD-0216.000, October 7, 2005.

Audit of Debris Removal Contracts, Project No. A-2006-FFD-232.000, October 12, 2005.

Audit of Contracts for Hurricane Protection System, Project No. A-2006-FFD-0238.000, October 12, 2005.

Audit of the Contract Data Reporting for Hurricane Operations, Project No. A-2006-FFD-0250.000, December 12, 2005.

Audit of Quality Assurance Service Contracts for Hurricane Operations, Project No. A-2006-FFD-0354.000, December 12, 2005.

Naval Audit Service

Audit of Hurricane Katrina Relief Funds, Project No. N2006-NFA000-0009.000, September 30, 2005.

Audit of Department of the Navy's Use of Hurricane Katrina Relief Funds, Project No. N2006-NFA000-0009.003, September 30, 2005.

Audit of Cash Accountability of Department of Navy Disbursing Officers for Hurricane Katrina Relief Funds, Project No. N2006-NFA000-0009.004, September 30, 2005.

Audit of Government Commercial Purchase Cards Used for Hurricane Katrina Relief Efforts, Project No. N2006-NFA000.0009.002, October 3, 2005.

Audit of Controls and Accountability Over Medical Supplies and Equipment—Hurricane Relief Efforts, Project No. N2006-NFA000-0009.005, October 17, 2005.

Audit of Contractor Support Services in Support of Hurricane Relief Efforts, Project No. N2006-NFA000-0009.006, October 17, 2005.

Air Force Audit Agency

Audit Planning, Hurricane Katrina Relief Efforts, Project No. F2006-FB1000-0124.000, October 5, 2005.

Hurricane Katrina Federal Emergency Management Agency (FEMA) Reimbursements, Project No. F2006-FB1000-0173.000, November 1, 2005.

Hurricane Katrina Supplemental Funds Management, Project No. F2006-FD1000-0210.000, November 21, 2005.

OPENING STATEMENT OF SENATOR DAVID VITTER
SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

HEARING ON KATRINA AND CONTRACTING: BLUE ROOF, DEBRIS REMOVAL, TRAVEL TRAILER CASE STUDIES

Thank you, Chairman Coburn, for holding this hearing. I appreciate your interest in helping us ensure that federal assistance in spent wisely and as intended. And thank you Senator Carper for being here. Also, I want to thank Congressman Jindal and Senator Landrieu for being here.

We have all heard lots of stories about waste, fraud, and abuse in Katrina contracting. I am particularly concerned about waste because we have to fight for every dollar we get to help us recover. We are scraping for funding to rebuild our levees, assistance to restore our infrastructures, and federal help for legitimate needs. Every dollar lost to waste, fraud, or abuse means one less dollar for emergency help or a temporary place to live for a hurricane victim. One of the biggest wastes I have discovered so far is the massive bureaucracy in the way of getting things done. Contracts for recovery work, like the blue roofs, trailers, and debris, have unnecessary tiers of waste. There has to be a better way.

To help trim these costs, I am drafting legislation that will help do away with unnecessary tiers of contracts and subcontracts. I think we need to reform the federal contracting process to eliminate incentives to create extra tiers of contracts that add nothing to getting work done, but instead add layers of administrative costs and slowness in getting work done. I will introduce this legislation after the Senate is back in session, and I look forward to using information from this hearing to further develop that legislation.

Also, I am drafting a bill that would allow more flexibility in the FEMA housing program. There are new products coming to the market – so-called "Katrina Cottages" and other options – to provide needed housing for hurricane victims. We have all read about the slowness and problems with the trailer program, including the thousands of trailers just sitting dormant in Arkansas while people sit in need for a place to stay in Louisiana. I have learned that at least one of the sites being using for trailer placement is costing $52,000 to prep a site for one trailer – that's before the cost of the $60,000 trailer itself. These new options coming out can provide quick housing for the same or even less than the trailers are costing now. But, because these new options can be considered "permanent," they can not be an option under the FEMA regulations or Stafford Act. So, I will be introducing a bill that will allow more options for housing as long as the cost is the same or less than the trailers are costing. If we can provide something better, something that may be safer if another storm comes, something that can be quickly delivered, and that will cost the same or less than the temporary trailers, then we should allow that option.

The federal government has a very important role in helping disaster victims, but we in Congress also have the responsibility to ensure that money is not wasted and that assistance is delivered in the most effective, most responsible way. Again, thank you Chairman Coburn for holding this hearing, and I look forward to the hard questions we will ask and hopefully the good answers the witnesses will give.

Debris landfill put on fast track

But new site may be bound for trouble
Saturday, April 01, 2006
By Gordon Russell
Staff writer

A month after a lawsuit prompted the state Department of Environmental Quality to scale back dumping at a landfill in eastern New Orleans, the agency appears to be fast-tracking the permitting process for a new construction debris landfill a few miles farther to the east, on the edge of the Bayou Sauvage National Wildlife Refuge.

Now, a fight is brewing, involving neighbors, environmental groups and federal wildlife officials who are voicing concern about the proposal.

Owners of the 88-acre site, which abuts both a separate long-shuttered landfill, Recovery 1, and the natural refuge, have long touted it as an ideal site for disposal. But twice in the past 10 years, bids to turn the site into a construction and demolition landfill, or C&D, were rejected by the City Planning Commission.

This time, however, the would-be landfill operator -- Waste Management of Louisiana -- seems to have city, state and perhaps some federal officials and regulators in their corner, according to city documents and interviews. Waste Management has begun preliminary work to prepare the site, but a DEQ spokesman said the agency has made no decision on the new landfill.

The process began in earnest Feb. 14, when Mayor Ray Nagin used emergency powers to suspend the city's zoning ordinance and grant a conditional use permit to Waste Management. The property had been zoned for residential use.

The same day, Waste Management, through an "act of donation," promised to give the city 22 percent of the gross revenue the landfill brings in. City Attorney Penya Moses-Fields said the two acts were unrelated, an assertion repeated in the documents.

State officials seem likewise amenable to the new site. In a recent e-mail to the Army Corps of Engineers, a

Waste Management official asked for permission to begin preparing the site -- which consists of two huge "borrow pits" that were until recently filled with water -- "due to the anticipated approval of the site by LDEQ in the very near future."

Darin Mann, a spokesman for DEQ, said, "We can't comment until a decision is made on whether to utilize the facility. A decision has not been made yet."

If it's approved, the site could eventually house 110-foot-tall piles of debris, 30 feet of which would be below ground level in borrow pits, according to the permit application.

In an attempt to prepare the site, Waste Management removed the water from the pits in recent weeks, something that corps officials say did not require a permit under Section 404 of the Clean Water Act, which governs all waters of the United States. But Pete Serio, chief of the Eastern evaluation section for the corps' regulatory branch, said the company normally would have been required to get a permit before excavating the site.

After receiving a complaint from the Sierra Club, an environmental group, that excavation had begun, Serio said he retroactively gave the company "emergency authorization" but he said the work was relatively insignificant.

"We were unaware they were out there shaping the bottom," Serio said. "When (Sierra Club) called, we contacted Waste Management, and they said they misunderstood and thought they didn't need a permit for that. So we kind of got from them exactly what they're doing, and it is minor in nature. They're just smoothing the bottom out and getting it ready in the event they can use it for a landfill."

Serio said Waste Management will still need a 404 permit before debris can be placed in the landfill.

New site's problems

When DEQ allowed Old Gentilly to begin accepting construction debris in September, environmentalists voiced several major concerns, some of which don't apply to the proposed Chef Menteur site.

For example, one major worry last year was that the Gentilly landfill sits atop an old, closed dump that took all manner of waste when environmental rules were minimal. Environmentalists said the weight of the added waste could squeeze out some of the toxic sludge underneath, an alarm sounded as well in an independent study commissioned by the Federal Emergency Management Agency. Federal officials then moved to dramatically scale back the government's use of the site.

By comparison, the proposed Chef landfill has never been used as a dumping ground, meaning such a squeeze-effect is less likely.

But other concerns persist. Officials and environmentalists say the state has expanded the definition of construction and demolition debris in the wake of Katrina, allowing for C & D to include mattresses, carpeting, furniture, treated lumber, painted wood and even "asbestos-containing materials," among other things.

In the case of both landfills, environmentalists wonder whether putting such items so close to wetlands makes sense.

The proposed Chef landfill is a stone's throw from Bayou Sauvage, the largest urban national wildlife refuge in the nation. The two properties are separated by just a few hundred feet, a space that includes the Maxent Canal and Recovery Road. Some observers think it would be foolish to think that the refuge wouldn't be affected.

"We do have some concerns, mainly because we don't know what's going in there, so we don't know what types of materials might leach out of there," said James Harris, a biologist with the U.S. Fish and Wildlife Service stationed at the refuge. "Any leachate or any runoff would go into the Maxent Canal, and then that water is pumped across the levee at Pump Station 15, and into the marshes surrounding Lake Borgne, part of which is in the refuge."

The Fish and Wildlife Service does not have any specific regulatory authority over permitting of landfills, but it can review applications and offer comments. Agency officials last fall opposed a plan to reopen the long-closed Recovery 1 landfill, which is adjacent to the one proposed by Waste Management, as a C & D landfill. Partly as a result of the agency's concerns, Recovery 1 was allowed to accept only relatively benign vegetative matter.

"We definitely would be concerned about placing any kind of materials in that landfill that are potentially contaminated, like lead paint, asbestos shingles, and so forth," said Russell Watson, supervisor of the agency's Louisiana field office, who wrote the letter opposing Recovery 1. "The age of some of the buildings (destroyed by Katrina) puts them far enough back those may be contaminants of some concern in an active coastal ecosystem like this."

Watson added: "The rules get relaxed a little bit after a disaster by necessity, but we all try to be pretty careful. FEMA has worked pretty hard with us to make sure we don't have this stuff going to places that aren't appropriate."

Vietnamese concerns

The proposed landfill is also close to a largely Vietnamese community in far eastern New Orleans. Though hard-hit by the storm, many of residents there have pledged they'll rebuild. Activity in the neighborhood has increased and Sunday Masses are packed at Mary Queen of Vietnam Catholic Church.

There has been little or no chance for community input on the plan, in large part because of Nagin's use of executive authority to grant a conditional use. Normally, such a change would have gotten public hearings first by the Planning Commission, then by the City Council.

"Of course we have a lot of concerns about it," said the Rev. Vien Nguyen, pastor at Mary Queen. "We had heard it was only for construction debris, but since then we have heard that the definition of construction debris has changed to include many other things. Also, it's draining into the Maxent Canal, which is connected to our community. That's where a lot of people in my community use the water in their gardens."

Nguyen also said there's a concern in the community about what might happen to the waste in the event of another flood.

The community's concerns go beyond environmental ones, he said. Leaders in the area have been crafting a plan to create what he said would be the nation's first "Viet Town," Nguyen said, and "we're concerned that the area will be tied in with a landfill."

Nguyen said there will be a public meeting to discuss the proposal at his church Monday at 10 a.m. Among others, he expects Chuck Carr Brown, the assistant secretary of DEQ, and City Councilwoman Cynthia Willard-Lewis, who represents the area, to attend.

Last month, Willard-Lewis said she had no objection to Nagin's use of executive authority to grant the new zoning.

"If you are going to pick up the debris, you have to have a place to put it," she said at the time. "We cannot expect our citizens to return if they cannot walk down their own streets or in their own yards."

But Nguyen said Willard-Lewis has indicated to him that she opposes the landfill.

"She said she felt her hands were tied because of the executive order," he said. "I believe if this had gone through the City Council rezoning process, she would not be in favor, because we are not in favor."

Willard-Lewis could not be reached for comment.

Moses-Fields, Nagin's city attorney, noted that Nagin's order required Waste Management to file a conditional use application that will require the company to hold "the appropriate neighborhood meetings."

Moses-Fields also said the city was on solid legal ground in accepting the "donation" of 22 percent of the site's gross revenue on the same day the mayor granted a zoning change, a move some lawyers privately said could be tested in court.

In any event, from the financially crippled city's perspective, the deal is certainly much better than the one former Mayor Marc Morial inked on its behalf at Old Gentilly, a site the city actually owns. Despite its ownership there -- and thus its potential legal exposure -- the city gets only 3 percent of the receipts, with a private company getting the rest.

Long-term costs

Robert Wiygul and Joel Waltzer, attorneys for the Louisiana Environmental Action Network in the group's suit over the Gentilly landfill, said they're mystified by what they view as a rush to repeat some of the same mistakes that were made with Gentilly.

Part of their lawsuit against the Gentilly site was an argument that DEQ hadn't done its due diligence; under state law, the agency must seek public comment and consider all possible sites before issuing permits to new landfills.

In settling that suit, DEQ agreed to seek more public input, along with limiting the amount of dumping during the public-comment period. Issuing a permit for the new site would invite another legal battle, the two said.

"Any time they're going to exclude the public from participating in these kinds of issues, they're going to draw a challenge," Waltzer said. "We have systemic concerns about cutting out the public and the City Council from the zoning process."

But both said they were more puzzled by the rush to open new landfills, given the ample available capacity of already permitted sites in the region. Brown of the DEQ has said that the state believes the arduous job of removing debris will be expedited by having more options closer to where the debris is; the nearest permitted landfills to eastern New Orleans, apart from Gentilly, are Avondale and Slidell.

Still, expedience shouldn't win out over good sense, Wiygul and Waltzer said. They fear the cost of cleaning up any mess that results from the landfills in the future will far outpace the money saved by dumping closer to home.

"I'm not going to take a quarter from you if I'm going to owe you a dollar next week," Wiygul said. "It's the same problem as with Old Gentilly. They're looking at the next week and not the next 10 years."

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Gordon Russell can be reached at grussell@timespicayune.com or (504) 826-3347.

Landfill's reopening is raising new stink
Gentilly site has environmental problems, say senators, others

November 21, 2005 09:58 AM

By Gordon Russell, New Orleans Times-Picayune

Since its reopening six weeks ago after a hiatus of nearly two decades, the Old Gentilly Landfill in eastern New Orleans has quickly become one of the area's busiest landfills, with as much as 100,000 cubic yards of debris arriving on some days.

It has been a surprising resurgence for a landfill that sits atop an old city waste site built in the years before environmental regulation and one that still does not meet some basic state requirements.

Reopened in the aftermath of Hurricane Katrina, Old Gentilly is back on line despite the concerns of two U.S. senators -- David Vitter, R-La., and James Inhofe, R-Okla., chairman of the Senate's top environmental committee -- who said they fear that reopening landfills that fall short of modern standards could create an ecological nightmare. They also wondered why Old Gentilly would be reopened given the relative abundance of other landfills in the New Orleans area. Those landfills meet tougher environmental regulations, and most charge lower fees than Old Gentilly.

Environmental groups have echoed the senators' concerns, saying they fear runoff from the landfill will pollute nearby waterways and wetlands, and that the weight of the massive mountain of debris growing there will squeeze out toxins from the old, unlined household garbage underneath.

The state's top environmental regulators have offered numerous, sometimes conflicting explanations for allowing Old Gentilly to reopen. On the one hand, they say, no rules were bent. On the other, they say some rules were temporarily relaxed, acknowledging that retaining walls around Old Gentilly are incomplete and that financial guarantees required for its future closure are still being worked out.

Regulators deny that the landfill -- the only one working in the city limits -- was opened for expediency's sake. But at the same time, they also have said Old Gentilly is the best option because other landfills are too far away, even though a survey of local waste sites shows the differences in distance are not significant.

Regardless, regulators say there's nothing to fear from Old Gentilly because it is accepting only relatively benign waste designated as construction and demolition, or C&D. In fact, Chuck Brown, assistant secretary of the state Department of Environmental Quality, who signed off on the landfill's reopening, took the unusual step of holding a news conference on behalf of the landfill. Standing at Old Gentilly, Brown said, "We're quite fortunate to have it."

Brown is backed by a recent assessment by the U.S. Environmental Protection Agency, which essentially gave the site an acceptable bill of health.

Still, environmentalists and others familiar with landfills are uneasy, noting troubling parallels between Old Gentilly's reopening and the mass dumping of storm debris in 1965, after Hurricane Betsy, at the previously closed Agriculture Street Landfill. That area was later named a Superfund site, a federal designation that requires a massive cleanup.

