WRITTEN TESTIMONY OF WALTER LEGER, MEMBER OF THE BOARD

OF THE

LOUISIANA RECOVERY AUTHORITY,

BEFORE THE

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Senator Lieberman, Senator Landrieu, and Members of the Subcommittee, thank you for inviting me to speak to you today about the progress of Louisiana's recovery after Hurricanes Katrina and Rita, and some of the issues that are slowing our efforts to bounce back after these catastrophic storms. Your interest and concern is greatly appreciated. I am with you today on behalf of our Chairman, Dr. Norman Francis, who sends his regards to you as you pursue this Subcommittee's work today and over the coming year. Through Senator Landrieu's nomination, Dr. Francis was recently awarded the Medal of Freedom by President Bush, and he has been a courageous and tireless leader throughout his life, as well as throughout the recovery effort.

My name is Walter Leger, and I am a member of the Board of the Louisiana Recovery Authority and a long-time resident of St. Bernard Parish in southeast Louisiana. The Authority, more commonly known as the "LRA," was created by Governor Kathleen Blanco to coordinate recovery efforts and special funding related to Hurricanes Katrina and Rita. I serve as the Chair of the Board's Housing Task Force. The LRA works in tandem with the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), who administers the State's responsibilities related to FEMA's Public Assistance and Hazard Mitigation Programs -- and in fact, Colonel Jeff Smith from GOHSEP is sitting here in the room with me today. The LRA also works with the Division of Administration's Office of Community Development, which is running the Road Home housing programs and is administering the delivery of the special Community Development Block Grant appropriations provided by Congress for Katrina and Rita recovery. Suzie Elkins from OCD is also here in the room with me today. Together, our organizations have worked closely with FEMA, Chairman Powell's office, HUD, SBA, state agencies, the Parishes, and others in an effort to facilitate the recovery of south Louisiana. The opportunity to assist the citizens of the State of Louisiana in this massive recovery effort has been an honor for me, and a challenge that I will never forget.

I would like to start my testimony today by providing my sincerest thanks to the Congress for their unprecedented generosity and concern for Louisiana and its citizens after Hurricanes Katrina and Rita impacted our state. Even with all of the problems and all of the concerns, we recognize that you have done your best to be responsive to our recovery needs, and that you too have been blazing new trails in trying to meet the needs of our State. These disasters caused damages the like of which we have never seen in our country before, and your willingness to help and your desire to rise to the challenge has been noted and appreciated.

The suffering of the people and communities of south Louisiana has been truly extraordinary – more than in any other disaster in United States history:

- Katrina and Rita represented an over $100 billion event, including insurance and other losses. Think of it – a hundred BILLION dollars! That's more economic impact on Louisiana and our country than it takes to pay for 500 days of the Iraq war!

- Over 200,000 homes were destroyed in our state by Hurricanes Katrina and Rita, more than six times lost in Mississippi and dramatically more lost than in any other disaster ever.

- We had some parishes, including my home parish of St. Bernard, which experienced devastation over 100% of the footprint of the community.

- More than 1.3 million people were evacuated during the period after the storms, and to date, approximately a quarter-million are <u>still</u> unable to return to their homes due to disaster damages.

- More than 81,000 businesses were affected by the storms in the most impacted parishes, including over 18,000 businesses, both large and small, that suffered direct flooding or catastrophic damages. In the most devastated parishes, there are 4,200 fewer business establishments today than there were prior to the storm. And the hemorrhaging is not yet over – with fewer customers, mounting debts, and employees returning to the south Louisiana coast, and given uncertainties about the level of protection that many communities can expect from Federal levees, we have solid evidence that we are continuing to lose businesses even today.

- The loss of these businesses directly translates into a loss of employment for citizens. As of the end of the second quarter of 2006, the labor market making up the Greater New Orleans area was still down 127,800 jobs (21%) from pre-Katrina levels. Although it has recovered faster than Southeast Louisiana, the labor market making up the Southwest Louisiana/Lake Charles metro area remains down by 415 jobs. Although it might seem these jobs merely shifted elsewhere, that does not bear out either: At the statewide level, Louisiana remains down overall by about 84,100 jobs.

