

**TESTIMONY OF**  
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**JINDAL'S AUTHORIZED REPRESENTATIVE TO FEMA**  
**BEFORE THE**  
**U.S. HOUSE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,**  
**PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT**  
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Thank you for this opportunity to address this committee about our progress and remaining challenges in Louisiana as we recover not only from hurricanes Katrina and Rita, but also from two new storms in 2008, Gustav and Ike. By this point in Louisiana, the vast majority of the state has suffered the effects of one or more of these hurricanes – from the high-profile catastrophe in the city of New Orleans to the complete devastation of Cameron Parish in the Southwest, which many people haven't heard of but is responsible for much of the nation's domestic oil and natural gas production, to North Louisiana, which is typically a safe haven during storms but this year experienced millions in damages from rain and wind as they passed over.

The situation we face in Louisiana is unique – I know of no other state that has suffered such destruction in three years or that faces as many complex rebuilding issues. In context, the combined impact of Hurricanes Katrina and Rita is the largest disaster in U.S. history. Measured only in terms of Stafford Act funds, it is larger than the next largest disaster -- the Attack on America on September 11, 2001 -- by four times and it is larger than the remaining top 10 disasters combined. From Hurricanes Katrina and Rita alone, Louisiana has more than 1,400 unique applicants in the Public Assistance program. There are another 700 applicants eligible for assistance as a result of Hurricanes Gustav and Ike. For Hurricanes Katrina and Rita, almost 22,000 individual projects have been identified as eligible for repair or replacement, and there have been more than 45,000 total project worksheets and versions written and obligated. The numbers are staggering.

Conversely, no other state in the nation has been blessed with such generosity from Congress and the American people. Though we certainly face the trials of a weak economy in Louisiana, we have completed billions of dollars worth of recovery work and have much opportunity in our state. In fact, in 2008, we invested almost \$10 million a day in housing and infrastructure as part of our recovery – I know of no other state that can make this claim.

Despite the fact that we have spent more than \$4 billion in FEMA Public Assistance funds and billions more in Community Development Block Grants, much work remains to be done. Today, I will address some of those challenges.

### **Impact of Hurricanes Katrina and Rita**

In 2005 the state of Louisiana bore the brunt of the biggest natural disaster in American history – Hurricane Katrina. Three weeks later Louisiana was hit by Hurricane Rita– now the third most expensive natural disaster in American history.

Hurricanes Katrina (landfall Aug. 29, 2005) and Rita (landfall Sept. 24, 2005) devastated south Louisiana, claiming 1,464 lives, displacing 900,000 residents, destroying more than 200,000 homes and 18,000 businesses. In the New Orleans metropolitan area, storm surge from Hurricane Katrina breached the city's levee protection system at several points. Eighty percent of the city was left underwater and thousands were stranded on rooftops and in shelters-of-last-resort. Much of St. Bernard Parish was devastated by flooding and wind damage. Hurricane Katrina also left behind major wind, rain and storm surge damage in Plaquemines, Jefferson, and St. Tammany parishes.

Three weeks later, storm surge from Hurricane Rita re-flooded parts of New Orleans before the storm made landfall in far eastern Texas, devastating much of Cameron Parish and leaving behind intense flood and wind

damage in Calcasieu and Vermilion parishes. Hurricane Rita destroyed every building in Cameron Parish with the exception of the Parish Court House. Many other Louisiana parishes also suffered major damage from the storms.

The economic impact on Louisiana reaches into the tens of billions lost. Since the storms, estimates show the almost \$51 billion in federal funds have been spent in Louisiana, including monies for disaster response, rebuilding, the National Flood Insurance Program and loans from the Small Business Administration. In addition, Louisiana has invested several billion of its own funds in recovery.

### **Impact of Hurricanes Gustav and Ike**

Hurricanes Gustav and Ike struck Louisiana on September 1, 2008 and September 12, 2008 respectively. The storms flooded approximately 12,000 homes and damaged approximately 200,000 more, caused as much as \$750 million in agriculture damages, damaged more than \$1 billion in infrastructure and caused \$2.5 to \$5 billion in business losses. Education facilities across the State suffered between \$100 and \$150 million in damages. The State evacuated more than one million citizens from South Louisiana and more than 1.5 million homes and business were without power for up to three weeks. The Louisiana Economic Development Department estimates that hurricanes Gustav and Ike left behind \$8 - \$20 billion in insured and uninsured physical damage.

In Louisiana, 46 people died in Hurricane Gustav and five died in Hurricane Ike. The state spent \$500 million on the initial response to Gustav and Ike. Following the storms, estimates indicate that FEMA Public Assistance claims in Louisiana will exceed \$800 million in damages. This number is expected to rise.