If a similar situation were to recur with Old Gentilly, the city could be on the hook for millions of dollars in cleanup costs.

"My big question is: Why use a facility that has all these variables, that has a big question mark on it?" said Nannette Jolivette, a lawyer who served as city sanitation director from 1994 to 1996. "We've spent far too many of our tax dollars to defend the bad environmental decisions of the past. It seems people are almost doomed to repeat those mistakes. We've been down this road before."

Rules suspended

Though it sits amid a sea of illegal dumping grounds in far eastern New Orleans, at the edge of a city where trash assaults the nostrils at every turn, Old Gentilly still has the power to shock the senses.

Heavily loaded trucks, one after another, rumble through the dusty entrance, headed toward a growing mountain of debris that stands atop tons of foul waste piled up in the decades before 1986, when the site was closed. In the foreground is a cypress swamp where ducks, cormorants and teal hunt for food, ignoring the cacophony behind them.

The landfill dates to 1964, when the area near Old Gentilly Road and Almonaster Avenue was nearly unspoiled wetlands. It was in full use until 1982, when the state Department of Natural Resources ordered it closed. Though efforts to shutter it began in earnest the following year, the closure never was fully completed.

In the 1990s, city voters passed a bond issue to help pay for the cost of covering the landfill with a layer of clay, with the job going to Durr Heavy Construction, a partner in the joint venture that now runs the landfill. But the

money was insufficient to complete the job.

Mayor Marc Morial's administration, in its final months, advanced a new goal: to reopen the site as a C&D landfill. The idea was to generate some revenue for the city, which would help pay for capping the remaining sections. It would also give the city a place to dump its own demolition debris -- at the time, the debris of blighted houses -- for free.

Morial awarded a potentially lucrative contract to AMID Metro Partnership LLC, a joint venture between two businessmen with a long history of working relationships with city agencies. The venture would secure the permits if possible and then run the site, keeping 97 percent of the money and giving the rest to the city, which owns it.

AMID's principal, Stephen Stumpf, also is the chief executive of Durr, a leading beneficiary of local programs for disadvantaged business enterprises. Though Stumpf is a white man, the company has qualified for the programs because his wife, Donna, owns a majority of stock in the firm, although regulators have questioned whether Donna Stumpf actually controls the company. Stephen Stumpf did not return a call seeking comment.

Metro Disposal, whose principal is Jimmie Woods, has long held part of the city's residential trash pickup contract reserved for minority firms. The firm's records were subpoenaed by federal prosecutors last year in connection with a wide-ranging probe into contracts let by the Morial administration. Woods has not been charged with any wrongdoing. He did not return a call seeking comment.

The Nagin administration continued the effort to reopen the old site. Last December, DEQ's Brown issued the city a permit, but one that came with several conditions that had to be satisfied before the landfill could begin accepting waste.

In an interview, Brown said the landfill had met all those requirements and that the storm played no role in his Sept. 29 decision to issue an order authorizing the landfill to begin operating.

"No conditions were waived," he said. "Had there not been this natural disaster, it would still be a permitted landfill. It's required to meet the same standards every facility of its type is required to meet."

But critics say otherwise, and Brown conceded that certain regulations have been at least temporarily suspended because of the disaster.

For instance, when asked whether the landfill is surrounded by the retaining berms required of all C&D sites to keep polluted stormwater from leaving the property, he said Old Gentilly has berms "on three sides."

The final containing wall is about to be built, he said.

The EPA report differs a bit, saying berms are in place on the north and east but not the south and west sides. It, too, says walls will soon be built. Regulations dictate that berms be in place on all sides before such facilities can accept waste.

Bonding relaxed

State laws also require landfills to provide "financial assurances": insurance policies, bonds or other security to ensure that money will be available for possible remediation or closure. To satisfy that, Brown's order said that "all income derived from the disposal of materials into the landfill" will be put into a trust fund to ultimately accomplish closing Old Gentilly.

Regulators typically require that financial assurances be made upfront.

Brown said the trust fund hasn't been created yet, though the landfill has been operating for six weeks. For now, he said, the city -- with its coffers nearly bare in the wake of the storm -- has provided the necessary guarantees.

"We're still working it out," he said. "At this point, we're relying on the permit as financial assurance, but we're

going to change the method to a trust fund. That will be done shortly. And it will be very transparent. We're just working out the details."

Brown acknowledged the storm was a factor in the decision to relax those conditions. "The enormity of the situation has caused us to deal with some issues in 'real time,' " he said.

The Sept. 29 order itself recognizes Katrina as a factor. It cites "the extenuating circumstances and the need for immediate available disposal for construction/demolition debris and woodwaste generated in the Greater New Orleans area by the hurricane" as reasons for opening the landfill.

Need disputed

There is a belief, apparently widely held, that there isn't enough space in local landfills to handle Katrina's debris. During Mayor Ray Nagin's recent appearance before the Senate Environment and Public Works Committee, where he was questioned about the reopening of Old Gentilly, he testified that "every other landfill in the area, it is my understanding, is being fully utilitized."

Inhofe, the chairman, said he believed there were other, "more modern" sites available. He and other committee members expressed concern that the placing of debris on ancient landfills such as Old Gentilly could result in the "creation of new Superfund sites."

Nagin responded: "Well, we'd like to know where (the other landfills) are."

Inhofe and Vitter wrote a letter Sept. 26 to the EPA requesting a list of all landfills in the New Orleans region with available capacity and a "plan to ensure that such capacity will be utilized" before any old sites are reopened.

Three days after the letter was mailed, the Old Gentilly Landfill was in business. An EPA spokesman said the DEQ has full jurisdiction over the matter.

Despite Nagin's testimony and Brown's remarks about the need for new sites, it appears that other local landfills -- built in more suitable sites and according to more modern guidelines -- could easily handle the volume of debris caused by the storm.

And while the sites are farther away, the differences are not great. Moreover, most charge less for tipping fees -- a cost that is picked up by the federal government -- than does Old Gentilly.

For instance, River Birch's U.S. 90 landfill in Avondale is just four miles farther from central New Orleans than the Old Gentilly site. Its owners charge $2.50 per cubic yard versus $3.50 at Old Gentilly. The Industrial Pipe Landfill in Belle Chasse also charges $2.50 and is just eight miles farther.

A bit more distant are the KV Landfill in Killona, which charges $2.50 a cubic yard, and the Slidell Landfill, which charges $5. Those four landfills could take in the estimated 14 million cubic yards of debris created by Katrina and have plenty of room to spare. All meet current landfill guidelines.

The alternative landfills are much closer than DEQ Secretary Mike McDaniel, Brown's boss, suggested in a recent letter to The Washington Post.

"If the Old Gentilly Landfill were not in operation, the nearest landfill that would be allowed to take construction and demolition waste would be nearly 30 miles away," he wrote. "To move many millions of tons of debris through heavy traffic areas within New Orleans to be processed at a facility nearly 30 miles away would be inefficient and environmentally unsound. . . . Hundreds of trucks would have to travel farther, consume more fuel, create more emissions, and wait several hours before their load could be processed, then turn around and drive the 30 miles back to pick up another load."

DEQ spokesman Darin Mann said McDaniel was speaking about how far other landfills are from Old Gentilly, not estimating distances from where the debris is being collected.

Brown denies environmental regulations are being relaxed in the name of expediency but says speed and convenience can't be overlooked as factors.

"It's all about efficiency, not capacity," he said. "The more facilities we have processing waste, the sooner the cleanup can be completed."

More to come?

In keeping with that line of thinking, the DEQ is considering allowing several other old landfills to reopen, including the Crescent Acres site in St. Bernard Parish and the old Recovery 1 Landfill in eastern New Orleans.

Environmentalists and even some regulators see that as a dangerous idea. In a recent letter to the Army Corps of Engineers, the U.S. Fish and Wildlife Service expressed a series of concerns about the possible reopening of Recovery 1, which is next to the Bayou Sauvage Urban National Wildlife Refuge, one of the largest bird rookeries on the Gulf Coast.

"We are . . . very concerned about the possible future use of that facility for the disposal of demolition/construction debris for several reasons," the letter states in part, noting that Recovery 1 -- like the Old Gentilly Landfill -- is not equipped with a protective liner.

"Given the scope and nature of the flooding events and the age of many of the buildings in question, we believe that the delivery of materials containing numerous environmental contaminants such as lead-based paint, asbestos, creosote, arsenic-based wood-treatment chemicals, various petroleum products, and a variety of household pesticides and cleaning chemicals would be unavoidable," the letter says.

"Placement of such materials in an un-lined landfill, particularly within coastal wetlands, would likely result in leaching and resultant contamination of ground water, surface water and adjacent wetland habitats. We believe that disposal of demolition/construction debris must be conducted based on a thorough and rigorous analysis of all available landfills to avoid the potential for creating a new Superfund site, such as the Agriculture Street Landfill."

Though the Fish and Wildlife Service's letter was aimed at Recovery 1, other observers say the concerns apply to Old Gentilly. The city and state are ignoring such warnings at their peril, critics say.

"To do this when there's so many other options to me is shortsighted," Jolivette said. "It's a no-brainer. It's deja vu. We've made this mistake before."

Troubled area

Forty years ago, in the aftermath of Hurricane Betsy, the shuttered Agriculture Street Landfill was brought back to life. Debris was hauled there, burned and eventually covered, with houses and schools ultimately built atop and near the site.

It later was named a Superfund site, with residents complaining of various health problems. The site has exacted a financial cost as well as a human one. The city has spent decades in litigation, running up legal bills in the millions of dollars in defending itself.

Though there are parallels between Old Gentilly and Agriculture Street, there are clear differences too. For one, the steps the operators of Old Gentilly are being required to take are far more stringent than the ones imposed in 1965.

Also, the area around Old Gentilly is essentially unpopulated, and one could argue that the area already is an environmental hazard given the proliferation of illegal dumps nearby.

That reality is noted in the EPA report, which essentially offers an argument that Old Gentilly can't be blamed for all the toxins in the area because of the number of illegal dumps. It says the area includes "other landfills, dumps, automotive junk yards and polluted storm water and industrial discharge sewers," and concludes: "Contaminants

in ground water cannot be traced solely to the Old Gentilly Landfill."

The EPA report acknowledges that its own tests found some problems at the site on at least one occasion. A series of soil samples in 1997 found levels of arsenic, vanadium, aluminum and magnesium that "met observed contamination criteria."

Unacceptable thresholds of arsenic and aluminum also were found in groundwater samples at the time. But the recent EPA report noted that the 1997 tests "did not consider potential sources of groundwater contamination from other commercial and industrial facilities in the vicinity of the site."

Even if the area is already polluted and sparsely populated, critics of the newly opened landfill say it's a poor place for a landfill because of its location next to wetlands and waterways.

"It's right in the middle of a classic swamp," said Robert Wiygul, who has sued the DEQ on behalf of the Louisiana Environmental Action Network in hopes of forcing it to close.

Moreover, the bottom of the old municipal waste site underneath the new landfill is unlined, and the weight of millions of tons of new debris may force toxic runoff, called leachate, out into those waters, Wiygul and others say.

Brown, again, disagrees.

"That is not a concern," he said. "We've done soil samples, and they've all indicated that the waste in place there (underneath the new landfill) has totally decomposed. There's no danger of leachate. We did water sampling where we drilled through the cap, and we didn't find anything. At this point, we feel any risk from the facility is at best minimal."

Brown is backed by the EPA assessment, which says the old waste "is unlikely to expel fluids, particularly leachate in such quantities as to flow some distance from the landfill. . . . The weight loading of this landfill with Katrina waste and potential squeezing of leachate that would contaminate ground water or surface water is of limited concern."

Critics say there's nothing stopping rainwater from running off-site from the new material, which may not be quite as benign as traditional construction and demolition debris. An emergency order issued by the DEQ expanded the definition of construction debris to include mattresses, carpet, furniture, treated lumber and other items, meaning the permitted waste could include items such as furniture covered in lead paint.

Allowing the site to open without retaining berms "violates three laws," said Oliver Houck, professor of environmental law at Tulane Law School. "The berm ought to come first, or the C&D is just getting dumped in the marsh."

Houck said he rejects the claim that regulators will be able to limit the material being dumped to even those types of construction debris, particularly given the volume at which it is arriving.

"C&D in this town tends to carry everything from batteries to asbestos shingles," Houck said. "It's not the hauler's fault they're in there. But there are many facilities available for that kind of stuff. This one is in a wetland, so it's the worst kind of stuff going into the worst kind of environment. Maybe it's all C&D. Maybe the moon is made of green cheese, too."

Revenue producer

Though Houck questions the ability of officials to effectively screen trash coming into Old Gentilly, Brown disagrees.

"There are no less than four pairs of eyes that see every load," he said. "And there are monitors in the back that watch the loads as they're dumped. We've made every effort to segregate the waste streams. White goods and hazardous materials, they're being separated out. I feel there's a yeoman's effort being made to make sure commingling doesn't exist."

The EPA report also concluded that efforts to segregate and monitor the trash coming into the landfill were adequate.

The results of the dumping -- which could total millions of cubic yards and create a mountain as high as 130 feet under the permit -- may not be known for many years.

But Jolivette and others worry the city is putting itself in a precarious position for a relatively small return.

The city's 3 percent cut of the revenue from the landfill could bring in a little more than $2 million in the first year of operation, given current volumes. The operators, meanwhile, stand to gross about $75 million if the dump continues to hum along.

"You've got to look long-term at what the costs will be to the environment and the area," she said. "I know we're in a state of emergency, but you cannot let the risks far outweigh the benefit."

Statement for the Record
Congressman Bobby Jindal
Senate Subcommittee on Financial Management,
Government Information and International Security
April 10, 2006

Thank you Mr. Chairman and Members of the Subcommittee for the opportunity to participate in this hearing. Fact-finding discussions on pre-disaster planning and contract management are important steps in helping ensure taxpayer dollars are spent wisely and efficiently. Both Congress and the federal agencies involved in disaster planning and response needs to improve the government's ability to make necessary acquisitions in response to a disaster in a timely manner at a fair market price.

I have spoken to people across Louisiana and one thing always remains the same: federal relief efforts are plagued by waste and abuse, which is preventing the money Congress has allocated from getting to those who need it most. Following the visits of three committees I am a member of in the House of Representatives, I heard story after story about money being held up or siphoned away before it could be put to good use. But complaining about a problem never solved anything. That is why on March 27, 2006, I sent the Department of Homeland Security my own suggestions for how they can address the growing list of waste that continues to hamper the recovery of the Gulf Coast. These suggestions include:

- Providing greater transparency of contracting, while limiting the multiple layers of subcontracting, so the federal government and the American people can better see how their money is being spent and how much of it is reaching the intended target;
- Allowing greater flexibility of relief funding, such as allowing disaster victims to use money that would have been directed towards their temporary housing to more quickly repair and return to their permanent home;
- Taking advantage of private sector resources rather than trying to create a new government bureaucracy to provide support;
- Allocating strategic goods and services or re-supply operations during a catastrophic disaster when shortfalls occur in State and local communities; and
- Minimizing emergency response and procurement personnel turnover. The Department of Homeland Security needs to reestablish expertise and experience with respect to emergency management. The drain of long-term professional staff along with their institutional knowledge and expertise created unsatisfactory response in the dace of a disaster of the magnitude of Hurricanes Katrina and Rita.

As a Representative of thousands of Louisianans who had their lives uprooted from the hurricanes and a member of the House Committee on Homeland Security, I believe it is crucial for FEMA and U.S. Army Corps of Engineers to manage taxpayer dollars in a more efficient, effective, and accountable manner. I look forward to your testimony and answers to questions. Thank you for your participation in this hearing and your recommendations to better prepare for future disasters.

BOBBY JINDAL
1ST DISTRICT, LOUISIANA

COMMITTEE ON
EDUCATION AND THE WORKFORCE
SUBCOMMITTEES ON
EMPLOYER-EMPLOYEE RELATIONS
EDUCATION REFORM

109TH CONGRESS:
FRESHMAN CLASS PRESIDENT

ASSISTANT MAJORITY WHIP

Congress of the United States
House of Representatives
Washington, DC 20515–1801

October 11, 2005

COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEES ON
ECONOMIC SECURITY, INFRASTRUCTURE PROTECTION, AND CYBERSECURITY
INTELLIGENCE, INFORMATION SHARING, AND TERRORISM RISK ASSESSMENT
PREVENTION OF NUCLEAR AND BIOLOGICAL ATTACK

COMMITTEE ON RESOURCES
SUBCOMMITTEES ON
ENERGY AND MINERAL RESOURCES
FISHERIES AND OCEANS

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Chertoff:

Hurricane Katrina increased the nation's attention on federal contracting practices, including emergency contracting issues and noncompetitive awards. To date, $1.5 billion was awarded to more than 140 companies in support of Hurricane Katrina recovery and reconstruction efforts. According to a FEMA report updated on October 3, only two Louisiana based firms received contracts, which is only 1 percent of total contracts awarded.

