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FEMA'S PROJECT WORKSHEETS: ADDRESSING A PROMINENT OBSTACLE TO GULF COAST REBUILDING

HEARING

BEFORE THE

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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FEMA'S PROJECT WORKSHEETS: ADDRESSING A PROMINENT OBSTACLE TO GULF COAST REBUILDING

TUESDAY, JULY 10, 2007

U.S. SENATE,
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:07 a.m., in Room 342, Dirksen Senate Office Building, Hon. Mary Landrieu, Chairman of the Subcommittee, presiding.

Present: Senators Landrieu, Pryor, and Stevens.

OPENING STATEMENT OF SENATOR LANDRIEU

Senator LANDRIEU. Good morning and welcome to our Subcommittee hearing on Disaster Response and Recovery. If you all would like to come up and sit at the table, that would be fine, our first panel.

I have a brief opening statement and then I would like to turn to my Ranking Member, Senator Stevens, and then we will begin as expeditiously as possible with our first panel.

On April 12, this Subcommittee held its first hearing on our work monitoring the Gulf Coast rebuilding effort. I told Members of this Subcommittee that I wanted to use this Subcommittee to tell a story, an important story that needs to be told. I wanted to put together a narrative that would clearly illustrate the challenges of rebuilding the Gulf Coast, and in addition, rebuilding a stronger and better disaster response and recovery mechanism for our country.

From the onset, it was clear that there were stories State and local officials were bursting at the seams to tell. At that first hearing, we heard from several State and local officials who had dramatic stories to tell, and nearly every witness named among the most pressing recovery obstacles FEMA's Project Worksheet process.

Project Worksheets (PWs), as we have come to know them in Louisiana and Mississippi, are a series of maddening forms filled out by FEMA based on information submitted by applicants. At our first hearing, a witness from the Louisiana Recovery Authority testified, in some cases, 2,680 documents were required for a single project.

The Mayor of Waveland, Mississippi, Tommy Longo, testified that his city submitted a PW for a sewer system in September 2005 and that at the time of the hearing on April 12, 2007, only the first phase had been approved by FEMA. He went on to say that FEMA had a second phase in hand, but because of a continued rotation of personnel every 3 months or so, there was a slow exchange of information, variances, and decisions between old and new that resulted in delays of as much as 6 months.

I am sure, based on these panelists, we will hear other similar stories. Indeed, every witness on that panel told the story of how the PW process is a nightmare, slowing down recovery and making it almost impossible.

I won't go into the details, but will instead submit the rest of this in my statement, but let me just continue on to say, in pursuit of an approach to solve this problem, I introduced an amendment to the Homeland Security appropriations that would give at least our school districts a chance to be reimbursed in a global fashion as opposed to project-by-project, building-by-building, campus-by-campus, in order to help us get the thousands of children in Louisiana and Mississippi that want to come home to school and to be a part of the rebuilding process, but this particular work order process is stopping them, as it is stopping so much of our other endeavors. I hope that we can move quickly on this amendment, but that is not the purpose of this hearing.

You will hear from our second panel today that some PWs are underestimated by a factor of four to five times compared to the actual cost. The Louisiana State Office of Facility Planning and Control, the Louisiana agency responsible for rebuilding all the State-owned facilities, has reported that the actual cost of completing projects averages four times the original PW estimate. Jefferson Parish has reported the costs were two-and-a-half times the estimates, and New Orleans has reported the costs over and above the estimates, as well. This puts the burden of proof on localities to pay for an independent architect and engineering firm at a time when they have precious little money to provide the higher cost estimates, which is based on actual contractor bids, and we are going to submit for the record evidence that we have received today to back up these claims.

Additionally, I mentioned earlier in my statement using schools as an example, the program prohibits lump-sum global projects currently. We would like to see that changed.

There are opportunities to be found in the wake of disasters. Recovery should be driven by free market and citizens, but government must do their part to stand up critical infrastructure and vital services and offer a minimum level of security to people seeking to rebuild. Our government has not met that standard, in my view, in the Southeast or Southwest of Louisiana or on the Gulf Coast, and hopefully our hearing today can lead us to a better process.

You will hear today from FEMA that they have "obligated" funds for nearly 90 percent of the Hurricane Katrina projects and 61 percent for Louisiana, but this does not tell the whole story and obligated funds does not mean that they are readily available, ready to be used, and ready to rebuild the hundreds of libraries, schools,

police stations, fire stations, and other infrastructure that is critical for these parishes to stand up from a catastrophic disaster. What you will understand after this hearing, I hope, is that obligated means that in terms of FEMA's view, Congress has appropriated the money and they have it on the ready. The problem is that they have estimated the cost of many of these projects to be two and three or four times lower than it will actually cost to rebuild.

So I am looking forward to the witnesses today to build an argument and a case for a new approach, a better approach. We have gotten some very specific suggestions from these officials and I am looking forward to questioning them, as well as the FEMA officials, throughout the morning.

Let me turn now to my Ranking Member, Senator Stevens, and thank him. As I said in earlier meetings, he has a lot of experience with disasters that have occurred in Alaska. He has been on the forefront of some change and reform and I hope that this hearing will give us all, and my colleague from Arkansas, an opportunity to make the system better. Senator Stevens.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Thank you very much. I am particularly interested in the Project Worksheet process. These worksheets are apparently the key to the reconstruction process and I am hopeful that we are going to have some time to ask some meaningful questions about what has happened to this Project Worksheet process.

Other than that, I thank you for the hearing and look forward to witnesses. Thank you very much.

Senator LANDRIEU. Thank you. Senator Pryor.

Senator PRYOR. I don't have an opening statement, Madam Chairman, but thank you again for keeping our focus and attention on this very important issue.

Senator LANDRIEU. Thank you.

Then let us begin with our first panel. Let me introduce them briefly and then I will ask them to speak in the order that they are introduced, and I thank them for being available, taking time from their busy schedules and tasks of rebuilding their parishes and their regions.

First, Mayor Ray Nagin from the City of New Orleans. He has worked for many years to resolve some of the city's most persistent problems. Prior to becoming Mayor, Mr. Nagin served as General Manager of Cox Communication in Southeast Louisiana. He has had to fight to get assistance to the people of New Orleans and he continues that fight today.

Our second witness will be Kevin Davis, President of St. Tammany Parish, also one of the hardest-hit parishes. Mr. Davis was elected in January 2000. His efforts to streamline the St. Tammany Parish Government are well respected and well known and he has made major contributions to the improvement of the parish.

President Henry Rodriguez, Junior Rodriguez as we know him, from St. Bernard Parish has served in local governments since 1976. He was first elected to the Police Jury, where he remained for 16 years. He has battled to basically lead the effort of a parish that was virtually completely destroyed, 67,000 people that are

anxious to return and build homes stronger and better, so I look forward to your testimony, Junior, as well.

Let us begin with Mayor Nagin, and please understand, your testimony has been received and recorded, if you would like to summarize it or read it. I would ask each of you to limit your opening remarks to 5 minutes. Thank you.

Mayor Nagin, please begin.

TESTIMONY OF C. RAY NAGIN,[1] MAYOR, CITY OF NEW ORLEANS, LOUISIANA

Mr. NAGIN. Good morning to this Subcommittee. I am C. Ray Nagin, Mayor of the City of New Orleans and I am honored to be here this morning to testify to Chairman Landrieu, Ranking Member Stevens, Senator Pryor, distinguished Members, and guests of the U.S. Senate Ad Hoc Subcommittee on Disaster Recovery of the Committee of Homeland Security and Governmental Affairs. Thank you for calling and inviting us today to talk about this very important aspect of any recovery, and that is FEMA Project Worksheets. We have had a persistent area—this has been a persistent area of difficulty and challenge for all of us, and all of my colleagues in the disaster areas.

As I begin my testimony, I would like to thank you in Congress for your tremendous support for our region over the past 22 months. You have ensured that attention remains focused on New Orleans and the entire region so drastically affected by the hurricanes of 2005. I would also like to once again thank the American people and people all over the world for their generosity and support.

As I begin my testimony, while the Federal Government has appropriated significant resources for our recovery, as I have mentioned many times, these dollars have been very slow to reach local governments and the citizens who need them. As has been the topic of much discussion in the past, we have found ourselves locked in a cycle of futility in certain respects and the need of needing money to undertake projects so that we can seek reimbursements for work that has been undertaken.

To ensure that we have done everything to help ourselves, right after the disaster, we changed some laws to permit the city to borrow more than $30 million from other departments and other projects to begin critical projects related to public safety. We focused our efforts on public safety because those were our most critical needs at the moment, such as police, fire stations, and we were able to bring back our criminal court buildings at Tulane and Broad in June 2006, less than a year after the flooding.

Today, we continue to maintain a very cautious balance of very limited general fund dollars as we continue to stand up our economy. My finance team has worked with national advisors, and recently we came up with a 5-year plan, a budget plan, that keeps costs in line with spending and assuring responsible management of our Community Disaster Loans (CDLs). Wall Street has acknowledged this, our prudent use of our limited dollars, and re-

[1] The prepared statement of Mr. Nagin appears in the Appendix on page 39.

cently upgraded our investment grade bonds from "junk" status to "stable" status.

Perhaps more importantly, our residents, ladies and gentlemen, are definitely coming home. After the floods, I set an aggressive goal for New Orleans to return to 75 percent of our pre-Hurricane Katrina populations. We now sit at about 64 percent and gaining, meaning that our population is somewhere around 300,000 people compared to the 455,000 pre-Hurricane Katrina.

Despite the hard work and creativity of our dedicated staff, we have run into many difficulties, and the biggest problem that we have is the Robert T. Stafford Act. The Act functions as a reimbursement program where a community like mine that has been totally devastated does not have the resources to adequately start projects and do them well.

Now, recently, we have had some very positive movement in our relationship with FEMA and I would like to congratulate the recent staff and Gil Jamison for his hard work. But we are asking that as you consider changes in the Stafford Act, that there be a new category for catastrophic events that would allow a government to be in a position to have funds advanced to them so that they can start the meaningful work that they are needing.

And another point I will make as my time expires is that there is a national standard called RSMeans, which basically sets estimates, reasonable estimates for what it would cost to reimburse a particular community for a disaster such as ours, and those calculations were not done accurately on the outset. So we had many Project Worksheets that were under-valued, and we continue to fight the under-valuing, and until we get the dollars appropriated at reasonable levels, we cannot start the work.

So I thank this Subcommittee, and my time is up, and I will be more than happy to answer any questions that they have.

Senator LANDRIEU. Thank you, Mr. Mayor. President Davis.

TESTIMONY OF KEVIN DAVIS,[1] PRESIDENT, ST. TAMMANY PARISH, LOUISIANA

Mr. DAVIS. Good morning. Thank you, Chairman Landrieu, Ranking Member Stevens, and Senator Pryor. First, thank you for the Federal aid to help the Gulf Coast region recover from the worst natural disaster in American history. I also want to thank you for the opportunity to be here before you today.

It has been almost 2 years since Hurricane Katrina's storm surge and winds brought massive damage to our community. I hope my testimony will be constructive and assist in future recovery efforts.

I wanted to quickly give you the background for the issues I would like to address. St. Tammany Parish is north and east of Orleans Parish. My parish is about 850 square miles of which 57 miles are coastline. The northern half is rural and the southern half is a mix of urban and suburban. Drainage is provided by our rivers, streams, and bayous. The eye of Hurricane Katrina passed over eastern St. Tammany Parish. The storm surge was 20 feet high at its peak.

[1] The prepared statement of Mr. Davis appears in the Appendix on page 47.

It extended for over 50 miles and came inland for over seven. Over 48,000 homes were damaged. Every roadway was blocked. Our natural drainage system was clogged by downed trees. All utilities were destroyed. All bridges into St. Tammany from the south shore were incapacitated immediately after the storm. Seven square miles of marshland was pushed into towns and subdivisions south of I–12. Hurricane Katrina created 6.8 million cubic yards of debris, over 90 percent of which were trees.

This was our situation when we began working with FEMA and the Public Assistance process. The primary problems we faced related to a lack of trained and qualified representatives from FEMA on the ground, as well as the inability of local FEMA representatives to make decisions regarding Project Worksheets. The disaster specialists fiscal year assigned to the parish have, for the most part, been inexperienced and not knowledgeable regarding the laws, memorandums and rules, and other policies of FEMA regarding Hurricanes Katrina and Rita. Inconsistent rulings finally forced me to sue FEMA in Federal Court. We did not want to take this step but were forced to do so to protect our citizens.

The eye of Hurricane Katrina stripped dozens of acres of marshland from the lake and deposited the mud and grass into homes, roads, canals, especially in the Coin Du Lestin area. Homeowners cleaned and scrubbed their homes and possessions. The parish contractor hauled away debris in the roads, but to this day, parts of the bayous are so full of debris that you can almost walk across the water.

FEMA dictated that we could only remove specific debris out of the canals. One was a car. The second was a part of a house, and another was a boat. FEMA officials arbitrarily decided what could and could not get done to clean this area. In no way were we able to dredge. That was a forbidden word. We bid the project three times, at FEMA's request, without succeeding in cleaning these canals. FEMA wanted to manage a response, as well as audit the results.

I believe that to improve emergency assistance in our country, we must resolve this conflict within FEMA's own mission. FEMA has roles that are not compatible. FEMA primarily operates as a regulatory bureaucracy. During crisis, FEMA changes to an action organization, and then within days it reverts back to a regulatory agency. By its very nature, it cannot manage a chaotic situation. In a crisis, flexibility and the need to think quickly and creatively are essential.

We recommend FEMA be defined as a regulatory bureaucracy. Give the responder's job to an agency such as the National Guard. While the National Guard is a large agency, it is built for action. FEMA is a bureaucracy built for regulation. FEMA's role, I would argue, is to provide regulatory oversight without managing the situation. FEMA does an excellent job of auditing its grantees. Why not ask FEMA to do what it does best, the oversight of FEMA-supported programs.

FEMA and local governments need more training than is now given. Almost every conflict that we had can be traced back to a lack of basic training in the law and its roles and regulations. Rule interpretation varies significantly from one jurisdiction to another.

This is evident in a lawsuit we filed to clean Coin Du Lestin area. St. Tammany Parish cannot even use the word "dredge," but Biloxi Bay is being dredged. The action of dredging is approved in one area while the word alone is forbidden in another. This is a result of the lack of training. Many good and hard-working people have come to St. Tammany Parish as FEMA employees. Sadly, in many cases, they were not given the training or the tools to do their jobs well.

FEMA should, like other Federal agencies, have well-trained FEMA personnel stationed permanently in those States that are at risk for disasters. This would enable FEMA to be part of a planning prior to any disaster. This would enable the same personnel to train State and local officials on the programs, policies, procedures, and management issues related to disaster response and funding. Both FEMA and local government would be operating with the same set of operational protocols with the trust built by working together during good times as well as bad.

Well-trained FEMA personnel on the ground should have more authority to make significant decisions. If that is not possible, those at the regional and national level need to expedite their efforts during and following major disasters.

I want to thank you for the opportunity to speak with you today and for the help you have given my community. I also want to commend the many men and women who have come to St. Tammany as part of the FEMA bureaucracy and did their best to help us. I hope that my recommendations will assist you in your efforts to improve emergency response in our Nation. Thank you.

Senator LANDRIEU. Thank you, President Davis. President Rodriguez.

TESTIMONY OF HENRY "JUNIOR" RODRIGUEZ,[1] PRESIDENT, ST. BERNARD PARISH, LOUISIANA

Mr. RODRIGUEZ. Thank you, Senator Landrieu, Senator Pryor, and Senator Stevens. It is an opportunity and a privilege to be here today and I would hope that you would take into consideration our frustrations because this is frustrating. After 2 years, gentlemen, we are still in the same shape that we were prior to.

Obviously, St. Bernard Parish is the only parish that was entirely destroyed. There were not five homes out of 26,500 residences that you could live in. There were no services, but you could stay in them. Sixty-seven-thousand-five-hundred people were displaced overnight, displaced without a home and without a job, without an opportunity to make a living. Our tax base went down to zero. Our infrastructure was totally destroyed. We are coming back relatively slowly.

FEMA has been a problem. One of the issues that I always say is that we got by Hurricanes Katrina and Rita. I don't know if we are going to get through FEMA. This is one hell of a catastrophe. I don't know if this country can continue to afford FEMA. There are some major decisions that have to be made.

[1] The prepared statement of Mr. Rodriguez with an attachment appears in the Appendix on page 53.

But one of the big issues is lack of experienced personnel. People don't seem to have the expertise they need to make the decisions that they have and that would be beneficial to the parishes. I thought that we had to help, not hinder. Incorrect information—FEMA's representatives would provide different—once you have a representative and you talk to that representative and he gives you some—he makes a decision, and in one case, I will just give you a particular instance. We are talking about sewer plants that everything was in it. We had consolidation in mind of our sewer plants prior to, and what happened is the hurricane came, so when FEMA came in, we said it was cheaper, less cost to consolidate the program.

Well, the first gentleman that came in, the first representative, he said that sounded like a good idea and it could be done. This is a PW, gentlemen. This is the first one our parish worked on. FEMA writes these PWs. Now, this PW, the next gentleman that came in, he said, no, we are not going to do it as an improved project. We are going to do it as a least-cost alternative. This is down the drain. You have to rewrite it.

Now, the cost involved in this situation actually is 50 percent less than the cost that our engineers told them it would cost to put these plants back in operation. We figure at the St. Bernard Parish we have about $564 million that FEMA has said, this is what the cost is going to be. They have underestimated so bad that we figure it is going to be over $1 billion. This project alone here took up to 14 months, and then for somebody to come in and tell you that is not where you should go. You have to rewrite a version for this. Versions take up to 8 months. That is 12 months.

We are in a situation where we should be setting an example for people. Infrastructure is what local governments need to get back, and Senator Landrieu, you made a statement with regard to school districts being a priority. I understand that, and I am thankful and I appreciate that. But it does no good to put the priority on the schools if we can't get the sewer for the schools, if we can't provide access to and from the schools. The local government needs to be able to put these infrastructures and these facilities back in order, and as of today, I mean, we haven't—we are still working out of trailers.

We are in no better shape now than we were 2 years ago, and unfortunately, that is not acceptable. How can we as a government tell our people that they need to board their houses, they need to gut their homes, they need to clean their yards, when we as a government don't set an example? We should be setting an example. People don't want to hear that it is FEMA. They look at the local officials and local government. Thank you.

Senator LANDRIEU. Thank you very much.

I have just a couple of questions to each of you, and if you don't have them, if you could submit them to the record. But I think it would be helpful to know what percentage of your homes have access to clean drinking water to date and electricity and sewer. I don't know, Mayor, if you want to start, a percentage. If you could give even a rough estimate, is it 80 percent? One hundred percent of the city? And then, I think, President Davis and then also President Rodriguez.

Mr. NAGIN. As far as what percent of the homes have access to——

Senator LANDRIEU. Electricity, water, and sewer.

Mr. NAGIN. For the most part, just about the entire footprint of the City of New Orleans, the utilities have been restored. But Senator, I must tell you that we have patched the systems up. There have been very few permanent repairs made to our systems, so we have challenges.

For example, on the sewer side, we have made, I want to say 65 or 66 pumping stations related to sewer. Just about every one of those pumping stations have temporary diesel-generated power to them, and it is very tenuous. It is very fragile.

And the water system is the same way, and I will give you another quick example on the water system. We have three intake pump stations where we take water from the Mississippi and convert it into drinking water. Two of those stations broke and we were down to one. The only thing that saved us is that the river was at such a height that we had another dormant station that we activated until we got the second one fixed. So because the Project Worksheets have not been done adequately and appropriately we are at a very tenuous situation.

Senator LANDRIEU. President Davis.

Mr. DAVIS. Senator, yes. Pretty much it would be the same scenario in St. Tammany. We do have availability of all utilities at this point. Several of our sewer facilities, though, are operating but they are not operating what they should be as they were prior to Hurricane Katrina and they still need additional work.

Senator LANDRIEU. President Rodriguez.

Mr. RODRIGUEZ. Our water situation, we have 100 percent of our parish back with our water, but, of course, the parish took care of their own water issue. We could not wait for FEMA. We used the little reserve funds that we had and we got our water system back.

The sewer system is still a major issue. At the present time, we have one of the stations back, which is a very small one. We have an oxidation pond that is working, but the rest in Monster and Drabo, those two plants are only back to 25 percent. We have 92 lift stations. Of those 92 lift stations, there still hasn't been any work done on those because of the PW process.

However, we have been able to put some pumps, we rented some pumps to put in those lift stations to get the water to the processing plants. However, we still are dependent upon vacuum trucks. Now, gentlemen, these vacuum trucks, that is what I don't understand. That is the situation that kind of disturbs me and how we waste money. We have spent so far, we are going to spend $60 million on vacuum trucks and suck the sewer out of these manholes and bring it to the Riverbend oxidation pond. That $60 million, had you taken care of business with this, could have been spent on redoing our processing plants. There is something wrong with this process that we are going through, gentlemen. It is the tail wagging the dog. It is just not correct. Something is wrong.

Senator LANDRIEU. And I want to just clarify for the record, and then I have one more question and then we will pass it to our Ranking Member, that to date in St. Bernard Parish, FEMA is reimbursing the parish for vacuuming out the sewage and trans-

porting it by truck, which is what is being testified today to, rather than providing that much money or less to redo a sewer system because of bureaucratic inadequacies, inefficiencies, and downright stupidity, in my opinion. So the taxpayers are going to pay maybe double, maybe triple eventually. So this hearing isn't about spending more money, it is spending less money and spending it smarter.

Could one of you, any of you—and if not, submit it to the record—talk about the error made in this RSMeans estimate. Does anybody know what RS stands for? I know I could ask this question of FEMA. But there is some mathematical calculation that was made for all of you initially that was then deemed to be wrong and those calculations had to be redone. Do any of you want to testify to that?

Mr. NAGIN. Yes. It is my understanding that RSMeans is a company that does estimates for different localities as to what it would cost to either rebuild a home or commercial structure or build one new, and that is part of the calculations that FEMA uses to estimate what it would cost to repair a public facility. Well, it is our understanding that there were some errors made in those formulas and it caused FEMA to have to—I guess about a couple of months ago—go back and recalculate thousands of PWs because of this error. It is also my understanding that RSMeans as a company had to come in and do a seminar to go over that with some FEMA representatives to get that straightened out.

Senator LANDRIEU. OK. We will get more information from FEMA to you. President Davis, can you describe why FEMA continues to tell you that dredging the bayous in your parish, which run pretty much throughout the whole parish, why is it not in their jurisdiction to get them dredged to pull up any debris, etc., meanwhile dredging, you said, the Biloxi Bay, which is in a different jurisdiction of FEMA?

Mr. DAVIS. Right. Senator, I am embarrassed to tell you I really don't know why. We have been, as I stated earlier, we actually with FEMA's guidance bid this particular project under the PWs three times. The last time was to remove the marsh grass. What is interesting is they have written a PW to remove marsh grass off of personal property. They have written a PW to remove marsh grass off of our roadways, which we have done. But they won't write a PW for marsh grass in these drainage canals. That is why I was forced to file a Federal suit in New Orleans to ask them to hopefully rule on our side to have it dredged.

You made mention of Biloxi Bay. I read with great interest that they announced they were dredging that area under FEMA's rules that they could dredge it. So that is the reason for the suit.

Senator LANDRIEU. OK. Thank you.

Mr. NAGIN. Senator, if I could illuminate one point, it seems as though there were certain members of FEMA's organization that would get into great debates with us as local municipalities about what was preexisting conditions, and there were many arguments about whether a rusted pipe in the sewer system was there before Hurricane Katrina. We have made case after case to prove to them that the system was working prior to Hurricane Katrina. Hurricane Katrina hit us and then something happened that caused it not to work. The same thing with streets. Tons and tons of pounds

of water were on our streets for many weeks, and it is not until recently that FEMA acknowledged that Hurricane Katrina had something to do with that and now we are writing PWs.

Senator LANDRIEU. Thank you. Senator Stevens.

Senator STEVENS. I am fairly concerned about the continued conflict between the local authorities and FEMA and the process of litigation, which takes years, to try and solve those problems. Have you tried to set up an arbitration system between the Federal agencies and the agencies involved in Hurricane Katrina reconstruction?

Mr. DAVIS. Yes, sir, Senator Stevens. The problem is that we did file an appeal. We followed the rules, the Federal guideline rules. We filed an appeal, but that may take 6 to 9 months, or 12 months, they tell me, to get through that process. I needed an answer faster than that because we are in hurricane season, so I filed a Federal suit.

Senator STEVENS. But you really need arbitration somehow. Have you sought to get these things arbitrated rather than go through lawsuits?

Mr. DAVIS. Yes, sir. We filed the documents to appeal their decision, but that will take 9 months to a year to get that appeal, or that arbitration.

Senator LANDRIEU. And it is my understanding, Senator, that there is no official arbitration process. In other words, they can appeal to FEMA, but FEMA monitors their own appeals, and after you have an appeal, there is no ultimate objective, independent entity. It is basically up to FEMA, is my understanding.

Mr. DAVIS. Yes, that is right.

Senator LANDRIEU. So it is a never-ending appeals process with no justification, I guess, or no fairness on the part of the local governments who may have disagreements about cost, etc., is my understanding.

Mr. DAVIS. That is correct.

Mr. RODRIGUEZ. And actually, Senator, the person that you appeal to—are the same people that turned you down. So that really needs to be adjusted.

Senator STEVENS. Is the argument primarily over money?

Mr. RODRIGUEZ. As far as I am concerned, the argument is, Senator, why do I have to prove to anybody that I was totally devastated? Why? I thought FEMA was there to help us, not hurt us.