Louisiana repeatedly requested that the Bush Administration waive the local match required on disaster and recovery costs. No state has experienced such catastrophic losses in such a short period of time. Paying even a 10 percent match on these costs could stifle our recovery further, as Louisiana faces an estimated \$1.3 billion budget shortfall in its upcoming fiscal year. Given a 10 percent cost share for Gustav and a 25 percent cost share for Ike, Louisiana will spend approximately \$250 to \$300 million only within the Public Assistance program to recover from these storms. These costs do not include the full economic costs to the state, or the individual costs to the citizens and business of the state that will not be covered by existing federal programs. These storms hit Louisiana while it was in the midst of recovery from the largest disaster in U.S. history – Hurricanes Katrina and Rita – and greatly compounded the difficulty of that recovery process. Granting Louisiana 100 percent federal cost share for these storms would be a shot in the arm for our recovery and rid our state of a huge financial burden that it will have difficulty meeting.

### **Louisiana's Recovery Organization**

When Governor Bobby Jindal came into office in January 2008, Louisiana's recovery was, to be blunt, broken. Three discrete organizations held authority for different aspects of the recovery from hurricanes Katrina and Rita. While the LRA controlled policy and planning, the Governor's Office of Homeland Security and Emergency Preparedness oversaw FEMA Public Assistance programs aimed at rebuilding critical infrastructure and the state's Office of Community Development had authority for implementing Community Development Block Grant programs designed to repair housing and infrastructure and offer economic development.

These three organizations needed to work together, but their relationships were dysfunctional. No one person ultimately had responsibility for the entire recovery or the power to work across programs and agencies to make changes. The state faced near constant battles with the federal government over unnecessarily bureaucratic processes and red tape attached to funding streams.

Governor Jindal decided that before we could expect major federal changes, we needed to take care of our own house in Louisiana. So on his first day in office, he appointed me his authorized representative to the Federal Emergency Management Agency for Katrina and Rita recovery, ultimately giving me authority over the LRA, the Public Assistance program and the Hazard Mitigation Grant program. Shortly thereafter, he appointed me the executive director of the Office of Community Development, giving me sole authority over all hurricane recovery programs. I am a cabinet-level employee, giving me direct access to the governor and to my counterparts in other state agencies. And after hurricanes Gustav and Ike, the Governor gave me the same authority for recovering from those storms, allowing for us to coordinate recovery funds all across the state.

## **FEMA Public Assistance**

### **Areas of Progress**

So far in Louisiana, we have paid more than \$4 billion to applicants through the Public Assistance program for Katrina and Rita. The state of Louisiana is FEMA's biggest "customer," so to speak, and the state's Office of Facility Planning and Control is the largest single Public Assistance applicant in American history. In fact, FEMA's own data shows that the average yearly obligation in the PA program is \$2.75 billion, with the average disaster having only \$58.9 million in obligated funding. In Louisiana we have surpassed these amounts many times over, with 20 of our many applicants recovering from more than \$100 million in damages. This is important to keep in mind during any discussion of Public Assistance and disaster recovery. For the past 18 months we have averaged disbursements in the PA program of \$25 million a week.

One of the areas of progress the state is most proud of is its Express Pay program. When Governor Jindal took office in January 2008, the PA program was moving at a sluggish pace at best. It was taking between 45 and 60 days for the state to reimburse PA applicants, usually local and state government entities, for completed work. Consequently, local entities were having difficulty paying their contractors, who were in turn walking off the job or not bidding on future work. This process was not friendly to businesses, which expect payment on 30-day cycles and cannot wait two months to be paid.

Recognizing the issue, we created the Express Pay program. This changed how the state reviewed requests for reimbursement through the program. Rather than doing a two-month review before making a payment, the state now does an initial review to ensure that all documents are in order and then makes the payment, usually in less than 10 days, doing a more thorough review and audit on the back end of the process. If we ever encounter what we think is fraud, we immediately turn this information over to the proper authorities. However, we have found very little potential fraud in the program. If a PA applicant is paid too much or paid for non-eligible expenses, we dock that funding from their next reimbursement payment.

Through Express Pay we have paid \$708,264,010 for 3,768 reimbursements with an average turnaround time right now of four days.

We also consider our work with FEMA to change the PA appeals process an improvement in the process. Originally, when a PA applicant wanted to appeal a FEMA decision on a project worksheet, the appeal would go back to the Transitional Recovery Office in New Orleans, meaning that the same office that made a decision would then be deciding the appeal. This was an inherent conflict of interest because the TRO seemed unwilling to reverse its own decisions. Last year, we were able to rework the appeals process so that the first appeal would be reviewed by FEMA Region VI. Following this step, applicants who are still dissatisfied can request a second appeal and are provided the opportunity for oral argument to FEMA headquarters.