At a time when disaster-affected areas are in desperate need of economic incentives to produce job growth, this federal action is counterproductive by sending the wrong message to people trying to rebuild.

Section 307 of the Stafford Act requires local firms be given, to the extent feasible and practicable, a preference for contracts involving debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency activities. The Stafford Act recognizes the positive impact local and regional participation has on community efforts to rebuild the economy. I hope you will strictly enforce the local participation provisions of the Stafford Act, both in awarding prime contracts and in reviewing subcontracting plans submitted by the prime contractor applicants.

Prior to the disaster, small construction companies in Alabama, Mississippi, and Louisiana produced nearly $500 million in federal contracts a year. Total small business contracts in the Gulf Coast region exceeded $3 billion a year. With the cost of hurricane relief and rebuilding estimated at more than $100 billion, small businesses located in the disaster area that employ individuals in the affected areas should receive their fair share of federal contracting and subcontracting dollars.

WASHINGTON OFFICE:
205 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3015
FAX: (202) 226-0386

NORTHSHORE:
2145 KOOP DRIVE, SUITE 1-E
MANDEVILLE, LA 70471
(985) 893-3064
FAX: (985) 893-9707

SOUTHSHORE:
3525 NORTH CAUSEWAY BOULEVARD
SUITE 1020
METAIRIE, LA 70002
(504) 837-1259
FAX: (504) 837-4239

TANGIPAHOA PARISH OFFICE:
300 EAST THOMAS STREET
HAMMOND, LA 70401
(985) 340-2185
FAX: (985) 340-3047

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In closing, I request you to report back to Congress with respect to the Department's compliance with Section 307 of the Stafford Act, provide a regularly updated inventory of contractors and subcontractors involved in the recovery effort related to Hurricane Katrina, and substantiate the decision-making criteria for all contracts awarded to firms outside the disaster affected areas.

Thank you for your attention to this matter.

Sincerely,

Bobby Jindal
U.S. Congressman

BOBBY JINDAL
1ST DISTRICT, LOUISIANA

COMMITTEE ON
EDUCATION AND THE WORKFORCE
SUBCOMMITTEES ON
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EDUCATION REFORM

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COMMITTEE ON RESOURCES
SUBCOMMITTEES ON
ENERGY AND MINERAL RESOURCES
FISHERIES AND OCEANS

March 27, 2006

The Honorable Michael Chertoff
Secretary of Homeland Security
U.S. Department of Homeland Security
Mail Stop 3000
Washington, D.C. 20528

Dear Secretary Chertoff:

In the aftermath of Hurricanes Katrina and Rita, the private sector fulfilled a crucial role and proved to be an important partner with the federal government in responding to twin catastrophic disasters in the Gulf. The federal government's need to effect the rapid delivery of goods and services to a devastated region without squandering resources provided by American taxpayers is an ongoing challenge. The unpredictability of natural disasters is not an excuse for poor spending practices. The government's response to the hurricanes suffered from poor communication, planning and oversight which led to significant waste and inefficiency in the distribution of resources. I have included below specific examples of the Federal Emergency Management Agency's (FEMA) spending deficiencies.

First, FEMA awarded a contract for a tarping program known as "Operation Blue Roof" at a $175 per square cost to taxpayers for each tarp project. By contrast, local contractors, e.g. Ace Roofing, a local roofing company in southern Louisiana, claimed they could have permanently replaced roofs with asphalt-shingles at the same price.

Second, virtually nonexistent communication with local officials led to serious misjudgments in the need for temporary housing. FEMA spent $3 million on 4,000 base camp beds that were never used and $10 million to renovate and furnish 240 rooms in Alabama that housed only six evacuees before it was closed.

Third, bureaucratic inflexibility and a lack of coordination for large temporary housing contracts with another federal agency, the Department of Housing and Urban Development, cost taxpayers $59,800 for each trailer or about $76,800 for each mobile home for only eighteen months of temporary housing. Of the manufactured homes purchased, approximately 10,777 never reached Louisiana and are still being stored in Arkansas.

WASHINGTON OFFICE:
1205 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3015
FAX: (202) 226-0386

NORTHSHORE:
2145 KOOP DRIVE, SUITE 1-E
MANDEVILLE, LA 70471
(985) 893-9064
FAX: (985) 893-9707

SOUTHSHORE:
3525 NORTH CAUSEWAY BOULEVARD
SUITE 1020
METAIRIE, LA 70002
(504) 837-1259
FAX: (504) 837-4239

TANGIPAHOA PARISH OFFICE:
300 EAST THOMAS STREET
HAMMOND, LA 70401
(985) 340-2185
FAX: (985) 340-3047

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As a Representative of thousands of Louisianans who had their lives uprooted from the hurricanes and a member of the House Committee on Homeland Security, I would appreciate your attention and timely response to my recommendations to minimize government waste included below.

The federal government exhibited inadequate planning and preparation of goods and services necessary to respond to a natural disaster of the magnitude of Hurricane Katrina. While contracts for some items were in place prior to the hurricane, FEMA did not sufficiently anticipate needs for temporary housing nor did they properly utilize federal facilities such as military bases. FEMA could have spent $15,000 less per unit on 400 to 750 square foot cottages, a permanent housing solution compared to the roughly $75,000 per unit cost to deliver twenty-three to twenty-eight foot trailers. Prices negotiated with federal contractors were inflated and federal agencies did not have ample time or information to ensure practical and efficient spending decisions. In many instances, contracts with local suppliers would have been more economical and beneficial to the local communities.

The Department of Homeland Security should implement the following reforms in response to future disasters:

- *Spend no more than 25% (at the most) above national fair market value after the initial emergency period on purchases related to rebuilding and disaster assistance. While it is understandable that contractors may need additional resources to mobilize relief efforts in the immediate aftermath of a storm or terrorist attack, there is no excuse for inflated prices to continue to be paid for several months. Current spending is often priced at least twice the rates readily available in the marketplace.*
- *Require greater financial transparency among principal companies entering in direct contract with the government prior to the award of federal contracts.*
- *Limit the number of layers of subcontractors to reduce overhead costs. In addition, FEMA should report on subcontractor fees for service.*
- *Allow flexibility in disaster assistance that would save taxpayer money. For example, residents should be given the option of using FEMA assistance that is spent on their behalf to implement repairs to existing structures as opposed to allocating funds to temporary housing. This could be achieved by revising regulations to allow for reimbursements for repairs to existing housing units. Residents would often spend only a fraction of what FEMA is otherwise spending and would benefit from a more permanent solution.*

In addition, the federal government did not communicate responsibly across agencies and jurisdictions effectively. Allocating roles and jurisdictions clearly and maintaining good communication between agencies to ensure proper execution of contracts is crucial. The federal government's miscommunications led to poor spending decisions.

The Department of Homeland Security should:

- *Expand current plans to develop a modern, flexible, and transparent system by identifying private sector resources in anticipation of catastrophic disasters that can be leveraged to support federal disaster assistance operations.*
- *Allocate strategic goods and services or re-supply operations during a catastrophic disaster when shortfalls occur in local and State resources.*

Finally, FEMA has been deficient in providing a sufficient number of personnel to provide for effective oversight of contractors. FEMA's contracts for installing temporary housing in four states had only seventeen of the twenty-seven technical monitors that were determined to be necessary to oversee contractor performance. More significantly, rapid turnover of FEMA personnel has caused a lack of continuity and has led to contradictory guidance to local elected officials causing unnecessary delays and wasted efforts. Ensuring that contracted goods and services are delivered in a timely and cost effective manner is contingent on the continuous presence of FEMA oversight personnel.

The Department of Homeland Security should:

- *Hire additional trained long-term professional staff. FEMA has fifty-five acquisition positions on staff. Several procurement officials think there should be a minimum of 172. After Katrina, only thirty-six of the fifty-five slots were actually occupied.*
- *Minimize personnel turnover. FEMA needs to reestablish expertise and experience with respect to emergency management. The drain of long-term professional staff along with their institutional knowledge and expertise created an unsatisfactory response in the face of a disaster of the magnitude of Hurricanes Katrina and Rita.*

While I applaud your initial efforts announced on February 13, 2006 that begin to address these issues, I would appreciate your attention and timely response to my recommendations. Every dollar used to rebuild the Gulf Coast must be handled in an efficient, effective, and accountable manner.

Sincerely,

Bobby Jindal
Member of Congress

BJ/cdg

United States Government Accountability Office

GAO

Testimony before the Subcommittee on Federal Financial Management, Government Information and International Security, Committee on Homeland Security and Governmental Affairs, U.S. Senate

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HURRICANE KATRINA

Planning for and Management of Federal Disaster Recovery Contracts

Statement of William T. Woods, Director
Acquisition and Sourcing Management

GAO-06-622T

April 10 2006

GAO
Accountability · Integrity · Reliability

Highlights

Highlights of GAO-06-622T, a testimony to U S. Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, and International Security

HURRICANE KATRINA

Planning for and Management of Federal Disaster Recovery Contracts

Why GAO Did This Study

The devastation experienced throughout the Gulf Coast region in the wake of Hurricanes Katrina and Rita has called into question the government's ability to effectively respond to such disasters. The government needs to understand what went right and what went wrong, and to apply these lessons to strengthen its disaster response and recovery operations.

The federal government relies on partnerships across the public and private sectors to achieve critical results in preparing for and responding to natural disasters, with an increasing reliance on contractors to carry out specific aspects of its missions. At the same time, the acquisition functions at several agencies are on GAO's high-risk list, indicating a vulnerability to fraud, waste, and abuse.

This testimony discusses how three agencies—General Services Administration, the Federal Emergency Management Agency (FEMA), and the U.S. Army Corps of Engineers (the Corps)—conducted oversight of key contracts used in response to the hurricanes. Efforts are ongoing by these agencies to address issues GAO and others have identified.

What GAO Recommends

While GAO is not making recommendations in this testimony GAO identifies issues, based on prior work, that agencies should consider when conducting emergency procurements.

www gao gov/cgi-bin/getrpt?GAO-06-622T

To view the full product, including the scope and methodology, click on the link above For more information, contact William T Woods at (202) 512-4841 or woodsw@gao.gov.

What GAO Found

Agency acquisition and contractor personnel have been recognized for their hard work in providing the goods and services required to be responsive. The response efforts nonetheless suffered from three primary deficiencies:

First, there was inadequate planning and preparation in anticipating requirements for needed goods and services. Some key agencies did not always have adequate plans for contracting in a major contingency situation. For example, while contracts for some items were in place prior to the storm, the Federal Emergency Management Agency did not adequately anticipate needs for such services as providing temporary housing and public buildings. There was also competing tensions between the selection of national contractors and the Stafford Act requirement that there be a preference for contractors from the affected area. Better planning could have alleviated those tensions.

Second, there was a lack of clearly communicated responsibilities across agencies and jurisdictions to ensure effective outcomes. In a disaster situation, sometimes local or state officials determine the requirements and communicate them to FEMA, which then may write and award the contract or communicate the requirements to another agency that writes and awards the contract; and then FEMA or another agency will oversee contract performance. To ensure effective execution of the contract, this approach puts a premium on clear alignment of responsibilities and good communications, but our fieldwork identified examples where unclear responsibilities and poor communications resulted in poor acquisition outcomes. For example, the process for ordering and delivering ice heavily depends on effective communications between FEMA and the Corps. However, according to Corps officials, FEMA did not fully understand the contracting approach used by the Corps and ordered at least double the amount of ice required, resulting in an oversupply of ice and a lack of distribution sites to handle the volume ordered.

And third, there were insufficient numbers and inadequate deployment of personnel to provide for effective contractor oversight. The purpose of monitoring is to ensure that contracted goods and services are delivered in accordance with the agreed upon schedule, cost, quality, and quantity provisions stated in the contract. Without sufficient numbers of trained people properly deployed, however, monitoring will not be effective, agencies may not be able to quickly identify and correct poor contractor performance, and agencies will be at risk of overpaying contractors. Our work indicated that while monitoring was occurring on the contracts we reviewed, the number of staff available was not always sufficient and staff were not effectively deployed. For example: FEMA's contracts for installing temporary housing in four states had only 17 of the 27 technical monitors that had been determined necessary to oversee contractor performance.

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me here today to discuss the management and oversight of federal disaster recovery contracts related to Hurricanes Katrina and Rita. The size and strength of Hurricane Katrina resulted in one of the largest natural disasters in our nation's history, and in its aftermath major questions have been raised about our nation's readiness and ability to respond to catastrophic disasters. Hurricane Rita increased demands on an already stressed response and recovery effort by all levels of government.

GAO has a large body of ongoing work on a range of issues relating to all phases of the preparation, response, recovery, and rebuilding efforts related to Hurricanes Katrina and Rita. GAO's work has been coordinated with the rest of the accountability community at the federal, state, and local levels to ensure that all significant issues associated with relief and recovery, including contracting, are addressed while avoiding unnecessary duplication of efforts.

Comptroller General Walker recently testified on GAO's preliminary observations on the challenges encountered in the response to Hurricane Katrina, and he identified four themes that are similar to lessons learned from past catastrophic disasters. These include the central importance of (1) clearly defining and communicating leadership roles, responsibilities, and lines of authority for response in advance of a catastrophic disaster; (2) clarifying the procedures for activating the National Response Plan and applying them to emerging catastrophic disasters; (3) conducting strong advance planning and robust training and exercise programs; and (4) strengthening response and recovery capabilities for a catastrophic disaster.

These themes directly relate to what I will discuss today, namely how three agencies planned for and conducted oversight of several key contracts in support of Katrina and Rita response and recovery efforts: the General Services Administration (GSA), the Federal Emergency Management Agency (FEMA), and the U.S. Army Corps of Engineers (the Corps). In doing our review we selected 13 mission-critical contracts with a dollar value in excess of $5 million that were awarded to 12 contractors performing work for the three agencies. We analyzed in detail how monitoring policies and processes were put into practice. We conducted our work from October 2005 through February 2006 in accordance with generally accepted government auditing standards.

Summary

Given the environment in which they were operating, agency acquisition and contractor personnel have been recognized for their hard work in providing the goods and services required to be responsive. The response efforts nonetheless suffered from three primary deficiencies:

- inadequate planning and preparation in anticipating requirements for needed goods and services,
- lack of clearly communicated responsibilities across agencies and jurisdictions to ensure effective acquisition outcomes, and
- insufficient numbers and inadequate deployment of personnel to provide for effective contractor oversight.

A number of efforts are under way by these agencies to address the issues we and others have identified.

Contractors Role in Responding to Emergencies is Increasing

The private sector is an important partner with the government in responding to and recovering from natural disasters such as Hurricanes Katrina and Rita. As we recently noted,[1] such partnerships increasingly underlie critical government operations. With hundreds of billions of tax dollars spent each year on goods and services, it is essential that all federal agency acquisitions be handled in an efficient, effective, and accountable manner.

Over $87 billion of federal funding has been appropriated in response to the recent hurricanes. In responding to Hurricanes Katrina and Rita, the government depended heavily on contractors to deliver ice, water, and food supplies; patch rooftops; and provide housing to displaced residents and temporary facilities to local government agencies. Overall, the circumstances caused by the hurricanes created a difficult environment in which agencies had to balance the need to deliver goods and services quickly with the need for appropriate controls. Although achieving that balance is sometimes hard to accomplish, that fact must not be allowed to serve as an excuse for poor contracting practices.

[1] GAO, *21st Century Challenges: Reexamining the Base of the Federal Government*, GAO-05-325SP (Washington, D.C.: February 2005).