Senator STEVENS. Is it money?

Mr. RODRIGUEZ. Yes, sir. Money is the bottom issue.

Senator STEVENS. Are there arguments over money?

Mr. RODRIGUEZ. Yes, sir. Money is the primary issue. If we had the money, we wouldn't be here talking to you. We wouldn't be asking FEMA for anything. We go on about it and take care of our own business. But as the parish is totally devastated, tax structure down to zero—we were at zero. From $50 million budget a year, we are down to $20 million. Yes, sir, it is all about money. If we had the money, we wouldn't be sitting here. But what we don't understand and what we are frustrated about is we continue to have to prove that we were devastated, that we were hurt, that we were damaged.

Senator STEVENS. Mr. Davis, how about you? Is the argument about money?

Mr. DAVIS. Yes, sir, certainly, it would be. This particular project that you are asking about, the last bid to remove the marsh was $14 million. Local government doesn't have those funds.

Senator LANDRIEU. I think what the Senator is asking, are the discrepancies, the arguments on the Project Worksheets, about an argument over what the projects will cost more or less, and I understand from the documents that there might be as much as a 40 to 50 percent discrepancy between FEMA's estimates——

Mr. RODRIGUEZ. Yes.

Senator LANDRIEU [continuing]. Of what it would cost to do the job and their estimates.

Mr. DAVIS. Senator Landrieu, if I could real quick, they wrote a PW on this project for 130 cubic yards. We believe that there could be as much as a half-a-million cubic yards, and they agreed and we actually bid that project, which came in at $14 million. They called me and said, "Don't do that." We rebid it and we are doing it for $24,000—the FEMA person is on the ground with us and we can only remove certain items that they tell us while we are on the ground.

Senator STEVENS. Well, it seems to me that what you need is an arbitration process. We had one during the earthquake recovery in 1964 and it was a Presidential appointee, as a matter of fact, that came in and just resolved the differences, and the Federal Government, the State governments, and local governments had to live with the decision. I think you need some arbitration. I don't know whether you need one arbiter for the whole situation, but it does seem to me that there ought to be an arbitration process. The judicial process is not meant to solve differences in money between estimators——

Mr. DAVIS. I agree, Senator.

Senator STEVENS [continuing]. And it has to be an arbitration process.

Senator LANDRIEU. I think that is an excellent suggestion. Any additional questions?

Senator STEVENS. No. Thank you.

Mr. RODRIGUEZ. I would hope that it would be a Congressional arbitration process.

Senator LANDRIEU. Well, since Congress is appropriating the money for this recovery, that is exactly the direction we may have to go in that direction.

Mr. RODRIGUEZ. You need to see how your money is being spent.

Senator LANDRIEU. Senator Pryor.

Senator PRYOR. Thank you, Madam Chairman.

I have a question for each of you. I will start with you, Mayor. It is good to see you again. Thank you for being here.

Mr. NAGIN. Good to see you.

Senator PRYOR. I hate to ask it this way, but how much face time do the three of you get with senior FEMA and DHS people? Do you deal with them or with lower-level folks that are assigned to New Orleans and Louisiana? Are they there full-time? I would like to get a feel for how much time you spend with them.

Mr. NAGIN. Well, it is a multi-layered organization, so it depends upon what is your definition of senior FEMA people are. The most senior person that I deal with on at least a monthly basis is Gil Jamison, who is a fairly high-ranking person. But to be honest with you, my perception of dealing with him is that he has difficulties with his own organization, trying to make sure that arrangements and agreements that we make and the direction that we set is filtered through and carried out at the lower levels of FEMA. So there is some disconnect there.

Senator PRYOR. Is it your impression, Mayor, that is a bureaucratic problem, or is it a resistance within FEMA that they just don't want to be helpful, or is it a money issue, or what is that?

Mr. NAGIN. I think it is a bureaucratic issue, and I also think that the Stafford Act is written with so much flexibility in it that it leaves room for various interpretations, and then interpretations change over time.

Senator PRYOR. Yes. Looking at the Stafford Act, to me, it seems like you want it to be flexible——

Mr. NAGIN. Yes.

Senator PRYOR [continuing]. Because you want discretion. However, that flexibility may also cause confusion, and it sounds like you have had a lot of that in Louisiana as you have tried to work through this process. Is that fair to say?

Mr. NAGIN. That is fair to say, and I think it goes back to the point that all of us are making. There needs to be more trained individuals inside of FEMA, pre-trained, pre-positioned, and there needs to be a consistency. Every couple of months, we seem to have dealt with a different FEMA representative and we almost had to start from scratch every time the new person came in.

Senator PRYOR. Mayor, is there a FEMA team of people that are there full-time and have been there for the last 2 or 3 years?

Mr. NAGIN. No, not any consistency that I have seen.

Senator PRYOR. OK. Have you seen anything different?

Mr. DAVIS. No, Senator. In St. Tammany Parish, I actually have a liaison person there who now has been there for months, but that was not the case earlier. I have a lot of respect for Mr. Jamison, as the Mayor spoke about. It seems like when I do meet with him, I seem to get things moving.

Mr. NAGIN. Yes.

Mr. DAVIS. But I get the impression that they want—I have to go through my field personnel, and it may take weeks, and they want to know particularly exactly what do we want to talk to Mr. Jamison about, and I don't know if he gets those messages a lot of times, so it is a little frustrating.

Senator PRYOR. So President Davis, are you saying that you have trouble getting time with Mr. Jamison? You can't just pick up the phone and——

Mr. DAVIS. No, sir, I can't pick up the phone and call.

Senator PRYOR. You don't have a regular meeting scheduled with him?

Mr. DAVIS. No, sir.

Senator PRYOR. The reason you can't just pick up the phone and call him, seems to be more on the FEMA end, not on your end. Am

I correct in thinking that you would like to talk to him more frequently?

Mr. DAVIS. Yes, sir.

Senator PRYOR. What about you, President Rodriguez?

Mr. RODRIGUEZ. I would like to talk to anybody that could give me a definite answer.

Senator PRYOR. Right.

Mr. RODRIGUEZ. That is one thing you can't do with FEMA, is you can't get anyone to give you anything in writing. Nobody will give you a definite answer. One of the problems that you have with regard to this is we are talking about contracts. We have contractors that will not bid on processes anymore. They will not bid on any projects because of the inability to get their funds through the FEMA PW process.

A typical example is the last contract that I had—the vacuum truck service for St. Bernard Parish—didn't even bid on the last contract, refused to bid. We have contractors that are owed $4 or $5 million. I am talking about small subcontractors in the parish. We have a number of contractors in the parish that have gone out of business because of the inability of this, and that is what is driving the cost up. They are telling you we are not bidding, and if we do, we are going to have to drive the cost up to take care of business. We have one contractor that is paying $9,000 a day on money that he has borrowed.

Senator PRYOR. OK. This is a contracting process, and normally when there is a contract, there is some assurance that the contractors will be paid. Do they not have that type of contract here?

Mr. RODRIGUEZ. Not to my knowledge. There is no assurance of anything with FEMA that you are going to get paid. The only thing consistent about FEMA is the inconsistency. This is a typical example right here, this voluminous work that was done, and then the next gentleman that comes in says, no, we can't do it like that. We have to do it another way.

Senator PRYOR. President Rodriguez, let me ask you about FEMA. Is it your impression that they are resistant to help you, or is it more of a competence issue with FEMA?

Mr. RODRIGUEZ. I think, without using some special adjectives, I think it is a combination of both, lack of experience and competency and inability to make decisions based on a consistent issue. One of the things that they don't do is they don't listen to the local government engineers and officials that tell them that know exactly what it is going to cost or can give them a much better picture of what it is going to cost.

Let us take the canals, for instance. He is exactly correct. I don't know, it is hard for me to explain to you, but its been 2 years and I have a fishing industry in my parish that cannot go back to work because our canals haven't been cleaned. The same issue with St. Tammany, pick up the debris. To pick up the debris, you have to get a barge in there, so you have to clean the canal to get the barge in. Basically, this is an area of stupidity because what they are doing, it is a double layer and they are spending your money twice.

Gentlemen, I will just tell you this. In 1965, when Hurricane Betsy hit, the Corps of Engineers had our canals cleaned. FEMA has NRCS doing this job. NRCS should be inside the levee systems.

The Corps should be outside, not the Coast Guard. The Coast Guard is a regulatory unit. They shouldn't be having to do it. They don't actually know what they are doing.

I hate to tell you, because I am getting so frustrated. It is frustrating. I don't even want you to come down to see some of the problems and issues because there is no sense in you getting heartburn, too. But it is just pure ignorance on some people's part. We had a FEMA person that was from Idaho that was looking at one of our main fishing areas, and it was fully clogged with grass and she says, "That was never a canal." Now, I could stand right there and then 50 feet away there is a guy that used to have a dock, used to have a home, and he used to have a boat. Well, his boat is a 65-foot double-rigger. The boat is there. What I asked her was, "Honey, if you don't think this was a canal, how do you think this gentleman got this boat in? Although the boat is not usable anymore, and it is half there, do you think this guy airlifted his boat from here to the lake?"

Those are the kind of angry things that you have to put up with that are so frustrating. In 1965, Hurricane Betsy hit in September 1965. Gentlemen, by December, we were enjoying Christmas. Our canals were cleaned. Our parish was cleaned. Everybody had their homes built. And you know what? All we had at that time from the government was a SBA loan. But they didn't require that you give them an arm and a leg or your property. You didn't have to do all of that. And you were forgiven $1,800. But by Christmas, we were back and enjoying Christmas. We had no FEMA and no Federal flood insurance. Does that tell you something? We had no DEQ, no EPA. All of these agencies are a problem. You have a catastrophe.

One of the biggest jokes is the one that is concerned with historic preservation. Now, you talk about a joke. That is a joke and a half. I don't care what was historic about that. It is totally destroyed now. What am I going to do with it? It is still an eyesore. It is a problem. It is a health hazard. But that is one of the things they are telling us in the canal, that it is historic. If a board is connected to an old bulkhead, that is historic. The historic part about it is how ignorant it is to make that decision. That is historic.

Senator PRYOR. Thank you, Madam Chairman.

Senator LANDRIEU. Thank you. I think the Mayor wanted to add to something, and then we are going to move to the second panel.

Mr. NAGIN. Well, I was just going to add a point to give the Senators a specific example of the undervaluation of a specific project. We have in Congo Square a performance venue called the Mahalia Jackson Performance Theater. It was severely damaged during Hurricane Katrina, roof damage as well as about eight feet of water. FEMA's initial Project Worksheet was valued at $3 million to repair this facility. Our staff thought it was going to be in excess of $6 million based upon our local knowledge. FEMA held that valuation up until recently, and now the valuation is over $8 million. But almost 2 years has gone by and we still haven't been able to start construction in a city that values culture, and it probably will be our only cultural institution that we can open and hold venues for our opera, jazz, orchestra, and so be it.

Senator LANDRIEU. Any other final comments from you, President Davis?

Mr. DAVIS. No. Thank you, Senator.

Senator LANDRIEU. OK. I would just like to conclude by saying that I most certainly, as the Chairman of this Subcommittee, believe that it is the private sector that will rebuild and nonprofits, community-based civic organizations that will be part of the rebuilding, but none of that is possible without basic government infrastructure—sewer, drainage, clean canals, police and fire stations, libraries, schools, etc. Even the strongest and greatest businesses cannot function in a place where regular government services are not readily available. And what is stymieing this recovery is not the will of the people, it is the bureaucracy of the government.

Finally, I will say—and we are going to plow through this—this parish President has had his parish destroyed not once, but twice, once in 1965 with Hurricane Betsy and then once in 2005 with Hurricanes Katrina and Rita. He has testified on the record——

Mr. RODRIGUEZ. Don't forget we got Hurricane Katrina and then we got Hurricane Rita.

Senator LANDRIEU. Yes, I said Hurricanes Katrina and Rita. He has testified on the record that after 1965, by Christmas, their parish was basically back up and rebuilding. It has been 2 years. It will be not the first Christmas, but the second Christmas, and we still can't get these drainage canals dredged. We have a major problem.

So thank you all. We are going to continue to get to the bottom of it and we will see the second panel in a minute.

Mr. NAGIN. Thank you, Senator.

Mr. DAVIS. Thank you, Senator.

Mr. RODRIGUEZ. Thank you, Senator.

Senator LANDRIEU. All right. I am going to introduce the second panel and we will begin in the order that they are introduced.

Colonel Jeff Smith is Acting Director of the Governor's Office of Homeland Security and Emergency Preparedness, and that would be the Governor of Louisiana. He assisted in coordinating the State of Louisiana's response to Hurricanes Katrina and Rita. He has also been involved in recovery and response from several other Presidentially-declared disasters. He is a Certified Public Accountant and has his own firm, and he has served the maximum years allowed with the Louisiana National Guard.

Next, we will have Bryan McDonald, Director of the Mississippi Governor's Office of Recovery and Renewal. Mr. McDonald is responsible for leading the team charged with coordinating the State's Hurricane Katrina response and recovery. Prior to joining that office, he served as Mississippi's Director of Recovery Accounting Oversight. And prior to that, he worked to provide Hurricane Katrina assistance to governmental and nonprofit applicants under the Stafford Act.

Finally, we will have Mark Merritt, Senior Vice President for Crisis and Consequence Management at James Lee Witt Associates. Mr. Merritt has been the Project Manager for James Lee Witt Associates' efforts in Louisiana. He has developed and delivered training programs for local emergency responders for numerous government officials, so he brings a wealth of experience from the private sector now to this endeavor.

Colonel Smith, we will start with you, and please limit your testimony to 5 minutes, the same for all of you, and then we will get into questions. Thank you.

TESTIMONY OF COLONEL PERRY "JEFF" SMITH, JR.,[1] EXECUTIVE DIRECTOR, GOVERNOR'S OFFICE OF HOMELAND SECURITY AND EMERGENCY PREPAREDNESS, STATE OF LOUISIANA

Colonel SMITH. Madam Chairman and distinguished Members of the Subcommittee, thank you for inviting me here today. I appreciate the opportunity to come before you and share my thoughts about the difficulties we have encountered with the FEMA Public Assistance Program, and in particular the manner in which and the use of Project Worksheets is adversely impacting our ability to recover from the catastrophic Hurricanes Katrina and Rita.

Today's testimony is not necessarily intended to be critical, but only a reflection of events so that we may examine a process that is not serving any of us as well as it could. Our 23 months of experience leads us to the inexplicable conclusion that we must develop realistic procedures that are more responsive to and more supportive of the recovery effort.

Before I begin, I want to thank the very dedicated field staff of FEMA who have spent countless time away from home and family in assisting our recovery.

I want to thank Congress and especially you, Senator Landrieu, and the Louisiana delegation for the recent legislation for giving the cost share match. We are aware that FEMA has administratively waived some level of the cost share in over 30 cases in which the catastrophic nature of the disaster overwhelmed the State and the community. However, the Administration did not support a full waiver for Louisiana, a State impacted by the most devastating hurricane in U.S. history. Without Congressional intervention, our recovery efforts would have been that much more difficult, and in some instances brought to a halt. Again, thank you.

Just a couple of examples that will sum up the Project Worksheet issues and problems and policies. One story is the Henry School in Vermilion Parish. Almost every school in Vermilion Parish was damaged to the extent that students were displaced outside the community. Almost 2 years later, the same students are still waiting to return to their schools.

When FEMA first evaluated the Henry Elementary School, they approved approximately $2 billion of funding to replace the facilities. Facilities that are more than 50 percent damaged can be replaced. Relying on this determination, school officials announced that they were going to build a new school and begun moving.

As the school board proceeded, expending considerable time, money, and emotional investment, a new FEMA team rotated in, conducted a second assessment, and came to a contrary decision. The new assessment concluded that a replacement facility was no longer justified and FEMA would only authorize $855,000 to repair.

[1] The prepared statement of Colonel Smith with an attachment appears in the Appendix on page 59.

Obviously, this shocked and frustrated the school board and they immediately appealed.

Vermilion Parish School Board asked for our assistance. We went out and we hired engineers and architects and we looked at this and came up with a new cost estimate. It was pretty obvious that a building that had been under eight feet of salt water was completely destroyed, but after going through months of reevaluation, FEMA obligated $5 million for the replacement of the school. So though Vermilion Parish is satisfied with the end result, this process took over a year.

This illustration points out how constantly rotating staff, misapplication of cost data, the complete failure to properly scope the Project Worksheet, and the time it takes to engage and correct a highly bureaucratic process all greatly hinder the recovery.

Bootheville High School in Plaquemines Parish is another example. The parish questioned FEMA's original estimate of $1.9 million to make repairs to the building and actually added $500,000 to the Project Worksheet. Though the school board was not comfortable with FEMA's estimates, it proceeded with the repair process and accepted a low bid of $3.4 million. Anxious to get the school back in service as soon as it could, the school board took the risk that necessary funds would eventually be obligated by FEMA. The Public Assistance Program provides reimbursement on all large projects based on actual cost, not cost estimates.

The school board requested a revision to the Project Worksheet to actually recover the entire cost. However, over the last year, the costs have escalated by $6.2 million with change orders. FEMA has only obligated an additional $867,000. The school board is still waiting on FEMA to obligate nearly $5.3 million. They have already paid their contractor and the lack of FEMA funds has a severe budgetary impact on the parish.

Additional questions lingered. How could the original estimate of $1.9 million been so far off the mark from almost $10 million? Had the damages been accurately identified in estimates in the first instance, would the school have been eligible for replacement?

These two examples are representative of hundreds of similar Project Worksheets causing endless challenges to Louisiana's recovery. Making decisions with poor information cannot yield optimum results and makes planning not much more than guesswork.

Another challenge has been Louisiana's State Administrative Allowance, which to date is approximately $22 million. Historically, the Administrative Allowance provides States funding for a broad range of activities to manage the Public Assistance Program, which would enhance our support to the local jurisdictions that badly need the help. However, FEMA has limited the use of these funds to only overtime, travel, and per diem. FEMA applied an unnecessarily restrictive interpretation to regulatory language that actually states that funds can be used for administrative costs, including these three categories. This is not restrictive language but only illustrative. FEMA's restrictive interpretation is—the approach that FEMA is taking will not allow the State to use the full authorization that would otherwise be used.

Accountability is essential. However, that should not preclude us from addressing our issues quickly and effectively. Unfortunately,

this is not happening. In fact, it is my observation that decisionmaking from FEMA and DHS on critical issues is excessively delayed. Nearly every issue goes to Washington, DC, for resolution. Further compounding the slow decisionmaking process is FEMA's continued refusal to honor our repeated request to locate their key players and decisionmakers with the State staff and decisionmakers in Baton Rouge.

I hope that this Subcommittee will find ways to encourage an environment at DHS and FEMA that looks to appropriately utilize the flexibilities that were built in the Stafford Act.

Madam Chairman, thank you. That concludes my statement.

Senator LANDRIEU. Thank you. Mr. McDonald.

Mr. MCDONALD. Thank you, Madam Chairman.

Senator LANDRIEU. And before you begin, let me just make clear, I think to the audience, they understand, but FEMA is divided into separate regions. So Texas, Louisiana, and several other States are covered by Region 6, and Mississippi, Alabama, Florida, and several other States are covered by Region 4. Major Phillip May is over Region 4 and Bill Patterson is over Region 6. So if we hear discrepancies in testimony, it could be because the regions are operating somewhat differently. However, we may see similar problems in Mississippi, as well. Please proceed.

TESTIMONY OF BRYAN McDONALD,[1] EXECUTIVE DIRECTOR, GOVERNOR'S OFFICE OF RECOVERY AND RENEWAL, STATE OF MISSISSIPPI

Mr. MCDONALD. Thank you, Madam Chairman, for that clarification. I would like to thank the Members of the Subcommittee for allowing me to share with you to tell you about the recovery that is occurring in our great State. I want to thank you very much, Chairman Landrieu and Ranking Member Stevens, for giving me the opportunity to come before you today. I do appreciate it.

On August 29, 2005, Hurricane Katrina struck Mississippi a grievous blow. The combination of the storm's slow speed and shallow waters off the Mississippi shoreline created a storm surge in excess of 30 feet in some areas. More than 80 miles of Mississippi's coastline were completely destroyed. Hurricane-force winds extended more than 200 miles from the coast. FEMA reported that over 65,000 homes in South Mississippi were damaged or destroyed. Electricity was lost to 80 percent of the State's three million residents, and the miles upon miles of utter destruction are unimaginable, except to many like you, who witnessed it with your own eyes.

Mississippians found themselves having to scramble, adjust, innovate, and just make do. However, it was the spirit of our people that pulled us through. Our people are strong and resilient.

After the storm passed, they set about the work of putting their lives back together and helping their neighbors do the same thing. Their spirit has been an inspiration to all of us, and that spirit remains key to our recovery.

The Federal Government has been a good partner. However, the size and nature of this disaster brought new challenges that have

[1] The prepared statement of Mr. McDonald appears in the Appendix on page 66.

tested us all. We appreciate the opportunity to address changes that may help in future disasters. It is our hope that this Subcommittee's work, along with that of others, will allow us to leave the Project Worksheet process better than we found it.

Local governments in Mississippi have done a stellar job of working with State and Federal officials to manage the process of obligating more than $2.2 billion in Public Assistance. To date, FEMA has generated nearly 14,000 Project Worksheets for repair and rebuilding projects in Mississippi's communities. Full transparency and cooperation were two of the cornerstones in Mississippi's effort to work with FEMA after this disaster.

We recognized the potential information void present in the traditional NEMIS system, FEMA's electronic system for grants management, and we developed the Mississippi Public Access Management System, M–PAM, or PAM as we refer to it, to provide real-time access to applicant cost and procurement information and a systematic means for identifying funding roadblocks in an attempt to speed up the funding process. M–PAM utilizes the latest advancements in computer-based management technology to scan, record, and store all documents, invoices, and receipts related to every Project Worksheet written in Mississippi.

It is an Internet-based solution and it does allow real-time management and analysis and communication of issues related to all of our Public Assistance matters, the systems used by FEMA, the FBI, Homeland Security's OIG, and our Office of State Auditor as a tool for early identification of fraud or mismanagement. It was designed to effectively fill the void between the obligation and close-out process in NEMIS. We believe that closing those existing Project Worksheets is absolutely critical to ensuring that local governments receive final allocations of recovery money and thus are able to pay contractors and subcontractors for work that in many cases was completed more than a year ago.

Mississippi is committed to working to maintain the positive momentum and cooperative spirit that exists between FEMA, the State, and locals. In recognition of that cooperative spirit that exists, we also seek to ensure that FEMA headquarters continues to honor critical decisions made by local FEMA leadership and field personnel in the weeks and months immediately following the disaster. We believe it is important for decisions made by local FEMA leaders during the immediate post-disaster environment to be affirmed and upheld throughout the disaster recovery process so that the State and local officials can act quickly and in good faith based on those decisions.

Furthermore, the State of Mississippi seeks to ensure that FEMA's reasonable cost standards are applied in a manner that protects communities that adhere to all reasonable and prudent requirements and that worked with FEMA personnel during the process. The State asks that FEMA expand its standards through which reasonable costs are established to take into account all factors contributing to the market conditions that exist in the post-disaster environment.

Despite the challenges we still face, Mississippi is well on its way towards recovery. We understand that our work to recover, rebuild, and renew will take years. More importantly, it will take the con-

tinued support of our Nation's leaders and the American people. Much opportunity lies ahead. Hurricane Katrina, with all of its destruction, gave birth to a renaissance in Mississippi and that will result in rebuilding our State bigger and better than ever before. Our citizens will be at the heart of that renaissance, and the people of the Gulf Coast have been a model of the spirit and character of Mississippians.

Our people are rebuilding one day at a time. We ask for your continued assistance in helping them move forward. Through your efforts and the efforts of the people of our great State, we are rebuilding a Mississippi that will exceed anything we have ever known. Thank you, Madam Chairman.

Senator LANDRIEU. Thank you. Mr. Merritt.

TESTIMONY OF MARK MERRITT,[1] SENIOR VICE PRESIDENT OF RESPONSE AND RECOVERY, JAMES LEE WITT ASSOCIATES

Mr. MERRITT. Madam Chairman, Senator Stevens, thank you for inviting me to participate in today's hearing. I appreciate the opportunity to come before you to discuss the impact of Project Worksheets (PWs), on the local recovery efforts and on the overall allocation of Public Assistance dollars. My testimony has been shaped by my perspective of working on these issues in both the public and private sector and at all levels of government, Federal, State, and local.

I had the honor and privilege to work for the Federal Emergency Management Agency (FEMA), from 1993 to 2001, on hundreds of disaster responses, from the great Midwest floods of 1993, to the catastrophic Northridge earthquake experienced by the Los Angeles area in 1994, to the bombing of the Murrah Federal Building in 1995. The professional staff I worked with at FEMA throughout the 1990s were some of the most dedicated and creative problem solvers with whom I have ever worked. To me, this is high praise for this great public servant, since I am a graduate of West Point who also served with some of our Nation's finest from the First Gulf War.

My experience and the experience of State and local emergency management professionals during the 1990s was that when you dealt with FEMA, you were working with the best of the best. These were the people who knew how to get things done. They were people who knew how to quickly identify and meet the needs of individuals and communities struggling to recover from a disaster. They were empowered to make decisions.

While I believe many of the same people with the same spirit still exist in the agency, our experience over the past few years shows that things have changed. I want to make it clear that the people at FEMA, both permanent and local hire, are good people with a lot they can bring to the table. But the reality is that over the past few years, many of the most experienced staff have left the agency or retired and neither FEMA nor DHS have empowered the field staff to problem solve, make decisions, and creatively address the unique issues that arise during every disaster.