- And our communities themselves became victims of this disaster, often losing so many personnel and tax base that their very capability to recover has become strained.

Given the level of impact from these back-to-back storms – which individually were the first and third most costly disasters in U.S. history – it is surprising that we are as far along as we are right now. In the past sixteen months, we have worked with FEMA, the Department of Housing and Urban Development, and others, and have actually achieved a great deal together:

- Over $2 billion in Federal assistance – nearly twice that disbursed in Mississippi and substantially more than distributed in similar time frames in response to any other disaster in history – have been provided to our local and parish governments to reimburse them for debris removal, emergency protective measures, and to begin permanent repair work on public facilities and infrastructure;

- Our debris operations – Federal, State, and Parish – have made great progress, with over 62 million cubic yards of debris removed from our streets and neighborhoods;

- Approximately 96% of all assistance requested by our Cities and Parishes thus far that was eligible for payment through FEMA's Public Assistance Program to fix public buildings and infrastructure has been provided;

- We have designed and are implementing *The Road Home*, the largest single housing program ever created and implemented. We are using both HUD CDBG and FEMA Hazard Mitigation funding to compensate homeowners who are repairing and rebuilding housing that was significantly damaged by the hurricanes;

- Our programs will also see over $3 billion invested in the creation of over 30,000 units of affordable rental housing, including many thousands of units located in new mixed income communities. A special program for small landlords is being launched today to help repair their properties;

- In order to contribute to the economic recovery, Louisiana has launched a loan and grant program to assist thousands of small business with grants to keep the succeeding businesses afloat, funds to address our critical workforce shortages, and incentives to retain and attract vital research leaders at our impacted colleges and universities;

- The LRA has led a regional planning effort, and has supported local planning efforts, to look at how to leverage the recovery period so that South Louisiana rebuilds safer, smarter, and stronger than it existed before the 2005 hurricanes; and

- The Governor and the Louisiana legislature have addressed countless recovery issues and have expended substantial resources to address needs that are not met through Federal appropriations and programs.

Unfortunately, despite this progress, our South Louisiana communities are still suffering greatly – more than they should be this long after a disaster. In many ways recovery has yet to be felt in our neighborhoods, and in our homes. My neighborhood in St. Bernard Parish is a perfect example – most homes are still vacant and heavily damaged, roads, water and sewer are in disrepair, most businesses have yet to return.

The simple truth is that recovery is not happening quickly enough. Things need to change.

One common thread weaving through most of the problems we are having with recovery relates to one simple fact: that the Stafford Act and its implementing regulations, as well as many other

Federal programs, were never designed to address the needs of States and communities that are impacted by truly catastrophic disasters. Instead, FEMA, HUD, and we have been forced to continually try to fit a square peg into a round hole in an effort to help people and their communities, often with great difficulty, delay, and limited effect.

The cost burden of these catastrophic events, both on the State of Louisiana and on our Parishes, has made it difficult – or even impossible in some instances – for us to meet the requirements of our recovery while maintaining even basic governmental services.

We have not been able to sufficiently assist the most impacted parishes and local agencies to help them grapple with the extraordinary tasks that they now face. Simply put, many of the most hard-hit local governments and organizations are overwhelmed, and neither we nor FEMA have all the tools we need to help them. And many of the actions we must take in order to deliver the assistance we need to deliver – such as housing assistance provided through the Road Home program and infrastructure repair funding – remain burdened by conflicting and complex Federal program requirements, rules, and regulations that hinder our recovery.

I would like to take a few moments of your time to discuss some of the problems we now face, and how they are impacting our recovery. Before beginning, I want to stress that my purpose in mentioning these issues is not to cast blame. Instead, it is in an effort to be constructive, in hopes that Congress and the Administration can begin to address the problems we have before us and make the necessary changes to rule, regulation, or law to address the needs that we now have, and to prepare our country to more effectively help others in future catastrophic disasters.

