

REFORMING DISASTER AND EMERGENCY RESPONSE

BY

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USAWC STRATEGY RESEARCH PROJECT

REFORMING DISASTER AND EMERGENCY RESPONSE

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ABSTRACT

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Over the past two decades, the Federal Emergency Management Agency (FEMA) has focused too much on day-to-day disasters, from snow storms to forest fires, tripling the number of disaster declarations and overstretching its resources. During this time, FEMA has been federalizing routine natural disasters that had historically been handled entirely by state and local governments. Congress and the Administration should focus on lessening the role of the federal government in day-to-day state-level emergencies and emphasize greater responsibility among state and local communities for preparing and developing response plans for local disasters. Federal disaster policy creates incentives for governors to apply for disaster declarations because the federal government will pay at least 75 percent of the disaster response. To curb the continued nationalization of disasters, Congress should amend the Stafford Act and expressly limit what types of disasters qualify for federal aid. Almost all disasters are local, which is why the vast majority of them should be responded to, run by, and funded by state and local governments. Save federal resources for the exceptional catastrophes that truly require the federal government to step in.

REFORMING DISASTER AND EMERGENCY RESPONSE

The Federal Emergency Management Agency's (FEMA) mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.

—FEMA Fact Sheet

Over the past two decades, the Federal Emergency Management Agency (FEMA) has increasingly responded to routine natural disasters that had historically been managed by state and local governments. The increased federalization of disasters stands contrary to the basic premise that all disasters are local, and it does not matter how large an event is, but all response and recovery efforts begin and end with the local community. The trend also fails to reinforce the responsibility of states and local communities to prepare for, develop, and resource response plans for disasters within their jurisdictions. Furthermore, the impact of FEMA's involvement in routine disaster response and recovery at the levels it has sustained over the past two decades takes away from the time and focus it could devote towards preparation for truly catastrophic disasters. As states have increasingly grown to depend on federal resources, it can be argued that they may likewise fail to invest in their own capabilities for response, as the incentives to do so are reduced. Additionally, when federal disaster policy enables states to capitalize on a federal/state cost-share for response and recovery, where the federal government assumes a 75 percent economic burden, this serves as an incentive for states to rely on federal disaster declarations.¹ Another result of the nationalization or federalization of disasters is that a majority of the states end up funding a minority of the remaining states disaster costs, as those minority

states receive federal disaster dollars in a disproportionate amount.² In order for the United States as a nation be able to better adhere to the vision of the National Preparedness Guidelines of being a —Nation prepared with coordinated capabilities to prevent, protect against, respond to, and recover from all hazards in a way that balances risk with resources and need,” Congress must relook current disaster relief and emergency assistance laws and policy, and refocus FEMA towards being an agency geared toward catastrophic disasters and emergencies.³

Historical Context

President Jimmy Carter established FEMA by Executive Order 12127 in 1979. The creation of FEMA involved the absorption of several other agencies that had disaster-related responsibilities, to include civil defense responsibilities which were also transferred to FEMA from the Department of Defense Civil Preparedness Agency. Over the period of its existence, FEMA’s focus and role, and our nation’s disaster and emergency response policies have evolved and changed.⁴

Throughout the first 14 years of FEMA’s existence, it managed a variety of disasters and emergencies, with national-level attention gained during the agency’s actions through its response to events ranging from the contamination of the Love Canal, the Cuban refugee crisis, the accident at the Three Mile Island nuclear power plant, the Loma Prieta Earthquake, and Hurricane Andrew. In 1993, during the Clinton Administration, FEMA initiated reforms that both streamlined disaster and relief operations, as well as placed a new emphasis on preparedness and mitigation. With the conclusion of the Cold War, FEMA redirected its resources that had been directed at civil defense toward disaster relief, recovery, and mitigation.⁵

During the George W. Bush Administration, after the terrorist attacks of September 11, 2001 (9/11), FEMA focused on issues of national preparedness and homeland security, and was absorbed into what has become the Department of Homeland Security. As part of its focus on preparedness, and as a result of 9/11, FEMA was given an added responsibility for helping to ensure that first responders across the nation were trained and equipped to deal with weapons of mass destruction (WMD). Included in its efforts of helping communities face the threats of terrorism, FEMA incorporated its “all-hazard” approach to disasters towards homeland security issues. Subsequent to Hurricane Katrina, the Post-Katrina Emergency Management Reform Act was signed into law, and FEMA was reorganized and given new authorities to remedy gaps and deficiencies that were revealed in the wake of that disaster. As a result of the Post-Katrina Emergency Reform Act, FEMA assumed a more robust preparedness mission.⁶ Today, FEMA stands as an agency focused on four mission areas: prevention, protection, response and recovery. The scope and focus on each of these mission areas has evolved through time, and the level of effort and attention directed in each area has grown – perhaps not necessarily in relationship to an increase in catastrophic events.