[1] The prepared statement of Mr. Merritt appears in the Appendix on page 71.

Also, the FEMA regions, and I want to stress this point, the FEMA regions who we relied on heavily during my tenure at FEMA for their expertise and relationships are scarcely utilized during the recovery any longer. I find this to be highly disappointing.

My experience leading the Special Disaster Close-Out Teams while at FEMA required that I become intimately familiar with the Stafford Act, 44 C.F.R., the regulations and the body of knowledge and experience codified throughout the years through various FEMA policies and precedent. I know how flexible the laws, regulations, and policies governing FEMA disaster recovery programs can be. They are written broadly enough to be adapted to a variety of situations, since no two disasters are alike and there are unique needs and lessons that are learned on each disaster, particularly those that are considered to be catastrophic.

The Stafford Act, 44 C.F.R, and the 9500 Series, which is the compendium of policies for FEMA's Public Assistance, or PA Program, are short and broad in scope. They are meant to outline some of the things you can fund and all the things that you can't. The idea was to place boundaries on what is possible with Federal disaster relief dollars, yet provide maximum flexibility within the law to meet critical disaster needs at the State and local levels. However, FEMA's current leadership has been working under a philosophy that unless something is specifically mentioned in the law, regulations, or policy, that it cannot be done.

Colonel Smith's testimony today does a very good job of illustrating the difficulties the State of Louisiana has experienced with the PW process as applied to Hurricanes Katrina and Rita. His examples highlight the fact that PWs written in this disaster are chronically underfunded and/or poorly scoped. Colonel Smith's testimony also does a very good job of summarizing the primary reasons for the four PWs, including a lack of flexibility being applied to meet real-world local issues present in these catastrophic disasters; the unintentional consequence of establishing numbers-based management goals related to Project Worksheet production as opposed to measuring or demonstrating progress in the rebuilding process—we should be counting the number of schools, hospitals, and miles of roads repaired or replaced, not the numbers of PWs written; the failure to take into account local factors impacting reconstruction costs, including the scarcity of labor and construction materials, when preparing cost estimates for work; and the lack of experience and suitably-trained staff with the authority to make decisions working for FEMA on this disaster, who both understand the Public Assistance Programs and the nuances of how it has been and both can and should be implemented.

I want to especially emphasize this last point, that there aren't enough experienced staff working for FEMA on this disaster who know enough about the program and its history to understand how flexible it can be to meet unexpected needs after a disaster. I believe this to be the core of what is hindering the PW process.

The problems were compounded, however, through the institution of the Transitional Recovery Office (TRO) concept. In order to reduce costs, FEMA has moved to hiring locally to fill recovery positions, including senior management. The hiring of people with lit-

tle or no FEMA experience and putting them in charge of the recovery programs with little or no oversight by experienced staff is not working. Again, the staff hired locally in Louisiana and elsewhere are dedicated and talented people, but most personnel are coming into the largest and most complex recovery and reconstruction project in U.S. history with only the practical experience that they have gained since being hired after the hurricane. For the most part, that translates to, at most, 23 months, not enough to understand the nuances of the program and how it has been applied previously.

It is not fair to the committed temporary staff who have been hired and it is not fair to the parishes. The communities in Louisiana deserve FEMA's full complement of staff and resources to help them to obtain the full disaster funding due them under the law and to provide the technical assistance that will help them to build back stronger. The TRO must have a core of experienced program staff from regional offices and headquarters in Washington, DC that can help to guide the process. We need people who know how far they can stick their necks out without getting them chopped off.

Compounding this issue is the fact that senior agency officials rarely make it to the State to participate in meetings that would help bring resolution to many of the complicated policy issues. Senior leadership involvement is sporadic and from a distance. Most have only come to the State a handful of times, usually for brief periods and with few meetings with State and local officials designed to resolve critical issues. In my days with FEMA, it was understood that large disasters provide a laboratory for the disaster programs because it was assumed that we would encounter and have to overcome many unusual situations and complicated issues, issues that would present new policy questions or would require the participation of staff having the deepest understanding of the laws, regulations, policies, and past precedent.

During the Northridge earthquake, perhaps the most complicated and costly disaster prior to Hurricanes Katrina and Rita, senior FEMA staff—to include the director and his associate directors and general counsel—spent weeks in Los Angeles meeting with State and local officials to deal with critical issues firsthand. The lack of this involvement has had consequences. As a West Pointer, I learned quickly that the longer your lines of communications, the more difficult it is to be successful. Attempting to have effective communications that will result in timely and effective resolution of issues in Louisiana is very difficult to do from Washington, DC, without senior staff understanding and involving themselves in the issues they are deciding. These long lines of communications have created more difficulty in managing the PW process and delays in getting decisions made than just about anything else.

When I was coordinating the disaster close-out for Hurricane Andrew and several other large disasters, I would make sure our teams from headquarters included the best programmatic minds, the Office of General Counsel, and, yes, the Office of Inspector General. That way, we would resolve issues without leaving the room in real time.

FEMA and DHS rarely, if ever, involve the Inspector General on the front end in a proactive fashion in Louisiana. Doing so could save a lot of time and potential eligibility problems downstream. I have always said getting the money is the easy part. Keeping the money is difficult.

We have to find a better way to do all of this. It did not used to be this difficult. It does not need to be this bureaucratic. The second anniversary of the storms is quickly approaching and we are nowhere near where we should be in our recovery efforts.

Madam Chairman, I applaud your efforts with this hearing today and I suspect this dialogue that you and the Subcommittee have opened with FEMA and DHS may give us insight into whether legislative fixes are in order or whether the existing laws, regulations, and policies allow the flexibility and discretion necessary for a quick and complete recovery in the State of Louisiana.

This hearing is not just about the physical and economic recovery of Louisiana and Mississippi. This hearing is just as importantly about the credibility and viability of FEMA and the critical roles and responsibility that Congress has given them. If the public loses faith in the process, they will lose faith in the organization responsible for that process.

I am a true believer in FEMA, its mission, and its people. I want nothing more than for FEMA to regain its place as the premier Federal agency it once was. Thank you, and I would be glad to answer any of your questions.

Senator LANDRIEU. Thank you.

Senator STEVENS. If I may, Madam Chairman, I do have an appointment at 11:30 and have to leave.

Senator LANDRIEU. Go right ahead.

Senator STEVENS. Mr. Merritt, we spent some time together and I think your criticism is valid to a certain extent. There is no question but that you and James Lee Witt used great ingenuity in dealing with the disasters you faced, including the California earthquake. But it was, after all, 20 square miles within one State. We are dealing now—we have been dealing with a disaster that covered the area from the East Coast to Texas, an area the size of France and Germany. The disaster was roughly equivalent to the destruction of World War II in France and Germany, and I don't think any of us have come up with a solution to how to manage really the requests of each individual area within each State that has demanded immediate attention, and they are entitled to immediate attention.

It seems to me that we really need a command structure that is different from FEMA for this, and probably should have recognized that some time ago. But the difficulty is trying to deal with an agency that has to make the decisions that affect so many different localities at the same time. I think we have to go back to the drawing board and find a way to get the Federal oversight much broader and, in effect, have what you and James Lee Witt devised for California in each area. The trouble is, we are looking to the FEMA management to do what you did in that area, but there are literally hundreds of those areas.

While I respect you, I think your criticism of the agency really ought to be a criticism of the law. We did not contemplate such a

disaster or series of disasters. After all, we have at least two disasters here in terms of Hurricanes Katrina and Rita, but there were many disasters within those areas that resulted from the failure of the systems that had been designed by the Corps of Engineers or the failure of the recovery plan that existed in various areas because there was total destruction. They all assumed that we were going to be moving in and dealing with a few entities within each State that had been affected by disasters, but this is a whole area that was affected, as I have seen it.

I think we have to go back to the drawing board, and I really think this Subc8ommittee is going to have to come up with some suggestions to change the Stafford Act. Now, that will take too much time, so we really have to come up with some suggestions and we have to look to find ways, in my judgment, so we can bring about the creation of an arbitration process.

From the point of view of money, Mr. Merritt, there has been a lot of money put up there. It is not a question of money. It has been arguing over who gets it first. This has been a problem, I think. FEMA has had to try and figure out where to put the money first. What is the total we put in? I think we put up about $130 billion so far, haven't we?

Senator LANDRIEU. A hundred-and-ten.

Senator STEVENS. A hundred-and-ten billion dollars. It is not just a little pot of money, it is a big pot of money and it could have been replenished, as needed. But the difficulty is it has not been effective yet in terms of meeting the immediate demands of each area, which are unique and not comparable at all. You can't compare any part of this to Los Angeles. Los Angeles was a well-defined earthquake, very small compared to our earthquakes, by the way, in Alaska, but it was really a staggering impact on about 20 square miles of Southern California.

I do believe we should call on you and James Lee Witt to be part of the group to give some advice on how to be prepared for any future disaster of this type, but right now I think we need an interim solution in terms of getting some way to get arbitration involved in these areas and get decisions made that will make this money available to proceed in every area where the recovery has been delayed because of the argument over who gets the money first.

Now, that is my analysis of it. I could be wrong, but it wouldn't be the first time. Thank you, Mr. Merritt. It is nice to see you all.

Senator LANDRIEU. Senator, I would like to respond. I know that you have to leave, but I think you have hit the nail on the head, comparing this to the rebuilding of parts of Europe after World War II. If you use that analogy and think about where we would be if this country and our allies decided to rebuild Europe using a Project Worksheet process, we would still be building Europe. I mean, think about that. Every building, every library, every sewer system, every street that was destroyed by bombs or warfare would have to go through a bureaucratic nightmare to get rebuilt. I don't think that is the way this was done, and I think the comparison is very apt and very appropriate.

So Senator Stevens, thank you for your comments and I appreciate them.

Senator STEVENS. You need a new Marshall Plan for this area, not just FEMA. Thanks.

Senator LANDRIEU. Thank you. Let me just try to get a few questions in here to this panel. I don't know if you all have access to this particular data. I am going to ask the staff if they have copies of this to pass it out because I would just like to get clear, this is the "Public Assistance Project Worksheet (PWs), and Dollars." This is on the FEMA website. It talks about Texas, Louisiana, Mississippi, and Alabama, total gulf-wide. Now, maybe you all have this data, but in a different form. If there is a copy, if you could get it to the table.[1]

But let me just ask for clarification purposes. This is percentage of PWs obligated, 91 percent in Texas, 88 percent in Louisiana, 61 percent in Mississippi, 71 percent in Alabama, for a total gulf-wide average of 80 percent.

Now, these numbers—those are the percentages according to FEMA. The numbers vary substantially in that there is only $1 billion of damage estimated in Texas, $6.3 billion in Louisiana, $2.8 billion in Mississippi, and only $114,000 in Alabama. Obviously, the major damage was in Louisiana, a distant second, is Mississippi, and then again, a distant third is Texas, with Alabama being quite a distant fourth.

But I am interested in what these percentages actually mean to each of you, not you, Mr. Merritt, but to Mr. McDonald and Mr. Smith. Do you agree that 91 percent of all the Project Worksheets have basically been agreed to, processed, money obligated, and projects moving forward, or in your rules as the recovery chief for Louisiana and Mississippi, is it your experience that they are less a percentage or more a percentage of the projects that have basically been agreed to by both sides? And maybe the staff can help me clarify this for this panel.

I don't know, Mr. Smith, if you want to respond.

Colonel SMITH. Senator, of course, I don't see exactly what you are looking at, but in general, that doesn't mean that those Project Worksheets are agreed to. What that percentage is is FEMA's estimate of how many total Project Worksheets that they think will be written when it is all said and done, and then the percentage that had been written to date.

Also, they can write a Project Worksheet that has an estimate in it, but they don't have the funds obligated yet for some reason, and maybe the FEMA officials would be better to say why those funds had not been obligated. But one of the things that I think it is important to understand is there is a difference in obligated funds and whether those funds are due out to the local jurisdictions, because much of the money that is left is on work that is not even started yet.

Senator LANDRIEU. Well, what I am trying to get at, and I am going to press this issue until we get a clear answer so that I can communicate it to my constituents and to the Members of Congress that are depending on us, I need to understand today, 2 years almost after this disaster, two hurricanes and a great flood, what

[1] "FEMA, Public Assistance, Louisiana," June 22, 2007, Global Report, submitted by Senator Landrieu appears in the Appendix on page 81.

percentage of this money that has been appropriated by Congress, $110 billion, of which only $10 billion is represented in this discussion today, so when people say, we sent you $110 billion to rebuild, the record reflects today that we are only talking about $10 billion out of the $110 billion that are involved in these particular Public Project Worksheets. Less than 10 percent of the money is even directed to these public projects that basically form the basis of recovery.

I am now honing down on of the $10 billion, what percentage are you, Colonel Smith, and you, Mr. McDonald, agreeing to? In other words, you and FEMA see eye to eye that this particular school building is going to cost $5 million. They have said it, you have said it, and you are getting ready to build it. You might not have built it yet, but you have agreed to it. You acknowledged that is what you think the appropriate cost is.

Colonel SMITH. A very small percentage——

Senator LANDRIEU. Well, that is what I need to know. I need this hearing to be able to get to the bottom of what percentage we are talking about. Are we talking about a 20 percent agreement? Or a 30 percent agreement? Or an 80 percent agreement?

Colonel SMITH. Senator, in one e-mail that I got about 4 months ago, FEMA has even acknowledged that they feel like there were well over 1,000 Project Worksheets out of what you have seen written here that were undervalued. You can see from some of the information that we supplied, we feel like that probably at least 75 percent of the Project Worksheets for permanent work projects are grossly undervalued, so there is very little that the locals or the State has actually agreed on the permanent work and construction.

Senator LANDRIEU. Because this is going to be of great interest to Congress, and I will tell you why. Let us assume that most of these Project Worksheets, thousands that are outstanding, are 50 percent less than what has been reported to Congress, based on what our future obligations may be. These estimates could go up by 50 percent? Seventy-five percent? I don't know.

And that is what we are going to try to find out by submitting questions to you, very specific questions.

Now, let me ask you, Mr. McDonald, of all of the Mississippi Project Worksheets, what percentage do you think have actually been agreed to, roughly? And you can go back and check and resubmit the data if you think the statement you have given is inaccurate this morning.

Mr. MCDONALD. I appreciate that, Senator. Jeff and I visited a little bit about this before. Our legislative or our statutory environment is somewhat different, as I appreciate it, from Louisiana's in that one of the barriers in Louisiana's case is the need to make sure that money is agreed to before work begins, the funding source is identified and agreed to.

In Mississippi's case, Stafford, as you well know, is a cost-reimbursable statute, so in Mississippi's case, the key component has been getting the PWs scoped properly, making sure that we agree on the scope of the PW. We have also experienced some of the same situations with respect to the RSMeans use and in moving that to reflect what an actual or more accurate amount might be, certainly

critical to educational institutions as they try to evaluate whether they rebuild in an area or move to safer ground.

But in terms of the numbers, which we tend to be numbers guys, in terms of the numbers, we have about $2.2 billion that have been obligated in Mississippi, $1.1 billion that is essentially out the door. Of course, as I mentioned earlier in my testimony, we are certainly keenly interested in making sure that that process continues so that the remaining monies can be distributed.

Senator LANDRIEU. But let me ask you this, then. I am going to rephrase my question to you. What percentage, then, of the projects in Mississippi to date do you believe have been scoped in an agreeable fashion—let me just finish my question—in an agreeable fashion between FEMA, the State, and the locals? In other words, let us take Waveland. That was virtually destroyed. Of the projects in Waveland, which of the projects—what percentage has the Mayor of Waveland agreed, you have agreed, and FEMA has agreed to try to give us some idea of how accurate this scope is, not just from FEMA's perspective, but from the mayor whose obligation it is to stand up his town, you from the State who are representing the governor and his view of this, and FEMA?

Mr. MCDONALD. Well, Senator, my answer to that question would have been different had I not seen this report, which indicates that FEMA believes that number to be at 61 percent. With 14,000 Project Worksheets, statistically speaking, I believe that number is in excess of 61 percent.

Now, certain jurisdictions, do we have jurisdictional issues that we continue to work on where we are not at a high percentage? Absolutely. Is Waveland one of them? Bay St. Louis, the school districts there. But generally speaking, agreement on scope of the PWs is not a significant issue for us and a pressing issue. There is a mechanism to resolve that. But we don't——

Senator LANDRIEU. What is that mechanism to resolve it?

Mr. MCDONALD. Our communication flow is through the TRO, and we are very thankful that as recently as yesterday, we received our first permanent TRO Director. But that mechanism is to work quickly with——

Senator LANDRIEU. TRO is a Transitional——

Mr. MCDONALD. Transitional Recovery Office. Mr. Merritt mentioned that in his testimony, that under this disaster, we have the presence of Transitional Recovery Offices.

Senator LANDRIEU. Do you have one?

Colonel SMITH. Ours is the same one, Senator. The regions are not involved.

Senator LANDRIEU. You all have the same Transitional Recovery Office?

Colonel SMITH. Well, Gil Jamison has the Transitional Recovery Office and then we have a unit of that Recovery Office in New Orleans and then he has one——

Mr. MCDONALD. In Biloxi.

Colonel SMITH [continuing]. In the sub-units.

Senator LANDRIEU. OK. So the scope of the work is not a problem for you, but it is a problem for you. I am trying to understand, why is it not a problem for you, Mr. McDonald?

Mr. MCDONALD. And we are working directly with the, I refer to it as our TRO in Biloxi, our local Biloxi TRO. Now, you mentioned earlier that we are in Region 4 and I believe you guys are in Region 6, do I understand that correctly?

Colonel SMITH. Correct.

Mr. MCDONALD. In scoping the PWs, Madam Chairman, I would have to research that. I don't have a direct answer for you on that point.

Senator LANDRIEU. Well, I would like you to do that because, first of all, the numbers are opposite your testimony. Colonel Smith, you are testifying that you have had less agreement in your situation, but the document indicates a greater percentage than Mississippi. Mississippi is testifying that they are pretty happy with all their scope of work and they don't really have much of a problem, but their scope is, on that document, only 61 percent. So we are going to hone down and figure this out.

Mr. MERRITT. Madam Chairman——

Senator LANDRIEU. Go ahead, Mr. Merritt, maybe you can——

Mr. MERRITT [continuing]. That was the point I tried to make in my testimony. PWs are a tool and it is very difficult to manage the recovery effort by the numbers of PWs written because one building could have 50 PWs written for it or another building might have one. So to use numbers like that to gauge how far the recovery is going is very difficult, at best. The circumstances are very different, and the State does not have to agree with the Project Worksheet to be obligated. So FEMA has the ability to obligate a Project Worksheet whether the State or the local governments agree to it. They don't like to do it, but it can be done——

Senator LANDRIEU. Well, that is exactly my point, but I am going to find out, of the obligated monies that FEMA has told Congress is obligated for this disaster, what percentage of those have been actually agreed to by the locals so that we can give an estimate of how much the recovery might ultimately cost. It is not just what FEMA has obligated. If FEMA has obligated, for instance, only 20 percent of the actual dollars to rebuild a school, for instance, we should have some indication that perhaps there is another 80 percent of the project that has yet to come to us to be even requested, because in FEMA's mind, they think they can build a school for 20 cents on the dollar, but the school president is saying, you are shorting me 80 percent of the money for the school. That is what I am trying to get at.

And I am not measuring the recovery by this process. I am just trying to manage or to get to the bottom of what Congress's obligations are as well as the problems with the process itself.

Go ahead, Mr. McDonald. Anything else?

Mr. MCDONALD. No. Madam Chairman, I would just add, as I mentioned in my more thorough testimony that the specific issue—that issue as it relates to education is critical. As you mentioned in your comments, the impact on education and making sure that we give them priority and ensure that the schools are able to recover.

Senator LANDRIEU. And how many schools, just really quickly, do you think you still have in Mississippi that have not been rebuilt that need to be, do you know?

Mr. MCDONALD. I don't know the exact number, Madam Chairman, but we were able to return our kids to the classrooms fairly quickly through superhuman efforts, many of which you have witnessed. But we still have schools and issues that are awaiting resolution, and I guess one of the observations that I have kind of gleaned from some of this frustration has to do with the role of education and the updating of the Stafford Act. I have a personal belief that while FEMA recognizes that there are areas that need specialists and deserve those—debris being one of them—that in the years since the Stafford Act, education should also be one of them.

I think in regional disasters, and one of the themes that has been mentioned here is catastrophic events and regional disasters, Senator, the ability to send someone that has the education focus to sit beside and with a school district that may, in a 10-year period of time, be able to rebuild one school and is now facing a rebuild of all schools, having that resource present that is knowledged and skilled and sustained in education and Stafford would be a welcomed legislative relief to the Stafford Act in the future.

Senator LANDRIEU. Thank you. Colonel Smith, any final words?

Colonel SMITH. Senator, something that may help you frame this. Out of FEMA's projected $6.3 billion that they will ultimately obligate, right now is a projection, about $4 billion of that is for permanent work. That is rebuilding infrastructure. So if you assume that that is undervalued by two to four times, then you could be looking at an undervaluation of two to four times $4 billion. So that ultimate amount could be $16 billion. In fact, most people will do that.

Another thing, the difference between Louisiana and Mississippi, many of their buildings were 100 percent destroyed, so it is easier, actually, to do the scope of work on a destroyed building because you are rebuilding this building, versus trying to figure out all of the repairs to an existing facility.

Senator LANDRIEU. I think that is a very excellent point, and we continue to try to express in every hearing we have that while the disaster, the results of it were the same to people in terms of loss of house, loss of job, loss of school, loss of livelihood, the characteristics of the disasters between these States was so wholly different based on what basically you just described. The destruction from a wave and a wind that eliminated structures in total down to the slab, and the difference between a city and suburbs and urban areas sitting under eight to 20 feet of water, when the water goes down, the structure is still there. The roof is still on. The walls are still there. The structure is intact, but it is uninhabitable and cannot in many instances be repaired without knocking it down and rebuilding it again. I mean, the structure itself is just rendered wholly not fixable. I don't know what the word is that engineers will use.

And that is the scope of the disaster in difference between, in large measure, Mississippi and Louisiana, which was never initially recognized. Hopefully, this Subcommittee can help the country understand a little bit better about walking to a slab and estimating what a 5,000-square-foot building costs and then walking to a 5,000-square-foot building that has had 20 feet of water sitting

in it and spend the next 2 years deciding what was broken before the 20 feet of water entered the building——

Colonel SMITH. Exactly right.

Senator LANDRIEU [continuing]. And what we are responsible for fixing when the 20 feet of water left. And that is part of our challenge and dilemma.

Does anybody have final questions before we move on, or comments?

Mr. MERRITT. Two quick thoughts, Madam Chairman.

Senator LANDRIEU. Mr. Merritt.

Mr. MERRITT. Short-term, if the Subcommittee could encourage FEMA and DHS to bring decisionmakers down to the Gulf Coast region to not only make creative and innovative decisions that stick would be the short-term solution.

The second thing is to benefit FEMA. The Stafford Act was not written for a catastrophic event. I think Senator Stevens hit it exactly on the head, as well as your previous panel. We are desperately in need of a catastrophic annex to allow the rules that they are restricted by to be modified in those circumstances, and those things that are too open for interpretation because of the general nature of the Stafford Act can be restricted a little bit further to take people's interpretation out of it, so we know exactly what our rules are going into it.

So short-term, creative, innovative solutions that stick. Long-term, I think we desperately need a catastrophic annex to the Stafford Act, because it is a good Act and it has worked well for what we call garden-variety disasters.

Senator LANDRIEU. And finally, if we did take the suggestion to move the appropriate FEMA personnel on the ground, which person would it be, Colonel Smith, that you report to? Who is your ultimate decisionmaker in your region?

Colonel SMITH. Well, right now, the ultimate decisionmaker——

Senator LANDRIEU. Is it Bill Peterson?

Colonel SMITH. No, ma'am. That is—the FEMA Region 6 is not involved in our recovery to almost no degree. I think that is one of the problems. They have a lot of excellent people. It is the Transitional Recovery Office that is down in New Orleans where they have got decisionmakers. The FCO that is down there that is in charge is the one that makes those decisions, but they won't even come locate their key decisionmakers with the key decisionmakers in Baton Rouge. As you know, facility planning that has 2,300 buildings to repair, it is a logistical nightmare to try and even get meetings with them when they are down so far away.

So there are a few quick hits. The Stafford Act, we know needs to be amended, and there is a lot of long work, but there are some quick things that could be done. They could relocate their key people that are there to Baton Rouge. They could set up a problem resolution system, as Senator Stevens talked about, call it arbitration, whatever you wanted, where once a month decisionmakers got together and made decisions and move on. So there are some things that we can do to jump-start this.

Twenty-two million in administrative money that I can't use, I can hire engineers, architects. We can go down into these areas and help them start, and that is what the law is supposed to allow.

But they won't let us use it for anything but travel, per diem, and overtime. So there are some things that could be done like this that could help. The long-term solution, fix the Stafford Act and other things.

Senator LANDRIEU. Mr. McDonald, who would it be if somebody showed up and stayed on the ground to help you all?

Mr. MCDONALD. Well, at present, Sid Melton, who officially began work yesterday as the TRO's Permanent Director. Mr. Melton does have a history both in Louisiana and Mississippi on the Individual Assistance side. Prior to him, there were a number—actually, there were three interim directors.

Senator LANDRIEU. Are you testifying that between the storm and today, there has not been a permanent Director for Project Worksheets for Mississippi and Louisiana?