Furthermore, it appears that federal funding allocations have not been made judiciously and in recognition of the disparity of damages afflicted upon Louisiana by comparison to other states. In every category of damages – from schools shuttered, homes damaged, businesses ruined, citizens displaced, unemployment assistance paid, and simply the geographic area of damages from being Ground Zero for two catastrophic storms in 2005 – Louisiana suffered the disproportionate share of damages, and its recovery will logically require the higher share of assistance to recover. However, in most categories of federal assistance in response to Hurricanes Katrina and Rita, Congress and federal agencies have repeatedly awarded funds in proportions that are not reflective of damages and needs.

At the LRA, we strive to ensure that funds are allocated according to damages to our most impacted parishes. Furthermore, following our own course of action, HUD has enacted requirements that a certain percent of disaster CDBG funds allocated to Louisiana must be spent in the most severely damaged parishes. Sadly, the same course has not been followed by Congress in dealing with its disaster fund allocations across many areas of federal assistance – disaster CDBG funds, university assistance, and an alternative housing pilot program, to name a few.

This is done to the detriment of Louisiana's citizens and its recovery. While the State of Louisiana has focused its immediate funding priorities to address housing and infrastructure repairs, our economy – particularly our small businesses – and our communities' recovery plans will require additional assistance as they fight for survival.

The stakes have never been higher. Some of the issues I am about to discuss with you could very well derail the long-term recovery of south Louisiana if they cannot be successfully addressed. They could also have devastating effect on State services, the economy, and the very culture that makes our state both bright and vibrant, unless together we can take appropriate action. Without the nation's help – YOUR help – the pace of recovery in south Louisiana will continue to be slow, and both Louisiana citizens and our nation will suffer for it.

COST SHARE BURDEN:

The costs of responding to truly catastrophic disasters such as Katrina and Rita are extraordinary at all levels of government. For the State of Louisiana, the impact for FEMA cost-share alone, even after it was adjusted from 75% to 90% Federal share for Public Assistance, is over $1 billion. This, in a state that generates only about $7 billion in annual tax revenues! This $1 billion bill also does not include the many costs absorbed by the State which are ineligible for Federal reimbursement, including paying for the increased demand for social services, support for economic development and recovery; helping our communities plan their futures in the wake of these catastrophic events; paying to bring buildings up to the International Building Code (which will make them safer from future disasters); and paying for facility repairs that are required by law but not covered by FEMA assistance or insurance.

At the local level, some of our parishes have had their economic heart torn out through the loss of tax base, residents, and economic vitality. Some of our communities are struggling to survive.

Based on this severe impact, *and the fact that much of the damages we experienced were the result of the failure of Federal levees which should have held in the face of a Category 3 event like that which we experienced*, we need the Administration's and Congress' support to adjust the Federal cost-share to 100%. It is all about the severity of the impact and the need to treat Louisiana fairly. After the tragedy of 9/11, Congress provided New York with 100% federal cost share to recover from the disaster. They looked at magnitude of what the city was facing and leaned forward to cover much of the expense. FEMA also approved significantly higher cost share adjustments for numerous disasters including Hurricanes Hugo, Andrew and Iniki, yet the same favorable treatment has not been shown Louisiana even though the projected per capita impact of Hurricanes Katrina and Rita in our state exceeds the costs of those disasters by many multiples. In fact, Louisiana's per capita impact is projected to be $6,700 for every man, woman and child in the State – more than thirteen times that of any other disaster in U.S. history.

As of this point in time, the State of Louisiana as already paid its fair share of costs for this disaster. In addition to disaster costs unrelated to Federal relief programs, we have also paid approximately $400 million to FEMA already to match costs associated with their programs. We are doing what we can, but there are limits to what a state the size of Louisiana can do for itself. We are stretched and are nearing the breaking point.

<u>The federal government should waive this state cost-share responsibility, as they did for New York following 9/11, and increase the federal cost share to 100% for all disaster relief programs authorized in the Stafford Act including public assistance and hazard mitigation</u>. In the case of

Public Assistance, this would only require a regulatory change, as the Stafford Act provides for a minimum Federal share of 75%, but offers no maximum cost-share. The President has this authority to make this happen today. In the case of Hazard Mitigation and Individual Assistance, this would entail an amendment to the Stafford Act or providing an exception to the cost-share structure found in that legislation.