There Was Inadequate Planning and Preparation in Anticipating Requirements for Needed Goods and Services

The need for strong planning is one of the themes identified by the Comptroller General in regard to the government's overall response to the hurricanes. Planning also must explicitly address the need for and management of the contractor community. In this regard, we found that some key agencies did not always have adequate plans for contracting in a major contingency situation. We also noted the competing tension between the selection of national contractors and the requirement under the Stafford Act for a preference for contractors from the affected area. Better planning could alleviate those tensions.

For example:

- While contracts for some items were in place prior to the storm, the Federal Emergency Management Agency did not adequately anticipate needs for such services as providing temporary housing and public buildings.

- The practice of the U.S. Army Corps of Engineers is to establish Planning and Response Teams for various missions assigned to it by FEMA prior to an event, with specific responsibilities assigned to team members. However, the Corps indicated it did not know prior to the hurricane that it would be tasked by FEMA with some of the mission assignments it received. In one case, faced with a compressed time frame for acquiring portable classrooms and with no prior knowledge about the classroom mission they were assigned, Corps contracting officials placed an order, under an existing agreement, with a subsidiary of an Alaska Native Corporation under the Small Business Administration's section 8(a) Business Development Program. The Corps accepted the contractor's proposed price of $39.5 million even though the Corps had information that the cost for the classrooms was significantly less than that. Based on our analysis of a quote obtained by the contractor from a local Mississippi business, the price the contractor actually paid for the classrooms, and prices for similar units from General Services Administration (GSA) schedule contracts, our preliminary conclusion is that the Corps could have, but failed to, negotiate a lower price.

- Preparation was also lacking in implementation of the Stafford Act preference for contractors residing or doing business in the affected area.[2] The Corps staff expressed uncertainty regarding how to apply

[2] 42 U.S.C. § 5150.

preferences or determine if a company was in an affected area.[3] Several GSA and FEMA officials indicated they were aware of the Stafford Act, but stated it is difficult to immediately factor in local businesses in such a catastrophic event. GSA officials stated they plan to review the Federal Acquisition Regulation (FAR) to see if additional Stafford Act guidance is necessary.[4]

In discussing our findings and observations with FEMA officials, they indicated that in order to better respond to future disasters, they were taking steps to improve in areas such as staffing and premobilization capabilities. However, they also stated that such pre-planning and preparedness has a cost. The Corps commented that contracting staff need to have defined requirements in order to get the right type of contracts put in place, and the contracting staff did not always get defined requirements in a timely manner. Additionally, a Corps official commented that until funding for a particular mission is secured, preparation for it cannot go forward and this also delayed contracting efforts. Finally, both GSA and the Corps noted that they tried to reach out to local and small businesses through forums and other means to make them aware of opportunities to contract with the federal government.

There Was a Lack of Clearly Communicated Responsibilities Across Agencies and Jurisdictions

We also found that processes for executing contracts were hindered by poor communication. As envisioned under the National Response Plan (NRP), federal agencies responding to a disaster carry out their acquisition functions through a network of federal, state, and local agencies. In some instances, the local or state officials determine the requirements and communicate them to FEMA; FEMA may write and award the contract or communicate the requirements to another agency that writes and awards the contract; and then FEMA or another agency oversees contract performance. This approach puts a premium on aligning roles and

[3] GAO recently issued a decision on a protest of the terms of a solicitation issued by the Corps for demolition and debris removal in the State of Mississippi. The protester asserted, in part, that the Corps decision to limit the competition for this work to Mississippi firms improperly exceeded the authority granted under a provision of the Stafford Act to provide a preference to firms residing, or primarily doing business, in the area affected by a major disaster. GAO's decision did not view the Corps decision to implement the Stafford Act preference with a set-aside as an abuse of the agency's discretion, and the Corps did not act improperly by limiting this competition to Mississippi firms. AshBritt, Inc. B-297889, March 20, 2006

[4] See FAR, Subpart 26.2-Disaster or Emergency Assistance Activities.

responsibilities clearly and maintaining good communications to ensure effective execution of the contract.

Our fieldwork identified examples where unclear responsibilities and poor communications resulted in poor acquisition outcomes. For example:

- FEMA officials stated that a contractor spent approximately $10 million to renovate 160 rooms and furnish another 80 rooms in military barracks in Alabama that a FEMA survey team identified for use as temporary housing. To renovate the facility, FEMA headquarters awarded a contract without consulting local FEMA officials in Alabama. According to FEMA officials in Alabama, however, the facility was not needed and they tried to stop the renovation. These same FEMA officials stated that few evacuees agreed to live at the facility, and when officials decided to close the facility, it had only six occupants.

- The process for ordering and delivering ice heavily depends on effective communications between FEMA and the Corps. However, according to Corps officials, FEMA did not fully understand the contracting approach used by the Corps and ordered at least double the amount of ice required, resulting in an oversupply of ice and a lack of distribution sites available to handle the volume ordered. Additionally, the local Corps personnel were not always aware of where ice might be delivered and did not have the authority to redirect ice as shipments arrived, resulting in inefficient distribution and receipt at the state level.

- FEMA tasked GSA to write three contracts in Louisiana for base camps, hotel rooms, and ambulances, with a total value of over $120 million. GSA contracting officers awarded the contracts, but could not tell us which FEMA officials would be responsible for overseeing contractor performance. The FEMA official identified as the main point of contact by GSA did not have any knowledge of these contracts or who was responsible for oversight. Only after contacting multiple FEMA officials over a 3-week period were we able to determine the agency officials responsible for contract oversight.

In commenting on our findings, GSA officials stated that their role is to provide resource support in the response phase of a disaster, meaning they are responsible for executing contracts under the NRP, and FEMA is responsible for monitoring the contracts. FEMA officials commented that there needs to be more clarity regarding procurement roles and indicated one of their goals is to work with GSA to clarify procurement

responsibilities for the future. GSA officials indicated that the current memorandum of understanding between GSA and FEMA is being updated to reflect the standards of the new NRP as well.

There Were Insufficient Numbers and Inadequate Deployment of Personnel to Provide for Effective Contractor Oversight

The purpose of agencies' monitoring processes is to ensure that contracted goods and services are delivered in accordance with the agreed-upon schedule, cost, quality, and quantity provisions stated in the contract. Without sufficient numbers of trained people properly deployed, however, effective monitoring is hampered and agencies may not be able to identify and correct poor contractor performance in a timely manner. Furthermore, agencies can be at risk of paying contractors more than the value of the services performed.

Our work indicated that while monitoring was occurring on the contracts we reviewed, the number of monitoring staff available was not always sufficient, and staff were not always effectively deployed. For example:

- FEMA's contracts for installing temporary housing in four states had only 17 of the 27 technical monitors that had been determined necessary to oversee contractor performance.[5]
- Corps officials responsible for overseeing the "blue roof" program's field operations told us it was slowed down due to the lack of sufficient monitors.[6]

Deployment practices did not always provide for appropriate notification of responsibilities or overlap of rotating contracting officers and oversight personnel, thus making knowledge transfer and continuity of contract management operations difficult. For example:

- For four of the contracts we reviewed, officials were either unaware or not notified by FEMA of their oversight responsibilities.

[5] Data provided by FEMA official was dated November 18, 2005.

[6] The Corps manages the Operation Blue Roof mission for FEMA. Operation Blue Roof provides assistance to storm victims in disaster areas through the installation of rolled plastic sheeting on damaged roofs, helping to protect property and allowing residents to remain in their homes.

- The lack of overlap between oversight personnel for a large temporary housing contract left the most recent contract administrator with no knowledge or documentation of who had authorized the contractor to perform certain activities or why the activities were being performed.

While discussing our findings and observations with FEMA officials, they emphasized that they lacked adequate staffing, but said they have made efforts to fill staffing gaps. Additionally, FEMA officials stated they recognize the need for continuity in contract oversight and indicated they are implementing a process to ensure workload and knowledge sharing among rotating personnel. However, they also believe that fewer transition difficulties exist now as a result of hiring more people and having more oversight officials staying in the affected areas. GSA officials indicated there may also be other alternatives for ensuring adequate contract oversight, such as designating GSA employees to conduct oversight on some contracts. Corps officials stated their policy is to rotate certain personnel every 29 days to keep personnel costs to a minimum because of regulations under the Fair Labor Standards Act.[7]

Previous Lessons Can Guide Agency Contracting Actions in Emergencies

In reviewing contracts awarded for Iraq—another contingency situation—GAO found that without effective acquisition planning, management processes, and sufficient numbers of capable people, poor acquisition outcomes resulted. GAO made recommendations regarding the need for ensuring that requirements for placing orders are within the scope of contracts; timely definition of contract terms and conditions, and sufficient numbers of trained staff who have clear responsibilities and guidance for overseeing contractor performance. Having these capabilities requires preparation, such as having prearranged contracts in place in advance of the disaster or other contingency.

Among the issues that we have identified in previous reports that warrant consideration by agencies when contracting in an emergency are:

- the strategies and flexibilities they will use to plan their procurements to avoid the risks associated with undefined contracts;
- the knowledge they need to have to identify, select, and manage contractors to achieve successful outcomes; and

[7] 5 CFR § 551.208.

- the need to have competitively awarded contracts in place prior to the event against which orders can be placed as needed.

In executing these contracts, agencies should consider such issues as how to effectively

- communicate and coordinate with other agencies and with contractors;
- define contract terms and conditions to avoid excessive costs and ensure desired performance; and
- monitor contractors.

Finally, agencies should consider crosscutting issues that affect their overall ability to manage contractors, such as the

- capability of their information systems to provide visibility into financial and contracting operations;
- skills and training of the acquisition workforce;
- alignment of responsibilities among the key officials in managing the award and oversight of contracts; and
- the policies, procedures, and guidance for managing contracts.

In closing, in any acquisition, agencies must have in place sound acquisition plans, processes to make and communicate good business decisions, and a capable acquisition workforce to monitor contractor performance so that the government receives good value for the money spent. These components are critical to successfully managing contracts in any environment—even in a contingency situation such as that presented by Hurricanes Katrina and Rita.

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Mr. Chairman this concludes my statement. I would be happy to respond to any questions you or other members of the Subcommittee may have at this time.

For further information regarding this testimony, please contact William T. Woods at (202) 512-4841 or woodsw@gao.gov. Individuals making key contributions to this testimony included Penny Augustine, James Kim, John Needham, and Shannon Simpson.

LOUISIANA ASSOCIATED GENERAL CONTRACTORS, INC.
666 North Street – Baton Rouge, LA 70802
Phone: 225/344-0432 * Fax: 225/344-0458
www.lagc.org

DERRELL D. COHOON
Chief Executive Officer

STATEMENT OF DERRELL COHOON
TO THE U.S. SENATE COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON FEDEERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

ADDRESSING THE ISSUE OF DEBRIS REMOVAL CONTRACTS

Mr. Chairman, members of the Subcommittee, members of our Louisiana delegation, welcome, and thank you for your continued interest and help. My name is Derrell Cohoon. I'm CEO of the Louisiana Associated General Contractors, and I'm pleased to be able to testify on our construction industry's experience with respect to the debris removal issue.

Hurricane Katrina, its aftermath throughout southeast Louisiana and the Gulf Coast; and failure of the levee system in New Orleans and St. Bernard and Plaquemines Parishes; and later, Hurricane Rita which devastated much of southwest Louisiana – spelled a natural disaster of which the country hasn't seen in recent history. We now live in what we have termed "the new normal." Entire parishes with unstable tax bases due to disruption of businesses, entire communities displaced, hospital systems destroyed, and for a construction industry that was participating in a very viable economy prior to the storms, struggles to maintain their businesses, workforces, payments on equipment, and cash flow while we wait for the opportunity to participate in the rebuilding the what amounted to a third of the state's economic base.

For your information, Louisiana Associated General Contractors is a construction trade association representing 700 hundred firms across Louisiana – general construction firms in the fields of commercial, highway, and heavy construction, as well as subcontracting and supply firms, very accustomed to have to compete for work in the public sector through an open, and competitive public bidding system. Louisiana AGC is a chapter of the AGC of America, based in Washington, DC, since 1918, with a country-wide membership of 32,000 firms. LAGC has been a stable organization representing the interests of the construction industry in Louisiana since 1949.

Many of the firms we represent are based in southeast and southwest Louisiana. In just days after both devastating hurricanes, however, practically every one of the construction firms were in contact with my office. We were able to communicate with the membership in other areas of the state, and identify their resources in assisting. We even located vacant space in offices, warehouses, and construction yards from Baton Rouge to Shreveport, to relocate firms on a temporary basis. Many of the firms we represent, understandably, were left with delayed or cancelled contracts. Yet they still had equipment payments to meet, payrolls to maintain, and certainly, need for cash flow to be able to later assist in what will be a massive effort to rebuild what many had participated in built. They needed work, and needed it immediately. Debris removal and demolition was something they needed to participate in, and soon.

We quickly identified seventy firms willing and able to participate in debris clean-up. After ascertaining that we were in FEMA Region VI, I contacted them to let them know of our availability, and asked for a meeting. They couldn't seem to understand that LAGC wasn't a "contractor". After three days of no contact, I finally attempted an e-mail, only to learn that there was none for Region VI on their website, and the Washington e-mail address wasn't functioning.

Later we learned of the $500 million, "primary" contracts with the multi-national firms. We made personal contact whenever possible, but often were required to push our members onto the "primary" contractors' websites to "register", which we did. In the meantime, it quickly became apparent that the 1st, 2nd, 3rd, and down to 4th tier subcontracts were already in effect, and Louisiana firms were being relegated to 5th, 6th, and lower tiers.

Many have raised issue with the process under which contracts have been awarded, and the utilization of construction companies based in the disaster areas, for disaster clean up, demolition, FEMA trailer housing construction, and "blue roofs' program in Louisiana. Needless to say, the devastation wrought by Katrina and Rita was unparalleled, and the work required to restore the southeast and southwest portions of Louisiana is such that it would require help from both inside the state and outside. However, the Stafford Act requires utilization of firms from the disaster areas wherever possible, so that those firms may survive the initial devastation on the local and state's economy, and their own businesses.

While there have been opportunities for some Louisiana firms to participate as subcontractors, others have not, either because they couldn't afford to take the work at prices demanded of them by the primary contractors or their higher-tiered subcontractors, or they were never afforded the opportunity for work at all. We've been told by Corps representatives that they consider anyone licensed by the state of Louisiana, pre or post-Katrina/Rita as a resident, which should skew any statistics from the primary contractors of Louisiana firm participation, for purposes of fulfilling the requirements of the Stafford Act.

The reality for most of the construction industry in Louisiana is that few were in a position to secure the major, or "primary" $500 million contracts, even pre-Katrina/Rita, anyway. Those

contracts were too large. We learned later that most of the contracts were executed pre-storm, or were given out as no-bid contracts without the use of true public, cost-effective, bidding, and are of such a high dollar volume that most firms don't have the resources to participate. That left most in the industry in Louisiana in the position of having to go into the websites of the "primary" contractors, and register, which proved to be a very frustrating, time-consuming, and inefficient experience to say the least. Many also eventually made direct contact. However, because few were fortunate enough to have had a prior relationship with one or more of the primary, out-of-state contractors, they were unable to secure first, second, or even third tier status. As the tiers became lower, as each subcontractor then subcontracted work to a lower tier, the amount of possible return was further reduced, sometimes dramatically.

Please keep in mind that the $500 million contracts were not contracts with a $500 million guaranteed maximum price. Rather the $500 million was a ceiling for the budget set by FEMA/ Corps of Engineers. Once the primary contractor reaches the ceiling, his contract ends. So the contractor is encouraged to reach the ceiling, with may entail building in of additional management layers, or "bells and whistles" to reach it.

To be more specific, there is a system of vertical tiered subcontracts that has been created by the primary contractors, and it appears that as the vertical tier descends, the prices demanded by upper tiered subcontractors is also much less – in some instances we've heard, a difference between $23 a cubic yard hauled at the primary contractor level, to a low of $6 a yard in the lower tiers. We have been told that some go so low as $3. Some of the tiers performed little actual work, but merely brokered work downwards.

Back to the vertical tier subcontracts. The press has begun to collectively term the vertical nature of the contract structure as "5th tier subcontractors". A primary contractor contracts with a sub to

provide debris removal. Then the subcontractor, in turn, subcontracts for debris removal, and his sub contracts with another sub for debris removal, and on and on. The tiers are vertical in nature, and all, at least on paper, perform the same function as the first tier. This process allows for costs to be driven up, ineffective management by the Prime, decreased productivity, the possibility of some sub-contractors performing no "real" work at all and only acting as a pass-through, and slow payment as bills pass down through multiple layers of subcontractors. Compounding the problem is that there are no protections for lower-tiered subcontractors against non-payment for the work they have performed.