Although this was an improvement in the process, it has become clear that FEMA Region VI is not reviewing discretionary decisions of the TRO and is not providing a completely independent review. To instill confidence in the system, there still exists a need to provide an independent review of the TRO discretionary decisions by individuals who have professional expertise to understand the technical issues normally raised in an appeal and to provide quality decisions that will result in a safer, strong community as opposed to decisions designed to save funding in the disaster.

Additionally, two provisions included by Senator Mary Landrieu in the recent economic stimulus bill present strong opportunities for Louisiana and its recovery. They are:

- **Arbitration Panel:** The Stimulus Package includes language directing President Obama to establish an arbitration panel for FEMA's Public Assistance program to expedite the recovery efforts from hurricanes Katrina and Rita within the Gulf Coast Region. The arbitration panel will have sufficient authority to award or deny disputed Project Worksheets. This will help us get final decisions on many FEMA PA projects that have been stuck for years;
- **Hazard Mitigation Grant Program language:** The Stimulus Packages includes language that prohibits FEMA from restricting the use of HMGP funds designated to help with Katrina and Rita recovery for homeowners who have already started work on their elevation.

### **Public Assistance Summit in February 2008**

Last year, at the start of the Jindal administration, we suggested that the state and FEMA have a high-level meeting to discuss FEMA policy issues that were adversely affecting the speed of the recovery in Louisiana. It is the State's position that portions of the Stafford Act and its regulations could be supportive of a strong recovery for Louisiana, but that the law lacks sufficient assistance for states affected by catastrophic disasters. Additionally, FEMA's bureaucratic application of the Stafford Act seems to be designed to reduce spending instead of enhancing an applicant's ability to recover.

Over two days, state and local officials met with officials from FEMA headquarters to discuss 15 policy issues affecting the implementation of the Public Assistance program. These areas, in no order of importance, were:

- 1.) Program Management Funding
- 2.) 406 Hazard Mitigation
- 3.) Undervalued Project Worksheets/Scope Alignment
- 4.) Timelines for Completing Versions
- 5.) Grants Management of Contents PWs

- 6.) State and Local Administrative Costs
- 7.) Alternate Dispute Resolution (Appeals)
- 8.) Alternate/Improved Projects
- 9.) Insurance Waivers
- 10.) Application of Codes and Standards
- 11.) Review of Expedited PWs
- 12.) NFIP 50 Percent Rule Process
- 13.) Fair Labor Standard Act Application
- 14.) Chronology of Asset Protection (CAP)
- 15.) Codifying Policy for Insurance Deductibles

The state entered into this Summit in good faith and willing to work with FEMA to find compromises on these hot button issues. Additionally, the state and FEMA agreed to a public partnership based on open communication and vowed to work through issues together, rather than just writing letters back and forth.

While this partnership certainly existed for a few months, it was almost never to the benefit of the state. Following the Partnership Summit, we meet again with the FEMA Deputy Administrator and identified the top 10 projects that we agreed to focus on to achieve resolution prior to the third anniversary of the 2005 storms. These included agreements on the following issues and projects:

- Temporary facilities for Southern University in New Orleans;
- Damages of the Charity Hospital; Policies to assist the Recovery School District to manage the rebuilding of the New Orleans School System;
- The demolition of thousands of abandoned homes in New Orleans and St. Bernard Parish;
- A methodology to review damages to the New Orleans Sewerage and Water Board;
- Application of the Maritime Debris Removal process that had already been implemented in Alabama and Mississippi; and
- To focus scope alignment process on facilities to support emergency responders.

Most of these same issues we agreed to address at the beginning of 2008 still exist today. Our frustration level obviously is high. Local FEMA staff at the Transitional Recovery Office assures the state that they agree with us on any number of matters and blame FEMA Headquarters when decisions don't break in the state's favor. FEMA Headquarters staff blames the Office of Management and Budget for not wanting to create precedent or stringently reviewing each decision that would send additional funding to Louisiana. These excuses ring hollow and the state of Louisiana feels that FEMA wanted a partnership in name only, in hopes of ending public battles that brought the agency bad public relations and negative headlines. It is disappointing that after months of being good partners to FEMA, we opened *USA Today* on February 9, 2009, to read that the head of the TRO in New Orleans was publicly blaming state and local governments, saying we are "trying to wring more money out of the federal government, sometimes ignoring legal limits on what disaster aid can pay for."

This assertion is not only patently untrue but also completely insulting to those of us in Louisiana who is working so hard to rebuild. Through the Public Assistance program, FEMA is directed to help us rebuild public infrastructure. Wanting FEMA to pay for things that are provided for in the Stafford Act is not the state trying

to squeeze the federal government – it is the state asking FEMA to do its job. And it is asking FEMA to do a different job based on a different type of disaster – respond to a catastrophic disaster, which requires creativity and flexibility, not arcane regulations and red tape laden bureaucracy.