Mr. MCDONALD. That is correct, Senator, but we have had a series of competent interim directors. The permanency, I appreciate, as has been pointed out here, finding the depth of resource from FEMA to properly place a permanent person has been a challenge. But Sid Melton is the short answer to your question, and then from there in our process, it gets elevated to Gil Jamison.

Senator LANDRIEU. OK. Thank you very much.

Mr. Walke, I understand that you are the Director of the Public Assistance Division that we have just spent the last hour and a half speaking about. You began your career at FEMA as a civil engineer with the National Flood Insurance Program. You have held various positions, including the Chief of Public Assistance. You were responsible for managing the Public Assistance Program.

I most certainly look forward to your testimony today to try to shed some light on the situation that we are dealing with, so please proceed.

TESTIMONY OF JAMES WALKE,[1] DIRECTOR, PUBLIC ASSISTANCE DIVISION, DISASTER ASSISTANCE DIRECTORATE, FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. WALKE. Thank you. Good morning, Senator Landrieu. My name is James Walke. I am the Director of the Public Assistance Division, which is part of the Disaster Assistance Directorate, formerly known as Recovery Division, at FEMA. I have been a career FEMA employee for 23 years and have been with the Public Assistance Division for 14 years. I am responsible for planning and providing national-level policies and oversight of the Federal Government's efforts to restore and build eligible public infrastructure that is damaged as a result of Presidential-declared disasters and emergencies.

It is my pleasure to be here today to discuss with you the Public Assistance process, the status of projects in the Gulf Coast, and initiatives FEMA has taken to improve the delivery of assistance following Hurricanes Katrina and Rita.

The Public Assistance, or PA Program, provides cost-shared grants to assist State and local governments and certain private nonprofit organizations to remove debris, carry out emergency pro-

[1] The prepared statement of Mr. Walke appears in the Appendix on page 75.

tective measures, and repair or replace damaged infrastructure. The Public Assistance Program is a vital part of the community disaster recovery process.

The process begins with the creation of a Project Worksheet. FEMA uses the Project Worksheet to record the scope and amount of grants to applicants. The Project Worksheet includes a description of eligible damages, the scope of work, and estimated cost to repair the disaster damages. FEMA assigns technical experts, such as structural engineers, sanitary engineers, hospital specialists, etc., from our Disaster Reservist cadre or from our Technical Assistance contractors to work with the applicants to develop the Project Worksheet.

In most cases, agreement on eligible scopes of work is achieved quickly. In a few cases, there are differences in professional opinion as to what are considered disaster-related damages and the appropriate repairs. If agreement is not reached, FEMA will approve its version of the Project Worksheet and provide the applicant an opportunity to appeal. In Louisiana, applicants have submitted over 200 appeals to date.

As of June 25, 2007, we have prepared 80,179 of an estimated 84,474 Project Worksheets for all of the Gulf Coast States. In Louisiana, we have obligated 34,205 for an approximately $4.8 billion. This represents about 88 percent of the total estimated number of Project Worksheets to be written. In Mississippi, we have obligated 12,842 for approximately $2.1 billion, and this represents 61 percent of the total estimated number of Project Worksheets.

Over the last 6 months, we have implemented several initiatives to improve the Public Assistance process in Louisiana. First, we have established a new management team led by John Connolly, one of our most experienced Public Assistance Officers. We have also implemented an aggressive staff training and mentoring program to improve staff knowledge of the PA Program. In addition, we have deployed more cost estimating experts to ensure that our estimates are appropriate. And finally, we have collated program staff at the applicant's premises to expedite the development of the remaining Project Worksheets.

In addition, Senator, we have also taken several initiatives to further improve the delivery of assistance of the Public Assistance Program in the future. We have established a Public Assistance Steering Committee that is comprised of the senior Public Assistance staff person in each of the 10 regions, as well as 10n State persons, to serve on the Subcommittee. The steering committee will develop the visions, strategies, and policies to ensure efficient, effective, and consistent implementation of the program. We will continue to update all of our policies, guidance, and training documents so that our staff will have the tools to be successful. And also, we are evaluating more cost-effective ways to train our staff before disasters strike, as well as in the immediate aftermath of a disaster, to improve the level of service.

On June 1, 2007, we implemented the Public Assistance Pilot Program that Congress authorized in the last session. The pilot encourages local governments to adopt pre-disaster debris management plans by providing an additional 5 percent in Federal cost share for debris removal for those that do so. In addition, the pilot

will also speed recovery by making grants on the basis of estimates for projects up to $500,000. It is our hope that this pilot will yield good information that we can use in the future to improve delivery of services.

FEMA is committed to the recovery and rebuilding of the Gulf Coast and will remain on the ground until the job is finished. The Public Assistance Division is using lessons learned from Hurricanes Katrina and Rita to refine our policies and pilot new initiatives to retool and improve the Public Assistance Program.

And finally, Senator, we would like to reserve the opportunity to respond for the record to some of the comments that were made by some of the previous panel members.

Senator LANDRIEU. Thank you, Mr. Walke, who is your point person in Louisiana to work these problems out with the Project Worksheets? As I understand, you are in charge for the whole country for FEMA. Who is the guy or gal that you depend on to report to you on a daily basis what is happening regarding this in Louisiana?

Mr. WALKE. That person would be John Connolly, who is our Public Assistance Officer for——

Senator LANDRIEU. John Connolly. And who is it for Mississippi?

Mr. WALKE. For Mississippi, it is Randy Walker.

Senator LANDRIEU. And who is it for Texas?

Mr. WALKE. Well, the disaster is closed in Texas, so we don't have anybody there right now.

Senator LANDRIEU. And I am assuming it is closed in Louisiana?

Mr. WALKE. No.

Senator LANDRIEU. I am sorry, I am assuming it is closed in Alabama.

Mr. WALKE. In Alabama, we have a residual staff there.

Senator LANDRIEU. So we only have two that are open for this. Tell me again their names, the Louisiana first?

Mr. WALKE. John Connolly in Louisiana, and Randy Walker.

Senator LANDRIEU. Where do they live and where do they work?

Mr. WALKE. John Connolly is originally from Philadelphia.

Senator LANDRIEU. Where is he presently residing?

Mr. WALKE. Presently, he is in New Orleans. Randy Walker is from the Gulf Coast and he is working out of Biloxi.

Senator LANDRIEU. So they are on the ground?

Mr. WALKE. They are on the ground, yes.

Senator LANDRIEU. And they handle this disaster for Project Worksheets, working through them, and report directly to you?

Mr. WALKE. That is correct.

Senator LANDRIEU. OK. When you said that FEMA has initiated a pilot, and I am somewhat familiar with the actions that Congress took. The pilot allows projects to move forward that are under $500,000. Do you know what the average cost of a fire station is with two fire trucks?

Mr. WALKE. I do not know what——

Senator LANDRIEU. Let me tell you what it is. It is somewhere between $2 and $3 million to replace one fire station with two fire trucks. So this pilot program of $500,000, I don't know necessarily a school that could be rebuilt, a police station, or a fire station for

this pilot. So I would start with suggesting that the pilot is not sufficient and that we need to think more broadly.

You said that Louisiana—this is still a puzzlement to me—you have testified and FEMA documents show that 81 percent of the Project Worksheets are agreed to, are being processed. Yet in Mississippi, it is only 61 percent. But it seems like there are more problems in Louisiana than Mississippi. This number would indicate to me that there are more problems in Mississippi than Louisiana. Am I correct or incorrect, or is it just a misreading, or are these numbers misleading?

Mr. WALKE. Well, we have an updated number for Mississippi, and instead of 61 percent, that number is 75 percent——

Senator LANDRIEU. So it is closer. So the numbers that you have now in your records are 81 percent processed for Louisiana and 75 percent——

Mr. WALKE. That is right.

Senator LANDRIEU [continuing]. For Mississippi. OK. At least that clears that up.

But again, do you agree that these figures now, 81 percent and 75 percent, can be somewhat misleading in terms of the fact it is not an indication that these final dollar amounts for repair have been agreed to. It is just what FEMA has obligated. From FEMA's perspective, it is agreed to, but not from the State or locals, or can you give us the percentage, if it is not 81 and 75, what is it that has been agreed to at the local, State, and FEMA level on the Project Worksheets under your jurisdiction?

Mr. WALKE. Senator, I can only estimate that. The percentage of PWs that are obligated does include some—many or most that have been concurred with by the State and local. As I said before, in Louisiana, those who have not agreed with the scope and the estimates for the projects have appealed, and out of the thirty-some-thousand estimated Project Worksheets, we have only had 200 or so appeals.

Now, that is not just to say that is the total universe. I mean, our folks are working with some of the applicants, I think that Jeff Smith had mentioned, where there were some need to align the scope. And I think it is critically important to understand that we need to concentrate on what is the ultimate scope of work, because the estimate can flow from the ultimate scope of work.

And I think the protracted discussion we are having on some of the Project Worksheets reside or revolve around what is disaster-related damages, and I think this is what we preach to our staff and to the States as well, that let us just figure out—let us get some consensus on what is the eligible scope of work, what are the disaster-related damages, and I think we can—reasonable people can come to some understanding of what it is going to cost.

Senator LANDRIEU. We would like to help reasonable people come together, but I am going to ask you for the record, not for today, but to submit to this Subcommittee, of the Project Worksheets that you have in Louisiana and Mississippi——

Mr. WALKE. Right.

Senator LANDRIEU [continuing]. What Project Worksheets were agreed to without much debate or discussion, how many and what percentage. Then what percentage they have serious arguments

about, but came to some settlement, but there were serious arguments. And then those that are under official appeal. What do you estimate future appeals to be, because I want to get a very clear indication of these projects, multiple millions, billions of dollars worth of projects, what were agreed to by reasonable people, what were disagreed to but finally came to some conclusions? Whether they were satisfactory or not is a wholly different question.

Mr. WALKE. Right. We can do that, Senator.

Senator LANDRIEU. And then what are under appeal, and I will tell you just from a perspective of a public official, as I have been for many years, for a small town—I am not even going to use a town in Louisiana. I could use many, but for a small town like Waveland that had only 10,000 people that was virtually destroyed, the pressures of that mayor and those public officials to accept whatever the Federal Government is giving them are great, because they don't have the lawyers to appeal. They are a small town and can't necessarily fight the Federal Government. They are at a distinct disadvantage. So if you say that you are going to give them $200,000 to rebuild their library, they might just accept the money and move on when they really were owed $2 million.

Now, I am going to get to the bottom, as the Chairman of this Subcommittee, for the big Project Worksheets and how well you are working with these small towns in my State and in Mississippi and how well you are not, and if I am mistaken that it is going swimmingly well, I will be the first to make that clear and apologize. But from my own instincts, I don't think that is happening, either in Mississippi or Louisiana. Now, I could be wrong, but we are going to sift through these numbers until we get there.

And then the final piece is we are going to sift through these numbers so that I can, as an appropriator, give some heads up to Congress that these numbers have been either grossly underestimated or that they have been relatively accurately estimated and we are not going to have to go find another $10 or $20 or $30 billion when it comes to budget discussion time up here in Washington.

Mr. WALKE. I understand.

Senator LANDRIEU. Let me ask you this. What is your opinion about an arbitration process? Would it be helpful to you? Is it necessary?

Mr. WALKE. Well, the current regulations allow for the Recovery Division Director or the Assistant Administrator for Recovery to engage a third party, independent third party for technical advice on appeals. It does not relinquish authority to this third party. It is just for input into the decisionmaking. So that is available to us right now short of the arbitration because the statute and the regulations do not allow for binding arbitration.

Senator LANDRIEU. Would you support binding arbitration?

Mr. WALKE. I do not. I think I stand by the regulations as they are written, to get professional input, technical input from technical experts to the decisionmaker.

Senator LANDRIEU. Would you allow, then, the locals to hire those technical third parties as opposed to FEMA?

Mr. WALKE. I think the whole notion of getting a third party is to get an independent person that doesn't have a vested interest in the situation to provide technical advice and——

Senator LANDRIEU. Then how do you abide by the worthy goal of independence if you are the one hiring them?

Mr. WALKE. What I think the process would be, Senator, that we would mutually agree to who that third party would be.

Senator LANDRIEU. Is that how it works?

Mr. WALKE. We have only availed ourselves of this procedure for, maybe on a couple of occasions in the past 20 years that I am aware of.

Senator LANDRIEU. OK. What is FEMA's rationale for rebuilding damaged public infrastructures in exactly the same way, in exactly the same State that they were found when they were destroyed by the storm? We say, and I even say it myself in speeches, we are going to build it better, stronger, and better and stronger. Actually, I have come to the conclusion that may be against the law, because the Stafford Act specifically, I think, says you can't build it any better than it was when it was destroyed. They call it in the lingo of the community, is it "gold capping"? You are prohibited from gold capping. Can you comment about how does FEMA help Waveland build a better sewer system under the current law that you operate? Is that even possible?

Mr. WALKE. Well, there are two things. For structures that are totally destroyed, obviously they are built back to the current codes and standards, which I think by definition makes them stronger and perhaps a little more resistant to some of the forces——

Senator LANDRIEU. But those that are repaired.

Mr. WALKE. The ones that are repaired, yes, the basic statute and regulations require us to return the facility to its pre-disaster condition. However, there are provisions to provide hazard mitigation to include in the repair that would make the building stronger than before, and I think we are looking at opportunities to do that in most cases, if not all cases.

Senator LANDRIEU. Well, I think that it is important for our Subcommittee to focus on that the current law, and this is not a fault that I would levy to administrators but this is a fault that is apparent to me in the law, that when you are reconfiguring buildings or infrastructure in cities like New Orleans or places along the Gulf Coast that are older, in some instances certain neighborhoods much poorer, that all FEMA allows you all, the Stafford Act allows you to do is replace a 60- or an 80- or a 100-year-old sewer system. If it is not completely destroyed, you can only repair it up to the level it was before. It was insufficient before. It doesn't make any sense to me to pour good money after bad money, and I would like to try to help save taxpayers money and build with common sense as opposed to the letter of the law, which doesn't seem to me to be making any sense. I would appreciate any suggestions that you have along those lines.

Our time has almost expired. Is there anything that you would like to add to your testimony?

Mr. WALKE. Well, I would certainly like to say that we have done, I think, a very credible job in Louisiana and the Gulf Coast, notwithstanding some of the comments we heard before. I think it

is to be expected that as we get further along, we encounter more complex projects, which takes longer to resolve, and I think that is where we are in both of these States. When you look at the number of projects that we have approved, that we have got consensus on, I think it is remarkable.

So I would say that not judge us by the number of comments or criticism that you have heard here today, but measure us by how well we can respond and positively react to and solve the problems that have been raised, and I think we are committed to do that, Senator.

Senator LANDRIEU. Well, Mr. Walke, you can be assured that I am going to let the numbers speak for themselves, that my instincts could be wrong, but the numbers need to speak for themselves. But we are going to get these numbers to show an accurate picture of this and that we are going to take this criticism that we have heard to heart. I am going to ask you how many people have worked for your division since this storm happened and what your turnover rate is. I am going to ask you how you train your people and how long they stay with you. We are going to look at these numbers again and find out which Project Worksheets were agreed to, which were disputed, which are under appeal, and what your projections are, and then we are going to let the numbers speak for our performance or lack thereof and figure out what we need to do to rebuild the Southern part of these two great States.

Thank you, and the hearing is adjourned.

[Whereupon, at 12:08 p.m., the Subcommittee was adjourned.]

APPENDIX

Senate Ad Hoc Subcommittee on Disaster Recovery of the United States Senate Committee on Homeland Security and Governmental Affairs

"FEMA's Project Worksheets: Removing the Most Prominent Obstacle to the Gulf Coast Rebuilding"

July 10, 2007

Testimony of C. Ray Nagin
Mayor, City of New Orleans

I am C. Ray Nagin, Mayor of New Orleans, one of America's most beloved and culturally distinctive cities, and a city which is facing the challenge of recovering and rebuilding after the worst natural and man-made disaster to occur in the United States of America.

To Chair and Senator Landrieu, Ranking Member and Senator Stevens, distinguished members and guests of the United States Senate Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs: Thank you for calling this hearing on the issue of FEMA's project worksheets, which have been a persistent area of difficulty and challenge as we have worked to recover from the devastation of Hurricane Katrina and the subsequent flooding. Although our early dealings with this process were extremely difficult, we have seen some significant improvement within the past few months and are hopeful that our relationships with federal and state agencies will continue to lead to positive movement.

As I begin my testimony, I would like to thank you and Congress for your tremendous support during the past 22 months. You have ensured that attention remains focused on New Orleans and the entire region so drastically affected by the Hurricanes of 2005. Your actions have helped us to address key recovery issues related to hurricane protection, flood control, public safety, economic development, housing and healthcare. I would especially like to thank you for your work to ensure the approval of a waiver of the 10 percent local match requirement for rebuilding projects and the restoration of the President's authority to waive repayment of Community Disaster Loans – two items which are key to our capacity for rebuilding vital infrastructure and recovering financially.

I would also like to again thank the American people and people all over the world for the generosity they have shown in responding to our needs with donations of money, supplies and human labor to help us restore our great city and our hope. These

philanthropists and volunteers are critical to our rebuilding efforts and we are grateful that they, like us, are committed to seeing our city fully recover.

I. New Orleans Pre-Katrina

I would like to take a moment to describe New Orleans before Hurricane Katrina and the breaching of the levees. New Orleans had a population of 455,000 residents, more than $3 billion in construction activity, 215,000 housing units and a viable and growing Central Business District.

Tourism has long been the main economic driver of the city, and prior to Hurricane Katrina, tourism hit a record, with 10.1 million visitors coming to the city each year and thousands of people joining cruises from our port.

Adding color and vitality to the city was "Hollywood South," one of the newest and most exciting activities taking place in New Orleans. The burgeoning film industry was rapidly making its mark as an economic development driver, with multi-million dollar films being made in the Crescent City.

The economic landscape was also looking better for working families. We moved 38,000 people off the poverty rolls in the city. An estimated 40,000 businesses were in operation, representing $8 billion dollars in annual revenues.

II. Hurricane Katrina's Impact

Hurricane Katrina was the largest and most costly disaster in American history. More than 1,400 Louisiana residents lost their lives. Katrina produced the first mandatory evacuation in New Orleans history, and the largest displacement of people in U.S. history -- 1.3 million. More than 150,000 New Orleanians remain displaced.

New Orleans sustained 57% of all the damage in Louisiana. Of our 188,251 occupied housing units, 134,344 sustained reportable damage, and 105,155 were severely damaged. Residential damage in Orleans Parish was $14 billion.

Statewide, 18,000 businesses were destroyed. The City of New Orleans lost about half of its annual revenue, a substantial portion of the $480 million general fund. City government was forced to reduce its employees by 3,000 — half its workforce.

What the wind didn't destroy, the water did. Approximately 95 percent of the city's nearly 350 buildings were damaged at an estimated cost of more than $400 million. This does not include equipment and inventory such as police radios and New Orleans Recreation Department supplies. For example, 700 city vehicles were lost, at a cost of $128 million. Experts predict Katrina's final damage totals will be about $250 billion.

Katrina affected our courts, prisons, schools, parks and playgrounds, pools and libraries. Our infrastructure, those physical and permanent installations that allow the city to provide basic services to its citizens, were decimated. This includes all utilities, roads, drainage, communications, water supply and other facilities, such as bridges and pumping stations.

With 80 percent of New Orleans under water for almost a month, the damage done by the moisture was extensive, but as harmful to our infrastructure was the damage done by the weight of the water. In all, 480 billion pounds of water poured into our city and sat for almost a month. Hundreds of miles of underground utilities -- electric, gas, water, drainage, cable and phone lines -- were damaged.

Rebuilding our infrastructure is key to recovery in New Orleans and one of this administration's top priorities. These foundational needs are essential as our population returns and communities continue to rebuild.

III. Immediate Response to Katrina

After the hurricane, we focused on five key areas: Search and rescue of people trapped and stranded; evacuation of the Louisiana Superdome, Ernest N. Morial Convention Center and bridges; patching the levee breaks; draining the floodwaters; and recovery of the dead.

After successfully dewatering the city, we conducted environmental testing to clear any concerns about toxicity, returned utilities to a delicate but operational level and began repopulation of the city in areas with little or no damage/flooding.

IV. Where Are We Now

Hurricane Katrina has led to the largest clean-up in U.S. history. It produced 35 million tons of storm debris, six times as much as the ruins of the World Trade Center. To date, nearly 100 percent of storm related debris has been removed from the city, and we anticipate the future removal of additional tons of material as demolition and rebuilding continue.

As we have worked to recover, we have faced critical delays in the receipt of federal funds appropriated for us. Despite these delays, we have made significant strides in the recovery of our basic services and infrastructure. We have restored utilities to the entire city, strategically reopened facilities of the New Orleans Recreation Department in populated areas and developed an efficient system for obtaining building permits. We have issued more than 150,000 permits at a value of $3.7 billion.

In addition, we have been successful at reestablishing critical services and, in some cases, at providing citizens with higher level services that they received before the storm.

In this time of decreased financial resources, we still managed to overhaul the way that

we provide garbage services and to dramatically increase the level of satisfaction among citizens. Our neighborhoods are cleaner with uniform collection carts lining the streets in the morning and power washed streets. In the French Quarter, sidewalks are power washed, which leaves the area smelling lemony clean. Downtown and the French Quarter have experienced such a transformation that it has become a buzz among visitors.

Just as we have moved forward with our sanitation services, we also have improved our roads and other infrastructure. This year alone, we have repaired more than 38,000 potholes. We also have repaired more than 8,400 street lights and replaced or repaired more than 7,100 street signs. We have cleaned nearly 5,400 storm drains and 1.25 million feet of drain lines. More than 3,700 damaged parking meters are now working. And to date nearly 8,000 storm damaged vehicles have been towed from staging areas and public rights-of-way.

Now that our bond rating has been elevated to a stable status, we are in the position to move forward with implementing a bond issue that voters approved in 2004 for major and minor street repairs. We also have been able to complete road construction projects in the downtown area that were begun right before Katrina struck. And we broke ground earlier this year to begin major roadwork repairs in Algiers, an area of the city that escaped the brunt of the storm's effects, and in Lakeview, which was heavily damaged.

Our citizens also need to have recreation areas and facilities where they can engage in physical activity. Although the New Orleans recreational department sustained more than $60 million in damages to our 187 parks and other facilities, to date five multi-service centers, 33 playgrounds and 2 stadiums are open. Less than two weeks ago, I hosted a family festival to mark the reopening of a portion of Joe Brown Park, a facility in New Orleans East, one of our most devastated neighborhoods. The park attracted more than 1,500 visitors on weekend days prior to the Hurricane Katrina, and several hundred people were on hand for the reopening. We do not yet have the money to make repairs and reopen the entire facility, but our Department of Parks and Parkways and the New Orleans Recreation Department worked diligently alongside state officials to ensure that our returning citizens can have some access to this popular gathering space. At least 50,000 people are now estimated to be living in New Orleans East.

V. Accelerating Our Own Recovery

While the federal government has appropriated significant resources for our recovery, this money has been slow to reach the local governments and the citizens who need it. As has been the topic of much discussion, we have found ourselves locked in a cycle of needing money to undertake projects so that we can seek reimbursements for work that has been undertaken.

To ensure that we did everything possible to accelerate our own recovery, we worked with the City Council to change laws to permit the city to borrow more than $30 million from other departments to begin critical projects related to public safety. We focused our efforts on public safety needs, such as police and fire stations. This also allowed us to

bring our criminal court back home to Tulane and Broad in June 2006, less than a year after the flooding.

Today, we maintain a delicate, cautious balance of our limited general fund dollars. My finance team works diligently with an advisory board of economic and finance experts from around the country, and we have, for the first time, produced a five-year budget plan that keeps costs in line with spending, ensures responsible management of the Community Disaster Loan (CDL) and focuses on responsible and realistic budget initiatives which center on public safety and recovery of our city. Wall Street has acknowledged our prudent use of our limited dollars and recently upgraded our investment grade from "junk" status to "stable." This is an incredible accomplishment less than two years after it seemed we could face bankruptcy. It also affirms our judgment in making difficult decisions in the days, weeks and months immediately after the storm.

Both the business community and our residents have taken notice. Our retail market is thriving and sales tax collections are at 90 percent of pre-Katrina. Tourists are returning; Mardi Gras experienced near record crowds and some days of this year's Jazz Fest broke previous records. Just last week, the annual Essence Fest returned to New Orleans after a one-year absence. The three day festival attracts approximately 200,000 visitors and has an economic impact of $150 million. Local hotels were at 90 percent occupancy during the event period.

Perhaps most importantly, our residents are coming home. After the floods, I set a goal for New Orleans to return to 75 percent of its pre-Katrina population within two years. Estimates from two independent researchers found that our population is at 58 to 64 percent of pre-Katrina levels, meaning as many as 291,000 people now live in New Orleans.

VI. Challenges to Recovery: Project Worksheets

Despite the hard work and creativity of our dedicated city staff, the cumbersome and often lengthy process of funding recovery projects through funds allocated on project worksheets has been a significant impediment to our speedy recovery and that of other communities throughout the affected area. Many of the difficulties we face with project worksheets are due to the magnitude of the disaster caused by Hurricane Katrina and the subsequent flooding from levee and floodwall breaches, and the nature of the laws providing for emergency relief and recovery funding. The Robert T. Stafford Act functions as a reimbursement program which could not provide adequate relief for our needs. Stafford was written to give broad discretionary powers to government in how it provides assistance, something which had not been consistently used to respond effectively to our unprecedented situation. We have recently witnessed more positive movement in our relationship with FEMA, largely due to your intervention and the responsiveness of the current local FEMA staff.