There have been many complaints about subcontractors not being paid in a timely manner. Though all of the work is bonded through performance bonds held by FEMA or the Corps against the primary contractors, the work is governed by the federal Miller Act. The Miller Act prohibits a subcontractor, supplier, or laborer, who has not been paid from placing a lien on the work for payment for work performed. While the bond is designed to insure payment, the Miller Act appears to only provide for payments to the first two tiers of subcontractors.

With regard to the FEMA/Corp contracts, these primary contractors act as a "construction manager at risk", furnishing a bond for the large contract, and managing the paper work flow up through the Corps of Engineers or FEMA. The other contractors, particularly the Louisiana-based firms, were relegated as subs at lower tiers, and the lower the tier the lower opportunity for any profit margin. Some have been forced to turn away from the work, knowing that it would cause negative cash flow because of the vertical tiers, not to speak of widespread reports of slow, or no pay. Others still struggle to get any work at all. This is an absolute irony as these very businesses, most of them small businesses, that are most familiar with the area as well as the needs of local and state government, and that were supposed to be assisted through this program, were in fact not placed in roles that were meaningful, and able to be profitable.

FEMA has also recently announced that they will not be re-bidding the "no-bid" contracts that currently are in place as they had promised. Additionally many proposals solicited by the Corps of Engineers that were directed at local business and small business have not been awarded to date (such as demolition contracts) and some are not going to be awarded at all. Much of the work in these proposals is being conducted under the original large contracts to the prime contractors. These actions by FEMA and Corp of Engineers continue to harm local contractors, local rebuilding efforts, and the rebuilding of our local economy.

In an effort to help resolve some of these issues, it is the recommendation of the LAGC that FEMA, the Corps of Engineers, and state and local government give strong consideration to use of the project delivery method – construction management at risk, but with a variation. Under this method , the Corps will maintain a contract with the CM at-Risk or primary contractor, as a professional service. The CM at-Risk is to provide essential pre-construction services, hold the trade contracts, take responsibility for the work, and guarantee the construction costs and schedule.

Strong consideration should be given to breaking those large contracts into smaller segments to afford more competition, and should be publicly bid. FEMA and the Corps should also consider requiring the CM at Risk to break the contracts up into smaller values and to bid the contracts out publicly, based on the local area's (parish and municipal) needs. Payment/performance bonds should still be provided by the "primary" contractors, as is the current practice.

The Corps, or if the state or local government chooses to contract directly, should require that the primary contractors or CM's At Risk who are tasked with "management" of the project, also be tasked with subcontracting debris removal/demolition on a horizontal basis, rather than the

current vertical basis. Zones can be created by the primary contractor, and bid out sufficient to ensure use of open competition and thereby, the use of Louisiana-based, or disaster-area based contractors, large and small. Not only would competition, opportunities, and cost-effectiveness be enhanced, more expedient payment of subcontractors on one-tier would also be improved, and the performance bond would apply to all in those instances were the primary contractor is not paying his bills.

The system we are recommending, certainly, could be no worse than that currently in place, and in fact may prove to be superior in expediting the timely removal of debris, orderly management of work, timely payment of subcontractors, and opportunities for Louisiana companies, not to speak of avoidance of much of the waste observed by many.

Again, thank you for your help in these incredible times. Thank you for your consideration. I'll be happy to attempt to expand on any of my comments, or answer any questions.

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Hearing on "Katrina and Contracting: Blue Roof, Debris Removal, Travel Trailer Case Studies"

April 10, 2006

Committee on Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information, and International Security

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Post-Hearing Questions for the Record
Submitted to Tina Burnette

From Senator Thomas R. Carper

1. I understand that the Army Corps was not notified in advance of Hurricane Katrina that they were going to have to conduct debris removal on private property. I believe there are similar examples out there of other agencies that were not notified of what would be expected of them after the storm hit. Given the experience with past hurricanes, why were some agencies not notified in advance that they would be asked to conduct certain missions?

   FEMA and USACE work together to prepare pre-scripted mission assignments, including those for debris removal, that are ready to be implemented the moment a disaster strikes, if necessary. In anticipation of such missions, USACE has awarded contracts for ice, water, and debris removal in advance of disaster operations through its Advance Contract Initiative. However, each disaster results in a new and different set of circumstances. The full scope and scale of the response and recovery requirements can not be determined until after the damages and impacts are assessed. Therefore, in some cases, agencies may be tasked with missions that were not anticipated prior to the disaster. Most importantly, the USACE receives mission assignments for debris removal only when the State and local government identify the work as beyond their capability.

   In most disasters, private property debris removal is not eligible for FEMA funding. When it is requested by the State, FEMA will evaluate the public health and safety threats created by private property debris in each locality before it approves funding. Therefore, in the immediate aftermath of a disaster, if USACE is tasked for debris removal, it is initially only for debris removal from public property. Only after FEMA receives, evaluates, and approves a request for private property debris removal from the State, and also determines that the work is beyond State capability, will it task USACE to perform this work. FEMA and USACE are both aware private property debris removal is a potential mission assignment activity. However, the decision to task USACE to do such work is not made in advance of a disaster.

2. I believe there's general agreement among most observers that FEMA does not have sufficient staff to manage and oversee contractors during a disaster – or at least they didn't during Hurricane Katrina. I know that one of FEMA's priorities now is to bring one more staff and fill long-vacant positions. I believe the President requested some funding for this purpose in his FY2007 budget but you won't be getting that money for some time. What steps have been taken in recent months to beef up FEMA contractor oversight, whether with more staff or through things like better training or procedures? With hurricane season right around the corner, do you think FEMA has the people and the systems in place to do a better job next time around?

   FEMA is aggressively working to ensure that adequate numbers of personnel with the skills, qualifications, and required competencies to perform the duties required preparing for, responding to, and recovering from disasters. Hiring activities have been initiated since the beginning of the calendar year in order to provide more acquisition staff to issue and administer contracts for supporting recover efforts associated with Hurricane Katrina as well as the upcoming hurricane season. Contract specialists and contract monitors have been hired and integrated into current contract management functions and are being trained in internal oversight procedures. With the additional staffing, dedicated contract positions have been allocated to Gulf Coast region to perform contracting activities. I believe that FEMA's contracting professionals have the ability and systems in place to perform their duties and responsibilities.

3. To FEMA's credit, many people displaced by Hurricane Katrina have been temporarily housed in trailers. With the next hurricane season approaching, is there a plan in place to secure the areas where these trailers have been placed? In addition, do you have a contingency plan in place in the event that people need to stay in the travel trailers beyond the standard time limit?

   During delivery, all FEMA Travel Trailer units are first setup on a foundation made of concrete blocks. Following unit leveling, four (4) anchors measuring 2'-3' long are installed in the ground and Mobile Home strapping is used to secure the units with two (2) straps installed on the front and two (2) more on the back.

   For Mobile Homes, soil tests must be done prior to anchoring and anchor length is dependant on the state's requirements. However, a minimum of six (6) straps and anchors are used for each Mobile Home.

   In the event of an evacuation order, it is the citizen's responsibility to monitor and follow their specific parish's emergency evacuation plan. Essential personal property and documents should be taken (if possible) and the unit secured. FEMA Travel Trailers and Mobile Homes are government property and are to remain at the location. The local authorities remain responsible for the security of the units and the citizen's personal property.

It is important that the individual understand that when an evacuation has been ordered, the individual is NOT responsible for any damages. Following the lifting of the evacuation order, if any damages occurred to the unit, the individual should contact the maintenance contractor to have the repairs done. If the unit is not repairable, FEMA will replace it.

In addition, we do not authorize any applicants to move their MH/TT based on the liability involved in disconnecting the unit and the increased chance that units that have been immobile for months are more susceptible flat-tires and other problems that could delay the overall evacuation process.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act anticipated just such a requirement, and authorizes direct housing assistance to be extended beyond 18 months when the situation is so extraordinary that it would be in the public interest to do so. To ensure direct housing occupants are provided ample notification about the status of continued assistance, FEMA intends to evaluate the situation and make a decision at the 15-month point.

4. Senator Coburn, Senator Obama and I introduced legislation shortly after Hurricane Katrina to establish a Chief Financial Officer for the federal government's storm response and recovery efforts. When that bill was marked up in the full committee, we added language requiring that the CFO perform the risk assessments and reporting requirements placed on agencies in the Improper Payments Information Act. Our bill, of course, never became law. I'd like to ask, then, whether you know if risk assessments have ever been performed on any of FEMA's disaster response programs to determine whether they're at risk for improper payments. This is the third time we've heard about problems with FEMA's spending controls so I would hope those assessments have taken place.

   FEMA's continuously reviews our assistance programs, and tries to ensure that controls are in place, so that we balance our goal of doing we can to support fast and appropriate response and recovery efforts and ensure the fiscal integrity of our programs. The effective and efficient utilization of the taxpayer's money is a priority, and while we realize we may not be able to completely eliminate fraud and abuse, we can limit it as much as possible.

5. You say at one point in your testimony that it costs $10,000 to install a temporary housing unit on a site – I assume on someone's property near their damaged home. I'm sure this work isn't cheap but $10,000 seems like a lot of money to me. What is involved in installing a trailer or a mobile home? How long does the work take and how does it add up to $10,000?

   We share your concern with the high cost of installing temporary housing units in Louisiana. Based on historical averages, costs in Louisiana have truly been extraordinary. These high costs have been driven by a number of factors:

- Because of the unprecedented number of required installations (approximately 100,000 units in Louisiana alone), the Individual Assistance Technical Assistance (IA-TAC) Contract contractors hired by FEMA experienced significant shortage of skilled installation subcontractors. Normally, the same subcontractor hauls the unit from FEMA's Logistics Staging Area directly to the site and installs them. If this process was applied in Louisiana, installers would have spent so much of their time hauling units, that there would not have been enough installers to go around. Consequently, the IA-TACs at the onset, hired subcontractors to haul the units and hired the qualified installers to focus on installing units. This resulted in having enough installers, but increased costs by having two sets of subcontractors.
- The shortage of qualified installers resulted in less competitive subcontractual bidding by the IA-TACs, further driving up prices.
- The shortage of qualified electricians, plumbers, and carpenters, all needed to finish the installation process, resulted in less competitive subcontractual bidding by the IA-TACs, further driving up prices.
- The Louisiana State Department of Health required FEMA to install a "p" trap and vent pipe on the outside plumbing connection of each trailer, even though there were "p" traps and vents already inside the units. This requirement had never been applied in any previous disaster. This drove up the cost of plumbing approximately $750 per unit.
- FEMA was required by the electrical company to set a temporary pole for power drops to each trailer being placed on an individual site. We were not permitted to hook into otherwise undamaged electric boxes on the side of damaged homes. This added approximately $1000 to the cost of installing each unit. This requirement has not been applied to FEMA's trailers in other disasters.

With respect to the time to install a trailer, once an installation crew arrives on site, the placement of the trailer takes less than a day, then plumbing, carpenter, and electrical crews must perform their work. Without any limiting factors, this trade work is often accomplished within days of the trailer being installed. Since there are often separate hauling and installing contractors, there have been cases where a trailer has been hauled to a site and the installation crew did not arrive for several days to install the unit. This was most prevalent in the early days of the disaster and has improved as the IA-TACs improved the project and logistics management systems.

6. I'm interested in learning some more about the process for approving some of the large contracts FEMA awards during disasters like Hurricane Katrina. When you award a non-competitive contract to a Bechtel, who in your organization approves it and determines that it's appropriate and the price is reasonable? At one point down the road do you try to compete the work in order to get a better price?

   FEMA was in the process of putting into place – when Katrina hit – some national competitively bid contracts. Full and open competition requires several steps in following procurement regulations. The large numbers of displaced individuals and the need to deliver housing options to them quickly, is precisely the reason

we were unable to begin contract work in the Gulf Region with a full and open competition.

That said, last Fall, FEMA put out Requests for Proposal on the largest chunk of the needed ongoing work in the Gulf Coast (equivalent of $1.5 billion in multiple contracts to local small and small disadvantaged businesses). While we estimated those contracts would be awarded in February – we had hundreds of proposals in response to the RFP. It was more than any response in FEMA history and we had to form 5 review teams (as opposed to the usual one) to move through the proper review process to ensure full and open competition. But we did this quickly and as of May 2006, 34 of these contract awards have been made.

QUESTIONS FOR THE RECORD FROM DR. COBURN

1. Are you monitoring below the first tier contractor for payment discrepancies? What recourse do subcontractors have if they have been underpaid or not paid at all?

   FEMA's Headquarters' Program Office monitors and reviews all invoices submitted by the Prime Contractor to include any invoices submitted by Subcontractors that are included in the Prime's invoices. The Davis Bacon and Service Contract Acts are incorporated in the Basic Contract Award Document and provide ample protection to all Subcontractors working under the Prime Contractor. The Acts allow subcontractors to dispute wages or the non-payment of wages through the auspices of the U.S. Department of Labor. However, when FEMA does not have a contractual relationship beyond the prime contractor, we are not in a position to enforce those subcontracts. Subcontractors retain all legal recourses open to parties to a contractual dispute.

   a. Are prime contractors required to produce a detailed audit from the multiple layers of subcontractors they end up using? If so, who reviews and investigates this audit?

      The Davis Bacon and Service Contract Acts require the Prime Contractors to maintain, as a matter of record, the payrolls for any Subcontractors utilized in meeting Government Contract requirements. Typically the Administering Contract Office review payrolls submitted by the Prime Contractor and accomplish random site inspections to interview employees on the sites to verify work disciplines and ensure the correct wages are being paid.

2. Does FEMA have the Congressional mandate to award contracts and make acquisitions or is FEMA's purpose to devise preplans before an event occurs and manage task orders and recovery efforts after an event occurs?

FEMA has undertaken efforts to address future disasters. These efforts involve several key areas - building a cutting-edge logistics system, enhancing FEMA's customer service capability, hardening lines of communication, and expediting the process of debris removal. The procurement community's efforts to support these efforts have included placing contracts with private sector companies to help ensure that orders are placed timely to help manage the recovery efforts when an event occurs. Additionally, FEMA will be ready with a variety of contingency contracts for this upcoming hurricane season. Since the last hurricane season, extensive efforts have taken place to pre-position contracts for the upcoming hurricane season. For example, FEMA is pre-positioning such contracts as Individual Assistance, Public Assistance, Hazard Mitigation Technical Assistance, and Housing Inspection services for the upcoming season. These are examples of readily available sources and contracts that will provide contingency support services for the upcoming season.

a. How long has FEMA been making acquisitions and awarding contracts?

   FEMA received procurement authority when the agency was created in 1979. Since that time, FEMA has been issuing solicitations and awarding contracts.

b. It seems to me that FEMA is having a hard time managing and preplanning disaster recovery efforts. Isn't FEMA biting off more than it can chew by fulfilling task orders and implementing programs inside of FEMA—like with the travel trailers—instead of tasking it out to other agencies or departments who have staff with specialized experience?

   Hurricanes Katrina and Rita challenged our programs and processes as never before. However, as we always have, FEMA partnered with voluntary agencies, the private sector, and our federal partners to tap into their experience and demonstrated expertise to ensure that individual and community disaster needs are addressed.

c. According to the Inspector General, FEMA maintained little or no documentation on price reasonability as mandated by the Federal Acquisition Regulation. The Inspector General also states that FEMA's limited competition in contracting lacked objective evaluation for determining which firms received smaller contracts and which firms received significantly larger contracts. With management problems like these, would it not be a wiser use of FEMA's current $2.5B budget to focus on cost-controls, preplanning, and thorough reasonability analysis rather than attempting to take on the role of contracting better suited for other agencies?

   With the additional staffing recently hired and executing contingency contracts earlier in the fiscal year, FEMA has implemented appropriate

processes and procedures that maximizes competition, ensures proper controls have been established, and that FEMA's acquisitions are conducted in compliance with the Federal Acquisition Regulation (FAR). Ensuring compliance with this regulation, among other internal oversight procedures, makes certain that each Contracting Officer will have established that prices are fair and reasonable and that the appropriate level of price evaluation has been conducted. FEMA's meeting FAR requirements also entails acquisition planning that addresses all the technical, business, management, and other significant considerations, including costs, that will control the acquisition.