In the face of such catastrophe – particularly since much of it was the result of the failure of levees for which the Federal government had responsibility -- Louisiana's communities should not be required to come up with billions of dollars in cost share.

GLOBAL MATCH

In absence of adjusting the cost-share match requirement for the State, another issue that we face in the recovery – and the one that could have the most immediate impact on our ability to continue current disaster operations – is the issue of Global Match.

In its simplest form, this issue revolves around the State's ability to utilize a portion of the approximately $12 billion appropriated by the Congress to the State of Louisiana through the Department of Housing and Urban Development's (HUD's) Community Development Block Grant Program (CDBG) to support our recovery.

When Congress generously provided its appropriation to help the State meet its immediate needs, the Governor and the LRA determined that the majority of the CDBG funds would be allocated to the "Road Home" program for providing housing to Louisiana citizens. Consistent with Congressional intent however, the State committed a portion of the HUD dollars to cover the non-federal cost-share match of FEMA's public assistance (PA) and hazard mitigation programs.

Unfortunately, due to restrictions placed on the use of the CDBG funds by law and a lack of flexibility at the Federal level, it is not possible to effectively use these funds for the non-federal share of the PA program funds. This is because the following criteria must be met in order to utilize the CDBG funds:

1. Environmental requirements placed on CDBG are more restrictive than FEMA's. FEMA is authorized categorical exclusions that expedite the process but HUD must require full review. This would have the effect of slowing the recovery of south Louisiana;
2. It is not possible to retroactively implement environmental reviews, yet the requirements of the post-disaster environment necessitated quick action on projects even before Federal appropriations were approved by Congress or made available to the State by HUD;
3. CDBG funds can only be used for permanent restorative work excluding contents, yet contents are eligible for reimbursement under the Stafford Act; and
4. The Davis Bacon Act applies to the use of these funds, which will potentially exclude many smaller companies from participating as contractors on related work due to the financial and reporting requirements that must be maintained under the Act.

Because of these restrictions and differences between FEMA and HUD programs, if any CDBG funds are used on an eligible project, that project must be monitored by <u>TWO</u> federal agencies: HUD (due to the expenditure of the 10% of project costs using CDBG funds) and FEMA (who oversees the application of their 90% share of the project costs). Based on the current policies and procedures, all 20,000+ project worksheets – which are individual descriptions for any public assistance repair project – and their additional versions will have to be monitored by <u>two</u> separate state and <u>two</u> separate federal agencies utilizing different criteria.

As you can see, this has raised serious concerns in Louisiana in terms of our ability to utilize CDBG funds as the Governor and Congress intended. To address these problems, the State of Louisiana has proposed implementing a more straightforward procedure which is referred to as '"Global Match." Global Match would ensure that all of the eligible financial requirements are addressed in a timely manner while adhering to all applicable federal, state and local laws, regulations and policies. Through the "Global Match" process, the state will guarantee that the funds obligated by the Federal Government through FEMA and HUD will be closely monitored to ensure that there will be no duplication of benefits and that 90% of the eligible project costs will be paid with FEMA funds and 10% will be funded with HUD funds across all projects. It will not occur, however, on each individual project – instead, the funds necessary to total the 10% cost-share match for PA and Hazard Mitigation will be drawn from CDBG and utilized to fund 100% of otherwise FEMA-eligible project work. This will allow the CDBG and FEMA program funds to be spent on individual projects without "mixing" the resources from both programs for all 20,000+ project worksheets, ensuring that administrative and program requirements can be met and the recovery process in south Louisiana can move along more quickly.

This Global Match approach to the provision of cost-share is clearly allowed under FEMA's regulations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. And interestingly enough, Global Match is allowed <u>and is a common practice</u> under FEMA's Hazard Mitigation Grant Program, also authorized by the Stafford Act. Yet in Louisiana's case, FEMA has refused to approve our request for Global Match for the Public Assistance Program.