The Disaster Declaration Process

Local and State governments share the responsibility for protecting their citizens from disasters, and for helping them to recover when a disaster strikes. In cases where a disaster is beyond the capabilities of the state and local governments to respond, the Governor of the affected state may request federal assistance through a process established in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). The Stafford Act was enacted in 1988 to support state and local

governments and their citizens when disasters overwhelm them. The law, as amended, establishes a process for requesting and obtaining a Presidential disaster declaration, defines the type and scope of assistance available from the federal government, and sets the conditions for obtaining the assistance. The Stafford Act authorizes the President to issue major disaster or emergency declarations in response to catastrophes in the United States that overwhelm state and local governments. The Stafford Act reinforces the principles of federalism through the concept that with very limited exceptions, federal support is provided only at the request of a state. Furthermore, once provided, federal support is directed in support of and in coordination with the state through a mechanism and process established in the National Response Framework. Such declarations result in the distribution of a wide range of federal aid to individuals and families, certain nonprofit organizations, and public agencies. Congress appropriates money to the Disaster Relief Fund (DRF) for disaster assistance authorized by the Stafford Act, and FEMA administers most, but not all, of the authority of the statute.⁷ There are five types of actions that may be taken under authority of the Stafford Act: Major disaster declarations, emergency declarations, fire management declarations, the provision of defense resources before a major disaster is declared, and the decision to pre-position supplies and resources.⁸

Federal Declarations

Three of the five types of declarations may be made prior to a disaster or catastrophe. First, the President (at the request of a Governor), may direct the Department of Defense to commit resources for emergency work essential to preserve life and property in the “immediate aftermath of an incident” that may result in the declaration of a major disaster or emergency. Such emergency work carried out under

this provision may only be carried out for a period not to exceed 10 days. The federal share of assistance shall be no less than 75 percent, with the state responsible for the balance of the cost. Reimbursement shall be made to the Department of Defense from the Disaster Recovery Fund.⁹

Second, fire management assistance, including grants, equipment, supplies, and personnel may be provided to any state or local government ~~for~~ the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.”¹⁰ Under this provision, Governors must submit a request for assistance while an uncontrolled fire is burning. To be approved, either of two cost thresholds established by FEMA through regulations must have been reached. The thresholds involve calculations of the cost of the individual fire, or those associated with all the fires (both declared and non-declared) in the state during the calendar year.¹¹ Under the cumulative fire cost threshold, assistance will only be provided for the declared fire responsible for meeting or exceeding the cumulative fire cost threshold and any future declared fires for that calendar year. The individual fire cost threshold for a state is the greater of \$100,000 or five percent of \$1.14 times the state population. The cumulative fire cost threshold for a state is the greater of \$500,000 or three times the five percent times the state population.¹² In 2007 there were 136 federal disaster declarations (major disaster declarations, emergency declarations, or fire management assistance declarations), of which 60 (44% of the federally declared declarations for the year) were fire management declarations. The 63 fire management declarations were spread among 16 states, with California having the greatest number of declarations (17 total).¹³ During

this same year, 12 states had individual fire cost thresholds of \$100,000, and California had the highest individual cost threshold at \$2,066,171. Similarly, 19 states had a cumulative fire cost threshold of \$500,000, and California had the highest cumulative fire cost threshold at \$6,198,512.¹⁴ A declaration made under the Fire Management Assistance Grant Program provides a 75 percent federal cost share, and the state pays the remaining 25 percent for actual costs. Eligible firefighting costs may include expenses for field camps; equipment use, repair and replacement; tools, materials and supplies; and mobilization and demobilization activities.¹⁵

The third type of declaration that may be made prior to a catastrophe occurs is when a situation threatens human health and safety, and a disaster is imminent but not yet declared. In this instance, FEMA pre-positions employees and supplies, and coordinates with other federal agencies to do the same. In anticipation of an imminent disaster, FEMA will monitor the status of the situation, will communicate with state emergency officials on potential assistance requirements, deploy teams and resources to maximize the speed and effectiveness of the anticipated federal response and, when necessary, performs preparedness and preliminary damage assessment activities.”¹⁶ This type of declaration and pre-disaster activity is most commonly used in hurricane response, and to a lesser extent for larger-scale flooding response – both of which provide some notice of occurrence, and thus some limited time to position response resources in advance of a disaster. In recent years, most notably since Hurricane Katrina in 2005, FEMA has leveraged this type of declaration in order to facilitate federal responsiveness.