3. According to the GAO, FEMA's response to GAO's concerns regarding preplanning and preparedness was that it would come at a cost. Can you explain to me why the Federal Emergency Management Agency would need supplemental money on top of your normal budget to fulfill your mandate and manage emergencies? Why isn't FEMA using its current budget on preplanning and management?

   FEMA does use its budget for planning and management activities before, during and after disasters strike. However, because of the uncertain nature of disaster activity, it is impossible to develop a budget request for each Fiscal Year that covers the full range of possible activities without needlessly tying up scarce resources that may never be used. FEMA is working to improve its performance based on its experience in the Katrina/Rita disaster. In some cases this has meant increased activity above what was envisioned in prior budget requests.

4. It is my understanding that prior to Katrina, FEMA did not approach the Army Corps of Engineers regarding the Blue Roof program until March which the inspector general community considers too late to adequately plan contracts. It is almost my understanding that FEMA may not be able to coordinate with the Army Corps for this year's hurricane season until well after June. Can you explain the reason why FEMA is having such a hard time fulfilling its mandate of coordinating and preplanning this aspect of emergency management?

   Prior to Katrina, FEMA could activate and pre-position USACE's management elements of its Temporary Roofing Planning and Response Team by way of pre-scripted mission assignment to provide for event specific planning and preparation for temporary roofing, as directed by FEMA. The mission assignment language includes a provision for the preparation to implement the Advance Contracting Initiative or other contracting process that would permit the award and execution of contracts for temporary roofing support once a declaration is made. A subsequent mission assignment could be issued to USACE, if necessary, for all post-declaration temporary roofing activities.

   For the 2006 Hurricane Season, FEMA is streamlining the way it seeks assistance from other federal agencies, including pre-scripting mission assignments in

advance of the hurricane season, so that time is not lost during the critical response period.

5. The recent GAO report indicates contracts where it took 3 weeks for FEMA to pinpoint the person responsible for oversight of the contract. Why isn't there a system set in place to clearly identify who is responsible for managing each contract?

   FEMA is able to identify who is responsible for managing contracts. FEMA has recently implemented a web-based system that will provide such information for the national contingency contracts needed for hurricane support services. Additionally, greater coordination among Federal agencies has taken place in order to ensure agency contract responsibilities are clearly identified along with specific points of contact. Also, interagency agreements are being tailored to define responsibilities between the agencies. Within each of FEMA's contracts, the cognizant Contracting Officer (CO) is identified for contract responsibilities. Additionally, a Contracting Officer's Technical Representative (COTR) is identified and established as the representative assigned to perform functions of a technical nature. The CO and the COTR are responsible for the majority of contract management functions.

6. Exactly how much money is the US Army Corps taking in the pass through of funding for the Gulf Coast recovery?

   From October 1, 2005, – June 30, 2006, FEMA has provided over $4.9 billion to the U.S. Army Corps of Engineers for Hurricane Katrina, Rita, and Wilma. Much of this funding has been through mission assignments to remove debris. This question should be coordinated with Army Corp.

Senator Vitter's Questions for the Record

1. Can you explain how FEMA determined evaluated bids for the recent award of contracts for trailer maintenance and deactivation?

   The firms selected were in accordance with the Request for Proposal (RFP) evaluation criteria listed in Section M of RFP [what is Section M?] . Selection was based on technically acceptable, lowest evaluated price. Those firms found technically acceptable were ranked by price. (In accordance with the RFP, the evaluated price of a non-local firms was adjusted upward by 30% for evaluation purposes only in order to provide for local preference)

2. Do the 4 large debris removal contracts contain provisions respecting disclosure of "organizational conflicts of interest" as defined in the Federal Acquisition Regulations? If not, why not? Will future procurements in this area contain such

provisions? Has your office reviewed these contracts and assured itself that no such conflicts exist?

FEMA has issued a mission assignment to the Army Corp for debris removal and does not have copies of these contracts. This question should be coordinated with Army Corp.

3. Why did you leave the hearing before the members of the second panel, which included a local official and a representative of contractors in Louisiana, had made their presentation?

I apologize that I did not participate in the second panel discussion on April 10th hearing. I take seriously my role and look forward to and depend on the feedback and input from all of our stakeholders, including those at the State and local level. It was not my intent to appear insensitive to the feedback provided at this hearing from all levels of government.

FEMAs experience with Congressional hearings requires that once the testimony concludes, the witness is dismissed from the hearing unless otherwise asked to stay for the second panel discussion. I regret the misunderstanding and any missed opportunity to provide additional information to the committee.

4. What are your thoughts on restructuring FEMA contracting, so that big firms are given contracts that are specifically to manage the workflow and that smaller, local companies are given contracts to do work like debris removal and the blue roof program? What can be done to discourage multi-tiered contracts, because as it stands now, the big contract holders seem to be encouraged to create multiple tiers?

FEMA is researching other potential alternatives for the IATAC. We don't have specific insights into the Debris Removal and Blue Roof Program that is supported by the Army Corps; however, we are working closely with the Army Corps to better understand the type of support that is being provided.

FEMA's current IATAC contracts have aggressive small business goals of which they have exceeded their goals. Subcontracting relationships are an integral part of our success. Many aspects of subcontracting are good for local businesses and for small businesses. For example, of the actual subcontracting dollars expended by the four large contractors, small businesses and local businesses received the following percentages:

	Bechtel	CH2MHill	Shaw	Fluor
Small Business	83.6%	77.5%	61.4%	60.1%
Local Business	67.0%	48.2%	83.0%	49.5%

Another benefit is that the relationships these contractors have formed ensure that qualified subcontractors mature their skills in each mission area and build capacity to support future FEMA's needs. As a result of these subcontracts, FEMA now has a much larger pool of highly qualified Section 8(a) and small businesses that could compete directly for future prime contracts and support our future disaster response efforts.

Under these prime contracts, approximately 487 subcontractors, employing over 10,000 people, performed substantial work for FEMA. FEMA has found that utilizing private sector expertise to manage the projects, including overseeing the performance of the subcontractor work, is the most efficient method for responding to a large-scale disaster. FEMA retains oversight through its program management office, which is constantly interfacing with the prime contractors to ensure that the contractor is complying with contract requirements.

5. What is the appropriate role of state and local governments in determining not which landfills may receive wastes from federally funded cleanups, but which landfills shall receive such wastes? Did the State of Louisiana effectively direct that certain debris be transported by Federal contractors to specified landfills?

   Federal response/recovery operations are governed by all applicable Federal, State, and local authorities. The Louisiana Department of Environmental Quality (LDEQ) is the licensing authority for landfill permits, and under their emergency declaration, they may issue an administrative order to allow emergency debris disposal at appropriate landfills or sites. Certain local governments also exercise regulatory authorities for land use within their jurisdictional boundaries. No, the State of Louisiana did not direct certain debris to specific landfills. The specific landfills are determined by the type of debris being disposed of, haul distance and approval by local governments.

6. We understand that Waste Management Inc has exchanged documents with the City of New Orleans under which the City granted an emergency authorization for a new landfill to be constructed in a wetland subject to USACE jurisdiction and Waste Management Inc. pledged to donate 20 percent of the revenue to the City. Given that a substantial portion of the "pledged" donation will be derived from USACE managed funds is this arrangement appropriate?

   The land fill is not in a wetland, but adjacent to a wetland. FEMA has no knowledge of the 20% of revenue going to the city.

7. As of this date are there sufficient closure and post-closure funds provided at the Old Gentilly landfill to ensure that the USACE will not bear future environmental liability for waste disposal at the site?

   Any users of landfills bear potential environmental liability associated with disposition. However, USACE's contractual obligations at Gentilly Landfill include paying a "tip" fee to compensate the City of New Orleans, the owner, and

their operator for costs associated with disposition, including close out. Like other "tip" fee sites such as River Birch, Hwy. 90 C&D, and Venice Landfill, USACE has set aside no closure or post closure funds because the tip fee is intended to cover such expenses.

8. Has your office reviewed allegations that disposal of wastes at the Old Gentilly landfill is unsafe and/or unlawful? If so, what were your conclusions? Under the four $500 million debris removal contracts, what is the role of the USACE and FEMA in determining where to dispose of hurricane generated debris? Specifically, whose decision was it to take several million cubic yards of debris to the Old Gentilly landfill?

   We have reviewed all allegations in any lawsuit related to this landfill and found that a lawsuit by an environmental group against LADEQ resulted in a compromise of allowing 19,000 cubic yards of debris, per day, at the Old Gentilly landfill. Prior to the compromise, FEMA had independently decided to limit debris at 5,000 cubic yards per day based on the original pre-Katrina debris permit for the landfill. This limitation remains in effect as FEMA is still limiting the USACE to 5,000 cubic yards per day. As previously stated in response to question #5, State and local officials authorized removal of debris to the Old Gentilly landfill.

9. Do either FEMA or the USACE require that, except as specifically authorized under Federal law, federally funded debris removal contractors only use facilities that comply with all applicable Federal, state and local requirements? What Federal waivers, if any, were issued with respect to debris removal and disposal?

   Yes, FEMA, USACE and all state and local governments are required to comply with all applicable Federal, State and local requirements. FEMA has not issued federal waivers, but is aware of a series of "No Action Assurance" letters issued by the Environmental Protection Agency.

10. We have been advised that the Old Gentilly facility was used for disposal even though the USACE and FEMA knew that the facility did not have a Federal Clean Water Act permit for discharge of contaminated stormwater or a 404 permit required by USACE regulations as well as other environmental concerns. Is this true? What steps have the USACE and FEMA taken to ensure environmental compliance and safety?

    The site of the Gentilly landfill is not located on a wetland and therefore does not require a Department of the Army permit. USACE has no evidence of contaminated storm-water being generated by the Old Gentilly Landfill either prior to or after Hurricane Katrina. Though LDEQ is the responsible agency for determining the environmental appropriateness for issuance of disposal permits, USACE performed baseline assessments of Gentilly Landfill prior to use, under the emergency response phase of work. USACE baseline assessments did not

identify data supporting the abandonment of Gentilly Landfill, nor the creation of contaminated storm-water. Unless directed otherwise by the federal and State agencies responsible for landfill use, USACE will continue to use Gentilly landfill in conformance with the terms of the LDEQ permit and any subsequent amendments, terms which are similar to those for the use of all other landfills in the area.

USACE's entire work plan is designed to segregate objectionable materials from the debris streams and divert them to the proper, approved disposal location for such waste.

11. The NISTAC Report, prepared by an independent FEMA contractor, concludes that FEMA could potentially be exposed to high risk of future environmental liability based on current conditions and environmental history of the site. The report also raised a concern that activities at the site might destabilize the adjacent flood protection levee. We understand that subsequent to this report, the USACE limited deliveries of additional wastes to this facility. Was this limitation in response to the NISTAC report? If so, please explain what in the report led to this restriction. The report also recommended additional studies of the potential ground and surface water contamination from wastes at this site and a further review of the levee stability issue. Did any USACE personnel observe any instances of soil instability either within the confines of the landfill or at the levee in the area of the landfill? Will the water quality and levee/landfill stability studies recommended by NISTAC be conducted? If so, when will they be conducted? If not, why not?

NISTAC was tasked by FEMA to develop a report on the Old Gentilly landfill. A draft report was submitted to FEMA based on the original closed Old Gentilly landfill. The NISTAC report, written as a draft, was never completed. LADEQ is currently drafting their own decisional document as required by the consent agreement as dictated by the lawsuit referenced in question #8.

It is FEMA's understanding that the USACE is currently reviewing the NISTAC Report. Although the EPA had approved 19,000 cubic yards per day, the USACE has reduced the landfill deposit not to exceed 5,000 cubic yards per day per FEMA directive. The USACE is actively evaluating levee stability concerns and needs associated with the Gentilly Landfil.

Senator Vitter's Questions for the Record
Hearing on "Katrina and Contracting: Blue Roof, Debris Removal, Travel Trailer Case Studies"
Committee on Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information, and International Security

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LTG Carl A. Strock, Chief of Engineers, U.S. Army Corps of Engineers

1. In your written testimony, you mentioned that the U.S. Army Corps of Engineers (USACE) has begun geographic set asides in Mississippi. Has the USACE begun using geographic set asides in Louisiana? If no, why not?

   Answer: USACE has not yet awarded contracts in Louisiana that include a geographic set aside, but USACE remains committed to do so. As a result of contractor protest actions on the geographic set aside contracts in Mississippi, USACE adjusted its acquisition strategy as the debris mission in Louisiana continued unabated. USACE is now proceeding to obtain Department of the Army approval of an acquisition plan for structural demolition for the award of a minimum of three competitive 8(a) set-asides for Louisiana contractors. Each contract award will be $10,000,000 and will be awarded sequentially as workload is identified.

2. Do you believe that HR 4979 recently passed by Congress will allay the USACE's fear of lawsuits for awarding geographic set asides?

   Answer: Section 2 of HR 4979 provides that: "Section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150) is amended by adding at the end the following: `In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area." This provision codifies a favorable ruling from the Government Accountability Office in response to a pre-award bid protest brought by AshBritt, Inc. AshBritt Inc., a Florida contractor, protested the Corps' solicitation for debris removal in Mississippi in response to Hurricane Katrina, claiming that: (1) the Corps' decision to conduct the competition was "an abdication of its responsibilities in the face of Congressional pressure;" (2) the use of a set-aside to Mississippi firms exceeds the authority granted under the Stafford Act; and (3) the Corps' J&A contains numerous deficiencies. GAO denied the protest, finding that the solicitation's use of a set-aside to firms residing in or doing business primarily in Mississippi was a valid exercise of the Agency's discretion under the Stafford Act, and that the J&A reasonably explained and justified the actions taken. GAO Decision #B-297889; #B-297889.2; Matter of: AshBritt Inc. (March 20, 2006). Subsequent to the GAO

decision and award of a contract to Necaise Brothers, Inc., a firm located in Mississippi, AshBritt and three other contractors filed protests challenging the Contracting Officer's source selection decision. As a result of these protests and the diminished debris remaining as a result of the execution of the current contractor (AshBritt), the Contracting Officer terminated the contract to Necaise Brothers. As illustrated by the aborted 2006 Mississippi debris removal procurement, legal remedies provided to disappointed bidders by the Competition in Contracting Act of 1984, Pub. L. 98-369.could continue to impact implementation of the Stafford Act even as amended for emergency response contracts.

3. Why has the USACE refused to publicly release the debris removal contracts? Is there a legal reason why these contracts should not be made public?

   Answer: The Louisiana debris removal contracts were posted immediately upon award on (September 15, 2005) on the Corps District websites. Further, summary or aggregate unit price information has been provided in spreadsheet format for all Katrina/Rita response contracts by Parish and type of contract. Unit prices of individual contracts, however, have not been provided, in accordance with application of the Freedom of Information Act (FOIA), published guidance by the Department of Justice implementing the Act and the judicial decisions addressing this issue. Citing 5 USC 552b(4) and McDonnell Douglas Corporation vs. United States Department of Air Force 375 F3d 1182 (D.C. Cir 2004), all four debris removal contractors have claimed that their negotiated unit prices for each task order within the contract is privileged commercial information and they strongly objected to release of unit prices. The types of contracts awarded are Indefinite Delivery Indefinite Quantity (IDIQ) contracts. Each contract is comprised of multiple task orders with unit prices that were negotiated for each task order with its own specific scope of work. These task orders are on-going, and are continually being awarded. Therefore, the unit prices remain vital to and confidential in the ongoing negotiation process with each contractor. In compliance with the FOIA process, the Corps' Louisiana Area Response Field Office made a determination that the contractors are correct and that the data should not be released as requested. This determination is sound, as it protects confidential data of the contractors and protects the interests of the United States in maximizing competition, competition which could be reduced should contractors withdraw their willingness to perform the work and should subcontractors be provided information which allows them to raise their prices during the continuing negotiation of task orders, to the detriment of the public.

4. What is the appropriate role of state and local governments in determining not which landfills may receive wastes from federally funded cleanups, but which landfills shall receive such wastes? Did the State of Louisiana effectively direct that certain debris be transported by Federal contractors to specified landfills?