### **Scope Alignment and Other Hurdles**

The basic tenets of any construction project is that in order to plan properly and ensure completion, you must know how much the project will cost and be able to provide adequate funding. This is common sense, but not common practice for the FEMA Public Assistance program, which more often than not undervalues project worksheets, leading to months of negotiations to widen the “scope of work” and write a new version of the project worksheet. While this process labors on, the applicant, a local or state government entity, can only move forward if it has the cash flow and willingness to risk doing work for which FEMA may never ultimately reimburse the applicant. State law prohibits contracting unless all funds are identified, and without proper scope alignment, the state and local governments cannot move forward with projects. This is the biggest single issue facing our administration of the PA program. State and localities cannot responsibly seek bids on a project until they know how much repair work FEMA will consider eligible for reimbursement. The difficulty of this process was identified in the Policy Summit in February 2008, and FEMA agreed to develop a process to track and prioritize the scope alignment process. We are still struggling with a very rudimentary system which in many ways has compounded the difficulty of the process. We have more than 1,500 requests for scope alignment pending and are submitting an average of 50 more per week.

According to the Governor’s Office of Homeland Security and Emergency Preparedness, which administers the PA program, and the Office of Facility Planning and Control, which is the largest PA applicant in American history, when state and local governments do work with FEMA to do scope realignment, the projects have their obligated amount increased by as much as 200 percent and rarely less than 25 percent. On many projects, millions of dollars worth of work are at risk. This is just unacceptable and symptomatic of the fact that FEMA routinely undervalues project worksheets. This type of discrepancy holds up progress on projects that should be underway and keeps staff members at the federal, state and local levels tied up in negotiating new project worksheets, when they should be focusing on rebuilding.

The most “famous” of the projects affected by scope alignment is the Medical Center of Louisiana at New Orleans, commonly called Charity Hospital. The state hopes to create a cutting edge medical care and teaching facility in New Orleans and will combine Community Development Block Grant, FEMA and Veterans Administration funds to replace the outdated hospital. The state and city of New Orleans are moving toward that goal by using \$75 million in CDBG funds to purchase land for the new facility. The State and FEMA have been actively engaged in negotiating the scope of eligible damages to the hospital for more than three years. Hurricane Katrina completely destroyed Charity Hospital and until last month FEMA offered a paltry \$25 million for repairs. After three and a half years, FEMA increased funding for the project to \$121 million, but still fails to acknowledge the actual eligible damages to the facility.

At the heart of this debate is if the hospital, which was ravaged by Hurricane Katrina, is more than 50 percent damaged. If it is more than 50 percent damaged, the Public Assistance program provides that the facility is eligible for full replacement. The State has had three separate and independent reviews of the eligible damage

to the hospital by nationally recognized experts, all of which have concluded that the damage to the hospital is greater than 50 percent. One of the evaluations was conducted by RSMean, whose cost estimating standards have been adopted by FEMA. FEMA has refused to accept this analysis and has further failed to provide an adequate reviewable report justifying its reasons for not accepting the results of these reviews. In a meeting with Governor Jindal in December 2008, the leadership of FEMA, the Department of Homeland Security and the Office of the Federal Coordinator for Gulf Coast Recovery offered the state \$150 million for the project, while the eligible replacement value of the hospital is \$492 million. While Governor Jindal announced his intent to appeal this amount, FEMA presented the state with a project worksheet for only \$121 million, without detailed analysis of how they arrived at that dollar value to represent the cost of damages to the facility. The state cannot move forward with this project, which would improve health care options for not only the city of New Orleans but also the Gulf Coast region, until this issue is resolved.

Many smaller projects also find themselves trapped in purgatory between completion and “scope alignment,” many times because FEMA reverses decisions and frequently changes its mind about projects. We are in the process of identifying the largest of these projects, approximately 4,000 that will require some level of scope alignment and cost adjustment. But we estimate that we have as much as \$2 billion either in appeal or in project worksheets that have been undervalued. This affects every sector, from health care to higher education to fire and police stations. A few examples:

- At Southern University New Orleans, cabling of the electrical system had to be replaced campus wide at a cost of approximately \$3.3 million dollars because the underground conductors of this low voltage system were submerged in salt water for three weeks. No professional, no contractor, no building inspector, including FEMA’s electrical engineer, would certify an installation reusing the existing, salt waterlogged cable. However, FEMA, including its electrical engineer, refuses to pay for this obviously eligible project replacement. The threat associated with not replacing this system enormous and obvious to anyone, so it is very difficult to understand why this work is considered ineligible. In addition, FEMA has provided for a 1,500 student temporary facility. The current enrollment is 3,000;
- At Tulane University, the Howard Tilton Library is a government documents repository and its repair is a \$30 million project to elevate the library that FEMA refuses to fund despite its own staff making the recommendation to pursue elevation. All of the documents remain in storage and the library remains on temporary HVAC since Hurricane Katrina. The school also has partial or complete eligibility reversals on its Alumni House and McAlister Auditorium;
- The Recovery School District was promised FEMA PA Category B funds in December 2007 for Crocker Elementary School. FEMA has completely reversed this decision, but never gave the RSD even a letter with an official reason for this de-obligation. In the interim, the RSD spent nearly \$1 million on architectural and engineering fees on the project.
- In Vermilion Parish, which suffered damage in Hurricane Rita, Henry Elementary School was obligated approximately \$3.4 million because the facility needed to be replaced. Later, FEMA changed its mind, took money from the project, leaving only \$800,000 for relatively minor repairs;
- Timbalier Barrier Island, which provided protection for a Natural Wildlife Preserve and Marine Fisheries as well as protection for an emergency evacuation route, was obligated \$7 million for repairs.

FEMA later determined that insufficient maintenance records existed and de-obligated the entire amount, leaving the fisheries and evacuation route unprotected against future hurricanes.

- In the city of Westwego, FEMA approved the full replacement of city hall and city police station for a cost of approximately \$7 million. The city, acting on good faith, moved forward and purchased land out of their own budget and conducted temporary repairs to the damage facility to occupy while the replacement facility was under construction. FEMA later recanted their eligibility determination and de-obligated approximately \$6.5 million.
- At St. Mary's Academy, FEMA originally determined the faculty house to be eligible for replacement at an estimated cost of \$8.2 million. The Sisters at St. Mary's then had the old facility demolished to start the construction of the new facility, only to be informed by FEMA that it had changed its mind and de-obligated the entire amount to replace the facility.
- In Slidell, the Auditorium was substantially damaged and FEMA refuses to obligate a replacement facility. Instead, FEMA will spend as much money as a replacement building to repair the damaged building and construct a 6' high concrete flood wall to protect it. Because this facility is in the middle of the town, this is undesirable and unfeasible, but FEMA will not reconsider;
- For the St. Bernard School Board a proposed consolidation project of two replacement school campuses into one is in jeopardy as FEMA refuses to acknowledge the school's existing standard practice of incorporating hallways into the building in lieu of outside, in the weather, hallways.

#### **406 Mitigation**

In the beginning of the disaster recovery effort, FEMA made a decision not to prepare hazard mitigation scopes, called "406 mitigation," of work as part of the initial writing of Project Worksheets, in order to reduce the length of time it would take to prepare PWs for the large number of PA applicants affected by hurricanes Katrina and Rita. Based on this decision, FEMA management informed their project officers to not address the issue while preparing PWs, and it was communicated that their intent would be to return later in the disaster and produce new versions of the PWs to address opportunities to mitigate against future loss as projects are rebuilt. The state of Louisiana opposed this decision at the time.

The impact of FEMA's decision not to prepare 406 mitigation scopes has been significant: FEMA's target for 406 funding in other disasters has been 15 percent of obligated Public Assistance funding. Currently, 406 funding for Katrina and Rita in Louisiana has been less than two percent. FEMA seems to be resisting applying the provisions of Section 406 to allow the improvement of damaged facilities to reduce or eliminate the threat of future similar damage.

When Louisiana continued to raise concerns about this issue, FEMA did finally address hazard mitigation by dedicating a small number of staff to look for mitigation opportunities, but the lead staffer was inexperienced and had a very narrow view of hazard mitigation that was not supported by the language in law and regulation.

FEMA has put together a new team of mitigation personnel that are experienced and knowledgeable of the program. However, that team now is having difficulty working with FEMA management and Quality Assistance/Quality Control staff at the Transitional Recovery Office, which does not completely understand the

mitigation program or the specifics of individual projects being mitigated. The result has been that management is regularly denying mitigation funding opportunities that meet legal requirements, or attempting to institute their own ideas and designs into the program, usurping the recommendations of the experience, expertise and project-specific knowledge of the mitigation team, thus often times placing mitigation projects on “hold” for indefinite periods and further delaying the Louisiana’s recovery.