The Stafford Act authorizes the President to issue the remaining two types of declarations – major disaster and emergency – after an incident overwhelms state and local resources.¹⁷ These two declarations are the two principle forms of Presidential action to authorize federal supplemental assistance.

A major disaster declaration is made as a result of the disaster or catastrophic event and constitutes a broader authority that helps states and local communities, as well as families and individuals, recover from the damage caused by the event.¹⁸ Major disaster declarations and emergency declarations may be issued after the President receives a request from a governor of an affected state for a major disaster declaration.¹⁹ Major disaster declarations may be issued after a natural catastrophe—including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought) or, regardless of cause, after a fire, flood or explosion.”²⁰ In 2007, 63 of the 136 disasters (46 percent) were major disaster declarations, and spanned a wide range of subtypes to include severe winter storms, severe storms and flooding, landslides and mudslides, tornadoes, inland and coastal flooding, and severe freeze.²¹

Factors that FEMA considers in evaluation of a Governor’s request for a major disaster declaration and subsequent public assistance include an assessment of the per capita impact of the disaster within affected states; insurance coverage in force; the presence and impact of hazard mitigation measures; the cumulative impact of disasters over the previous year; and whether federal aid authorized by statutes other than the Stafford Act would better meet the needs of stricken areas. Each year, FEMA determines the threshold to be used as one of the factors to be considered in

determining whether public assistance or individual assistance or both will be made available after a major disaster declaration has been issued. Regulations establish a minimum threshold of \$1 million in public assistance damages for each state. Major disaster declarations issued on or after October 1, 2005, would be expected to reach a threshold of \$1.29 per capita for public assistance. The statewide threshold, however, is not the sole factor. Assessments consider concentrations of damages in local jurisdictions even if statewide damages are not severe. Countywide impacts from major disasters declared on or after October 1, 2005, would generally be expected to reach the threshold of \$2.94 per capita for public assistance.²² The impact of these thresholds is that a state with a smaller population will more rapidly reach the threshold than a state with a larger population because similar levels of physical damage will have higher per capita damage in a smaller populated state. For example, flooding along the Red River Valley that serves as the border between North Dakota and Minnesota may cause similar levels of physical damage in each state, but because the population of North Dakota is significantly smaller than that of Minnesota, the per capita damage will be greater in North Dakota than in Minnesota, and thus North Dakota may qualify for public assistance, while Minnesota may not.

Emergency declarations are made to —supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a major disaster or catastrophe.”²³ Emergency declarations are similar to major disaster declarations, but the criteria are less specific. Furthermore, emergency declarations may be issued if primary responsibility rests with the federal government.²⁴ Also, —specific thresholds or calculations of past averages are not

considered, but FEMA officials do assess whether all other resources and authorities available to meet the crisis are adequate before recommending that the President issue an emergency declaration.”²⁵ Emergency declarations are frequently made when a threat is recognized and are intended to supplement and coordinate local and state efforts such as evacuations and protection of public assets (such as was the case when emergency declarations were made for Hurricane Katrina prior to the hurricane making landfall). In 2007, 13 of the 136 disasters (slightly less than 10 percent) declared that year were emergency declarations. Broken down by subtype, the emergency declarations for 2007 included five issued for snow, four for severe winter weather, one for wildfires, one for drought, one for a bridge collapse, and one for a hurricane.²⁶

Disaster Relief Fund

Once a federal disaster declaration has been issued, FEMA provides disaster relief through the use of the Disaster Relief Fund (DRF). Congress appropriates money to the DRF to ensure that funding for disaster relief is available to help individuals and communities stricken by emergencies and major disasters. Funds appropriated to the DRF remain available until expended, and the DRF is generally funded at a level that is sufficient for what are known as “normal” disasters (incidents for which DRF outlays are less than \$500 million). When a large disaster occurs, funding for the DRF may be augmented through emergency supplemental appropriations.²⁷ Supplemental appropriations measures are generally required each fiscal year to meet the urgent needs of particularly catastrophic disasters.²⁸