There has been great progress in the assessment and funding process that FEMA is currently using with the Sewerage and Water Board regarding the severely damaged water infrastructure. We are pleased that FEMA is also working cooperatively with our Department of Public Works to identify storm related damages to city streets. We are particularly grateful that the Federal Highway Administration has earmarked nearly $60 million in Emergency Relief funds to resurface many of the major streets in New Orleans damaged by Katrina. These cooperative efforts will help to move our recovery forward and lessen the anxiety of our citizens, both those who have already returned and those planning to do so soon.

Despite these recent signs of hope, we continue to experience a number of difficulties with the project worksheet process. I would like to detail some of those here.

A. Cash flow difficulties resulting from the FEMA assistance reimbursement process

Although funds have been obligated by the federal government for our recovery, municipalities often are unable to access the cash needed to begin critical projects. As a result, the slow pace and awkward method of funds reaching the local level remains a principal issue hampering the recovery effort. The public infrastructure of the City of New Orleans -- including city office buildings, courts, police and fire stations, streets and playgrounds -- experienced damages estimated at a minimum of $1 billion. These figures reflect only the City government's needs, and are much larger when added to those of other major agencies, such as the New Orleans Public School System, Sewerage and Water Board, and Regional Transit Authority.

The extent of the damage to our economy and the magnitude of the damage to our infrastructure make it impossible for us to finance our own recovery up front. As of June 29, FEMA had written 837 project worksheets totaling an estimated $347 million; the city had received only $182 million in reimbursements from the state – a deficit of more than $160 million on an estimate already significantly below what the cost of replacement or reconstruction is expected to be.

We recommend a change to the Stafford Act that would establish a definition of "catastrophic disaster" for events such as Katrina to be differentiated in scale from "major disasters," and to amend the timeframes and formulas for assistance that a "catastrophic disaster" would call for. The extent of the devastation should determine the level of response. This trigger should automatically provide up front funding, extend the 100% reimbursement time frames for emergency work, increase assistance calculations for all grant programs and make provisions for rapid delivery of operational funds for devastated jurisdictions and their critical agencies.

Specifically, if a catastrophic event occurs where damages are estimated to reach a specified financial threshold, FEMA should provide a 50 percent advance based on the initial estimate of damages to infrastructure. This would allow municipalities to begin critical projects, such as those related to criminal justice, public safety and security.

B. Systematic undervaluation of project worksheets.

The initial writing of Project Worksheets in the field immediately after the storm was done with an idea of getting as many damage estimates as possible into the system, with the idea that later versions would naturally document more completely the extent of the damage. As a result, many PWs were written hastily. However, after the initial damage estimate was rendered, it then became the responsibility of the applicant, in this case the city, to document more adequately the full extent of the damage, often in the face of FEMA resistance to dramatically increased PW amounts. At the same time, FEMA personnel were frequently rotated, and the second generation of FEMA PW reviewers was not necessarily sympathetic to the assumptions and conditions under which the original PWs were written. Many of them also lacked the experience and training required to do quick and accurate assessments of the damage. These factors placed a greater burden on the city to document the full extent of damage to FEMA officials who were not necessarily familiar with the original circumstances in which the initial PW originated.

A policy of allowing a 50 percent advance based on initial damage estimates in catastrophic situations could help prevent this from being a crippling problem in the future. Additionally, FEMA needs to be able to tap into a cadre of pre-trained and pre-qualified persons with the desired skill sets, such as engineers and architects experienced in the restoration of various types of structures, such as prisons, courts, fire/police stations, etc, and thoroughly versed in FEMA procedures, including the correct application of the most current cost estimating tools. These persons would have standing orders in the event a disaster occurs. With the applicant's assistance, they would assess damages and write the Project Worksheets. Accuracy on the front end would eliminate the costly and time consuming process of appeals and multiple versions.

C. Unrealistic timelines for the magnitude of event

The deadlines that are in place for many actions are appropriate to smaller disasters, but inadequate for catastrophic events. To address this, the Stafford Act should extend deadlines for applications of assistance following catastrophe designation. FEMA must develop flexible standards for assessing realistic timelines for completion of tasks. Although a number of deadlines have been extended multiple times, our work processes have been interrupted based on initial information that was later revised. Greater efficiencies could be achieved with improved communications.

D. Lack of guidelines that govern the use of contracts for Project Management

Following a disaster of this type, personnel are in extremely high demand. This is a significant issue, and one which acts as a roadblock even when adequate funding is in place. To address this in catastrophic disasters, FEMA should develop clear guidelines

regarding the reimbursement for the use of contractors for Project Management. They also should allow reimbursement for the cost of contractors to accurately assess damages. This should be done by FEMA or allowed by the applicant.

VII. Close

As mayor of the City of New Orleans, I am hopeful about our recovery. We will look to you to continue to do all that you can to ensure that it moves more quickly and smoothly. Our citizens, who also are United States citizens, deserve no less.

We appreciate the commitment that FEMA has demonstrated in the last few months to ensure that New Orleans has the tools it needs to rebuild our city. We are facing a mammoth recovery effort, and I have no doubt that it will be successful. The changes we have suggested will help to ease our rebuilding, but more importantly, they will ensure that no other American city faces the roadblocks and delays that we did shortly after the storm and flooding.

In responding to this catastrophe, the City of New Orleans, State of Louisiana and United States government faced an unprecedented situation. This was the worst natural and man-made disaster in the history of our country. In responding, we have been required to look closely at how local, state and national governments prepared in advance and at how we all responded in the aftermath. I truly hope that no other city experiences devastation at the level we have during the last 22 months. I feel strongly that by championing some of the above concerns, your committee can better prepare FEMA and other federal agencies to respond to any disaster that might occur, whether natural or man-made.

Ladies and gentlemen, thank you for allowing me to speak with you on project worksheets and their impact on our recovery. I believe the proposed policies changes will accelerate our recovery and assist any other city that faces a disaster of catastrophic proportions. With your continued assistance, our hard work and the good will of the American people, we will succeed in rebuilding New Orleans, one of America's great cities.

ST. TAMMANY PARISH
OFFICE OF THE PRESIDENT
P.O. BOX 628
COVINGTON, LA 70434
PHONE: (985) 898-2362
FAX (985) 898-5237

Kevin Davis
Parish President

Chairwoman Landrieu, Ranking Member Stevens, and Members of the Ad Hoc Subcommittee on Disaster Recovery: I want to thank you first for the federal aid that has been made available to help the gulf coast region recover from the worst natural disasters in American History. I also want to thank you for the opportunity to appear before you today. It is almost two years since Hurricane Katrina's storm surge and winds brought massive damage to our community. I hope my testimony will be constructive and assist in future recovery efforts.

I realize that I have only a few moments and will get to the heart of the matter in just a minute, but I must very quickly give you the background for the issues I would like to address.

St. Tammany Parish is north and east of both of Orleans and Jefferson Parishes. My parish is about 850 square miles of which 57 miles are coastline. The northern half of the parish is rural; the southern half is a mix of urban and suburban.

The primary agricultural employer is the timber industry. Our primary roadways are state-owned. Our sewer and water systems, except those in the cities, are privately owned. Our primary drainage system is through the natural river, stream and bayou system as it exists in St. Tammany.

The eye of Hurricane Katrina passed over eastern St. Tammany Parish in the Slidell area. The storm surge was over 20 feet high at its peak, extended for over 50 miles, and came inland for over seven miles

After Katrina, we picked up and disposed of approximately 6.8 million cubic yards of debris. Over 90% of the debris was trees, not including the timber destroyed on private or corporate lands. That is just what came down on our roadways and from residents' properties.

Over 48,000 homes were damaged. Over 470 homes have been demolished. Another 500 are no longer safe and have been abandoned by their owners. While most properties below I-12 had storm surge, rain and wind damage, every bit of St. Tammany was damaged by wind and rain. Every roadway was blocked. Our natural drainage system was clogged by downed trees. Our utilities were all destroyed including electric, natural gas, communications, and sewer and water systems. All of the four bridges into St. Tammany from the south shore were incapacitated immediately after the storm. Seven

square miles of marshland was redistributed into the towns and subdivisions south of I-12.

We were dubbed "the black hole" by the media and others because we had no communications out to the larger world including the state Emergency Operations Center. We survived under these conditions for almost three weeks.

It is with this backdrop that we began our relations with FEMA and the PW process.

Our first Project Worksheet was our biggest. This PW was for debris pickup along parish roadways. We pre-bid debris removal at the beginning of each storm season. We had already awarded a debris contract for the 2005 hurricane season through public bid. We have had over 10 storms over the past six years, producing primarily construction and demolition debris. Very few trees were impacted. We picked them up with the other debris. Our scope of work reflected that experience by emphasizing C & D pick up. Katrina was primarily vegetative debris.

A few days after the storm's landfall, we provided a copy of our pre-position debris removal contract to the FEMA Debris Specialist assigned to our Parish. We discussed that the bid did not cover vegetative debris. We asked the Specialist what to do. He told us to ask our contractor for a proposal to handle the vegetative debris. He said once we negotiated a price we could, under FEMA 325, do a modification to the contract to cover the additional debris types (vegetative debris, mixed debris, hazardous trees and stumps). We did as he instructed and amended our contract.

In mid-October, FEMA questioned the matter while they were writing the PW. They believed that there might be a procurement issue. At this point, we were about six weeks into our contract and obligated for millions of dollars.

Our response was three-fold. First, we had already bid out the debris contract. Second, we compared prices with other areas and determined that the numbers quoted to us were within the range of similar bids in the area, and much lower than the quotes from the Army Corps of Engineers contractor. Finally, we had no communication to the outside world that would enable us to get bids from firms other than those currently in the parish. It made no sense to rebid the contract given the condition of our parish at the time. FEMA officials on the ground agreed.

Six million cubic yards of dried vegetative debris was a terrible safety hazard in St. Tammany. Catastrophic fires were a daily worry. Conflicting rulings from FEMA posed a serious threat to public safety. Local governments need confidence that the permissions given by officials on site are not going to be countermanded down the line.

We solved this issue. We now bid for everything we can think of prior to storm season. This includes everything from debris, to medical services, to portajohns.

We learned a very expensive lesson about what words were, or were not, acceptable in Project Worksheets. The word 'assessment' cost us $320,000. According to FEMA, we cannot employ a contractor for assessment work. We could, however, employ a contractor for 'administrative support.'

In other words, a contractor could not assist with damage assessment for our water and sewer systems but could provide administrative support to help us determine the extent of our damage and determine the process necessary to get our water and sewer systems back on-line.

Unfortunately, once you use a term, you cannot take it back. Therefore, we were not eligible for the funds we needed to get help for our utilities because we used a bad word – assessment.

Other PW-killing words include dredging, marsh grass, and evaluation.

Good communication is built upon common definitions and trust among parties. All parties must agreed that the sky is 'blue' and trust that everyone will use the word 'blue' in the same way. Unfortunately, the revolving door of FEMA personnel broke down common definitions and trust.

The speed with which FEMA personnel changed created havoc with the PW process. Each new person coming in wanted the wording his or her way or even questioned the need for such a PW.

For example, it was the opinion of a FEMA contractor working at the local level that debris that fell in drainage basins was not really debris. This was critical for St. Tammany Parish because, as we said, our drainage system was the natural drainage basins. The Joint Field Office finally ruled in our favor, but it was a long stressful process.

Our employees did not rotate in and out and their stress levels continued to grow throughout the recovery process. Changing federal personnel made their jobs even harder at a time when they most needed help.

These issues clearly demonstrate the need for consistent training and personnel continuity in emergency and recovery situations. Proper training will save lives, property, and tax payer dollars.

Inconsistent rulings finally forced St. Tammany Parish to sue FEMA in federal court. We did not want to take this step but were forced to do so to protect our citizens.

Similar projects were being ruled on differently by FEMA with contradictory explanations.

Two projects, one on the Pearl River and the second in a subdivision with canals that lead to Lake Pontchartrain, have similar scopes of work. The Pearl River project is in an environmentally protected area. Coin Du Lestin is subdivision with approximately 250 residents living on a network of canals leading into Lake Pontchartrain. Both waterways were blocked and threatened the lives and property of those who lived along them or depended upon them for drainage.

The Pearl River project was approved and work completed within months of the project start date despite the environmental issues attached to it.

The Coin du Lestin project is a different matter. The eye of Katrina stripped dozens of acres of marshland from the lake and deposited the mud and grass into homes, roads and canals in this area. Homeowners cleaned and scrubbed their homes and possessions. The parish contractor hauled away the debris in the roads but to this day, parts of the bayous are so full of debris that you can almost walk across the water.

We could only remove specific debris out of the canals. One was a car. A second was a part of a house. Another was a boat. FEMA officials arbitrarily decided what could and could not get done to clean this area. In no way, were we to dredge. That was a forbidden word. We bid the project three times at FEMA's request without succeeding in cleaning the canals.

Later, we found that FEMA had approved the dredging of Biloxi Bay, not clearing; dredging. You remember, dredging was a word we could not even speak let alone contract for.

For these reasons, we regretfully filed suit against FEMA.

I believe that to improve emergency assistance in our country, we must resolve the conflict within FEMA's mission.

FEMA has roles that are not necessarily compatible. Most days out of the year, the organization operates as a regulatory bureaucracy. During crises, FEMA changes to an action organization. And then within days after a catastrophic event, it reverts back to a regulatory bureaucracy that, by its very nature, cannot manage a chaotic situation. In a crisis, flexibility and the need to think quickly and creatively are essential. These qualities are the antithesis of bureaucracy.

FEMA's staff is quite small for a federal regulatory agency. Therefore, during a crisis and even more so in the recovery phase, the agency must staff up to meet the challenge. It recruits retired FEMA personnel, contractors and people off the streets to meet the need. As a result, there is significant miscommunication among regular FEMA staffers, new personnel, and the local officials with whom FEMA must deal.

We recommend FEMA be defined as either a first responder or a bureaucracy. It is extremely difficult to be both.

If FEMA is to be a first responder, then hire enough people to maintain a force large enough, and trained sufficiently, to work in partnership with local first responders. Let there be a consistency of effort and direction to FEMA's response during these events.

If FEMA is to be a regulatory agency, a position that I support, then FEMA should train personnel for these jobs. Give the responder job to those who can move more quickly, have the logistics to move quickly, and the personnel available to handle significant events. My recommendation is to use the National Guard. While the National Guard is a very large bureaucracy, it is a bureaucracy built for action. FEMA is a bureaucracy built for regulation, not action.

Local government can handle the management of FEMA grants. We handle grants from almost every level of government, and have experienced personnel to maintain the appropriate records supporting these grants.

FEMA's role, I would argue, is to provide regulatory oversight without managing the situation. FEMA does an excellent job of auditing its grantees. Why not ask FEMA to do what it does best: oversight of FEMA- supported programs.

Without a doubt, training is the main issue at all levels of government.

FEMA and local governments need more training than is now given. Almost every conflict that we have had can be traced back to a lack of basic training in the law and its rules and regulations. Rule interpretations vary significantly from one jurisdiction to another.

This is evident in the lawsuit we filed to clean the Coin du Lestin area. St. Tammany Parish cannot even use the word dredge but Biloxi Bay is being dredged. The action of dredging is approved in one area while the word alone is forbidden in another.

This kind of decision-making is arbitrary. These decisions are not necessarily grounded in existing law or regulation.

This is the result of a lack of training. Many good and hard working people have come to St. Tammany Parish as FEMA employees. Sadly, in many cases they were not given the training or tools to do their jobs well.

The same is true for local and state governments. Local government should have access to training courses on the different programs funded by FEMA, as well as those related programs such as National Resource Conservation Service, the Army Corps of Engineers, and the United States Coast Guard. Training should include financial management of these programs for the local level.

FEMA's use of temporary or contract employees has also contributed to the inconsistency of effort and regulation. People roll in and roll out of our facilities with such speed that they never catch up with what our parish is doing. This results in confusion and waste.

FEMA should, like other federal agencies, have well-trained FEMA personnel stationed permanently in those states that are at risk for disasters. This would enable FEMA to be part of any planning prior to a disaster. It would also enable these same personnel to train state and local officials on the programs, policies, procedures and management issues related to disaster response and funding. This will speed up the response time to a disaster and remove many of our issues. Both FEMA and local government would be operating with the same set of operational protocols with the trust built by working together during good times as well as bad.

Decisions must be made faster, including the appeals process. Well trained FEMA personnel on the ground should have more authority to make significant decisions. If that is not possible, those at the regional and national level need to expedite their efforts during and following major disasters.

I want to thank you again for the opportunity to speak with you today and for the help you have given my community. I also want to commend the many men and women who have come to St. Tammany as part of the FEMA bureaucracy and did their best to help us.

I hope that my recommendations will assist you in your efforts to improve emergency response in our nation. On behalf of the people of St. Tammany Parish, Louisiana, I appreciate your time and effort on our behalf.

St. Bernard Parish Government
Statement to the
Subcommittee on Disaster Recovery
U.S. Senator Mary Landrieu, Chair

July 10, 2007

This statement outlines some of the difficulties that St. Bernard Parish has experienced in dealing with the federal disaster response to Hurricane Katrina.

- Lack of Experienced Personnel – Many of FEMA's representatives were not experienced with FEMA's Public Assistance Program and therefore were not certain on how different projects should be addressed by the Public Assistance Program.

- Incorrect Information - There were cases where FEMA's representatives provided the Parish incorrect information regarding the Public Assistance Program. Incorrect information led the Parish to spend valuable time working in one direction, only to learn that the direction we were going in was incorrect. An example of poor guidance is the situation with our sewer collection and treatment system. Prior to Katrina, we had developed plans to consolidate our sewer system into one wastewater plant to improve the efficiency of our operations. When Katrina hit, our entire sewer system was flooded, and all equipment was destroyed. We demonstrated that the cost to consolidate the sewer system, mitigating future damages, cost less than repairing or replacing the damage facilities in kind and mitigating future damage of the replace facilities. FEMA provided a Public Assistance specialist, who led us to believe that the consolidation project could be done as a "relocation" project. We worked for 12 months pursuing this approach to the consolidation project, only to learn that this approach would not be approved. We were then advised to pursue the project as an "improved" project. We have continued with this approach since but are in a constant struggle to agree on the amount of money it would take to repair the existing facilities therefore the amount that would be available for the improved project. We have now learned that this also may be the wrong approach and that the project may be able to be funded as a "least cost alternative" but no-one inside FEMA can agree whether this is possible. Meanwhile, we are no closer to a functional sewerage system than we were over a year ago.

- Project Worksheet Development – FEMA has taken as many as 14 months to develop project worksheets. In many cases, contractors have worked for as much as 12 months without a project worksheet being developed. While under normal circumstances, an applicant can afford to make contractor payments with in-house reserve funds and wait for reimbursement, unfortunately our entire Parish was flooded and virtually all of our facilities were destroyed and our entire tax base was either shut down for months or moved away. Twenty-two months after the storm, we still are missing 55% of our population. The Parish spent its reserve funds literally weeks after the storm, and since then has been dependant on reimbursements to pay its contractors. Many contractors are

then forced to wait 6 to 12 months for payment. Since our payments to contractors are late, contractors are telling us that they are increasing their bids to allow for the carrying cost of the projects. Other contractors are not bidding on our work in fear of slow payments, thereby reducing competition. In some cases, we received only one bid on a project causing more uncertainty of reasonableness of cost, thereby risking eligibility of the costs for the project.

Further problems with the development of the project worksheets come when the construction contract does not match project worksheet exactly. The project worksheets are written with such detail that the State does not make payments unless the project worksheet, contract, and invoices match perfectly. Unfortunately for our Parish, we need the project worksheets to be written before we procure so we have a means to pay our contractors. Nevertheless, project worksheets that do not match our contracts and invoices must be corrected by a "version" to the project worksheet, many of which have taken FEMA as much as 8 months to develop and obligate.

- Project worksheet Cost Estimates – Many FEMA representatives would write project worksheets with inaccurate, undocumented cost estimates, despite the Parish's personnel, experienced in the subject field, offering documented costs estimates. In many cases, the Parish's estimates or contract costs were arbitrarily reduced.

- Hazard Mitigation Delays – FEMA's representatives instructed our staff that improvements to our facilities could not be made until mitigation of future damage was considered. Unfortunately, FEMA's representatives could not provide Parish personnel with assistance to determine reasonable mitigation procedures. In some cases, FEMA representatives suggested that Parish staff consider unreasonable mitigation procedures in formulating projects and their costs in order for a project worksheet to be written. Many months later, the project worksheet would be written as a repair only with no mitigation. For some project worksheets, this process was repeated several times. An example is the Government Complex Building which was inundated with approximately 12 feet of floodwater. First we were encouraged to consider a raised addition to the building to house the offices that were located on the first floor of the existing building. When FEMA decided that this was not cost effective we were encouraged to consider a third floor on top of the existing two story structure. This was also determined not feasible. Next we were led to believe that a three foot flood wall around the building was the answer. Then we were informed that since this building is a "critical facility", the flood wall would need to be thirteen feet high. Once again this proved not cost effective. Adding all of these false paths together has resulted in delaying the repair of this building for more than a year.

- Federal Agency Coordination – The major issue we saw immediately after the disaster is that FEMA and the Corps of Engineers (COE) indicated to our Parish, and others, that if the Parish requested COE to perform work during a 100% eligible period, the entire project would be 100% eligible no matter how long the project took. Certainly a Parish in our shape could not afford to pass on such an offer, if it were real. After months of

meetings and correspondence with the State and FEMA and the COE we learned that the idea was incorrect. Again, countless hours wasted on misinformation.

Another example of lack of coordination between federal agencies is in regards to water resources facilities repairs between FEMA and the National Resource Conservation Service (NRCS). Since the storm we've been trying to coordinate the cleaning of our canals between the NRCS and FEMA. To date, the NRCS has not cleaned a canal, and FEMA has not written a project worksheet to provide funds to the Parish to clean its own canals.

- Bureaucracy, and the Costs Thereof – St. Bernard Parish received about $_____ million in public assistance funds to date. These funds were much needed, and are much appreciated. With the exception of the military assistance provided in the weeks following the hurricane, very little "brick and mortar" assistance was provided by the State and Federal Government. Again, the federal Government provided much needed and appreciated money. But, I wonder how much money was spent by the federal government on getting the much needed and much appreciated money to our Parish.

Additional Information

1. Thus far we have not received any complaints about the "Park" Model Trailer. We feel this is the best option for temporary housing.

2. We feel that FEMA should arrange to have their personnel remain on station for a longer period. As soon as we start fruitful discussion with FEMA on site representation, their tour is either complete or they are transferred to another area.

3. The military has been a source of complete cooperation and assistance. We have been assisted by personnel from the US Coast Guard and US Navy and their assistance has been superior.

Included in this position statement is a recent recovery white paper on suggested modifications to the Stafford Act.

Thank you for this opportunity.

Henry J. Rodriguez
President, St. Bernard Parish

Suggested Modifications to the Stafford Act / FEMA Policy to Aid in Post-Disaster Recovery

St. Bernard Parish Government
February 6, 2007

Mandatory NFIP Reduction (§ 5172 (d))
The reduction of funding due to the lack of flood insurance for St. Bernard Parish is approximately $5.2 million. Although the Parish understands the need to encourage local governments to purchase flood insurance, we feel that punitive measures taken for first time damage from flood should be waived. Instead, the law should allow funding to be revoked if the applicant does not obtain and maintain flood insurance post recovery.

Force Account Labor Immediately Following the Disaster
Since essential personnel were required to remain on-site under extremely harsh circumstances, the Parish paid these employees for 24 hours each day for the first two weeks after the hurricane. Reimbursement for force labor immediately following the storm was reduced to 20 hours per day. Reimbursement for force labor immediately following a disaster should be for all time that an employee is required to remain at work.

While the Stafford Act does not specifically differentiate between emergency (category B) work and permanent work, it is FEMA policy to reimburse only overtime for emergency work. Reimbursement should be made for all eligible work.

Commencement of Emergency (70 hour rule)
FEMA requires that all emergency contracts must be procured within the first 70 hours after a disaster. After hurricane Katrina, St. Bernard personnel were not able to communicate with anyone outside of the Parish at all for several days and with great difficulty for at least a month afterward. This post disaster time frame should be at least 30 days and should not commence until after federal (FEMA) officials are able to reach the disaster area.

Advance Funding for Permanent (Category C through G) Work
In a disaster of this magnitude, the financial resources of a local government can be extremely strained. It is impossible under these circumstances for St. Bernard to pay tens of millions of dollars for permanent work and then wait months for reimbursement. At least 25% of the funds for categories C through G work should be advanced to the applicant to foster a speedier recovery.

Funding for Operating Costs
In a major disaster such as hurricane Katrina, normal revenue sources for local government are interrupted. Assistance should be provided for operating expenses needed to maintain government services.

Appeals Process
The appeals process should not include the same personnel involved in the denial of the original request. An impartial review should be required and a decision rendered, in writing, in a timely manner (i.e. within 72 hours).

Procurement Procedures
Procurement procedures should be firmly established without subjective determinations.

Incidental Damage
Damage that is a result of the disaster should be eligible for reimbursement even if that damage is not a "direct" result of the event. One example is damage to residential streets by debris removal trucks since typical residential streets are not designed for this type of traffic. Another example is silt deposited by flood waters is washed into storm drains by subsequent rain events.

Written Explanation of Eligibility Determinations
The applicant should be provided a written explanation for any decision resulting in the denial of requested assistance. The time limit for appeal should not begin until the applicant acknowledges receipt of the written explanation.

Navigable Waterways
Cleaning of navigable waterways should be tasked to the Corps of Engineers, not the Coast Guard.