An example of this resistance to funding mitigation projects is the Tulane University Tillman Library. The Tillman Library suffered severe flooding during Hurricane Katrina. Based upon specific advice from a FEMA Project Officer, Tulane pursued an analysis of 406 Hazard Mitigation options. Tulane hired an architectural and engineering firm recommended by the FEMA project officer as experienced in developing cost effective mitigation initiatives and spent more than \$500,000 on a design that met the cost benefit analysis of the 406 provisions. After more than 12 months of design work, while continuously receiving advice and buy-in from FEMA project officers on the project, the FEMA TRO staff determined that the proposal was not eligible for funding and would not approve the 406 project or the fee associated with the development of the project.

FEMA does not recognize this as a problem and has made no effort to streamline the process to support the FEMA 406 staff in their efforts to write hazard mitigation into Public Assistance projects. In fact, management at FEMA recently changed the organizational chart and split the 406 team, embedding them into the other FEMA groups and diluting their ability to draw upon the team’s expertise to produce project recommendations. FEMA has also discontinued a “mining for mitigation” project that was developed to identify mitigation opportunities that were disregarded when the original PW was written. We are missing a great opportunity to help communities build back safer and stronger and to protect the tax dollars that are being invested to repair facilities.

While FEMA cannot go back and change the initial decision not to write hazard mitigation elements into PWs, it can and should implement the 406 Mitigation program in order to maximize eligible mitigation opportunities for those PWs where mitigation measures can still be cost-effectively incorporated into the repair work. To do this, FEMA should let the PA applicants drive the development of mitigation strategies for individual projects, ensure that it use only the most experienced staff who understand the 406 mitigation component of the PA program in management and quality control roles and should work with the state to reestablish the “mining for mitigation” project.

### **Reforming the Stafford Act**

The Robert T. Stafford Act, which governs Public Assistance and Hazard Mitigation Grant Program funds is designed to be broad and comprehensive and allows the administrators of the programs broad latitude in the application of the programs to support recovery from a disaster. Historically, these programs have worked well and FEMA has demonstrated effective leadership and management in most previous disaster recovery efforts. However, everything changed in August 2005 when Hurricane Katrina struck the Louisiana coast. Entire communities were wiped out along with their tax base, housing stock, churches, schools, fire stations, police stations, utility systems, staff, grocery store, pharmacies, gas stations, etc. Every structure in Cameron Parish except one – the Court House – was destroyed. Eighty percent of the city of New Orleans was underwater for

30 days, pumped dry and flooded again for weeks by Hurricane Rita. It is not cliché to call such an event catastrophic.

The same law that governs recovery from a tornado in the Midwest or a mudslide in California is insufficient because it fails to offer the state any special consideration for the scope of the disaster. In the wake of the 2005 storms, Louisiana was unable to respond or recover from the disaster without the assistance of the Federal Government. We are now well beyond the difficulties of the response phase and both FEMA and Louisiana have significantly improved their respective capacities to respond effectively to disasters as demonstrated in our recent response to Hurricanes Gustav and Ike. However, Louisiana is still languishing in the recovery phase of Katrina and Rita, which has only been compounded by the 2008 storms. Those involved on a day-to-day basis understand that these events created a single “catastrophic” event and an effective recovery will require an extraordinary effort by all parties.

Thus, the Stafford Act must be reformed to create a “catastrophic” annex, which would trigger certain actions automatically in states where catastrophes have occurred. This designation should include an immediate waiver of all local and state match requirements for all FEMA programs, which the Bush administration refused to agree to for more than a year, insisting that Louisiana had to pay more than \$1 billion in matching costs that the state was unable to pay in such a difficult climate. Finally, the Congress acted in 2007 to remove this burden from Louisiana. This fight was wholly unnecessary.

Because the Stafford Act does allow administrators some flexibility in assisting states, it can be assumed that the Congress intended for the head of FEMA to use that flexibility to aid states facing disasters. One would assume that if FEMA ever were to be flexible, it would be to help a state that was completely devastated. However, the exact opposite occurred: FEMA clung to its regulations tightly and offered the state little flexibility. Typically for any given disaster FEMA will adjust existing policy for the special needs of that disaster by issuing “Disaster Specific Guidance” memos, and for most events there are a number of such guidance memos issued. For Katrina/Rita, the largest disaster in U.S. history, there have essentially been no Disaster Specific Guidance memos issued. Had FEMA been directed by the Stafford Act to treat Louisiana differently because of the unimaginable scope of the damage, our recovery might be further along today. It has exercised the discretion authorized by the Stafford Act, but not in a manner that has enhanced the State’s ability to recover.

Additionally, FEMA often denies requests in order to avoid creating precedent for future disasters. Such is the case with funds for home demolitions in St. Bernard Parish. If a “catastrophic annex” existed within the Stafford act, FEMA would not be setting precedent for all disasters – only catastrophes, which occur quite infrequently in the United States. This would give FEMA a level of comfort that it could make forward-thinking decisions without fear of creating long standing precedents for all disasters.