As the categories of aid and federal disaster assistance have expanded, there has been a corresponding increase in the cost of federal disaster assistance authorized by the Stafford Act. For example, over the past five decades assistance has been

expanded in the areas of housing, grants for the repair of infrastructure, aid to individuals, loans to communities for lost revenue, and other needs.²⁹

Disasters that occurred between Fiscal Year 2001 and Fiscal Year 2005 were especially costly. In Fiscal Year 2001 and Fiscal Year 2002 supplemental appropriations for disaster assistance exceeded \$26 billion, most of which went toward recovery following the terrorist attacks of September 11, 2001. After the 2005 hurricane season, supplemental appropriations for disaster assistance increased significantly. From Fiscal Year 2005 through Fiscal Year 2009, Congress appropriated over \$130 billion for disaster relief administered by many federal agencies. The majority of this funding was directed toward damages sustained from the 2005 hurricane season.³⁰ The magnitude of these figures are somewhat skewed as they include federal funds expended for both the 9/11 terrorist attacks, and Hurricane Katrina – the two most costly disasters in American history. A more accurate snapshot of average disaster expenditures may be those that reflect the obligations during the period 1999-2010, and do not include either the 9/11 terrorist attacks or Hurricane Katrina. During this period, the average obligation per year for major disaster declarations and emergency declarations was \$3.5 billion; and the average obligation per disaster was \$81 million.³¹

The need for federal assistance after a disaster, particularly one of catastrophic magnitude, may foster government officials to pledge to do whatever it takes to restore an area to its pre-disaster condition, however, doing so requires a significant expenditure of federal funding that may arguably be used elsewhere for other urgent purposes. As the leaders at the national level wrestle with the competing demands of providing federal disaster assistance and controlling expenditures, increasingly the

question must be asked what the responsibilities are for the federal government, and what the responsibilities are for state and local government – and what are individual responsibilities.

Incentives to Federalize Disasters

Stipulations of the Stafford Act create significant fiscal incentives for states to request federal disaster declarations. Under the Stafford Act, the federal government pays 100 percent of the costs general federal assistance to —~~save~~ lives, prevent human suffering, or mitigate severe damage.”³² Essential assistance to ~~meeting~~ immediate threats to life and property resulting from a disaster” is reimbursed at not less than 75 percent.³³ The federal government also pays not less than 75 percent for hazard mitigation that reduces —~~to~~ risk of future damage, hardship, loss, or suffering.”³⁴ Likewise, the federal government will pay not less than 75 percent for ~~repair~~, restoration, and replacement of damaged facilities” – whether publicly owned, or a privately owned nonprofit facility that provides critical services.”³⁵ Not less than 75 percent of the costs associated with debris removal may also be funded by the federal government.³⁶ Additionally, the federal government will pay 100 percent of individual assistance (up to \$25,000 per household).³⁷

Without a federal declaration, states and localities bear the full costs of the disasters, so the prospect of the federal government sharing the cost with the state is a tremendous incentive to states. Meeting the definitions for a federal declaration is fairly easy, and the financial thresholds are likewise relatively low. The disaster must be —~~to~~ such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments that federal assistance is necessary.”³⁸ The financial threshold for storm-related damages of —\$29 per capita, which for several

states equates to less than \$1 million in damages,” is relatively easy to be reached.³⁹

While the guiding principle of disaster and emergency response is that all disasters are local, the economic incentive of federal assistance has increasingly driven states to seek federalization of disasters.

Increasing Trend to Federalize Disasters

Since the Stafford Act was signed into law, there have been nearly 3,000 federal declarations (major disaster declarations, emergency declarations, and fire management assistance declarations) – most of which have not fundamentally met the act’s definition of a disaster requiring federal intervention.⁴⁰ This trend of increased federalization of disasters began with the Clinton Administration, and has remained at high levels ever since. FEMA’s response and recovery actions – thus —“federalization” of disasters - during the first three Presidential Administrations (Carter, Reagan, and George H. W. Bush) of FEMA’s existence were relatively modest in comparison to the subsequent three administrations.