Canal Debris/Sediment Removal
FEMA requires that debris be removed from drainage canals before sediment is removed. This results in a duplication of effort and increased cost.

Replacement of Heavy Equipment
The majority of the Parish's heavy equipment was lost in the storm. FEMA policy is to replace such equipment in kind, i.e. same make, model, year and condition. Because of the devastation of the entire region, exact replacements are nearly impossible to locate. In the event that a close match is found, procurement rules prevent purchase in a timely manner so the item is bought by another party (like a private contractor) that does not have to adhere to those rules. Replacement of heavy equipment that is not readily available with new or newer models should be fully reimbursable.

Access to Personnel with Decision-Making Authority
In order for the applicant to take appropriate actions, it is imperative that they receive definitive decisions from FEMA. The applicant should have access to FEMA personnel with the authority to make decisions that allow the recovery effort to move forward.

Restoration of Medical Facilities
Although emergency medical facilities were provided in the immediate aftermath of the Storm, no help has been provided to restore permanent health care facilities to the Parish.

Currently, assistance to for-profit health care facilities is not eligible under the Stafford Act.

Support for Project Worksheet Processing and Record Keeping
In the aftermath of hurricane Katrina, Parish staff was reduced to approximately one half of pre-storm levels. Keeping up with the record keeping and other clerical work required to receive assistance has been extremely difficult. It is probable that St. Bernard Parish has lost funding for which it is entitled because of insufficient staffing. Staff augmentation should be provided to assist the applicant with the voluminous paperwork required in the public assistance process.

Procurement Assistance
In the weeks following Katrina, communications systems were severely compromised. Land line phone systems were destroyed, cell phone service was intermittent at best, there was no internet service and travel into and out of the Parish was limited. Most of the vendors that were used by the Parish prior to the Storm were located in the affected area and could not be reached. FEMA policy mandates that "normal procurement procedures" be employed after a disaster but there was nothing "normal" about the situation in St. Bernard post Katrina. Assistance should be provided to the applicant in the form of finding alternate sources for needed supplies and facilitating getting the required price quotes.

FEMA's Project Worksheets: Addressing a Prominent Obstacle to the Gulf Coast Rebuilding

Dirksen Senate Office Building, Room 342
July 10, 2007
10 a.m.

Statement of Perry "Jeff" Smith, Jr.
Acting Director of the Louisiana Governor's Office of Homeland Security and Emergency Preparedness

Madam Chair and distinguished members of the committee, thank you for inviting me to participate in today's hearing. I appreciate the opportunity to come before you to share my thoughts about the difficulties we have encountered with the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) program and in particular the manner in which the use of project worksheets is adversely impacting our ability to recover from the catastrophic Hurricanes Katrina and Rita.

My work as the Acting Director of the Governor's Office of Homeland Security and Emergency Preparedness has given me a unique perspective on the strengths of the PA process as well as the deficiencies relative to recovery from catastrophic events. The reflections I offer today are not meant to be critical of FEMA or the very dedicated staff members who have traveled to Louisiana, spent significant amounts of time away from their families, and who have been working to help the State and individual Parishes in managing the recovery process. Instead, I offer my reflections so that together we may examine a process that is not serving any of us well as it could. We need to work smarter to address the challenges that my staff and the FEMA staff struggle with on a daily basis. If Louisiana is to recover from the effects of Hurricanes Katrina and Rita, we must develop policies and procedures that are more responsive to and more supportive of the recovery effort.

Defining the Problem

Before I give examples of our existing challenges and problems, I want to thank this Committee and Congress for the recent legislation forgiving the cost share match. We worked hard with FEMA and the Department of Homeland Security (DHS) to resolve this issue administratively, without success. We were aware that FEMA had provided such waivers administratively in over 30 cases in which the catastrophic nature of the disaster outstripped the existing state and local financial resources. However, the Administration did not support such a waiver for Louisiana – a state impacted by the most devastating disaster in United States history, Hurricane Katrina, and then hit again by another catastrophic event three weeks later with Hurricane Rita. Without Congressional intervention, our recovery efforts would have been that much more difficult, and in some instances brought to a halt. Again, thank you for your support in that regard.

Now, in defining the issues that we have with the Public Assistance Program's Project Worksheet process, I want to start by saying that for most disasters, FEMA's existing protocol works satisfactorily or better. However, in catastrophic events like Katrina and Rita in Louisiana, the process is not sufficiently flexible and too bureaucratically burdensome for FEMA, the State and the impacted locals. The ways in which the PW process is implemented at the federal level and the lack of flexibility and creativity applied to solve problems faced on the ground created significant problems that have and continue to slow our State's recovery. The effect has been that between the time delays and the regular battles that we wage with our FEMA counterparts to address issues and problems that should be easy to solve, the Public Assistance process ends up moving too slowly and too unpredictably to foster a rapid rebirth of our most impacted areas. As a result, many of our local and state applicants are frustrated and confused and are rapidly losing confidence in both FEMA and our staff.

For example, we are subject to FEMA's interpretation, re-interpretation and further re-interpretations, often inconsistent, of the statutes and policies governing their programs. It is not just whether the Stafford Act is sufficiently flexible to accommodate most of the needs of a catastrophic event, it is the inexperience of the FEMA staff and the unwillingness of the senior management to make decisions and stand behind them that is causing problems. Each time new people step into existing positions, FEMA's interpretation of rules, project eligibility and documentation requirements is subject to change. As a result, the State and many of our local sub-grantees have expended funds on what they thought was eligible work only to have the approved scope for a project change or to have project eligibility be put in question. It is difficult for anyone to advance their recovery when the rules of the program keep changing, and the financial risks to the applicant are at risk as a result. Some of our Applicants have decided not to pursue recovery project work until they are assured that the work approved in a FEMA PW is above questioning.

One brief example is the case of Henry Elementary School in Vermillion Parish, Louisiana. Henry Elementary was initially approved by FEMA for funding of a replacement facility based upon the level of damage to the school. School officials relied on this determination by FEMA, purchased land for the new school, and began moving forward with construction. After the Parish expended considerable time and money relying on the FEMA determination, the local FEMA team was replaced and a new team conducted a new assessment and reached a contrary opinion to the one offered by the original team. The new assessment determined that a replacement facility was no longer justified. We then were forced to solicit assistance from cost estimating experts and architects who spent several months developing a comprehensive scope of work and an accurate cost estimate reflective of the environment and conditions on the ground at that time. FEMA has reversed its decision again and has determined that Henry School is now a replacement school. Though Vermillion Parish is satisfied with latest determination, the start of rebuilding has been delayed over a year and there remains some apprehension that the recent good news is still subject reconsideration and reversal.

FEMA and DHS have also been highly inflexible with the application of its policies, despite substantial evidence that real-world conditions on the ground require things to be done differently. This has been especially disturbing since the Stafford Act and its implementing regulations were intended to be highly flexible, to take into account the reality that all

disasters are different and that they occasionally require different approaches to be successful. A prime example is the effort to implement an effective program to assist applicants in the overall management of their recovery. Many of our applicants have hundreds of projects that require experienced management oversight to implement. This program management work, by necessity, because of displaced employees and the magnitude of the work, will often be undertaken by consultant contractors. The PA program allows for such funding, however, FEMA has interpreted the rules such that these costs have to be separately tracked and billed monthly on a PW by PW basis. This PW by PW constraint will result in requiring hundreds of invoices each month from the contractor, hundreds of invoice reviews by the applicant, hundreds of State reviews by our office and the issuance of hundreds of payments to the applicants for this program management work. We have offered an alternative process whereby this work can be properly tracked to meet the program requirements but only require a single monthly invoice, a single set of reviews and a single payment. We have ongoing dialog with FEMA on this issue but are not overly confident that we will be successful.

Another example of this involves funding provided for administrative costs to assist the State in our recovery. Louisiana has been granted approximately $22 Million, to date, in administrative allowance to assist the state in administering the PA Program. FEMA has adopted an unnecessarily restrictive interpretation as to the types of administrative costs we are able to recover with these funds. Historically, FEMA has allowed this funding to address a broad array of State administrative needs associated with implementing the Public Assistance program, including cost of additional State personnel, training, equipment, and other recovery related needs. In recent years, FEMA has restricted the use of these funds to only overtime, travel, and per diem Unfortunately, the language used by FEMA to restrict the funding actually states that the funds should go toward administrative costs, ***including*** those three categories of expenses, but does not limit the funding for those purposes. As much as I would like to use the full $22 Million to address the legitimate administrative costs incurred by the State, FEMA's restrictive interpretation of the law limiting its use will not allow the State to use the full authorization. The use of these funds would greatly enhance the State's ability to assist applicants. Yet the bureaucracy is content to impose procedure and policies that cause ever increasing administrative cost and burdens when processing project worksheets.

Related to this issue of the restrictive interpretation of eligible administrative costs is the increasing negative pressure I am receiving from FEMA officials on the PWs known as Category Z. Category Z project worksheets provide a funding source for the technical assistance contractors we retain to augment our staff and to enhance state capabilities. To date, this pressure has largely been informal, but I would hate to see this develop into a more formal and public criticism by our Federal partners. No state is able to maintain the personnel or resources it needs to manage a large Public Assistance Program, let alone capacity to do so in response to a catastrophic event the size of Katrina/Rita. Our agency had only 4 people working in the PA Program when Katrina struck. FEMA's PA staff, including contractors, was reportedly over 1000. It is clear that the State had to use, and will continue to utilize significant contract support - as FEMA does – to be able to administer the PA Program. The State of Louisiana is working to increase its capabilities moving forward, but we simply do not have the resources to fully address a disaster on the scale of Katrina with existing staff and therefore rely on outside technical assistance. My staff, and

the State of Louisiana, are being extremely judicious with regard to Category Z costs. To date, these costs have been approximately 2% of the total disaster expenditures, a rate you will find favorably compares with other states. I want to emphasize again that neither FEMA nor the State can do this alone and both must rely on experienced technical consultants.

Another example of FEMA's inflexibility involves a concept known as "Global Match", which was designed to address the cost-share requirement for public assistance grants. This alternative approach was proposed by the State and would have allowed us to efficiently apply Department of Housing and Urban Development's Community Development Block Grant funding toward the non-Federal grant matching requirement of FEMA. The "Global Match" program had been used by other States using the Hazard Mitigation Grant Program, and, Louisiana's program was structured in a way as to avoid the unmanageable burden of applying the rules of two Federal agencies to every project. Despite the precedent set by other States and the opportunity to streamline a difficult process to expedite recovery, FEMA rejected the proposal. This issue was resolved for the PA program as a result of the Congressional action I referred to earlier; however, it remains an excellent example of FEMA inflexibility in this disaster.

Another significant problem is the inferior quality of the PWs. Many PWs were prepared by FEMA using grossly underestimated costs for eligible project work and we have encountered innumerable problems with the accuracy of scope and eligibility of projected work.

To explain, we understand that FEMA's PA Program reimburses state and local governments based on the actual cost of the project as long as the finished product is consistent with the approved scope of work. This means that having a poor initial estimate is typically not a show stopper since it will all be adjusted when the project is completed. However, Louisiana law requires that 100% of the funding needs be identified before a grantee or sub-grantee enters into a contract. This issue is compounded by the financial risk that results from the sheer number of projects that need to be completed in our most heavily impacted jurisdictions. Understanding that the projects have been undervalued, applicants are reluctant to proceed with a project when FEMA obligated funds at the start of the project are significantly less than the funds needed for completion of the project. Some of the PWs are underestimated by a factor of 4 or 5 times compared to the actual cost. The State Office of Facility Planning and Control, the Louisiana agency responsible for the rebuilding of all state owned facilities, has reported actual cost of completed projects average 4 times the original FEMA PW estimate. Jefferson Parish has reported projects costs 2.5 times the PW estimates. (See attachment) New Orleans has estimated the cost of repair/replacement of their facilities to be over two hundred million dollars more than the FEMA estimates.

FEMA's solution to these inadequate PWs is what they call a "scope alignment". A "scope alignment" is a technical exercise between FEMA and the applicants' Architect or Engineers that, in theory, should result in an accurate cost estimate and a comprehensive scope of work, further resulting in a corresponding adjustment to the PW. Unfortunately, this can be a very arduous task for the applicants, taking several months and costing our local governments many thousands of dollars that are unrecoverable. Understandably, the applicants approach this process with some reluctance. The requirement for a "scope alignment" also creates significant delays in initiating recovery projects, and shifts the burden

of preparing the eligible scope for project work onto the applicant, even though that responsibility lies at the federal level.

Another example of regulatory inflexibility is the process for Improved or Alternate projects. If an applicant does not wish to reconstruct the project as it was before the storm, the Stafford Act allows them to pursue either an Improved or Alternate project under the Public Assistance Program. The regulations stipulate that funding for such Alternate or Improved projects is capped at the cost estimate found in the original PW. Additionally, alternative projects are assessed a 25% penalty thus further reducing available funds for the project. With inaccurate scopes of work and undervalued PWs, the risk of pursuing common-sense recovery projects which take into account changes in population, service needs, and other factors using the Alternate or Improved projects process could significantly limit the amount of funding for recovery at levels far below that for which they should be eligible. For example, of the schools rebuilt in St. Bernard Parish, the average actual cost was 2.5 greater than the FEMA estimate. The School District is cautiously approaching their next projects that involve Alternate and Improved projects as they are concerned that the "capped" nature of the process and the extreme undervalued PWs will result in the loss of tens of millions of dollars in critical funding. The Recovery School District (RSD) is responsible for rebuilding over 100 damaged schools in the New Orleans area. They will utilize the Alternate and Improved project provisions throughout their system because of the dramatic changes, both temporary and permanent to their population demographics. These undervalued PWs will cause months of delays for the reopening of their schools and cost millions of dollars to correct. Neither extra time nor money is available to the RSD.

There may be multiple factors contributing to this epidemic of inaccurate project estimates, but the experts I have consulted track it back to a couple of key factors. First, the size, scale, and high profile nature of this disaster caused FEMA and its contractors to bring in under trained staff who made many mistakes in PW preparation. Our federal partners had a genuine desire to be able to demonstrate progress. This desire leads to an effort to get PWs quickly into the system. These PWs were often rushed without enough attention to detail or entered into the FEMA system without a complete scope of work and without studied cost estimates. Many cost estimates were entered at $0 or a very rough "guesstimate" to serve as a "placeholder" until more complete information could be developed. Entering PWs for $0 or a "guestimate" allows FEMA to make the targets they have set to write PWs, but, as we have experienced, this approach does not actually move us further down the road in our recovery effort and in most cases actually hinders the overall progress.

Another factor resulting in poor estimates has been the failure to recognize the impact of scarce resources and labor on construction costs. RS Means is the definitive source recognized by FEMA and most experts when developing construction cost estimates. FEMA is not correctly using RS Means cost estimating data and resources when developing PWs for the Hurricane Katrina and Rita recovery efforts. Offering inaccurate estimates or $0 PWs is having a significant impact on funding the State and Parish governments' recovery and this impact is in the range of several hundred million dollars. For a state that has already suffered great financial loss, it is critical that FEMA formulate a process that quickly adjusts these undervalued and under scoped PWs to allow applicants to plan their recovery without concerns of Scope Alignment delays or being forced to leave millions of dollars of necessary funding on the table. For example, Salmen High School in St. Tammany Parish has been

involved in a scope alignment exercise with FEMA which has taken approximately six month and is still not resolved.

Conclusion

So what is going on here that is leading to these situations I have described?

We in Louisiana are fighting countless small battles that distract us from the larger recovery mission and the bigger problems that really require our attention. After events like Katrina and Rita, we should be developing creative solutions to our problems, and utilizing every ounce of flexibility available to us under the Stafford Act and 44 CFR. Accountability is essential; but we also should be attempting to address our issues quickly and effectively.

Unfortunately, this is not happening. In fact, it is my observation that decision-making from FEMA on critical issues is taking unusually long. In some cases, PW-related issues identified by the State, or even FEMA staff themselves, are taking months (and in some cases, over a year) to resolve. Nearly every issue goes to Washington, DC for resolution instead of being addressed by FEMA's organization and staff located on-the-ground in Louisiana. Further compounding the slow decision process is FEMA's continued refusal to honor our repeated requests to co-locate their key players and decision makers with the State's staff and decision makers in the State's Capital, Baton Rouge.

The approach by FEMA and DHS has not been what I would characterize as flexible or adaptable. Unfortunately, I would characterize the approach overly bureaucratic and fraught with red tape with the refusal to take into consideration the local environment following the most devastating disasters our nation has ever seen -- an environment characterized by scarce housing for those rebuilding our communities, a higher price for scarce building materials, increased cost of fuel, displaced applicant staff, and increased cost of labor due to the shear volume of work that needs to be accomplished.

We have discussed ways to expedite the recovery process. While I have no illusions that we always have the right answers, an unfortunate reality is that these discussions and just about any suggestions we have offered FEMA to streamline the PA process have been met with bureaucratic resistance, inflexibility, or indecision.

It is my hope that the Committee will find ways to encourage an environment at FEMA that looks to appropriately utilize the flexibility built into the Stafford Act and to balance FEMA's existing policies governing disaster assistance with the creative problem-solving that is required by a response to the largest natural disasters that our nation has ever faced.

Thank you and I would be glad to answer any of your questions.

Attachment

Rita Recovery Status Report

Facility Planning and Control - Cost Overruns

APPLICANT	PROJECT TITLE	CAT	PW#	ELIGIBLE AMT	LOW BID	MULT	OVERRUN
F P & C	MCNEESE STATE UNIVERSITY	E	3110	$536,049	$800,807	1.5	$264,758
F P & C	LA TECH-SULLIVAN CAMPUS	E	2807	$7,910	$43,648	5.5	$35,738
F P & C	LA TECH-SULLIVAN CAMPUS	E	2741	$11,731	$28,429	2.4	$16,698
F P & C	LA TECH-SULLIVAN CAMPUS	E	4398	$2,059	$5,072	2.5	$3,013
F P & C	UNO KIEFER LAKEFRONT ARENA	E	4831	$734,978	$3,530,736	4.8	$2,795,758
F P & C	UNO-BIENVILLE HALL	E	5722	$137,227	$750,000	5.5	$612,773
F P & C	UNO-ADMIN BLDG	E	2790	$30,260	$74,738	2.5	$44,478
F P & C	SELA HOSPITAL MAINT BLDG	E	11643	$26,022	$78,200	3.0	$52,178
F P & C	SELA HOSPITAL RES 5	E	8280	$16,067	$75,300	4.7	$59,233
F P & C	SELA HOSPITAL RES 6	E	10542	$10,611	$72,300	6.8	$61,689
F P & C	LA STATE MUSEUM	E	6652	$6,000	$60,000	10.0	$54,000
TOTAL				$1,518,914	$5,519,230	4.5	$4,000,316

Louisiana Governor's Office of Homeland Security & Emergency Preparedness

Rita Recovery Status Report

Jefferson Parish Public School System

Applicant	Proj. Title	CAT	PW#	Eligibile Amt	Low Bid	Mult	Cost Overrun
JEFFERSON PARISH PUBLIC SCHOOLS	JOHN QUINCY ADAMS MIDDLE	E	11542	$149,335	$498,750	3.34	$349,415
JEFFERSON PARISH PUBLIC SCHOOLS	BONNABEL HIGH	E	11221	$277,580	$541,484	1.95	$263,904
JEFFERSON PARISH PUBLIC SCHOOLS	BUNCHE MIDDLE	E	11517	$128,817	$404,260	3.14	$275,643
JEFFERSON PARISH PUBLIC SCHOOLS	EAST JEFFERSON	E	12241	$142,966	$354,800	2.48	$211,834
JEFFERSON PARISH PUBLIC SCHOOLS	EHRET HIGH	E	13095	$305,867	$555,000	1.81	$249,133
JEFFERSON PARISH PUBLIC SCHOOLS	GRANDE ISLE SCHOOL	E	2552	$56,643	$198,600	3.51	$141,957
JEFFERSON PARISH PUBLIC SCHOOLS	AMES ELEMENTARY	E	9576	$156,163	$311,717	2.00	$155,554
JEFFERSON PARISH PUBLIC SCHOOLS	FISHER HIGH	E	13838	$40,131	$104,300	2.60	$64,169
JEFFERSON PARISH PUBLIC SCHOOLS	GRETNA PARK ELEMENTARY	E	13088	$91,599	$157,900	1.72	$66,301
JEFFERSON PARISH PUBLIC SCHOOLS	KING HIGH	E	13345	$102,798	$347,000	3.38	$244,202
JEFFERSON PARISH PUBLIC SCHOOLS	WEST JEFFERSON HIGH	E	13791	$330,457	$496,756	1.50	$166,299
JEFFERSON PARISH PUBLIC SCHOOLS	THOMAS JEFFERSON HIGH	E	12746	$83,432	$198,900	2.38	$115,468
TOTALS				$1,865,588	$4,169,467	2.2	$2,303,879

Louisiana Governor's Office of Homeland Security & Emergency Preparedness

TESTIMONY OF BRYAN McDONALD, DIRECTOR
OF GOVERNOR HALEY BARBOUR'S OFFICE OF RECOVERY AND RENEWAL
TO THE SENATE AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
July 10, 2007

I'd like to thank the members of the Senate Committee for allowing us to tell you about the tremendous recovery that is occurring in our great state. Thank you very much Madam Chairwoman and Ranking Member and distinguished members of the committee for giving me the opportunity to come before you today.

On August 29, 2005, Hurricane Katrina struck Mississippi a grievous blow. Although the eye of the storm landed at the Mississippi-Louisiana line, that eye was more than thirty miles wide, and Katrina completely devastated our entire coastline, from Pearlington to Pascagoula. The miles upon miles of utter destruction are unimaginable, except to those like many of you who have witnessed it with your own eyes. But this hurricane wasn't just a calamity for the Mississippi Gulf Coast. Its impact reached far inland in our state with hurricane force winds extending more than 200 miles from the Coast.

The storm claimed the lives of more than 230 Mississippians. The combination of the storm's slow speed and the shallow waters off the Mississippi shoreline created a storm surge in excess of 30 feet in some areas. More than 80 miles of Mississippi coastline were completely destroyed by the mixture of high storm surge and strong winds. In her wake, Katrina left literally tens of thousands of uninhabitable, often obliterated homes; thousands of small businesses in shambles; dozens of schools and public buildings ruined and unusable; highways, ports and railroads, water and sewer systems, all destroyed.

Damage along Mississippi's Gulf Coast was widespread, as damage estimates totaled more than $125 billion. The Federal Emergency Management Agency (FEMA) reported that 65,380 homes in south Mississippi were severely damaged or destroyed. Electricity was lost for 80 percent of the state's three million residents. More than 45 million cubic yards of debris was left in Hurricane Katrina's wake in south Mississippi—double the debris that was created by Hurricane Andrew. Hurricane Katrina's effects on Mississippi alone, therefore, would rank as the largest natural disaster ever to strike the United States.

Our state and our citizens bore the brunt of a hurricane more devastating than anything this nation had ever seen, and the miles upon miles of utter destruction on the ground was unimaginable—except to those who witnessed it with their own eyes.

Hurricane Katrina destroyed thousands of businesses and billions of dollars in sales revenue were lost. Beachfronts and hotels were obliterated. Losses in livestock and agriculture hit our state's farming community especially hard. Small businesses—the lifeblood of many local economies—were wiped out along the coast line, and many were damaged or destroyed miles inland.

Mississippians found themselves having to scramble, adjust, innovate, and make do. However, it was the spirit of our people that pulled us through. Our people are strong,

resilient, and self-reliant. They're not whiners and they're not into victimhood. From day one after the storm they got to work and did what had to be done. They helped themselves and helped their neighbors. Their spirit has been an inspiration to us all, and that spirit remains the key to our recovery, rebuilding and renewal.

However, several barriers to recovery still exist. The Federal Emergency Management Agency, working to streamline and maximize the efficiency of the Public Assistance process, has the opportunity to remove some of those barriers, thus speeding recovery and allowing Coastal Mississippi to meet its potential.

Specifically, I would like to speak to you today about some of the opportunities that exist to clarify and improve policies and practices related to the process of obligating and closing out Project Worksheets.

The objective of the Federal Emergency Management Agency's Public Assistance (PA) Grant Program is to provide assistance to states, local governments, and certain non-profit organizations to alleviate suffering and hardship resulting from major disasters or emergencies declared by the President.

Through the PA Program, FEMA provides Federal disaster grant assistance for the repair, replacement, or restoration of disaster-damaged, publicly owned facilities and the facilities of certain private non-profit organizations.

I would like to make particular note of the stellar job local governments have done working with state and federal officials to manage the process of obligating and closing out more than $ 2.2 billion in Public Assistance dollars through the Federal Emergency Management Agency. To date, FEMA has generated nearly 14,000 Project Worksheets or applications for public assistance for repair and rebuilding projects in Mississippi's communities.

This is especially significant when you consider the array of challenges Coastal Mississippi's local units of government have faced since August 29, 2005. Six of the eleven coastal cities elected new, first-term mayors less than two months before Hurricane Katrina made landfall. Although all within miles of each other, these eleven cities each had long-standing, distinct identities and enjoyed diverse economies and populations.

The effects of the storm also were unique to each community. Some cities have seen increased sales tax revenues compared to the same period in the previous fiscal year while others look to loans and government grants to provide necessary services in the near-term. The State of Mississippi has provided grants of direct cash aid to stabilize struggling coastal governments.

FEMA has served as a good partner for the state, and we applaud their commitment to work with the state and locals to make this Public Assistance process efficient, despite the unprecedented destruction of this disaster.