## **Disaster Housing**

### **Katrina-Rita Housing**

We have been working to bring affordable housing online in Louisiana for years since the storms. In 2008, this became more difficult as the national economic situation began to worsen. Indeed, developers had difficulty getting financing and the state had to work very hard to keep its tax credit deals moving forward. Recognizing this, the Obama administration recently granted an extension of the Disaster Housing Assistance Program (DHAP) for Katrina and Rita victims. It has also extended the timeline for removing FEMA trailers from the state by two months. The state of Louisiana cannot express enough how much these extensions will help our families avoid homelessness. We thank the President for this extension and for our allies in the Louisiana Congressional Delegation that supported this request.

In order to ensure that families are able to transition from DHAP into sustainable housing solutions, the state has been asked to manage the case management program for the DHAP transition assistance period. We have also been working with FEMA on a pilot case management program for transitioning individuals in trailers into sustainable housing. The state is committed to working with our federal partners to develop a coordinated solution to helping both of these groups find suitable housing or return to their own homes. But the solution must be comprehensive, not separate programs that split already thin case management providers and provide confusion to our residents. The state proposes a three pronged solution:

- **Centralized Housing Resource Clearinghouse:** Louisiana will launch a statewide call center, dedicated solely to housing issues, to ensure that residents are properly connected to available housing resources. The comprehensive clearinghouse will be a call center that provides housing resource information to all callers – including homeowners, renters and landlords.
- **Coordination and Consolidation of Case Management:** Case management will also be an important component in helping families transition. The state greatly appreciates the resources committed to Louisiana for this purpose. However, we urge our federal partners to recognize the incredible challenge posed by the administration of two separate programs, with different guidelines and deadlines.
- **Construction Management:** With case management consolidated under the DHAP case management model, the State recommends that FEMA redirect the funds allocated for the FEMA DCMP program to a construction, rather than case, management pilot program.

According to FEMA's February 17<sup>th</sup> report, 3,122 of the 4,286 families in trailers are homeowners. While we await similar data regarding the DHAP population, we know that some percentage of those households will be homeowners, as well. And we know that those owners still working to rebuild their homes do not need traditional case management to transition off of federal subsidies. They need support trained housing professionals to assist in the completion of their home repair.

In order for this transition to be a success, it is critical that FEMA and HUD accept our request for data on the individuals in DHAP. Without this information, it will be nearly impossible to reach out to those participants

and scale the appropriate programs based on their situations and locations. We are developing a six month plan for transition, but budgeting, implementation and outreach need to be developed based on the data we receive from the federal government.

The State recommends that we build a program informed by successful existing models. Through a competitive bid process, the State will identify existing local organizations with a successful history of providing housing services in those geographic locations with high concentrations of eligible homeowners still receiving federal housing assistance. These professionals will offer clients triage services (to assess barriers and prevent duplication of services), construction management (to connect with volunteers, donated materials, or available resources) and project management (to ensure quality and completion). Combined with efforts to complete Road Home closings where they remain outstanding, the construction management pilot, provides the best path to return homeowners to their homes.

### **Gustav-Ike Direct Housing Mission**

When a disaster happens, FEMA protocols call for the state to create a “State Led” Joint Housing Task Force. This is “state led” in name only, as FEMA leaves the state with few options when it comes to disaster housing. To be clear, nothing actually is finalized or negotiated when this task force meets; FEMA requires that the state submit each of its requests in writing over and over again before making final decisions. FEMA staff on the ground are not empowered to make decisions that will stick and headquarters is unwilling to either give them this power or send down employees who can make decisions.

In absence of an actual plan for how to house victims of a disaster, FEMA insists that the state request a “Direct Housing Mission” in writing. No template for how to request such a mission exists and FEMA employees working with Louisiana seemed unwilling to offer much practical guidance. In fact, the information FEMA originally told Louisiana it needed to grant a Direct Housing Mission could only be gathered through Preplacement Interviews with residents requesting housing assistance, which, of course, could not begin until the Direct Housing Mission was granted.

In other states, internal FEMA sources told us that they actually wrote the letter requesting this Direct Housing Mission for the state. This was not afforded to Louisiana. In fact, one day the state was told that it was unable to move forward unless it had written requests from its parishes outlining their needs. Later, several weeks after the disaster, after the state had troubled parishes that still had power outages and displaced citizens to send us a letter outlining all of their needs, high ranking FEMA employees at the Transitional Recovery Office in New Orleans told the state that because Louisiana is governed by the Napoleonic Code, we could not request housing on behalf of our parishes. Though FEMA ultimately reversed this stance because it was not a legal one, it illustrates how utterly ridiculous and completely subjective this disaster housing process is. Once the state upsets FEMA – which by our count happened in 2005 – the agency spends weeks finding legal loopholes and arcane regulations to justify denying the state’s requests.