   Answer: Federal response response/recovery operations are governed by all applicable Federal, State and local authorities. Consequently, USACE contractors may deposit wastes in properly "permitted" landfills only. The Louisiana Department of Environmental Quality (LDEQ) is the licensing authority for landfill permits. Certain local governments also exercise regulatory authorities for land use within their jurisdictional boundaries.

   USACE coordinated extensively with LDEQ in order to identify appropriately permitted landfills that provide sufficient landfill capacity within the state of Louisiana to accept hurricane generated waste. Early in the event, LDEQ requested that USACE coordinate waste disposal with their office to facilitate proper planning of long-term disposal needs within the state of Louisiana.

   The State of Louisiana provided the permitting, but did not direct the usage of any particular landfill.

5. We understand that Waste Management Inc has exchanged documents with the City of New Orleans under which the City granted an emergency authorization for a new landfill to be constructed in a wetland subject to USACE jurisdiction and Waste Management Inc. pledged to donate 20 percent of the revenue to the City. Given that a substantial portion of the "pledged" donation will be derived from USACE managed funds is this arrangement appropriate?

   Answer: USACE has no knowledge of the above.

6. As of this date are there sufficient closure and post-closure funds provided at the Old Gentilly landfill to ensure that the USACE will not bear future environmental liability for waste disposal at the site?

   Answer: Any users of landfills bear potential environmental liability associated with disposition. However, USACE's contractual obligations at Gentilly Landfill include paying a "tip" fee to compensate the City of New Orleans, the owner, and their operator for costs associated with disposition, including close out. Like other "tip" fee sites such as River Birch, Hwy. 90 C&D, and Venice Landfill, USACE has set aside no closure or Post closure funds because the tip fee is intended to cover such expenses.

7. Has your office reviewed allegations that disposal of wastes at the Old Gentilly landfill is unsafe and/or unlawful? If so, what were your conclusions? Under the four $500 million debris removal contracts, what is the role of the USACE and FEMA in determining where to dispose of hurricane generated debris? Specifically, whose decision was it to take several million cubic yards of debris to the Old Gentilly landfill?

   Answer: From the inception, USACE coordinated with LDEQ and EPA regarding the disposal of debris at the Gentilly landfill. In September 2005, LDEQ issued to the City of New Orleans an order authorizing commencement of operations and authorizing without limitation the utilization of the landfill for disposal of the massive amounts of hurricane generated construction and demolition debris in the New Orleans area. EPA has since issued approval to dispose 19,000 cubic yards per day of C&D material at Gentilly, a limit that applies to all depositors of debris, including local and private interests. On 16 Feb 06, FEMA directed USACE to deposit no more than 5,000 cy per day. USACE has no reason to conclude that such deposits are either unlawful or unsafe and relies upon those Federal and State agencies which have jurisdiction over landfills to make such determinations. Unless there are safety concerns (such as routing through neighborhoods, road and bridge load limits, etc.), the determination by USACE as to the placement of debris in authorized landfills is typically based upon the lowest cost, once the type of debris and the logistics (eg. shortest distance, traffic, etc) are identified.

8. Do either FEMA or the USACE require that, except as specifically authorized under Federal law, federally funded debris removal contractors only use facilities that comply with all applicable Federal, state and local requirements? What Federal waivers, if any, were issued with respect to debris removal and disposal?

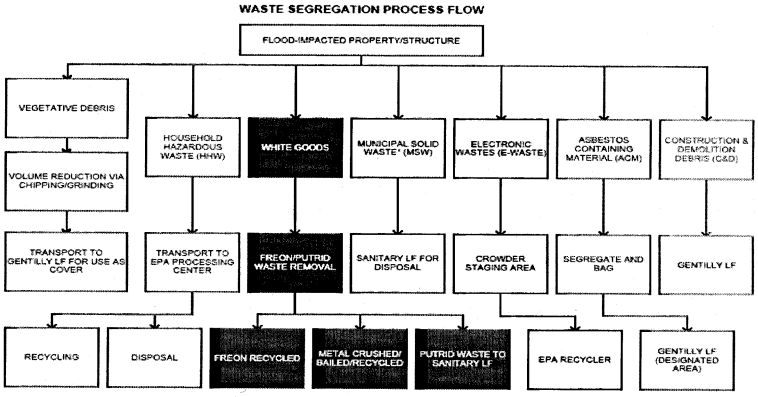
   Answer: USACE does require its debris removal contractors to comply with all applicable federal, state and local requirements. USACE employs quality assurance personnel to monitor disposal activities to maximize assurance that disposal of debris is conducted in accordance with these and other protocols established after extensive coordination with federal and state regulatory agencies. There are a series of "No Action Assurance" letters issued by USEPA and implemented by LDEQ which allow flexibility in the handling and disposal of asbestos containing material.

9. We have been advised that the Old Gentilly facility was used for disposal even though the USACE and FEMA knew that the facility did not have a Federal Clean Water Act permit for discharge of contaminated stormwater or a 404 permit required by USACE regulations as well as other

environmental concerns. Is this true? What steps have the USACE and FEMA taken to ensure environmental compliance and safety?

Answers: The site of the Gentilly landfill is not located on a wetland and therefore does not require a Department of the Army permit. USACE has no evidence of contaminated storm-water being generated by Old Gentilly Landfill either prior to or after Hurricane Katrina. Though LDEQ is the responsible agency for determining the environmental appropriateness for issuance of disposal permits, USACE performed baseline assessments of Gentilly Landfill prior to use, under the emergency response phase of work. USACE baseline assessments did not identify data supporting the abandonment of Gentilly Landfill, nor the creation of contaminated storm-water. Unless directed otherwise by the federal and State agencies responsible for landfill use, USACE will continue to use Gentilly landfill in conformance with the terms of the LDEQ permit and any subsequent amendments, terms which are similar to those for the use of all other landfills in the area.

USACE's entire work plan is designed to segregate objectionable materials from the debris streams and divert them to the proper, approved disposal location for such waste. To date, USACE has segregated the following waste streams from curb-side debris and\or demolition debris for appropriate recycling\disposition:



10. The NISTAC Report, prepared by an independent FEMA contractor, concludes that FEMA could potentially be exposed to high risk of future environmental liability based on current conditions and environmental

history of the site. The report also raised a concern that activities at the site might destabilize the adjacent flood protection levee. We understand that subsequent to this report, the USACE limited deliveries of additional wastes to this facility. Was this limitation in response to the NISTAC report? If so, please explain what in the report led to this restriction. The report also recommended additional studies of the potential ground and surface water contamination from wastes at this site and a further review of the levee stability issue. Did any USACE personnel observe any instances of soil instability either within the confines of the landfill or at the levee in the area of the landfill? Will the water quality and levee/landfill stability studies recommended by NISTAC be conducted? If so, when will they be conducted? If not, why not?

Answers: USACE is currently reviewing the NISTIC Report. Despite EPA's approval of 19,000 cy per day, USACE has reduced the landfill deposit to not exceed 5,000 cy per day per FEMA directive. USACE is actively evaluating levee stability concerns and needs associated with the Gentilly Landfill.

QUESTIONS FOR THE RECORD FROM Dr. COBURN

LTG Carl A. Strock, Army Corps

1. Are you monitoring below the first tier contractor for payment discrepancies? What recourse do subcontractors have if they have been underpaid or not paid at all?

   Answer: The government only has a contractual relationship with the prime contractor and does not have a relationship with the subcontractors. As such the government does not monitor subcontractor payment discrepancies. In administering its contracts, the Corps follows all applicable statutes and regulations related to the protection of subcontractors and suppliers, including a requirement that prime contractors furnish payment bonds. The Miller Act, 40 USC 2701 et seq., was enacted as a vehicle for the filing of claims and disputes for those providing labor and materials to government projects. The Miller Act provides that any subcontractor or supplier who has furnished labor or material under a Federal contract and has not been paid within ninety days following the last date on which labor was performed or material delivered shall have the right to bring suit on the payment bond for such payment. The Federal Government is not authorized by either statue or contractual provision to resolve disputes that may arise between its prime contractor and their subcontractors or suppliers. To this extent, therefore, USACE is not authorized to resolve many of the indebtedness claims arising under these contracts. The available options for those with such

claims would involve litigation pursuant to the Miller Act, if applicable, or other legal remedies that may be available between private parties.

1a.Are prime contractors required to produce a detailed audit from the multiple layers of subcontractors they end up using? If so, who reviews and investigates this audit?

Answer: The debris removal contracts in Mississippi were awarded on a fixed-price basis. Prime contractors are not required to produce detailed audits from the multiple layers of subcontractors. As discussed above, the Government only has a contractual relationship with the prime contractor and the statements of work in the contracts are performance based so that the Government does not prescribe how the work is to be done. The prime contractor determines how it will complete the job and what, if any, subcontractors it will hire. Further, there is no legal or regulatory requirement for prime contractors to produce detailed audits of the multiple layers of contractors that it is using.

2. Why is there still no plan in place to help parishes with debris removal in the bayous, canals, and shorelines? And how do you plan on addressing the need for removing swamp grass that has now taken root several miles from its original location?

   Answer: The debris removal, whether from residential areas or canals, is tasked by FEMA. Once these areas are tasked, USACE implements the tasker for the scope of work and upon approval by FEMA, initiates removal. USACE has received no mission from FEMA with regard to removal of swamp grass and has no authority to address swamp grass deposits on non federal lands, beyond potentially issuing permits for regulated activities that occur in areas subject to the Corps' regulatory jurisdiction set forth in the Rivers and Harbors Act of 1899 and the Clean Water Act, if any.

3. Exactly how much money is the US Army Corps taking in the pass through of funding for the Gulf Coast recovery?

   Answer: In order to answer this question, it is important to understand the unique way in which the USACE conducts its business. Unlike many government agencies, the Corps of Engineers does not receive Congressional funding for its District Offices, only for the Headquarters and Division operational costs (labor, utilities, rent, etc.). Consequently, in order to cover those costs, the District Offices charge both Departmental and General and Administrative overhead fees for all the work they perform to cover all of the indirect and operational costs they incur. Analysis of total obligations for FEMA funded recovery for Katrina for MS and LA through 9 May reflect that 82.0% has been expended on contracts

to perform the missions. (i.e., debris, roofing, temporary public structures etc.). 18.0% of the total costs has been spent as oversight or "overhead" in support of these missions. This "overhead" includes all of the hired labor from the USACE or other agencies, travel associated with this hired labor, QA contracts, IM support, supplies, etc. A similar USACE mission from Alabama's Hurricane Ivan was compared and the percentage of contract and overhead were very close. They were 83% and 17% respectively.

	Katrina LA through 9 May 2006 ($M)	Katrina MS through 9 May 2006 ($M)	Katrina MS and LA combined through 9 May ($M)	Similar Corps Mission in Alabama
Total Mission Obligations	$1,708	$1,066	$2,776	--
Placement (contract) Expenditures	$1,408 (82.4%)	$867 (81.2%)	$2,275 (82%)	83%
Corps' Oversight Expenditures	$300 (17.6%)	$201 (18.8%)	$501 * (18.0%)	17%

* Note: USACE oversight costs include approximately $170M in payments to local contractors for Quality Assurance inspectors who worked under USACE supervision primarily verifying performance of debris and roofing contractors.

Post-Hearing Questions for the Record
Submitted to Matt Jadacki
From Senator Thomas R. Carper

"Katrina and Contracting: Blue Roof, Debris Removal, Travel Trailer Case Studies"

April 10, 2006

1. **You say in your testimony that pre-disaster planning should include the establishment of call contracts for things like ice, water, transportation and other goods and services that FEMA knows it will need in the aftermath of a major disaster. I gather from your use of the word "should" that this didn't happen during the lead-up to Hurricane Katrina – or at least didn't happen to the extent that it needed to happen. Can you take a few minutes and describe for us some of the areas where FEMA's use of call contracts was lacking or non-existent? What problems did the insufficient use of call contracts lead to on the ground?**

Answer: FEMA did have some call contracts in place prior to Katrina. However, the aftermath of the disaster made it clear that commodities were not available at the right place or at the right time.

In response to Hurricane Katrina, state officials expressed frustration with the lack of asset visibility in the logistics process. These officials indicated they had ordered water, ice, and Meals-Ready-To-Eat in quantities far greater than what was delivered. Yet, when they attempted to determine where additional quantities were in the delivery process, they were told the commodities were "in the pipeline." According to FEMA field officials, on average, Mississippi received less than 50 percent of the commodities it requested between August 27, 2005, and September 5, 2005. Similarly, during the 2004 hurricane season, when asked about the delivery status of requested ice and water, federal logistics personnel could only tell requesting state officials that the commodities were en route.

In our review of FEMA's performance following Hurricane Katrina, we looked at the process for ordering and filling resource requests. We determined an inconsistent process was used. It involved multiple, independent computer and paper-based systems, many of which generated numerous, unique tracking numbers and few of which were crossed-referenced.

In our report, *Emergency Preparedness and Response Could Better Integrate Information Technology with Incident Response and Recovery* (September 2005) we stated that FEMA Logistics Inventory Management System (LIMS) provides no tracking of essential commodities, such as ice and water, needed by disaster victims. As a result, FEMA cannot readily determine its effectiveness in achieving DHS' specific disaster response goals and whether or not there is a need to improve. LIMS is essentially an

inventory system used to manage equipment and accountable property, such as cell phones or pagers. However, once the items are identified for deployment, LIMS does not indicate when they will be shipped or when they should arrive. To compensate, emergency personnel said that they tracked items on a spreadsheet and spent a significant amount of time calling trucking companies to determine the status and projected arrival times of in-transit goods. This also required the assignment of additional personnel to obtain the status of deployed commodities and complicated emergency response planning and coordination.

Further we noted that FEMA's disaster response culture has supported the agency through many crisis situations, such as the 2004 hurricanes. However, FEMA's reactive approach encourages short-term systems fixes rather than long-term solutions, contributing to the difficulties it encountered in supporting Katrina response and recovery operations. Without taking the time to fully define and document systems requirements, it is difficult for FEMA to evaluate viable alternatives to its custom-designed systems. Also, the reactive manner in which information technology systems are funded and implemented has left little time for proper systems testing before they are deployed.

2. **You note at several points in your testimony that FEMA contracting staff did not do a very good job holding onto some of the paper work associated with the contracts they were closing. This lead, at the very least, to the perception in some cases that FEMA did not do all it could have done to ensure that the prices it was paying were reasonable. Has this always been a problem at FEMA? What, if anything, is being done about it?**

Due to the catastrophic proportions of the damage from Hurricane Katrina, comparisons to procurements in the past are difficult. In the IG review of contracts for procurements relating to Katrina during the first few months, a large number did not have documented Price Reasonableness Analyses or Independent Government Cost Estimates. In the case of the four Individual assistance-technical assistance contracts (IA-TAC) for temporary housing, the contracts were awarded sole source. In addition, our reviews have determined that FEMA did not have oversight staff available to monitor the costs or work of these contractors.

We are in the process of evaluating the overall contracting efforts related to Hurricane Katrina. FEMA is currently engaged in an initiative to re-compete contracts, specifically the IA-TAC. The maintenance and deactivation work for those temporary housing units installed under the IA-TAC, and other related work, will be assumed by 36 small or small disadvantaged businesses. The new contract for the installation of the temporary housing units will be awarded competitively on a national basis. In addition, FEMA is in the process of adding 60 positions that will include procurement and program management personnel. These types of actions will greatly enhance the capabilities of procurement to ensure the prices being paid are reasonable.

Senator Vitter's Questions for the Record
Hearing on "Katrina and Contracting: Blue Roof, Debris Removal, Travel Trailer Case Studies"

Committee on Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information, and International Security

Mr. Matthew Jadacki, Special Inspector General of Hurricane Katrina Oversight, DHS

1. **When you find that FEMA did not provide sufficient documentation of the process used to award contracts, such as with the 4 major technical assistance contracts, how do you determine whether these contracts were awarded on the basis of bias or favoritism?**

Answer: Generally without the proper documentation we are unable to determine whether contracts were awarded on the basis of bias or favoritism. The four major technical assistance contracts (TAC) were awarded under a sole source basis using the expedited contracting methods as authorized by Federal Acquisition Regulation, in order to provide a timely response to victims' needs. Our review of the source selection process for each of the TACs did not find complete written records of the source selection process to determine how FEMA selected these firms. However, we currently have a contractor doing an in-depth review of these contracts to determine 1) adequacy and appropriateness of contract documents; 2) the price reasonableness; 3) effectiveness of the inspection, acceptance and payment processes, and 4) adherence to effective contracting practices.