Throughout the aftermath of this disaster, the State of Mississippi has worked to effectively manage the Public Assistance Process with full transparency and cooperation. Mississippi instituted the Mississippi Public Assistance Management System (M-PAM) immediately after the disaster to work directly with NEMIS (FEMA's electronic system for Public Assistance grant management).

M-PAM utilizes the latest advancements in computer-based management technology to scan, record and store all documents, invoices and receipts related to every project worksheet written in Mississippi. The internet based solution allows real-time management, analysis and communication of issues related to all Public Assistance matters.

The Federal Bureau of Investigation and the Office of the Inspector General and FEMA were provided real-time access to all information pertaining to the Public Assistance Process in our state through M-PAM. It provides a systematic means for early identification of funding roadblocks, fraud or mismanagement. The system effectively fills the void between the obligation and close out process in NEMIS.

Accordingly, the State of Mississippi is working hard to ensure that FEMA focuses its efforts on completion of the Public Assistance closeout process in accordance with the performance measures the agency initiated to ensure continuous program improvement and compliance with the Government Performance and Results Act (GPRA) of 1993.

The GPRA requires each Federal agency to establish a set of performance measures for Congress to gauge efficiency and effectiveness of an agency's programs. FEMA's 1998 customer satisfaction survey provided baseline information on customer expectations and assessments of FEMA performance. Accordingly, FEMA announced that they would measure their performance against the following objectives:

- Obligate 50% of Funding within 90 days of disaster declaration
- Obligate 80% of Funding within 180 days of disaster declaration
- Close PA Program - 90% of disasters within two years of the declaration date
- Customer Satisfaction Ratings - at least 90%

FEMA has set the goal of providing and delivering PA program assistance efficiently, effectively, and consistently with increased customer satisfaction. The State of Mississippi seeks to help FEMA reach that goal.

We believe that closing existing project worksheets is critical to ensuring that local governments receive final allocations of recovery money, and thus are able to pay contractors and subcontractors for work that in many cases was completed more than a year ago. As such, the state is asking FEMA commit to a staffing plan that will provide for the closeout of all Category A and B project worksheets by December 31, 2007.

The state also places great priority on completion of the various outstanding project worksheets. We are especially concerned that the potential impacts of future disasters in

the United States could force mass relocations of FEMA staff away from the Gulf Coast. As a result, we are asking that FEMA give particular priority to eliminating the current backlog of project worksheets by August 31, 2007.

Mississippi is committed to working to maintain the positive momentum and cooperative spirit that exists between FEMA, the state, and locals. In recognition of the cooperative spirit that exists, we also seek to ensure that FEMA headquarters continues to honor critical decisions made by local FEMA leadership and field personnel in the weeks and months immediately following the disaster. We believe it is important for decisions made by local FEMA leaders during the immediate post-disaster environment to be affirmed and upheld throughout the disaster recovery process. It is critical that decisions made on the ground carry weight throughout the agency, such that state and local elected officials can act quickly and in good faith based on those decisions.

FEMA has taken an immediate step toward supporting improved local authority by appointing a permanent director for Mississippi's Transitional Recovery Office (TRO). Since the beginning of this calendar year, Mississippi's TRO has hosted three temporary directors. The number of TRO directors that have come and gone in Mississippi is even larger when one takes into account the period of time since this disaster was declared.

Furthermore, the State of Mississippi seeks to ensure that the FEMA's Reasonable Cost standards are applied in a manner that protects coastal communities in Mississippi that adhered to all reasonable and prudent procurement requirements, with FEMA personnel present during the process.

Under the Public Assistance Program, costs that can be directly tied to the performance of eligible work are generally eligible, given that the costs are reasonable and necessary to accomplish the work; compliant with Federal, State, and local requirements for procurement; and reduced by all applicable credits, such as insurance proceeds and salvage values.

FEMA determines that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In other words, a reasonable cost is a cost that is both fair and equitable for the type of work being performed.

FEMA currently establishes reasonable cost standards through the use of historical documentation for similar work; average costs for similar work in the area; published unit costs from national cost estimating databases; and FEMA cost codes.

However, due to the unprecedented nature of this disaster, some costs associated with recovery work have been deemed unreasonable by FEMA, despite the fact that applicants adhered to all Federal, State, and local procurement requirements. The state asks that FEMA expand its standards through which reasonable costs are established to take into account all factors contributing to the market conditions that exist in Mississippi's post-disaster environment. Furthermore, when evaluating the reasonableness of costs, we ask

that FEMA consider chronological effects on costs after a major disaster. Procurement costs will fluctuate based on the recovery of market conditions, availability of labor, etc. Thus, FEMA should not use current cost trends when evaluating reasonableness of costs incurred nearly two years ago, immediately after Hurricane Katrina's landfall.

Finally, we ask that FEMA take into account its own contract prices when establishing reasonable cost standards.

After the untold suffering and loss from the devastation of Katrina, Mississippi is well on its way toward recovery. At this point in the recovery process, the state has worked to fulfill the temporary recovery needs of our citizens, while developing solutions for the long-term problems facing storm-wrecked communities. Much of the federal assistance needed to address the projects and policies identified in state and local plans has been procured. As such, the state now finds itself in the implementation phase of recovery.

We understand that our work to recover, rebuild, and renew will take years. More importantly, however, it will also take the continued support our nation's leaders and the American people. Katrina revealed to the world and to ourselves the character and spirit of Mississippians. That revelation creates unprecedented opportunity for us and our state - opportunity for job creation and economic prosperity; for a better quality of life for our people; for greater, more widely spread equity that at any other time in our history.

Indeed, much opportunity lies ahead. Hurricane Katrina, with all its destruction, gave birth to a renaissance in Mississippi that will result in rebuilding our state bigger and better than ever before. Our citizens will be at the heart of that renaissance. The people of our Gulf Coast have been a model of the spirit and character Mississippians. They have remained strong, resilient and self-reliant though they have endured terrible hardships. They bore the worst of Katrina and many are still living in conditions that amount to deprivation, but they persevere. Our people are rebuilding one day at a time, and we ask for your continued assistance in helping them move forward. Through your efforts and the efforts of the people of our great state, we are rebuilding a Mississippi that will exceed anything we have ever known.

Thank You.

FEMA's Project Worksheets: Addressing a Prominent Obstacle to the Gulf Coast Rebuilding

Dirksen Senate Office Building, Room 342
July 10, 2007
10 a.m.

Statement of Mark C. Merritt, Sr. VP and Partner, James Lee Witt Associates, a part of Global Options Group Inc.

Madam Chair and distinguished members of the committee, thank you for inviting me to participate in today's hearing. I appreciate the opportunity to come before you to discuss the impact of Project Worksheets (PWs) on local recovery efforts and on the overall allocation of public assistance dollars. My testimony has been shaped by my perspective of working on these issues in both the public and the private sector and at all levels of government – Federal, State, and local.

I had the honor and privilege to work for the Federal Emergency Management Agency (FEMA) from 1993-2001 on hundreds of disaster responses from the Great Midwest Flood of 1993 to the catastrophic Northridge Earthquake experienced by the Los Angeles area in 1994, to the bombing of the Murrah Federal Building in 1995. Before leaving FEMA, Director James Lee Witt made it a priority to closeout the open projects associated with the large number of disasters that occurred on his watch as well as those disaster recovery operations that he had inherited including Hurricane Iniki in Hawaii, the Loma Prieta Earthquake impacting the San Francisco Bay Area, and Hurricanes Hugo and Andrew that struck the Carolinas and Florida.

During my time at FEMA, I developed a great respect for the career civil service employees who had been with the Agency since its inception in 1979, struggled to help political leadership to define the mission of FEMA in the 1980s, and then excelled in the 1990's as the Agency became recognized as the shining example of government re-invention and innovation. The folks I worked with at FEMA throughout the 1990's were some of the most dedicated and creative problem-solvers with whom I have ever worked. To me, this is high praise for these great public servants since I am a graduate of West Point who also served with some of the finest in the first Gulf War. My experience, and the experience of state and local emergency management professionals during the 1990s, was that when you dealt with FEMA, you were working with best of the best. These were people who knew how to get things done. They were people who knew how to quickly identify and meet the needs of individuals and communities struggling to recover from a disaster. Most of all, emergency managers and disaster victims experienced people who cared about making a difference and helping their fellow citizens in need. This approach reflected Director Witt's mantra during his two terms as FEMA Director that we should be an agency of "People helping People".

Sadly, that has not always been the experience that I or other emergency managers have had when working with FEMA on disaster recovery issues over the past few years. FEMA and DHS have not empowered the field staff to become problem-solvers capable of making decisions and creatively addressing the unique issues that arise during every disaster. And the Agency no longer utilizes all of the talent that it has, nor possesses staff and support personnel with sufficient qualifications to deal with catastrophic disasters. For example, when FEMA was faced with not having enough qualified staff and contractors after Katrina and Rita, to their credit, they established FEMA University near Dulles Airport. However, the impact of them not having enough qualified staff was that more than 80% of the people they sent to Louisiana had only 9 days of training and no real-world experience. FEMA no longer relies on or allows the Regional Office staff to be involved with disaster response and recovery efforts. These Regional personnel are the experienced staff with in-depth knowledge of the programs and long-standing relationships with state and local emergency managers. Yet often their knowledge and expertise is not utilized, and they are not empowered to make decisions and instead are being micro-managed from both FEMA and DHS back in Washington, DC.

My experience leading the special disaster closeout teams required that I become intimately familiar with the Stafford Act, 44 CFR, and the body of knowledge and experience codified throughout the years through various FEMA policies and precedent. I know how flexible the laws, regulations, and policies governing FEMA disaster recovery programs can be. They are written broadly enough to be adapted to a variety of situations since no two disasters are alike and there are unique needs and new lessons that are learned on each disaster – particularly those that are considered to be catastrophic.

What it comes down to is this: The Stafford Act, 44 CFR, and the 9500 Series, which is the compendium of policies for FEMA's Public Assistance (PA) Program, outline **all** of what cannot be funded by the PA Program and **some** of what can be funded by the Program. The idea was to place boundaries on what is possible, yet provide maximum flexibility within the law to meet critical disaster needs. However, FEMA's current leadership has been working under the philosophy that unless something is specifically mentioned in the law, regulations, or policy then it cannot be done.

To speed recovery, there should be a two-part test for administering the PA Program. The first question that FEMA staff should be asking is whether a certain course of action is prohibited. If the issue in question is not prohibited explicitly by law, regulation, or policy then the next question asked should be, does it make sense? If it passes both tests, every effort should be made to allow the course of action to proceed. Unfortunately, this is not how the Public Assistance program – or any authority under the Stafford Act, for that matter – is currently being managed.

Similarly, FEMA has adopted a very narrow stance regarding the use of mitigation funding available under Section 406 of the Public Assistance Program. 406 Mitigation funding can be approved to mitigate the impact of future disaster losses at the time a facility is being repaired or rebuilt, as long as those actions are found to be cost-beneficial. Unfortunately, only 2% of PWs written in this disaster for permanent restorative work include 406 Mitigation funding to help Louisiana communities become more disaster-resistant. The most common reason given for not implementing this important tool in our disaster recovery toolkit is that doing so would have taken too much time when writing up PWs. In fact, a conscious decision was

made to NOT write 406 mitigation into the PWs for this reason. This extremely short-sighted approach has all too often been the governing philosophy when writing PWs and in the administration of this program. After many protests by the State, FEMA has begun to remedy this situation by going back and adding mitigation measures to previously written PWs; however going back after the initial PWs were approved and the applicant's design and construction has begun can cause delays, increase costs, and result in missed opportunities.

Another issue related to 406 Mitigation funding in PWs is that it is not being considered in a holistic and systemic manner designed to avoid future losses and maximize the effectiveness of Federal money spent on reconstruction. For example, if a facility like a hospital had 100 windows, 40 of which were broken allowing water and wind to destroy millions of dollars of contents, FEMA will only allow funding for hurricane shutters to be installed on the 40 windows that were damaged in the disaster. By denying funding to install shutters on the other 60 windows, we will continued to have a structure with the majority of its windows left unprotected and the entire structure – including the contents that the Federal government just paid to replace – will remain vulnerable to the same risk of loss in the next event.

The FEMA I knew, under Director Witt, was an agency that looked for any way possible, within the existing laws and regulations, to help individuals and communities to fully recover from a disaster and to mitigate the impact of future disasters. If we found that the laws or regulations were such that they no longer served the citizens or our state and local partners well, then we would work with Congress to explore legislative fixes that might be appropriate. Generally, I believe FEMA has been given the authority and discretion by Congress to be flexible when addressing the unique situations created by most disasters.

While the Public Assistance process is well suited to appropriately balance the need to quickly distribute recovery funding with the need to be good stewards of the taxpayer dollars, I also believe that we need to examine whether this process is suitable for addressing the needs created by catastrophic disasters or whether the typical rules and assumptions are so different in a catastrophic event that we look to further streamline the normal processes.

Colonel Smith's testimony today does a very good job of illustrating the difficulties the State of Louisiana has experienced with the PW process as applied to Hurricanes Katrina and Rita. His examples highlight the fact that the PWs written in this disaster are chronically under-funded and/or poorly scoped. Colonel Smith's testimony also does a very good job of summarizing the primary reasons for these problems including FEMA's priority for meeting arbitrarily established management goals over demonstrated progress in the rebuilding process, FEMA's failure to take into account local factors impacting the increased cost of construction, and the lack of experienced staff working for FEMA on this disaster.

I do not fault FEMA and DHS for establishing management goals to measure the progress in the recovery effort; however, measuring progress by the number of PWs that have been entered into the system creates a situation where incomplete or inaccurate PWs are entered into the system on a regular basis. The measure of our progress should be outcomes-based and should emphasize completeness, accuracy, and speed of recovery. For instance, we should be counting the number of schools reopened, the number of sewer and water plants back online, and the percentage of the infrastructure repaired that would allow people to return to their homes, rather than the number of PWs entered into FEMA's financial

management system. To do this, we must have well written PWs that include a complete scope of work and accurate cost estimates that will ensure we are making real progress in the recovery effort.

The problem of inaccurate construction cost estimates is having a significant impact on the ability of Louisiana communities to move forward. There have been far too many examples where the cost estimates have been found to be significantly lower than the actual costs. This trend not only places additional financial stress on the parishes, but it undermines confidence in the entire PW process. Communities do not want to move forward with their rebuilding efforts when there are significant discrepancies in cost estimates.

The lack of experienced staff with true authority in the field not only bogs down the recovery progress, but it represents a real missed opportunity for FEMA. Following the Northridge Earthquake, the Associate Director for Response and Recovery - along with his key staff - spent significant amounts of time on the ground working in Pasadena. Not only did the Agency recognize that they needed to have their first team on the ground to make sure that the recovery efforts were being handled correctly, but I think we all came to recognize that the Northridge Earthquake was a living laboratory for our programs. The unique situations resulting from a huge catastrophic event will fully stress the system, laws, regulations, and policies. So much of what came out of that Northridge experience became the point of reference for modifications to our policies and procedures in the intervening years. While we needed the A Team fully engaged with Northridge and spending time in California during the first years, I later realized, while leading the disaster closeout teams, how it was even more important to have the key decision-makers out in the field many years after the fact when progress on certain projects had stalled. The complex policy issues - that rise to the surface several years into a disaster recovery - again required direct involvement of Agency officials at the highest levels for resolution.

While leading the disaster closeout teams, I made sure to get the key players for the Inspector General, the Office of General Counsel, and the FEMA Director's Office out to meet with state and local officials so they could understand the difficult issues at the level where they existed. There is a sense of urgency and an appreciation for a difficulty of a situation that can only be understood when those who are empowered to make programmatic fixes and to engage in creative problem-solving have rolled up their sleeves onsite at a disaster instead of sitting at their desks in Washington, DC or a Regional Office. Unfortunately, I do not see many of the same high-level people, who are empowered to make programmatic fixes, sitting with us in Baton Rouge these days. The absence of the Agency's senior leadership in the field is hurting the recovery effort in Louisiana and it is not allowing FEMA to seize the opportunity for improving the responsiveness of our assistance programs in preparation for the next catastrophic disaster.

Madam Chair, I applaud your efforts with this hearing today and suspect that this dialogue that you, and the Committee, have opened with FEMA and DHS may give us insight into whether legislative fixes are in order or whether the existing laws, regulations, and policies allow the flexibility and discretion necessary to provide for a quick and complete recovery in the State of Louisiana.

Thank you and I would be glad to answer any of your questions.

TESTIMONY OF

JAMES WALKE

DIRECTOR, PUBLIC ASSISTANCE DIVISION

DISASTER ASSISTANCE DIRECTORATE

FEDERAL EMERGENCY MANAGEMENT AGENCY

DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS COMMITTEE

SUBCOMMITTEE ON DISASTER RECOVERY

UNITED STATES SENATE

WASHINGTON, D.C

JULY 10, 2007

Introduction

Good morning, Senator Landrieu and members of the Subcommittee. My name is James Walke, and I am the Director of the Public Assistance Division, which is a part of the Disaster Assistance Directorate, formerly known as the Recovery Division, at the Federal Emergency Management Agency (FEMA). I have been a career FEMA employee for twenty-three years and have been with FEMA's Public Assistance Branch for fourteen years. In my capacity as Director of the Public Assistance Division, I am responsible for planning and providing national-level policies and oversight of the Federal government's recovery efforts to restore and rebuild eligible public systems and facilities damaged as a result of Presidentially-declared major disasters and emergencies.

It is my pleasure to be here today to discuss with you FEMA's Public Assistance process and, specifically, the development, review, approval, execution, and auditing of Project Worksheets (PWs).

I would also like to give a brief overview of the Public Assistance Program (including how PWs are developed), provide an update of the status of Public Assistance provided to the Gulf Coast, and describe some initiatives we are implementing to improve delivery of the Public Assistance Program.

Public Assistance/Project Worksheet Overview

As you well know, FEMA's Public Assistance Program is a vital part of a community's disaster recovery process. The Public Assistance Program awards cost-shared grants to assist State and local governments and certain private nonprofit entities that incur costs to remove debris, carry out emergency protective measures, and repair and replace damaged, eligible infrastructure. The Public Assistance Program is based on a partnership between FEMA, the State, and eligible applicants.

Public Assistance grants follow a standard 9 point life-cycle in every disaster event:

(1) The President declares an Emergency or Major Disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) and initially identifies the types of assistance that are available in designated areas;
(2) The State conducts an applicants' briefing for all the potential applicants where the reimbursement process is explained, key documents are distributed, and points of contact are established;
(3) Eligible applicants submit a Request for Public Assistance (RPA) to the State that identifies damage and activities undertaken for potential reimbursement;
(4) FEMA and the State conduct a kickoff meeting with eligible applicants to go over the process in more specific detail;
(5) FEMA, the State, and the applicant formulate projects and prepare PWs for eligible work;
(6) FEMA and the State review and approve PWs;
(7) FEMA obligates funding for each approved project to the State;
(8) The State disburses funds to applicants as work is completed; and

(9) The State and FEMA closeout each project.

The State uses applicants' briefings to explain the Public Assistance process, including State grant-management requirements, to potential applicants. FEMA and the State use the number of RPAs received to determine how many staff will be required to manage the recovery operations. FEMA assigns a Public Assistance Coordinator, or PAC, to work directly with each applicant to assess their needs and to assist them through the Public Assistance process. The PAC conducts kickoff meetings with each applicant to determine the specific technical skills required to evaluate the applicant's potential projects. The PAC then assigns staff with appropriate technical skills to work with the applicants to formulate projects.

The most important step in the process is project formulation, which includes preparing PWs. The PW includes a description of eligible work, the scope of work, and an estimate of cost to repair the damage. We use this document to award grants to applicants. The Stafford Act authorizes FEMA to reimburse applicants for restoring eligible disaster-damaged facilities to their pre-disaster design and capacity in accordance with applicable codes and standards.

Typical challenges encountered during project formulation include:

(1) determining whether the damage is related to the disaster event or is pre-existing;
(2) describing the appropriate ways to repair the disaster-related damage;
(3) determining which codes and standards apply; and
(4) estimating the cost of the project.

FEMA assigns technical experts (such as structural engineers, sanitary engineers, hospital specialists) from our disaster reservist cadre or from our technical assistance contractors to work with the applicants to develop the PWs. In most cases, agreement on eligible scopes of work is achieved quickly. In a few cases, there are differences in professional opinion as to what is disaster-related damage and the appropriate repair. In these instances, the PW process becomes more protracted. If consensus is not reached, FEMA will approve its version of the PW and provide the applicant an opportunity to appeal.

Now that I've given a brief overview on the Public Assistance process, I will address the status of Public Assistance provided to the Gulf Coast as well as staffing challenges we experienced with Hurricanes Katrina, Rita and Wilma.

Gulf Coast Update

FEMA is pleased to report that, as of June 25, 2007, we have prepared:

- 80,179 of an estimated 84,474 PWs for the Gulf Coast states (AL, LA, MS, FL and TX) representing $13.43 billion in Public Assistance funding.

- In Louisiana:

- 35,905 of 38,890 PWs have been written. Approximately 2,632 PWs remain to be written.
- 34,205 PWs (88%) have been obligated to the State of Louisiana.
- $4.8B of an estimated $6.3B (77%) has been obligated to the State of Louisiana.

- In Mississippi:
  - 20,588 of 21,000 PWs have been written. Approximately 412 PWs remain to be written.
  - 12,842 (61 %) PWs have been obligated.
  - $2.12B of an estimated $2.87B (74%) has been obligated to the State of Mississippi.

Staffing

Immediately following a Presidential disaster declaration, FEMA uses permanent full time staff, a highly-trained disaster reservist cadre (we have approximately 350 available at any time), and our technical assistance contractors (there is a minimum of 675 with surge capability) to staff the Public Assistance program at the Joint Field Offices. For most disasters, the majority of staff is deployed for a minimum of two months and up to a year, providing initial support and follow-through of the disaster recovery process. For disasters as large as Katrina that present an enormous amount of projects over a vast geographic area, it is very difficult to keep the same staff on site for the duration of the recovery operation.

While many staff were deployed to the Gulf Coast states following Hurricanes Katrina and Rita for many months, eventually they were transitioned out and replaced with new staff. In many cases, the transitions were accomplished smoothly with the appropriate exchange of pertinent applicant information. In these instances, the amount and timing of assistance to the applicant was not impacted. Our strategy to mitigate the impact of transitioning staff in and out of long-term recovery operations is to hire people locally to manage the long-term recovery operations. This was a significant challenge following Katrina and Rita because of the competition for skilled resources.

In Mississippi, we had a peak staffing level of over 325 staff working on the Public Assistance Program. As of June 25, 2007, we had 34 FEMA staff and 74 Technical Assistance Contract personnel still working there. In Louisiana, we had a peak staffing level of over 1,000 staff working on the Public Assistance Program. As of June 25th, 2007, we had 134 FEMA staff, and 395 Technical Assistance Contract personnel still working in Louisiana. Current staffing levels are sufficient in both disasters to meet

existing workload requirements. We have always been and remain committed to appropriately staffing that operation until all PWs are written and closeout activities are substantially underway.

Over the last six months we have implemented several initiatives to improve the Public Assistance process in Louisiana. First, we established a new management team, led by John Connolly, our Public Assistance Officer. John initially served in that capacity for the first six months after the disaster, and has been there during his current tour since October 2006. John is one of our best Public Assistance managers and has brought stability to the operation. We have also:

(1) implemented an aggressive staff training program to ensure that staff are knowledgeable about the Public Assistance Program;
(2) established a mentoring program for new staff to accelerate their understanding of the program;
(3) made a concerted effort to retain program experts to maintain continuity with applicants;
(4) deployed more cost estimating experts to the operation to provide applicants with a higher level of confidence in our project estimates; and
(5) co-located program staff at the applicants' premises to expedite development of eligible scopes of work and project worksheets.

These initiatives have been successful as evidenced by the high percentage of PWs completed to date.

I am not suggesting that the Public Assistance Program was implemented flawlessly following Katrina and Rita. It was not. However, the success of the Public Assistance Program should not be judged by the number of problems encountered, but by the number of problems solved. At previous hearings, some of the panel members who have testified before you have shared their frustration with problems they encountered with the Public Assistance process. I am confident that we did, and are doing, everything we can to assure that each applicant receives the maximum amount of assistance they are entitled to under the law.

As you know, Congress recently passed, and the President signed into law, supplemental appropriations legislation which included a provision to adjust the federal cost-share of certain eligible projects to 100 percent under sections 403, 406, 407, and 408 of the Stafford Act. This adjustment applies to all states impacted by Hurricanes Katrina, Rita, Wilma, and Dennis. As of June 29, 2007, FEMA has obligated approximately $540M in additional funding to the Gulf Coast States due to the cost-share adjustment for Public Assistance for Hurricanes Katrina, Rita and Wilma. PWs have been adjusted to the 100% funding level and obligations have been made into each State's Smartlink account and are available to the State. Some obligations may now be subject to the $1 million dollar review process mandated by Congress each year in the DHS Appropriations Act. Total federal obligations will not be determined until all projects have been closed out.

New Initiatives

I would like to briefly mention several initiatives FEMA has undertaken to further improve implementation of the Public Assistance Program in the future.

We have established a Public Assistance Steering Committee comprised of senior Public Assistance staff in each of our ten regions and ten state representatives. The purpose of the Committee is to serve as the Board of Directors for the Public Assistance Program. The Steering Committee will develop the vision, strategies, and policies to ensure efficient, effective, and consistent implementation of the program.

We have begun to update all of our policy and guidance documents so that our staff will have the tools to be successful. These documents will be compiled in a Public Assistance Manual that will be available not only to all of our staff, but also to State and local staff so there is no confusion about what the rules are.

