



## RESOLUTION

**Overview:** A resolution by the Restore Louisiana Task Force calling upon Congress and the Administration to continue focusing on ways to improve the nation's readiness and capacity to prepare for, respond to and recover from catastrophic disasters.

**WHEREAS**, our nation has experienced over 2,000 federally declared disasters during this Century, an average of 130 per year, with Louisiana suffering 22 federally declared natural disasters during this time period, to include hurricanes Katrina and Rita (2005), Gustav and Ike (2008), Isaac (2012), and the Great Floods of 2016, each disaster bringing damage and destruction to the state, displacing citizens from their homes, and testing the capacity of state and local first responders;

**WHEREAS**, given the widespread and varying scope of the effects of these catastrophic disasters, relief and recovery activities require substantial human, financial and technological resources, capabilities, and support, oftentimes requiring the state to call upon the federal government for additional capacity and resources;

**WHEREAS**, leading up to, during and post-disaster, providing support and resources promptly is the recognized and shared goal of all levels of government, in order to minimize the toll on affected citizens, decrease the overall cost of the damage, and facilitate a more expeditious recovery;

**WHEREAS**, providing a flexible structure for effective response and recovery support enables federal resources to be deployed to the state and community level in a unified and collaborative manner, assisting a disaster-impacted state and region with restoring, redeveloping and revitalizing its housing, economic, health, social, infrastructure, natural and cultural resources in order to build a more resilient nation;

**WHEREAS**, regulatory and legislative barriers at the local, state and national levels have the ability to hinder the expeditious delivery of a full suite of recovery efforts to impacted communities;



NOW, THEREFORE, BE IT RESOLVED that the Restore Louisiana Task Force calls on Congress, the Administration, and state and local governments to continue exploring proactive methods to facilitate and hasten community readiness, recovery and rebuilding efforts.

BE IT FURTHER RESOLVED that the Restore Louisiana Task Force calls on Congress and the Administration to continue to focus on ways to improve the nation's readiness and capacity to respond to catastrophic disasters, such as addressing the following common post-disaster hurdles federal law and regulation creates for homeowners, communities and state and local governments:

### **IMMEDIATE RESPONSE PHASE**

#### **FEMA Structure in Delivering Assistance**

- During emergency events, FEMA employees are often moved on and off different cases and issues without notice and without ensured continuity, creating delays by requiring states to re-start negotiations with FEMA for reimbursements. Additionally, FEMA employees performing inspections, reviews and issuing approvals generally lack knowledge of and experience in specialized fields, such as transportation infrastructure. FEMA should pursue enhanced workforce planning to better meet needs during disaster events. FEMA employees should undergo additional training and measures should be taken to ensure continuity of service, which could be accomplished by limiting employee re-assignments.

#### **Emergency Sheltering/Care**

- Activation and eligibility requirements related to the 1135 Waiver that DHHS Secretary may grant and associated federal Public Health Emergency declarations shall be clarified and a process for notification delineated and published. (In a presidentially declared disaster under the Stafford Act, the DHHS Secretary may temporarily waive or modify certain Medicare, Medicaid and Children's Health Insurance Program requirements to ensure that sufficient health care services are available to meet the needs of individuals enrolled in the Social Security Act programs in the emergency area and the time periods that providers who provide such services in good faith can be reimbursed.)
- Priority access to Transitional Sheltering Assistance (TSA) should be provided to at-risk elders and persons with disabilities to assure accommodation and avoid unnecessary institutionalization

#### **Prevention/Treatment**

- FEMA should allow for Indirect Costs to manage the SAMHSA administered Crisis Counseling Assistance and Training Program (CCP); for FEMA to pre-certify high-risk



states as having a competent response plan for the immediate distribution of funds up to a pre-determined amount for the initial 90-day response, bypassing the delay of the Immediate Services CCP process phase and develop thresholds and criteria that allow for CCP funds to be used for behavioral health treatment.

- Federal policies should be explored to require Federally Qualified Health Centers (FQHCs) to provide medical support to shelters.

### **FEMA Reimbursement Process**

- Medical Facilities – Alternate means of reimbursement processes should be explored to include considering using a day-to-day coding system for medical facilities – e.g. adoption of DRC codes for hospital costs related to surge post-disaster. The current FEMA Project Worksheet (PW) process requires extensive paperwork that could be streamlined if FEMA used or leveraged the normal operating processes for reimbursement. It would be helpful if a state plan waiver were allowed to enable same-day payments through Medicaid for mental health and primary care patient visits to FQHCs.
- Volunteer/Non-Profit Organizations – After disasters, it is clear that federal, state, local, private and faith-based organizations must often coordinate on a “no-notice” emergency basis in order to meet disaster survivors’ needs. Funding for education, training and exercises would improve response to “no-notice” events across the spectrum of services and could serve as a national blueprint for future coordination.

### **FEMA and Interpretation of the Stafford Act**

- Application of FEMA’s Disaster Assistance Policy 9525.4 related to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”) should be revisited to determine applicability of reimbursement to the healthcare industry.
- In the case of innovative intermediate housing assistance programs such as Louisiana’s Shelter At Home program (a FEMA Public Assistance-funded program), FEMA currently interprets the Stafford Act as barring it from providing immediate repairs that will help a homeowner move back in their home more quickly after the disaster simply because that immediate assistance may remain permanently (which FEMA believes to be outside the scope of eligibility for its emergency repairs funding.) Particularly we are referring to the example of the barring of FEMA Public Assistance money to install sheetrock on the inside of the external walls of the home. However, repeatedly FEMA ends up paying significantly more to house those families for several months in TSA (FEMA-funded hotel rooms) or to bring in Manufactured Housing Units to serve as “temporary” homes.