The State of Louisiana has taken what I believe to be a common sense and cost- and resource-efficient approach to solving the problems of combining FEMA and HUD monies through its global match proposal. *And if implemented, it will cost the Federal government no additional money.*

<u>In the absence of a solution, or Congress providing legislative language that either eliminates the cost-share requirement or eliminates the many restrictions that remain on the two pots of funding, the State and locals may have to literally cease operations for lack of available funds to cover cost-share.</u> Although the state has other needs for these infrastructure CDBG funds, the state has set these funds aside for match obligations to Public Assistance. With an allowance of a 100% cost-share, the state could distribute these funds to other infrastructure recovery projects in the most devastated areas. However, barring that solution or a solution to make Global Match work, the money to cover these costs simply does not exist elsewhere.

HAZARD MITIGATION FUNDING AND THE ROAD HOME HOUSING PROGRAM

Another legal and regulatory issue that we are facing right now deals with the use of Hazard Mitigation Grant Program (HMGP) funding as part of the Road Home housing program. As of today, FEMA has been unwilling or unable to approve nearly $1.2 billion of funding that is desperately needed for the program out of the mitigation pool available to the State.

This issue has been of great concern to the State of Louisiana, not only because of its impact in terms of time and available resources for the State's housing recovery program, but also because Louisiana included the $1.2 billion of HMGP funding in the Road Home at the direction of the White House and Chairman Powell. The State did not want to use HMGP monies in this way – but we were told that the Administration would not support a request for funding at the level we actually needed, and the use of HMGP money in the Road Home would be necessary to gain approval.

The issue here is the layer upon layer of program requirements of the Hazard Mitigation Grant Program, and our inability to obtain flexibility – or even answers to our questions – on how these provisions can be made to work so as to permit the funds to be utilized as part of the Road Home program.

As you are aware, the design of the Road Home program was developed by the State in close coordination with the Office of Gulf Coast Recovery, in consultation with FEMA and HUD. According to that design, the Governor made a commitment to building back safer and stronger than before by including funding for mitigation. Based on our projections we planned on using $1.2 billion of HMGP funding and more than twice that in CDBG funding to help people elevate their homes, relocate out of harm's way, and incorporate cost-effective mitigation measures in reconstruction.

With regards to the HMGP funding, we anticipate funding two major activities related to housing: (1) the voluntary acquisition of structures on sites that local governments wish to return to open space; and (2) the provision of grants to program participants of up to $7,500 to fund individual mitigation measures on their repaired or new homes – such as installing shutters or hurricane strapping against wind, or elevating appliances to reduce flood losses.

Our desire to pursue mitigation funding for these activities was communicated clearly to FEMA in meetings for more than six months, however in order to fully design the Road Home and establish the structure and systems necessary to manage these resources according to FEMA's rules and requirements, we needed a number of critical answers to questions about how we could make the funding apply. Many of these questions have yet to be answered by FEMA, and some of the answers we have received not only took many months to get, but also raised as many new questions as they answered.

The unfortunate reality is that when we ask questions and need answers on tight timeframes, we don't get the response we need when they are needed. It often takes many months to get a response if we get one at all, and it is extremely rare to get those responses in writing. Whatever the reason for the delays – be it the multiple layers of review in Washington, the limited willingness of staff to "stretch" and provide guidance on issues that have never come up before, or simple bureaucratic red tape, in the delivery of disaster relief, this type of delay is unacceptable.

Because our questions have persisted unanswered for so long, the State finally prepared and submitted formal applications to FEMA in on December 4 of last year, two for housing acquisition through the Road Home and two for individual mitigation measures. Our hope was to force answers to our questions by presenting FEMA with our proposed structure for the program. What we received back, unfortunately, was not answers to our questions. Instead, we received denials from FEMA related to the use of HMGP funds for acquisitions under the Road Home that provide no citation of law or regulation supporting their decision, and offering no explanation of how we can modify the applications to make them acceptable. And we still have not received an answer to our applications for individual mitigation measures, even though in meetings as far back as August the State and FEMA agreed that the approach we were suggesting would work and the issues have been vetted between the parties for many months.

Unless some accommodation can be made, the current state of affairs may result in our inability to use HMGP funds for the Road Home and may threaten the financial viability of the program for our citizens.