During the Carter Administration the yearly average for declarations was 44 (with yearly highs of 56 in 1977 – two years prior to establishment of FEMA, and 55 in 1979 – FEMA’s first year in existence). The Reagan Administration averaged 28 declarations per year, with the highest number of declaration being 42 in 1984. The George H. W. Bush Administration averaged 44 declarations per year, with a high of 53 in 1992. The yearly disaster declarations doubled the average of the previous administrations while President Clinton was in office, with a yearly average of 89 declarations, and had the highest number of declarations in a single year of any administration, with 157 declarations in 1996. The trend increased even further under the George W. Bush Administration, which averaged 130 declarations per year, and had the second highest

number of declarations of any administration in a single year, with 155 in 2005. There is a slight downward trend during the first two years of that President Obama has been in office, with an average of 112 declarations per year thus far, and a high of 115 declarations during his first year in office.⁴¹ The tripling of the average annual number of federal declarations over the past three decades demonstrates the increased role and burden that the federal government has assumed in natural disasters, and begs the question of whether emergency management has shifted from a local and state responsibility, to a national responsibility.

Majority of States Subsidize the Minority of States

Two problems with the trend towards nationalization of disaster response are that a majority of states essentially subsidize the minority, and reliance on federal assistance may ultimately result in states being less prepared for disasters.

A 2009 report prepared by Matt A. Mayer of The Heritage Foundation comparing the number of federal declarations to state population demonstrates that the redistribution of the costs of disasters results in a majority of the states (29) subsidizing a minority of the states (21) for the costs of disasters (encompassing mitigation, response, and recovery). The analysis is based on the premise that states fund FEMA through taxpayer dollars, and in turn that money is spent on disasters. Calculating the difference between the amount of money sent to FEMA, and how much money a state receives from FEMA in terms of disaster response funding shows that some states receive a disproportionate amount of disaster assistance. The results of Mayer's analysis reveal that 21 states end up as —winners” (have a higher percentage of disaster declarations as a percentage of total U.S. population); whereas 16 states end up as —losers” (have a lower percentage of disaster declarations as a percentage of U.S. total

population), and 13 states —~~break~~ even” (receive approximately the same proportion of disaster declarations as a percentage of U.S. total population).⁴²

Surprisingly, in this analysis, several of the states that have the highest percentage of disasters, or may be states that historically have catastrophic natural disasters, end up as ~~losers~~” or ~~break-even~~”. For instance, Florida, Georgia, North Carolina, and Virginia are —~~losers~~”, and South Carolina, Alabama, and Mississippi are —~~even~~” — despite perhaps a common perception that as hurricane-prone states they may benefit disproportionately from federal disaster relief. California, despite the catastrophic earthquakes and high-profile wildfires and mudslides it has suffered, is a ~~loser~~”. Likewise, nearly all the upper Midwest states — with somewhat frequent severe winter storm or spring flooding — are also either ~~losers~~” or ~~even~~.” States that are ~~winners~~” under this analysis include Texas and Louisiana (frequently struck by hurricanes), and North Dakota and South Dakota (both of which regularly experience spring flooding). Mayer illustrates the point of —~~winners~~” compared to —~~losers~~” by comparing the federal disaster declarations for Oklahoma in relation to Michigan. Since 1993, there have been 90 federal disaster declarations in Oklahoma, which equates to five percent of all declarations, yet Oklahoma’s population represents only one percent of the total U.S. population. During this same timeframe, there have been 14 disaster declarations in Michigan, equating to one percent of all declarations, yet Michigan’s population represents three percent of the U.S. total population.⁴³

A conclusion that may be drawn from Mayer’s analysis is that the vast majority of states would be better off if they kept their disaster response taxes and funded their own disaster and emergency management operations. A counterpoint to this argument and

one that may support current disaster policies is that there are more ~~winners~~ “winners” than ~~losers~~ “losers” (assuming that ~~break~~ “break even” states don’t care). Regardless of whether a state wins, loses, or breaks-even, however, federalization of a disaster takes some level of control of the disaster response away from the states and localities – the government entities that are ultimately accountable to their citizenry.

Incentivizing states to seek federal disaster declarations also undermines the preparedness of state and local emergency management agencies. As states and municipalities are threatened with fiscal challenges, to include some that may require a balanced budget, they may find it easy to cut back on their emergency management budget, and most certainly may not have the funds to set aside for a ~~rainy-day~~ “rainy-day” fund that might cover required contingencies from a disaster response.