### **FEMA Eligible Expenses**

- Private property debris removal is generally not eligible for reimbursement under FEMA's Public Assistance Program as debris on private property does not typically present an immediate health and safety threat to the general public. FEMA's policies and requirements regarding Private Property Debris Removal should be amended to assist individuals with getting debris to the right of way and subsequent removal of debris in order to ensure timely and proper management.
- The cost share for the applicant (local and state government) to FEMA should automatically decrease based on the percentage of the applicant's damage (from 25% down to 0% depending on the extent of the damage).
- The Stafford Act should be amended to make the straight-time labor costs, and not just overtime costs, of government employees responding to the disaster eligible for reimbursement.
- The Stafford Act should be amended to cover at least part of the cost of conducting damage assessments.
- Legislation should be passed that would provide assistance to homeowners not in a designated flood zone that had flood damage but did not have flood insurance. Such assistance should not be dependent upon needs.
- FEMA's policies and requirements regarding management of household hazardous waste (HHW) and other "special wastes" such as electronics should be amended to allow for a streamlined reimbursement process with total funding. Local governments must have immediate access to all necessary resources for dealing with HHW.
- FEMA's policies and requirements regarding management of orphan containers should be amended to allow for a streamlined reimbursement process with total funding. Local governments must have immediate access to all necessary resources for dealing with orphan containers (i.e., containers carried by high winds and floodwaters away from their source).

### **Federal Highway Administration**

- A review of Federal Highway Administration (FHWA) cost-share for debris pickup is recommended. Under the current system, states are required to contribute less match money for state-declared emergencies and more match money for federally declared emergencies. A higher state match during federally declared emergencies, which are more expansive and costly events, is counterintuitive.
- FEMA should continue to seek improvements and revisions to the FHWA Emergency Repairs (ER) Manual. FHWA's ER Manual should be revised to clarify which repairs are considered emergency and which are considered permanent. LA DOTD suggests that short and long term bridge repairs associated with a complete loss of utility should be considered "emergency," and 100 percent funded by FHWA. DOTD also suggests that



signal and sign repairs should be considered “emergency” instead of “permanent.” Also, “emergency” and “permanent” repair reimbursements to state and local governments should be focused on the scope of the damage and not arbitrary time limitations for repairs.

- FHWA has a backlog of reimbursements for states with transportation damages related to disasters. Reimbursements are made periodically, subject to appropriation, on a first come, first serve basis. Under current conditions, states have no expectation of when reimbursements will be made, resulting in cash flow issues for state departments of transportation. FHWA’s backlog should be funded and cleared on a regular basis to ensure timely reimbursement to states suffering losses from disasters.
- During or immediately following a disaster that causes damage to transportation infrastructure, FHWA issues an early release of revenue to states to mitigate cash flow issues. While helpful to states, this early release of revenue is not based on the scope of the emergency or anticipated state cash flow issues. The amount of the early release is currently arbitrary, and should instead be based on the scope of the emergency and the state’s anticipated cash flow issues.

## **LONG TERM RECOVERY**

### **Environmental Reviews**

- Congress should consider granting to HUD Secretarial authority to grant waivers under the Community Development Block Grant Disaster Recovery (CDBG-DR) program with respect to statutory environmental clearance requirements, particularly when CDBG-DR dollars are being used for the limited purpose of repairing or rehabilitating single-family residential structures where the footprint of the home will not be changed.

### **Duplication of Benefits**

- Congress should provide that, in the determination of when a duplication of benefits is occurring post-disaster, the law may:
  - (1) allow recipients of Small Business Administration Disaster Loans for disaster-related damage to remain eligible for CDBG-DR reimbursement for documented repair, rehabilitation or eligible mitigation work performed on their home as a result of such damage, in which event the reimbursement could be made directly to the Small Business Administration on behalf of the eligible homeowner for the purpose of reducing the homeowner’s outstanding debt obligation to the Small Business Administration for such loan proceeds, and any remaining reimbursement paid directly to the homeowner;
  - (2) require that donations of labor or materials from volunteer or philanthropic organizations for the benefit of a homeowner constitute a duplication of benefits



only to the extent that the value of such labor or materials used for that home has been used to satisfy a matching requirement for any other Federal program.

**“NFIP Penalty” for School Campuses and First Responder Facilities**

- Under current regulation, FEMA’s National Flood Insurance Program (NFIP) assesses to a facility located in a floodplain a \$500,000 penalty per facility damaged in a flood event. School campuses often have numerous facilities affected by a flood. Having the NFIP Penalty imposed per facility (rather than per campus) effectively halts recovery for those applicants, particularly schools and first responder facilities. Congress should ensure FEMA allows only one deduction per campus for schools and first responders, greatly enhancing recovery progress.

**Mortgage Servicing Guidelines Delay Receiving Flood Insurance Checks**

- Fannie Mae, Freddie Mac, and Ginnie Mae federal servicing guidelines slow homeowners’ receipt of approved NFIP flood insurance proceeds checks when these homeowners want to rebuild their homes themselves, rather than hire a licensed contractor. These particular federal mortgage servicing requirements force banks and mortgage companies servicing these mortgage loans to require that resourceful homeowners hire a licensed contractor in order for the lender to release NFIP flood insurance proceeds, even though Louisiana law, for example, does not require a licensed contractor for work under \$75,000. Congress should remove these federal procedural hurdles from these homeowners’ path to recovery.

PASSED AND UNANIMOUSLY ADOPTED on this the 24th day of February 2016.

APPROVED

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Jimmy Durbin, Co-Chair

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Jacqui Vines Wyatt, Co-Chair