We are migrating National Emergency Management Information System (NEMIS), our data management system, to a web-based platform that will allow applicants to enter PWs into the system and check their status at any time.

We are evaluating more effective ways to train our staff before disasters strike as well as in the immediate aftermath of a disaster to improve our level of service.

On June 1, 2007, we implemented the Public Assistance Pilot Program that Congress authorized during the last session that will promote better preparation for debris removal operations in post disaster environments and speed recovery by making grants on the basis of estimates available for debris removal and repair/replacement projects up to $500,000. In additional, we will provide an additional five percent in Federal cost share to applicants that have FEMA-approved debris management plans and pre-qualified at least two debris contractors in place at the time of the disaster. This pilot program will allow us to test initiatives that will speed the delivery of recovery funds of eligible applicants, and empower state and local governments with tools to manage their disaster response faster and more effectively.

Conclusion

FEMA is committed to the recovery and rebuilding of the Gulf Coast and will remain on the ground until the job is finished. The Public Assistance division is taking our lessons learned from Katrina and Rita to refine our policies and pilot new initiatives to re-tool and improve the Public Assistance Program. These efforts will help improve the effectiveness of the Public Assistance Program in future disasters.

Thank you for the opportunity to discuss FEMA's Public Assistance Program with you. I look forward to answering any questions you might have.

FEMA

Public Assistance
Louisiana

June 22, 2007

Global Report

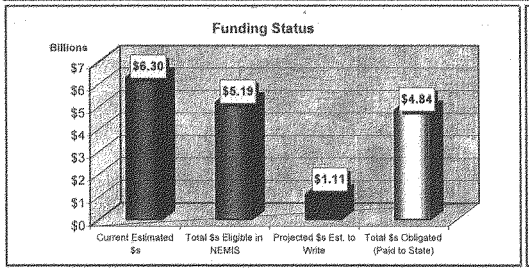
Summary of PA Funding and Project Worksheet Data

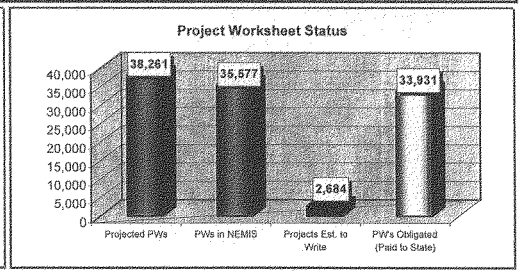
- Katrina/Rita Summary
- Katrina/Rita Debris Summary
- State Payout Summary
- Public Assistance Funding Flow/State Funding Disbursement
- Obligated Project Worksheets
- Top Ten Projects Report

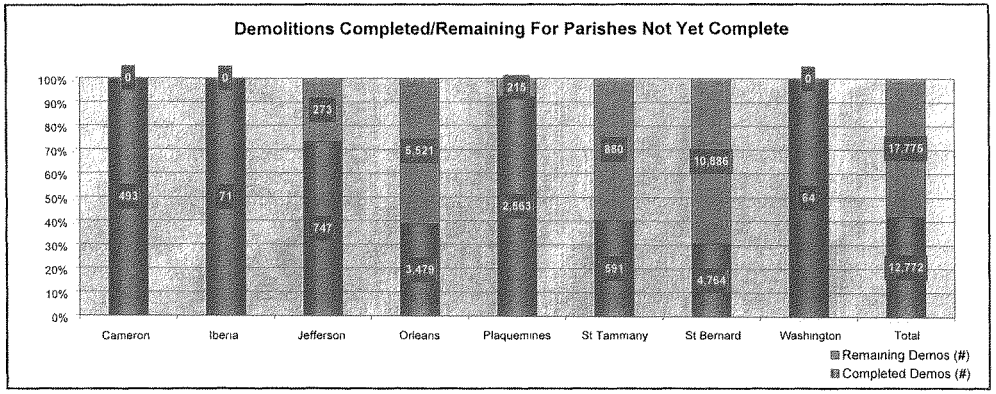
Public Assistance Project Worksheets (PWs) and Dollars

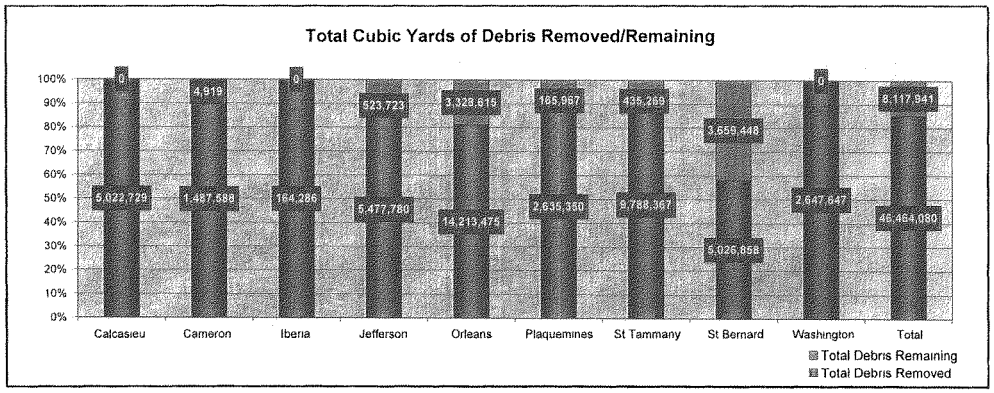
Katrina - Rita Summary

Project Worksheets (PWs)/ Dollars ($s) Summary	Katrina	Rita	Both Disasters	Changes Since Last Report
Projected PWs	30,766	7,495	38,261	11,976
PWs in NEMIS	28,526	7,051	35,577	12,004
Projects Est. to Write	2,240	444	2,684	-28
PW's Obligated (Paid to State)	27,008	6,923	33,931	11,535
% PWs Obligated (of Projected)	88%	92%	89%	Not Applicable
% PWs Obligated (in NEMIS)	95%	98%	95%	Not Applicable
Current Estimated $s	$5,665,000,000	$636,900,000	$6,301,900,000	$0
Total $s Eligible in NEMIS	$4,632,685,362	$557,531,745	$5,190,217,107	$42,657,384
Projected $s Est. to Write	$1,032,314,638	$79,368,255	$1,111,682,893	-$42,657,384
Total $s Obligated (Paid to State)	$4,340,328,561	$502,908,687	$4,843,237,248	$213,888,375
% $s Obligated (of Estimated)	77%	79%	77%	Not Applicable
% $s Obligated (in NEMIS)	94%	90%	93%	Not Applicable






Demolitions Completed/Remaining For Parishes Not Yet Complete
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
0
493
0
71
273
747
5,521
3,479
215
2,663
880
591
10,886
4,764
0
64
17,775
12,772
Cameron
Iberia
Jefferson
Orleans
Plaquemines
St Tammany
St Bernard
Washington
Total
Remaining Demos (#)
Completed Demos (#)


Total Cubic Yards of Debris Removed/Remaining
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
0
5,022,729
4,919
1,487,588
0
164,286
523,723
5,477,780
3,328,819
14,213,475
165,987
2,935,350
435,269
9,788,367
3,659,448
5,026,858
0
2,647,847
8,117,941
46,464,080
Calcasieu
Cameron
Iberia
Jefferson
Orleans
Plaquemines
St Tammany
St Bernard
Washington
Total
Total Debris Remaining
Total Debris Removed

State Payout Summary, 6/21/07

1603 and 1607 Summary of Funds Obligated by FEMA to the State and Paid Out by the State to Applicants
By Category of Work and By High Priority Counties

Type of Work	FEMA Obligated Funds Paid to the State	State Payout (Paid to Applicants)	% Obligated Funds Paid Out By State
Emergency Work (Cat A & B)	$2,665,054,992	$1,893,833,034	71%
Permanent Work (Cat C - G)	$2,069,908,081	$524,483,456	25%
Admin Costs *	$108,174,175	$56,489,942	N/A
SUM:	$4,843,137,248	$2,474,806,431	51%

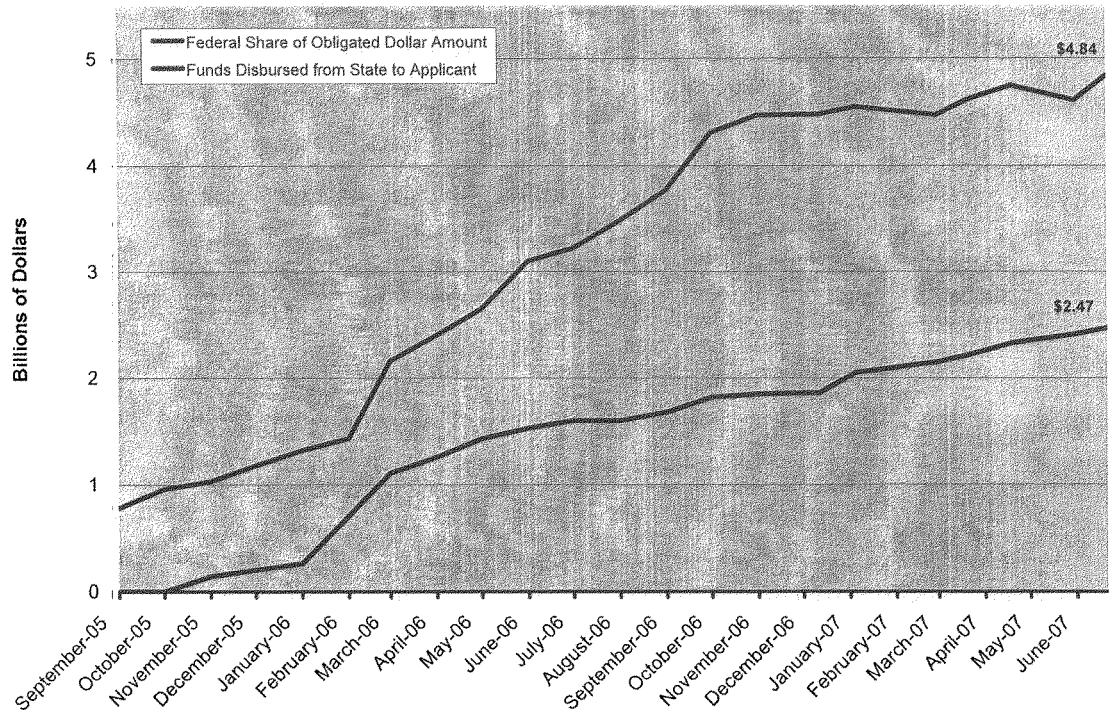
High Priority Parishes	FEMA Obligated Funds Paid to the State	State Payout (Paid to Applicants)	% Obligated Funds Paid Out By State
Calcasieu	$82,484,722	$56,858,443	69%
Cameron	$110,532,710	$29,279,471	26%
Iberia	$11,468,675	$7,403,408	65%
Jefferson **	$251,956,075	$148,606,379	59%
Orleans ***	$1,291,086,399	$486,622,769	38%
Plaquemines	$249,354,168	$79,283,853	32%
St Bernard	$732,103,937	$333,223,956	46%
St Tammany	$328,462,727	$221,342,073	67%
Vermillion	$34,973,849	$17,567,098	50%
Washington	$109,730,939	$76,460,042	70%

Description of Damage Category Codes	
Emergency Work	**Permanent Work**
Category A: Debris Removal	Category C: Roads & Bridges
Category B: Emergency Protective Measures	Category D: Water Control Facilities
	Category E: Public Buildings
	Category F: Public Utilities
	Category G: Recreational or Other

** Includes Admin Cost and Category Z State Management Cost*
*** Does not include total obligated for applicant L A N O Int'l Airport*
**** Includes total obligated for applicants N O Int'l Airport, Recovery School Distrct, Morial Convention Ctr & LSU Medical/Charity Hospital*

Data Source Data Warehouse and www.louisianapa.com
Date Gathered 6/21/2007

Public Assistance Funding Flow vs. State Funding Disbursement
1603 and 1607



Data Source. NEMIS LousianaPA.com
Date Gathered.6/20/2007

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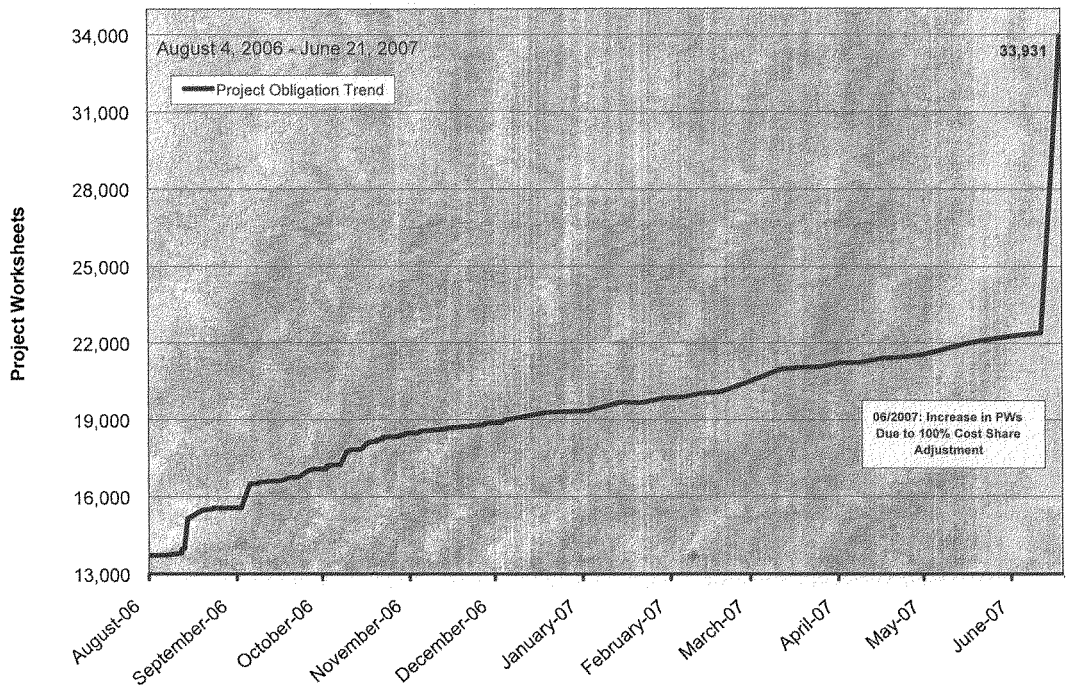
Louisiana
Baton Rouge AFO, FL

Obligated Project Worksheets
1603 and 1607



Data Source. NEMIS
Date Gathered.6/20/2007

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Louisiana
Baton Rouge AFO, FL

Louisiana Top Ten Projects (Value & Sensitivity)
June 22, 2007

Project Name	#PWs	Project Significance	Estimated Costs[i]	$ Obligated[ii]	Issues/Status
Emergency Operations Orleans Parish PW 11 v4	3	This project addresses Emergency Operations including an appeal for overtime for the City of New Orleans. The original PW11 was expedited for $103 Million for Category B Emergency Protective Measures. FEMA approved documentation that the City of New Orleans emergency pay policy was in place before the disaster and so the City is entitled to $5.6 Million.	$7,815,727	$7,549,369	PW 11v4 for Force Account Labor/Emergency Protective measures. This PW is in PAC issues review queue. PW 11 v3 for emergency response was obligated on February 22, 2007. PW 8061 for police radios was obligated on December 26, 2006.
Westwego Police Station Jefferson Parish	3 PWs	This project is significant because it is vital to the recovery of the City's infrastructure.	$669,639	$56,820	This facility was originally approved for repair. A re-evaluation of the building found additional damages which qualified the building for replacement under the 50% rule. PW 7704 v2 for replacement was written and entered into NEMIS on May 14, 2007. It is currently in Environmental, Historic Preservation, and Insurance, and CEF review queues.
Temporary Prison Facility Plaquemines Parish	1	This is a highly political issue because Plaquemines Parish has no prison space south of Belle Chasse. Currently inmates are being shuttled back and forth from Baton Rouge and Jefferson Parish for court cases.	$9.6 Million		Waiting for A/E firm to produce detailed final site plan and scope of work. A meeting has been scheduled for July 1, 2007. Need for approved advisory base flood elevations and floodplain requirements. This PW is currently in PAC Issues review queue.

Project Name	#PWs	Project Significance	Estimated Costs[i]	$ Obligated[ii]	Issues/Status
Slidell Permanent Repairs St. Tammany Parish	2	These are PWs that are related to displaced offices within the City of Slidell.	$1.5 Million		PW 16099 is currently in Final review queue. PW 16127 was obligated on June 12, 2007.
Sewer and Water Board of New Orleans Debris-hauling damages issues	1	FEMA has obligated $19 Million and the applicant has drawn approximately $ 9 Million. The S&WB is requesting to draw an additional $10 Million. Causes of damage have not been fully determined among: pre-existing conditions, storm related, and those caused from debris removal. Applicant has submitted $28 Million in invoices for 12,500 work orders to repair the damaged water distribution system. Eligibility could not be determined by reviewing work orders. FEMA will consider the entire water distribution system as a damaged Facility, and restore the Facility to pre-disaster condition.	$19 Million $9 Million in versions	$8,245,737	FEMA is reviewing volumes of inspection reports to determine the cause of damages. Review of reports is ongoing. A written recommendation about damage causes will follow the review. PW 649 V1 for $9 Million was obligated on June 14, 2007. FEMA will write a new PW (SWB458) based on measured monthly data to determine when the Facility is functioning at its pre-disaster condition.

Project Name	#PWs	Project Significance	Estimated Costs[1]	$ Obligated[2]	Issues/Status
Sewer and Water Board of New Orleans	Appx. 75	In addition, The S&WB requested approximately 70 versions of PWs, because the Applicant believes actual costs are higher than original estimates. They include nine GE PWs ($3 Million), 31 Sanitary Pump Stations ($12 Million) and approximately 35 versions for the EBWWTP ($4 Million).	Approximately $6.5 Million in versions		FEMA has received the first of nine GE documents. FEMA is writing versions for on-going electrical contract work at six pump stations. FEMA is working on PW versions for pump station repairs/replacements and/or improvements as appropriate. It is estimated that the versions will provide an additional $6.5 Million in funding to the Applicant for their pump stations.
Recovery School District Reconciling costs at schools where repair work has been completed	75	This is a politically sensitive issue that is affecting completion of other recovery projects.	Amount Unknown	$10.8 Million	The applicant has had difficulty providing documentation necessary to identify eligible vs. ineligible work completed at 58 schools. FEMA Ed Group has formed a reconciliation team to reassess all of the Applicant's facilities in Orleans Parish. Project Officers meet with applicant reps twice a week to help identify and document all eligible storm related damages. The reconciliation process has resulted in $47 Million in additional funds for the Applicant.
Facility Planning & Control State of LA Department of Transportation & Development (DOTD) Creole	1	These projects are high priority projects because the applicants do not have temporary facilities from which to operate.	$88,188		Applicant has requested temporary facilities, for all projects. PW for purchase of temporary facilities has been drafted. FEMA is awaiting estimates for cost benefit analysis. Applicant has submitted Improved Project requests to the State, these requests have not yet been forwarded to FEMA for action.
Facility Planning & Control State of LA Department of Transportation & Development (DOTD) Holly Beach	1	This project is for Elevation of District 07 Holly Beach Maintenance Unit/Office.	$88,188		Applicant has requested temporary facilities for all projects. PW for purchase of temporary facilities has been drafted. FEMA is awaiting estimates for cost benefit analysis. Applicant has submitted Improved Project requests to the State, these requests have not yet been forwarded to FEMA for action.

Project Name	#PWs	Project Significance	Estimated Costs[i]	$ Obligated[ii]	Issues/Status
Facility Planning & Control State of LA Department of Transportation & Development (DOTD) Cameron	3	These projects are for the Delivery, set up and Elevation of Cameron Ferry Office Building. Elevation of District 07 Cameron Ferry 2 Storage Bldg 1. Elevation of District 07 Cameron Ferry 2 Storage Bldg 2.	$386,020		Applicant has requested temporary facilities, for all projects. PW for purchase of temporary facilities has been drafted. FEMA is awaiting estimates for cost benefit analysis. Applicant has submitted Improved Project requests to the State, these requests have not yet been forwarded to FEMA for action.

PW

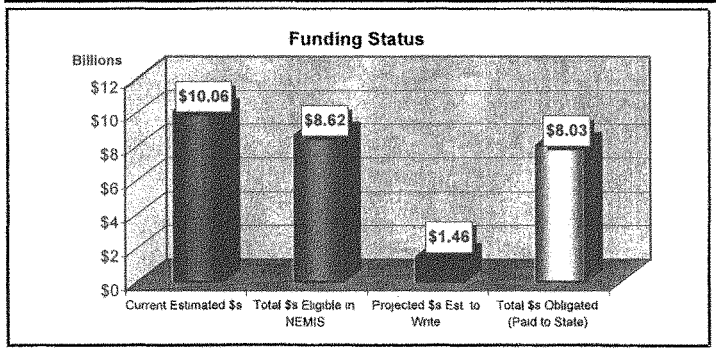
[i] Estimated Costs are the amount of eligible work
[ii] $ Obligated is the federal share of obligated dollars.

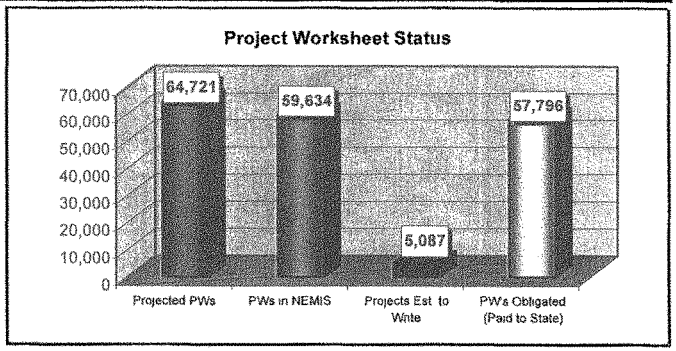
Public Assistance Project Worksheets (PWs) and Dollars

Hurricanes Katrina and Rita: Gulf-Wide

June 22, 2007

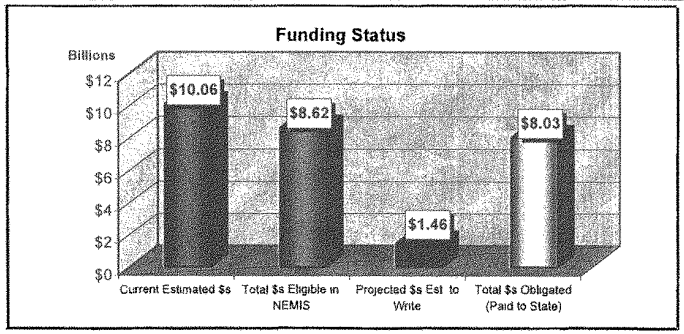
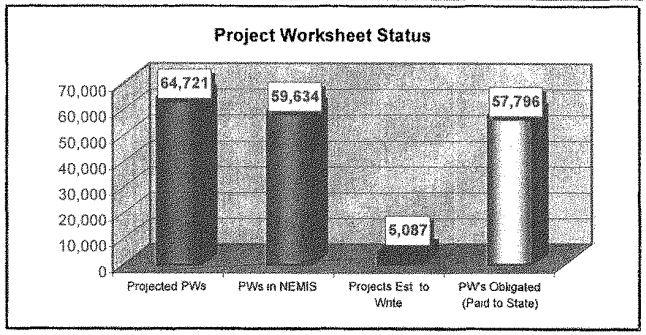
Project Worksheets (PWs)/ Dollars ($s) Summary	TX	LA	MS	AL	Total Gulf-Wide
Projected PWs	10,335	38,261	12,900	3,225	64,721
PWs in NEMIS	8,022	35,577	12,885	3,150	59,634
Projects Est. to Write	2,313	2,684	15	75	5,087
PW's Obligated (Paid to State)	7,996	33,931	12,814	3,055	57,796
% PWs Obligated (of Projected)	77%	89%	99%	95%	89%
% PWs Obligated (in NEMIS)	100%	95%	99%	97%	97%
Current Estimated $s	$1,013,762,695	$6,301,900,000	$2,633,266,601	$114,159,896	$10,063,089,192
Total $s Eligible in NEMIS	$988,029,558	$5,190,217,107	$2,329,501,363	$116,280,227	$8,624,028,255
Projected $s Est. to Write	$50,285,675	$1,111,682,893	$303,765,238	-$2,120,331	$1,463,613,475
Total $s Obligated (Paid to State)	$956,315,839	$4,843,237,248	$2,126,543,488	$106,644,222	$8,032,740,796
% $s Obligated (of Estimated)	94%	77%	81%	93%	80%
% $s Obligated (in NEMIS)	97%	93%	91%	92%	93%





Public Assistance Project Worksheets (PWs) and Dollars

Hurricanes Katrina and Rita: Gulf-Wide

June 22, 2007

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% PWs Obligated (of Projected)	77%	89%	99%	95%	89%
% PWs Obligated (in NEMIS)	100%	95%	99%	97%	97%
Current Estimated $s	$1,013,762,695	$6,301,900,000	$2,633,266,601	$114,159,896	$10,063,089,192
Total $s Eligible in NEMIS	$988,029,558	$5,190,217,107	$2,329,501,363	$116,280,227	$8,624,028,255
Projected $s Est. to Write	$50,285,675	$1,111,682,893	$303,765,238	-$2,120,331	$1,463,613,475
Total $s Obligated (Paid to State)	$956,315,839	$4,843,237,248	$2,126,543,488	$106,644,222	$8,032,740,796
% $s Obligated (of Estimated)	94%	77%	81%	93%	80%
% $s Obligated (in NEMIS)	97%	93%	91%	92%	93%