2. **What documentation with regard to the contracting process did FEMA fail to provide that you believe should have been provided?**

Answer: Our review of contracts determined: 1) the majority of contracts were awarded without full and open competition; 2) in most of the cases, the contracting officials did not document determination of the contractor's responsibility; 3) in some cases, a sufficient price reasonableness test was either not done or not documented; 4) some contracts did not have definitive statements of work; 5) the preference for local firms was not always documented; 6) effective inspection, acceptance and payment processes were not always mentioned in the contract file, and 7) contractor's certifications for Small Business were not always in the file.

Memorandum March 29, 2006

TO: Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, and International Security
Attention: Trey Hicks

FROM: L. Elaine Halchin
Analyst in American National Government
Government and Finance Division

SUBJECT: Hurricane Katrina Contracting: Subcontracting Tiers

This memorandum responds to your request for information about subcontracting tiers associated with contracts awarded in support of Hurricane Katrina recovery efforts.

Introduction

A common method for government agencies to purchase goods or services is to: (1) issue a solicitation, which states, among other things, the agency's requirements; (2) receive and evaluate the proposals submitted by firms; and (3) award a contract to one or more companies. A contract that a federal agency awards to a company is a "prime contract," which is "a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind."[1] A prime contractor may have one or more subcontractors, and there may be multiple tiers of subcontractors. A first-tier subcontractor is a company that holds a contract with a prime contractor.[2] It is possible that a prime contractor could be supported by multiple tiers or levels of subcontractors.

Issues Involving Subcontracting Tiers

Concerns about subcontracting tiers that are associated with Hurricane Katrina contracts appear to be interwoven with several other contracting issues, such as company size and the home location of businesses (within the Gulf Coast or outside the affected region). Questions about whether a prime contractor is responsible for how second- and lower-tier

[1] FAR § 3.502-1. ("FAR" is the *Federal Acquisition Regulation.*)

[2] FAR § 22.801.

subcontractors are treated by the company with which they have a contract, concerns about the equity of payments across all subcontractor levels and including the prime contractor, and allegations that the lowest tiers are underpaid in some instances combine to make the issue of subcontracting tiers a complex one.

In news articles that address the issue of multiple levels of subcontractors associated with Hurricane Katrina contracts, the favorable comments generally focus on the necessity of subcontractors, or explain why it is desirable to have large firms serving as prime contractors that are supported by smaller firms as subcontractors. For example, the Chief of Contracting for the U.S. Army Corps of Engineers (USACE, or the Corps) Louisiana Recovery Field Office told a journalist: "'[If prime contractors had to manage directly all of the companies doing the work, the] span of control would be phenomenal.... Tiers of subcontractors down to a certain point makes good management sense...."[3]

Proponents of the prime-subcontractor arrangement (but who are not necessarily proponents of multiple levels of subcontractors) argue that large companies should be the prime contractors because they have resources and capabilities that smaller firms do not. Large companies are able to handle the financial requirements associated with being a federal government contractor, and they have resources that enable them to arrange, coordinate, and monitor a workforce that is spread over a large (disaster) area.[4] Additionally, supporters argue that large companies are more likely to be able to expand their workload capacity quickly, directly or indirectly, by hiring small firms as subcontractors.[5] A corollary to this point is that when awarding contracts for recovery work to companies in advance of any disasters or emergencies, the government may find it advantageous to work with companies that are not tied to any particular region. Thus, once a disaster occurs in a particular area, the company holding the contract might not be completely affected by the disaster and would be able to identify companies in the region that could serve as subcontractors. Small companies benefit from the prime-subcontractor arrangement because they may not have sufficient resources or capabilities to work directly with the federal government, but they are able to get work as subcontractors.[6] In commenting on contracts awarded in support of Hurricane Katrina recovery efforts, a spokesman for the Corps reportedly said: "'This is not what most people think of as a typical contract, with sealed bids for a very specific job and a one-time, specific amount of money.... These are task-order contracts. What we basically are awarding the big contracts for is someone's ability to do a lot of different kinds of tasks.'"[7]

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[3] Deon Roberts, "Builders Want Far Fewer Subs on Federal Jobs," *New Orleans CityBusiness*, Feb. 13, 2006, n.p.

[4] Joby Warrick, "Multiple Layers of Contractors Drive Up Cost of Katrina Cleanup, *Washington Post*, Mar. 20, 2006, p. A6; Gordon Russell and James Varney, "Reconstruction Efforts Use 'Trickle-Down' Approach," *Seattle Times*, Jan. 12, 2006, p. A3.

[5] Russell and Varney, "Reconstruction Efforts Use 'Trickle-Down' Approach," p. A3.

[6] Warrick, "Multiple Layers of Contractors Drive Up Cost of Katrina Cleanup," p. A3.

[7] Russell and Varney, "Reconstruction Efforts Use 'Trickle-Down' Approach," p. A3.

Critics of multiple tiers of subcontractors tend to focus on financial, and performance issues, arguing that contracts with multiple tiers are unnecessarily expensive as each level of subcontractors is paid for doing administrative work; payments to the lowest tiers often are delayed; and the lowest rung of subcontractors, which press accounts suggest is usually occupied by local firms, is paid relatively little money for its work; yet these are the businesses with the greatest need for revenue in the aftermath of a disaster or emergency.[8] Reportedly, an official with Taxpayers for Common Sense, stated: "'When you have this nesting, or tiering, you're losing a lot of money to friction as it goes from sub to sub down to the worker bee who's actually turning a wrench or putting on a blue tarp."[9]

Hurricane Katrina Subcontracting Experiences

The frequency of subcontracting tiers associated with Hurricane Katrina contracts is unclear. News reports suggest, however, that contracts for some of the major projects associated with recovery efforts, such as debris removal and Operation Blue Roof, involve multiple tiers of subcontractors.

Obtaining Information About Subcontracting Tiers. A significant challenge in attempting to assess the extent, nature, financial arrangements, and details of subcontracting tiers associated with Hurricane Katrina contracts is the dearth of information. Information submitted to and maintained in the Federal Procurement Data System (FPDS), and contract data made available by the Federal Emergency Management Agency (FEMA) and the Army Corps of Engineers involves only prime contractors. The omission of subcontracts from FPDS and other, agency-specific databases is not surprising given that the government does not have a direct contractual relationship with subcontractors.

Some journalists have attempted to obtain information from the Corps about payments made to Hurricane Katrina prime contractors and their subcontractors. Reportedly, the Corps declined to provide detailed information on debris removal contracts, stating that revealing how much each contractor is paid per cubic yard "would erode [the companies'] competitive advantage."[10] In another news article, a Corps spokesman said: "'When prime contractors submit their bids, it's a very competitive thing, in accordance with federal acquisition regulations.... [T]hey have an expectation because of competition that their bid is going to be confidential. That is their call.'"[11] After noting that the Corps "has refused to provide breakdowns [of payments] on tarping and debris removal, citing contractor objections" to the release of information, a journalist included a statement reportedly made by the Corps' Chief of Contracting for the Louisiana Recovery Field Office: "'The only thing that I can address

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[8] Warrick, "Multiple Layers of Contractors Drive Up Cost of Katrina Cleanup," p. A6; Seth Borenstein, "Workers Claim They Were Stiffed," *Miami Herald*, Dec. 19, 2005, p. A8; Tina Susman, "All Work and No Pay," *Newsday* (New York, Nassau and Suffolk ed.), Dec. 20, 2005, p. A51; James Varney and Gordon Russell, "Pickings Slim for Debris Haulers," *Times-Picayune*, Feb. 27, 2006, p. 1.

[9] Russell and Varney, "Reconstruction Efforts Use 'Trickle-Down' Approach," p. A3.

[10] Varney and Russell, "Pickings Slim for Debris Haulers," p. 1.

[11] Russell and Varney, "Reconstruction Efforts Use 'Trickle-Down Approach," p. A3.

is what we are paying our primes .... From there, there are contractual agreements between the primes and the subs .... I can't release (verbally) how much we're paying our primes [per roofing square or cubic yard of debris removed]....'"[12] Writing for the *New Orleans CityBusiness*, a reporter stated that Phillps and Jordan Inc. (Knoxville, Tennessee), Ceres Environmental (Brooklyn Park, Minnesota), and ECC (Burlingame, California), all prime contractors for demolition and debris removal, also are reluctant to provide information. A spokesman for ECC "said the company discouraged multiple subcontractor tiers but said he could not give details since the Corps asked ECC not to give interviews."[13]

Subcontracting Tier Experiences: Anecdotal Accounts. For the reasons stated above, it is difficult to obtain detailed, complete, accurate information about the subcontracting arrangements that evolved during the aftermath of Hurricane Katrina. All of the following anecdotal descriptions of alleged subcontracting experiences were taken from news articles; the news outlet is identified at the end of each bullet. It is impossible, given available resources, to further substantiate their accuracy.

- The vice president of operations for LJC Defense Contracting Inc., which was a prime contractor for Operation Blue Roof, said that the urgent need for blue roofs "forced the prime contractors to hire layers of subcontractors, each of whom took a cut of profits, ultimately driving up the cost of the job."[14] (*Times-Picayune*)

- The owner of Command Construction LLC indicated she was "was offered the chance to be a fourth- or fifth-tier subcontractor for post-Katrina work. The pay was not enough, she said. 'We can't do it for that dollar,' she said."[15] (*New Orleans CityBusiness*)

- "At times, some subcontractors said, debris removal arrangements stretch five or six companies deep. The major players — those that landed one of the four $500 million deals the [Army Corps of Engineers] let in September, in some cases without fully competitive bidding — usually have one or two companies handling their logistics, delineating collection zones and staging areas in various parishes and dishing out the work orders. Under those two or three layers a company that receives the work orders ... either does the job itself or, more commonly, doles it out to street crews that perform the manual labor. At each stage, of course, someone expects payment."[16] (*Times-Picayune*)

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[12] Gordon Russell and James Varney, "Tiers of Subcontractors Bleed Off Reconstruction Money," *Newhouse News Service*, Jan. 9, 2006, available at [http://www.newhousenews.com/archive/russell010906.html].

[13] Roberts, "Builders Want Far Fewer Subs on Federal Jobs."

[14] James Varney and Gordon Russell, "Blue Roof Costs Have Critics Seeing Red," *Times-Picayune*, Feb. 19, 2006, p.1.

[15] Roberts, "Builders Want Far Fewer Subs on Federal Jobs," n.p.

[16] Varney and Russell, "Pickings Slim for Debris Haulers," p. 1.

- The Shaw Group, a prime contractor, was paid $175 for each roofing square (which is equal to 100 square feet). Two other primes, Simon Roofing and LJC Construction Co., earned $172 and $149, respectively, for each roofing square.[17] Shaw paid one of its subcontractors, A-1 Construction and Roofing, $75 per roofing square. In turn, A-1 Construction paid Wescon $30 per roofing square, and Wescon indicated its subcontractors also have subcontractors who sometimes earn $2 per square.[18] (*Seattle Times*)

- The Louisiana Attorney General's office said it has forwarded 10-15 investigative leads to FEMA about the issue of subcontractor pay, and an attorney has filed two lawsuits on behalf of workers who allege they were cheated by contractors or subcontractors for debris removal work. The Corps says its own inquiries have not revealed any problems. The Chief of Contracting at the Corps's Louisiana Field Recovery Office added: "'To have an operation as long and as huge as we have going here, it's not atypical for a sub-sub-subcontractor to complain.... Our prime contractors are doing yeoman's work making sure no one is getting stiffed.'" Corps officials said "the matter is complicated by the sometimes ad-hoc nature of the arrangements far down the hauling chain. In some cases the invoices are never submitted by subcontractors, ... while in others no formal contract is signed, making it more difficult for the sub to substantiate his claim."[19] *Times-Picayune*)

- Early in the recovery phase, the "top contractors 'cherry-picked' debris, scooping up big pile after big pile, making frequent runs to the landfills and [making] oodles of money in the process, disgruntled subcontractors said." This is the claim of a lawsuit that has been filed by a subcontractor who says he was a top tier subcontractor to Ceres Environmental in Tangipahoa Parish, and was given exclusive rights to four sectors of the parish. Instead, he found contractors from out of state picking up the large piles of debris in the four sectors. The subcontractor ended up doing the more time consuming and less profitable work of picking up "small scraps" and cutting up damaged trees with his chain saw so that they would fit in his truck. According to another local contractor: "'Right after the storm hit there was stuff everywhere, and everywhere you went you had a pile so the big contractors went where they wanted .... It wasn't worth it to go after the smaller piles so they skipped 'em, and now you've got these smaller little piles out there not getting picked up.'" In response, a Corps spokesman said: "'It's true there is not as much out there and now you've got to hustle for it

[17] The federal government's Central Contractor Registry does not include a company with the name "LJC Construction Co." This may be a reference to LJC Defense Contracting Inc., which is based in Alabama.

[18] Russell and Varney, "Reconstruction Efforts Use 'Trickle-Down' Approach," n.p.

[19] Varney and Russell, "Pickings Slim for Debris Haulers," p. 1.

.... And now some contractors are starting to pull up and leave because there is not enough work to sustain them.'"[20] (*Times-Picayune*)

- A spokesman for the Corps "said it's not unusual for each prime contractor to have 50 subcontractors. 'I've seen one organizational chart for one contractor, and it looked like there were 150 subs in about five or six layers beneath the prime contractor....'"[21] (*Newsday*)

- Laborers and truckers working for a Georgia subcontractor in Louisiana were owed $250,000 in back pay as of December 2005. Officials for the prime contractors involved — Phillips and Jordan and ECC Operating Services — said they were investigating, and a Corps spokesman said the agency is investigating, too. A spokesman for Phillips and Jordan added: "'You can't micromanage every sub of a sub of a sub.... It gets real gray when it does four deep [four subcontracting tiers].'"[22] (*Miami Herald*)

- Harrison Braddy of the Workforce Career Development Corporation (no location given) recruited men from a homeless shelter in Atlanta to do recovery work in New Orleans. The men have not been paid for their work. Braddy claimed that Phoenix Global Engineering and Construction (Metairie, Louisiana) and Copeland Construction (Miami) — apparently two-tier subcontractors — have not paid him. Phoenix denied having a contract with Braddy, and Copeland did not respond to inquiries. Both of these companies apparently are subcontractors for Omni Pinnock (Slidell, Louisiana), which, in turn, is a first-tier contractor for ECC Operating Services (Burlingame, California). Phoenix claims that Omni has been late with payments. ECC says that it is up to date on payments, but acknowledged there have been delays occasionally in paying its subcontractors.[23] (*Newsday*)

- In comments on subcontracting tiers, the Chief of Contracting for the Corps' Louisiana Recovery Field Office, said: "They [prime contractors] are all using subcontractors to get this work done. The number of layers [of subcontractors] is up to them.... [If prime contractors had to manage directly all of the companies doing the work, the] span of control would be phenomenal.... Tiers of subcontractors down to a certain point makes good management sense .... [But there can be too many subcontractors.] We've actually encouraged them to flatten them (the layers). It's not smart business for those (lower-level) guys not to make money...."[24] (*New Orleans CityBusiness*)

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[20] Varney and Russell, "Pickings Slim for Debris Haulers," p. 1.

[21] Susman, "All Work and No Pay," p. A51.

[22] Borenstein, "Workers Claim They Were Stiffed," p. A8.

[23] Susman, "All Work and No Pay," p. A51.

[24] Roberts, "Builders Want Far Fewer Subs on Federal Jobs," n.p.

- A Corps spokesman said the agency does not have enough manpower to manage all of the companies doing work in the disaster area. If the Corps did not have prime contractors, "'We would have to manage everything that the prime is handling like payroll, lodging. It would just be a logistical nightmare to try to do that.'" Later in the article, the spokesman said that the Corps is interested in ways to "'flatten the hierarchy of the primes and subs. It's kind of like lessons learned.'"[25] (*New Orleans CityBusiness*)

I trust that this information will be of assistance. Please call me, at 707-0646, if you have any questions.

[25] Ibid.