Focus FEMA on Catastrophic Disasters

As the federal government, and thus FEMA, has increasingly become involved in more and more disasters – many of which can be argued are truly not ~~catastrophic~~ “catastrophic” – the federal government and FEMA does not spend enough time preparing for catastrophic natural disasters. By focusing much of its efforts on those disasters that are less than catastrophic, the likelihood that the Federal response for the next catastrophe will be insufficient, as it was during Hurricane Katrina is increased.

In December 2003, Homeland Security Presidential Directive (HSPD) – 8 was issued, and established ~~national~~ “national policy to strengthen the preparedness of the United States to prevent, protect against, respond to, and recover from terrorist attacks, major disasters, and other emergencies. HSPD-8 required the development of the National Preparedness Guidelines (the Guidelines). These Guidelines define what it means for the Nation to be prepared by providing a vision for preparedness, establishing national

priorities, and identifying target capabilities.”⁴⁴ The Guidelines are based upon a capabilities-based planning process, and incorporate three planning tools: the National Planning Scenarios, Target Capabilities List, and the Universal Task List. The National Planning Scenarios establish national guidance for preparing the Nation for major all-hazards events, while the Target Capabilities Lists serves as a basis for assessing preparedness. Specifically, the Target Capabilities List describes the capabilities related to the four core homeland security mission areas: prevent, protect, respond, and recover.

The Target Capabilities List contains 37 core capabilities that provide national standards for building a national disaster preparedness and response system to deal with man-made and natural catastrophes.⁴⁵ Because the capabilities were derived from both terrorist and natural disaster scenarios, the TCL is an all-hazards tool featuring many dual-use elements. Furthermore, the Target Capabilities List serves as a guide to addressing the priorities and achieving the National Preparedness Guidelines.⁴⁶

The 15 all-hazards National Planning Scenarios ~~serve~~ as the foundation for the development of homeland security tasks, target capabilities ... and standards against which capabilities and tasks will ultimately be measured.”⁴⁷ Twelve of the fifteen scenarios represent terrorist attacks, and three represent natural disasters or naturally-occurring epidemics. The fifteen scenarios ~~form~~ the basis for coordinated federal planning, training, exercises, and grant investments needed to prepare for all hazards.”⁴⁸

The National Preparedness Guidelines identify eight priorities to meet the Nation’s most urgent needs, and adopts a capabilities-based planning process to define

and build the capabilities to achieve the Guidelines. Two of the eight priorities are specifically related to disaster and emergency response, and should be used to focus the efforts and role of the federal government, and define the role and responsibilities of state and local entities. The Guidelines identify implementation of the National Incident Management System and the National Response Plan, as well as strengthening planning and citizen preparedness capabilities.⁴⁹

The vision of the National Preparedness Guidelines is a —nation prepared with coordinated capabilities to prevent, protect against, respond to, and recover from all hazards in a way that balances risk with resources and need.”⁵⁰ The basic premise of disasters and emergencies is that all disasters and emergencies are local – and thus the responsibility for prevention, protection, response, and recovery is local as well. The increased federalism of disasters, and the rising role and assumed responsibility of the federal government in prevention, protection, response, and recovery endeavors works contrary to the vision of the National Preparedness Guidelines. The potential endstate of the trend towards more frequent federalism of disaster and emergency response is that rather than being a Nation prepared, the United States (and more specifically, the states and local communities) may end up being a Nation ill-prepared.

Recommendations

Modify the Stafford Act. As the litmus test for federal disaster dollars, the Stafford Act fails to accurately determine which disasters meet the federal requirements and which do not. Congress should establish clear requirements that limit the types of situations in which declarations can be issued – eliminating some types of disasters entirely from FEMA’s portfolio. Furthermore, Congress should reduce the cost-share provision for all FEMA declarations to no more than 25 percent of the costs. This will

help to ensure that at least three-fourths of the cost of a disaster are borne by the taxpayers living where the disaster took place. For catastrophes with a nationwide impact, such as 9/11 and Hurricane Katrina, a relief provision could provide a higher federal cost-share where the total costs of the disaster exceed a certain threshold amount.

Establish clear requirements that limit the situations in which federal emergency declarations can be made. One way to accomplish this is to align declarations with the various scales used for disasters (e.g., the Saffir-Simpson Scale, the Richter Scale, and the Fujita Scale). For example, limiting disaster declarations to category 1 hurricanes and above would eliminate all tropical storms that cause some damage, but are not —to such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments and that federal assistance is necessary.”⁵¹ Another way to accomplish this is to raise the minimum dollar threshold for requesting disaster declarations. The current indicator that federal assistance might be warranted is when a state’s storm-related damages reach \$1.29 per capita. For several states that is less than \$1 million in damages. That is hardly cause for deploying the full might of the federal government. Doubling the minimum per capita with a minimum damage threshold of \$5 million (and a maximum threshold of \$50 million) would significantly reduce the number of events that would warrant a federal disaster declaration.