The process keeps citizens, the state and local governments in a lurch because FEMA will only extend certain provisions of Transitional Sheltering Assistance for short spurts of time. So every few weeks, in the midst of dealing with major recovery challenges, the state has to request an extension of the TSA. Before this extension is granted by headquarters, FEMA staff on the ground begins sending letters to citizens who are forced to live

in hotel rooms because they lost their homes, telling them that their assistance is ending. Citizens become upset about their pending homelessness, only to have TSA extended a few days later, starting the cycle over again.

Whenever the state pushes back on FEMA, requests data that FEMA doesn't want to turn over or attempts to find a more creative, people-friendly solution, FEMA becomes difficult to deal with. At one point after Gustav and Ike, FEMA staff working on the "Joint State Led Housing Task Force" announced that they were tired of participating in conference calls with the state and the parishes about the continued need for housing solutions. FEMA also had difficulty providing the state with an outline of all available housing resources it had to deploy to the region, so Louisiana could not gauge how reasonable its requests were and create contingency plans. To make matters worse, the "Preplacement Interviews," which FEMA uses to determine what housing should be deployed are confusing and woefully inadequate. If a citizen lost his or her home and was sleeping temporarily on a relative's couch two parishes away from his or her job, by FEMA's standards that person was "housed" and did not need a temporary housing unit near to their home, job and community. Naturally, it took FEMA weeks to supply the state with data from these interviews.

Once FEMA actually granted the direct housing mission, it specified that "temporary housing units," which include mobile homes and travel trailers, would be used as the last possible option, despite the fact that by FEMA's own count the parishes in Louisiana with the biggest housing needs – Cameron, Calcasieu and Terrebonne – had almost no available rental housing resources. FEMA considered housing residents 50 miles away from their jobs to be a "reasonable" distance, meaning disaster victims would be faced with almost two extra hours of commuting time each day, at a time when gas prices were high. When the state insisted that this was unacceptable, particularly in Cameron Parish where many residents work in the critical oil and natural gas sector, FEMA found a new way to deny that hard-hit parish temporary housing. Using data from preliminary Digital Flood Insurance Rating Maps (DFIRMs), FEMA determined that 83 percent of Cameron parish was a 'V' flood zone. These DFIRM maps were released as parishes were dealing with Gustav and Ike and the parishes had not had time to fully review and appeal their maps. If FEMA had used the Advisory Based Flood Elevation (ABFE) maps, which parishes adopted in the aftermath of Katrina and Rita, only approximately 30 percent of Cameron Parish would be a 'V' zone and FEMA would have been able to put temporary housing units, including park models and mobile homes, which did not have the formaldehyde problems associated with travel trailers after the 2005 storms, on most private property, allowing families to live in their communities, and near their jobs, while they rebuild their homes.

FEMA and the state battled for weeks over this – while residents of Cameron Parish lived in tents, hotels and on family members' couches – and it took intervention from the Governor and Louisiana's Congressional Delegation to get FEMA to budge and allow housing units in the parish temporarily, with the state promising that the temporary housing units would be removed in advance of the 2009 hurricane season. Meanwhile, the parish has found numerous problems with the DFIRMs and the data used to make determination about flood zones and has launched a costly appeal of these maps.

## **Next Steps and Quick Fixes**

There are several things that the Congress, the President or the Secretary of Homeland Security could do to provide immediate relief to our recovery in Louisiana. These include:

- Give the state 100 percent federal cost share for hurricanes Gustav and Ike, because no state has experienced such catastrophic losses in such a short period of time. Paying even a 10 percent match on these costs could stifle our recovery further. Granting Louisiana 100 percent federal cost share for these storms would be a shot in the arm for our recovery and rid our state of a huge financial burden that it will have difficulty meeting.
- Delay of the release of DFIRMs, which Louisiana requested this in December 2008. FEMA is using these maps, which have not been formally accepted, to deny funds for Public Assistance projects and further delay recovery. The state has serious concerns about the quality of these maps and the parishes have found mistakes in the data they are based on;
- Declare that Charity Hospital in New Orleans is more than 50 percent damaged, awarding the state \$492 million in PA funds to replace the hospital;
- Immediately set up the Congressionally mandated Arbitration Panel and staff it with experienced, unbiased members who will make fair decisions about the fate of our Public Assistance projects;
- Give the regional FEMA offices authority to make decisions so that we can have a quicker and more accurate process for handling Public Assistance disputes. We estimate that we have 4,000 projects under appeal or dispute with FEMA, which represents more than \$1 billion in funding that is holding up work in the state.