In the denial letter related to supporting home acquisitions, the reason for FEMA's rejection come down to concerns over equal treatment. Specifically, FEMA indicated that they could not fund the State for the Road Home because some of the parishes are pursuing housing acquisitions under different eligibility and with different funding requirements through the more "traditional" HMGP program. In a letter from Director Paulison, FEMA questioned whether it would be fair to cap assistance at $150,000 under the Road Home when the only test under the traditional HMGP program is cost-effectiveness; and whether it would be fair to provide reduced acquisitions funding eligibility for those who are moving out of state or those who did not have flood insurance even though they were in a mapped floodplain, when under the traditional HMGP program the parishes do not have such restrictions.

The fact here is that the provisions that FEMA indicates are troublesome are extremely important to the State's recovery. The funding cap on assistance through the Road Home was put in place out of necessity – even though Congress provided our State $12 billion in special appropriations, our best estimates of the actual need in our state for housing, infrastructure, economic development, social services, and other critical needs was closer to $18 billion. Since we were unable to secure all of the funding we needed, we had to make trade-offs. The simple fact is that we chose to cap the funding available under the program in order to stretch the limited funding we had available to support our State's housing needs so as to provide at least a reasonable level of resourcing to everyone who had significant damage to their homes as a result of Katrina and Rita. If we lift this cap in order to meet FEMA's concerns, we will bankrupt the Road Home, and many of our citizens will be left without any assistance due to lack of funds.

It should be noted that the need to provide housing assistance after a truly catastrophic series of events like Katrina and Rita is different from garden-variety disasters. It's not just about helping people – it's about restoring neighborhoods and cultures through the redevelopment of housing. It's important to remember that we didn't have a few hundred or a few thousand homes impacted. We had over 200,000 homes. Entire parishes, entire cultures were devastated. In Louisiana, recovery was about rebuilding housing stock and bringing people home. For that reason, we included a provision in the Road Home that gave people incentive to return to Louisiana by providing funding eligibility based on full-market value if they came back to the state, but only 60% of market value if they decide to sell their home to the program and go elsewhere. This provision is critical to the rebirth of south Louisiana. And since we provide all Road Home participants with a choice of all options – including ones that do provide full market value if they return home – we believe there is no inequity in the program. People can make their choice on an equal basis.

FEMA was concerned about our decision to design the Road Home so that people who should have had flood insurance but didn't receive 30% less grant assistance under the program. This provision actually supports the intent of Congress and the National Flood Insurance Program by recognizing that those who live in mapped floodplains but do not purchase and maintain insurance should not be treated the same as those who did the right thing and had flood insurance on their properties. To do otherwise would penalize those who paid for flood insurance over the years – Why would anyone ever buy flood insurance if they believed they would receive the same assistance after a disaster as someone who did not have the coverage? A rational person would save the money for the premium and wait for government assistance when a flood occurs.

Even though we disagree with FEMA's interpretation of the Stafford Act and their own regulations, the State of Louisiana tried to work with the Agency to identify a suitable compromise. What we recommended is that the State not forward to FEMA any properties for HMGP funding that are acquired from people moving out of state, or who have been penalized for not having flood insurance. In doing so, our applications to FEMA for HMGP funding would only include properties that met their requirements. Unfortunately, even this common sense approach was rebuffed, with FEMA saying that by "hand-picking" properties for the HMGP program, we were still not treating people fairly. This makes absolutely no sense – every acquisition program ever funded by FEMA was developed by applicants who made determinations as to which properties to include in their application and which they would not. Alternately, given FEMA's objection to these incentives, the state has actually proposed to remove them on properties that local governments ultimately decide to return to open space and thereby draw on funding of FEMA hazard mitigation dollars. To do so, when open space decisions are made by local governments after the conclusion of the homeowner's closing, the program would provide additional compensation to those individuals if they had previously seen their awards reduced below 100% of their compensation grant. This alternative would fully eliminate a discrepancy of benefit between any individuals affected by HMGP dollars. The rationale for the agency's continuing opposition just doesn't seem to make sense.