Entirely eliminate certain types of disasters from FEMA’s portfolio. For example, burdening FEMA with administering disaster relief after a freeze that destroys agriculture crops and does little else is highly inefficient. Similarly, droughts are tragic but generally affect only the agricultural community. Insurance markets and state and

local governments can deal with these two types of disasters more efficiently than the federal government can. Finally, while severe storms and tornadoes tend to be localized events that cause property damage and cost lives, they rarely outstrip the abilities of state and local governments.

Restrict homeland security grants to funding only the 37 capabilities on the Target Capabilities List, which is an all-hazards package that covers the prevention, protection, response, and recovery spectrum. This would contribute to ensuring that federal grants to the states help to preclude the need for federal assistance for routine disasters and to prepare states to work with the federal government in responding to catastrophes.

Conclusion

Over the past two decades, FEMA has focused too much on day-to-day disasters, from snow storms to forest fires, tripling the number of disaster declarations and overstretching its resources. For too long, FEMA has federalized disaster response to the point where every routine disaster receives an onslaught of federal funds. The yearly average of federal disaster declarations has tripled in the last twenty years. With the increase in federalization of disasters, the burden and responsibility (or at least the perception of that responsibility) for preparedness and response has migrated from the local and state level to the federal level. The reason for the increase in disaster declarations is largely related to the application of the controlling federal statute for disasters, the Robert T. Stafford Disaster and Emergency Assistance Act. Under this act, the federal government pays 75-100 percent of disaster response relief as long as a federal declaration has been issued. Meeting the definition for such a declaration is relatively easy, and the financial damage threshold is also low. The ambiguous

provisions of the Stafford Act and low damages threshold create enormous incentives for states to seek these declarations rather than shouldering the lion's share of payment, especially as state budgets continue to decline. Returning the focus of disaster preparedness and response to states and local communities will require Congress to take certain actions. Making changes to federal disaster policy will ultimately realign the cost of disaster response and ideally eliminate the subsidy of the minority of states by the majority of states, and will align policy with the principle that all disasters are local.

The focus of FEMA ought to be reoriented to focus its efforts primarily on preparing to respond to catastrophes, not routine emergencies. Lessen the role of the federal government in state-level emergencies and emphasize greater responsibility among state and local communities toward preparing and developing response plans for local disasters. FEMA should look to radically redefine what it does and what it doesn't do, with the aim of placing the responsibility for disaster and emergency preparedness and response back with states and local communities. Implement reforms necessary to ensure that states and localities regain their primary role in disaster response, and the federal government stops subsidizing the routine localized disasters. Demand that state and local governments pay greater attention to mitigating disaster risks and bear the consequences of responding to disasters exacerbated by poor policies. Place the burden of routine disasters on state and local governments where it belongs.

Endnotes

¹ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5170b(b).

² Matt A. Mayer, "States: Stop Subsidizing FEMA Waste and Manage Your Own Local Disasters," Heritage Foundation *Background* No. 2323, September 29, 2009, at <http://www.heritage.org/Research/HomelandSecurity/bg2323.cfm> (accessed March 22, 2011).

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⁴ *The Federal Emergency Management Agency*, About FEMA, <http://www.fema.gov/about/history.shtm> (accessed March 22, 2011).

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Keith Bea, "Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding," Congressional Research Service, March 16, 2010, Summary, at http://assets.opencrs.com/rpts/RL33053_20100316.pdf (accessed March 22, 2011).

⁸ *Ibid.*, 9.

⁹ The Robert T. Stafford Disaster and Relief Emergency Assistance Act, Public Law 93-288, 42 U.S.C. 5170b, Section 403(c).

¹⁰ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5187, Section 420.

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¹² *The Federal Emergency Management Agency*, Fire Management Assistance Grant Program Details, at <http://www.fema.gov/government/grant/fmagp/details.shtm>.

¹³ Federal Disaster Declarations, <http://www.fema.gov/news/disasters.fema?year=2007>.

¹⁴ 2007 Fire Cost Threshold, http://www.fema.gov/government/grant/fmagp/2007_fct.shtm.

¹⁵ Fire Management Assistance Grant Program Overview. <http://www.fema.gov/government/grant/fmagp/index.shtm> (accessed March 22, 2011).

¹⁶ Keith Bea, "Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding," Congressional Research Service, March 16, 2010, 10, at http://assets.opencrs.com/rpts/RL33053_20100316.pdf (accessed March 22, 2011).

¹⁷ Ibid., 10.

¹⁸ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5122, Section 102.

¹⁹ The gubernatorial request for a declaration is forwarded to the President through FEMA official. Only the President may issue a major disaster declaration. Code of Federal Regulations, Title 44: Emergency Management Assistance, Part 206.48, Factors Considered When Evaluating a Governor's Request for a Major Disaster Declaration, at <http://cfr.vlex.com/vid/206-considered-evaluating-governor-19833539> (accessed March 22, 2011).

²⁰ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5122(2).

²¹ *The Federal Emergency Management Agency, Federal Disaster Declarations – 2007 Disaster Declarations*, <http://www.fema.gov/news/disasters.fema?year=2007> (accessed March 22, 2011).

²² Keith Bea, "Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding," Congressional Research Service, March 16, 2010, 10, at http://assets.opencrs.com/rpts/RL33053_20100316.pdf (accessed March 22, 2011).

²³ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5122, Section 102.

²⁴ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5191(b).

²⁵ Keith Bea, "Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding," Congressional Research Service, March 16, 2010, 11, at http://assets.opencrs.com/rpts/RL33053_20100316.pdf (accessed March 22, 2011).

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²⁷ Bruce R. Lindsay and Justin Murray, "Disaster Relief Funding and Emergency Supplemental Appropriations," Congressional Research Service, Report 7-5700, January 26, 2010, Summary, at <http://www.effectivepeacekeeping.org/sites/effectivepeacekeeping.org/files/04/Disaster%20Relief%20Funding%20and%20Emergency%20Supps%201.10.pdf> (accessed March 22, 2011).

²⁸ Keith Bea, "Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding," Congressional Research Service, March 16, 2010, 18, at http://assets.opencrs.com/rpts/RL33053_20100316.pdf (accessed March 22, 2011).

²⁹ Ibid., 18.

³⁰ Bruce R. Lindsay and Justin Murray, "Disaster Relief Funding and Emergency Supplemental Appropriations," Congressional Research Service, Report 7-5700, January 26, 2010, 18, at <http://www.effectivepeacekeeping.org/sites/effectivepeacekeeping.org/>

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³¹ *The Federal Emergency Management Agency, Average Total Obligations by Year and by Declaration*, <http://www.fema.gov/government/grant/pa/stat2.shtm> (accessed March 22, 2011).

³² The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5170a, Section 402(5).

³³ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5170b, Section 403(b).

³⁴ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5170c, Section 404(a).

³⁵ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5172, Section 406(b).

³⁶ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5173, Section 407(d).

³⁷ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5174, Section 408(g) and Section 408(h).

³⁸ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5170, Section 401.

³⁹ Jena Baker McNeill and Matt A. Mayer, "The Solution to FEMA's Budget Woes Is Not More Money," Heritage Foundation *WebMemo* No. 2875, April 21, 2010, 1, at <http://www.heritage.org/research/reports/2010/04/the-solution-to-femas-budget-woes-is-not-more-money> (accessed March 22, 2011).

⁴⁰ *Ibid.*, 1.

⁴¹ *The Federal Emergency Management Agency, Disaster Search*, at <http://www.fema.gov/femaNews/disasterSearch.do?action=Reset> (accessed March 22, 2011).

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⁴³ *Ibid.*, 4-7.

⁴⁴ U.S. Department of Homeland Security, "Target Capabilities List: A Companion to the National Preparedness Guidelines," (Washington, D.C.: U.S. Department of Homeland Security, September 2007), Preface, at <http://www.fema.gov/pdf/government/training/tcl.pdf> (accessed March 22, 2011).

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⁴⁷ Federal Emergency Management Agency, “FEMA Fact Sheet: National Planning Scenarios,” at http://www.fema.gov/pdf/media/factsheets/2009/npd_natl_plan_scenario.pdf (accessed March 22, 2011).

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⁵⁰ Ibid.

⁵¹ The Robert T. Stafford Act Disaster and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. 5170, Section 401.