FEMA also raised concerns about that fact that homeowners do not know for certain at the time they sell their homes to the program whether their homes are to be demolished and turned to open space, or redeveloped. In my mind, this issue is nothing short of silly – our intention is to inform all homeowners of the possible options related to the disposition of their homes, and get them to sign an acknowledgement that they understand and agree to said options. But we cannot and should not commit ourselves and our parishes to establish and maintain open space unless and until we can show them the whole picture. The nature of our disaster, our mitigation needs, and our recovery planning – although strategically sound for planning purposes and in prioritizing assistance to homeowners – bangs up against the walls of Stafford Act interpretations that resist flexibility, something desperately needed given the unique qualities of the recovery of our devastated communities. We need to show them on a map exactly where the acquired properties are located, so that we and the parishes can make reasoned and rational decisions about where it makes sense to create open space and where it makes sense to redevelop. This must be informed by decisions made by homeowners. Without this flexibility, we will have thousands of individuals making decisions about the disposition of their properties without knowing the big-picture consequences. Such a situation would cause acquisitions to be distributed throughout the community instead of in blocks, thereby creating a "checkerboard effect" that will create problems for the communities.

Clearly we disagree with FEMA on these issues, and believe that their concerns are yet another example of both Federal inflexibility and our county's disaster relief programs not being designed to deal with the real-world problems that exist after a catastrophic disaster. Without a solution on the integration of hazard mitigation funds into the Road Home program, that program will fall far short of the funding necessary to implement that program that was committed by Congress and by the Administration. Since we cannot find an avenue to resolve these issues with FEMA, we must have help from Congress and the Administration to find a solution that allows these critical program components to remain intact. We need to refocus on getting the job done instead of simply throwing up road blocks.

INTERIM HOUSING GRANT DISTRIBUTION

This past Summer, with strong support from Senator Landrieu and the Louisiana Congressional delegation, the Congress approved legislation which provided $400 million to FEMA to look at interim housing solutions that are more permanent and livable than trailers, in recognition that our country needs new options when catastrophic disasters strike. These options are necessary because Katrina and Rita demonstrated that in some events, people cannot return to their homes for extended periods of time, and trying to put a family of four or five into a travel trailer or a single-wide is unacceptable over long periods of time.

After being provided with this funding, the Gulf Coast states were asked by FEMA to prepare proposals, drawing upon the best ideas of the private and public sectors to help solve a major problem that was brought to the nation's attention by Louisiana and Mississippi through the development of "Katrina Cottages" as alternatives to FEMA's trailers and mobile homes.

Based on our discussions with Members of Congress, the intent of providing this assistance was to develop housing options, and to provide additional assistance to the States along the Gulf Coast based on their relative need for replacement housing.

Unfortunately, the distribution of these resources was anything but fair to the people of Louisiana. Even though our State experienced nearly 80 percent of the total housing losses along the Gulf Coast during 2005, and nearly sixteen months later more than 64,000 Louisiana families still call FEMA trailers “home,” a sole political appointee at FEMA determined that Louisiana should only receive $74.5 million of the funding approved by Congress. That’s only enough support to create housing for 600 of these families. Mississippi, by contrast – a state that experienced roughly one quarter of the number of damaged homes as Louisiana – received $280 million. What was most disturbing about this process is that it seemed to have been done without any rationale that passes the straight-face test.

Based on how these funds were distributed, all we can assume is that other issues were at play in the determination of where and how much funding was provided.

The State of Louisiana believes that this situation needs to be addressed by Congress. We need you to clarify your intent when you approved this funding, and work with FEMA to correct how funding was allocated. All that we are asking is that the interim housing dollars be distributed fairly, taking into account relative damages and need. Otherwise, we run the risk of playing politics with the recovery of south Louisiana.

OVERALL GRANT DISTRIBUTION

Unfortunately, this is not the only example of what we feel is an unfair distribution of disaster resources or treatment among the States along the Gulf Coast. For example:

- In December of 2005, Congress approved $11.5 billion in supplemental appropriations for the Gulf Coast [P.L. 109-148][1]. When this legislation passed, it was approved with a provision capping funding for any one state at no more than 54% of the total appropriated – even though Louisiana received 75-80% of the total damages from Katrina and Rita. This situation resulted in Louisiana receiving $6.2 billion in assistance, as compared to $5 billion for Mississippi, which experienced a far smaller proportion of total losses. When the State was notified of its $6.2 billion allocation of the supplemental appropriations, we were appreciative, however we notified Congress and the White House that that level of funding was insufficient to even meet half of the housing need in the State of Louisiana, and that additional funding would be needed;
- While the White House requested an additional $4.2 billion on February 15th 2006, it took Congress another four months to provide a second supplemental appropriation for the Gulf Coast[2], with hundreds of thousands of Louisiana citizens living in trailers all the while. Once again, however, Congress limited any one state from receiving more than $4.2 billion, even though the other states along the Gulf Coast had already received far more resources as compared to impact than Louisiana had;
- Mississippi’s housing program received full funding six months before full funding for Louisiana’s housing program was approved last year;

[1] P.L. 109-148 was signed by President Bush on December 30, 2005, and a notice of award was published by the U.S. Department of Housing and Urban Development (HUD) on January 25, 2006.
[2] P.L. 109-234, which was signed by the President on June 15, 2006, and a notice of award was published by HUD on July 11, 2006.

- Three times as many universities were damaged in Louisiana than in Mississippi, but both received the same amount of funding to deal with higher-education issues: $95 million[3];
- HHS Secretary Leavitt had a surplus of appropriations made to his agency by Congress in 2005. In early 2006, Louisiana requested emergency funding for hospitals, doctors, other medical workforce needs, mental health, etc. from these funds. In response to this request, Secretary Leavitt awarded $175 million to Gulf Coast states, of which Louisiana received 45% and Mississippi received 38% despite the overwhelming difference of impact on hospitals and other facilities, medical personnel, and mental health needs[4];
- In December 2005, Congress appropriated $235 million to restart school operations and meet the education needs of displaced students in Louisiana, Mississippi, Texas, and Alabama. Of that, Louisiana and Mississippi *each* received $100 million, despite the fact that Louisiana had tens of thousands more students displaced than Mississippi;
- In November 2006, FEMA cut off funding for LA Swift – a vital source of transportation for displaced New Orleans-area residents with no transportation between Baton Rouge, New Orleans, and points in-between for jobs, job searches, and similar recovery efforts. In just fifteen months of operation, the program served more than 750 riders per weekday providing nearly 125,000 rides between Baton Rouge and New Orleans. Louisiana stepped up immediately and began funding the program itself through the Department of Transportation and Development. By comparison, however, FEMA operated the same emergency bus service for Texas Medical Center students for <u>three years</u> following Tropical Storm Alison; and
- The State of Louisiana had its long-term community recovery assistance from FEMA terminated early in 2006 despite the ongoing and significant need for recovery planning support in south Louisiana communities, yet the assistance is still being funded in Mississippi.

As Governor Blanco noted in several recent statements, this pattern is repeated over and over with our hospitals, our schools, and our higher education institutions, among others.

Please understand that we do not wish any less support for Mississippi or other Gulf Coast states. What we want is parity – to be treated the same. We want grant distribution and assistance decisions to take into account relative levels of damages. To make such decisions in any other way, as has happened repeatedly as demonstrated above, is unfair to the people of Louisiana and will negatively and unfairly tilt the relative recoveries of the Gulf coast states.

GETTING PUBLIC ASSISTANCE FUNDS TO LOCALS

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[3] According to a survey of campuses completed by the Association of Jesuit Colleges and Universities and published in *The Chronicle of Higher Education*, Louisiana colleges and universities incurred over $1.28 billion in damages, whereas universities in Mississippi incurred about $87.5 million in physical damage. Furthermore, according to a survey of the *American Council of Education* in September of 2005, approximately 100,000 college and university students in the Gulf region were displaced more than 30 days by the disasters, 73% of whom were from Louisiana institutions.

[4] From "Aid Split Irks La. Delegation", printed in *The Advocate* on 1/19/07.

Next, I'd like to discuss issues that are impacting our ability to distribute FEMA Public Assistance funds to our communities.

As I mentioned at the beginning of my statement, we have had some success in this regard. Over $2 billion – nearly 12,000 payments – have been made to Louisiana parishes and local governmental bodies for eligible losses, representing nearly 96% of requests made by applicants to date.

Unfortunately, the need for funding is greater than we have been able to provide thus far. One reality in south Louisiana right now is that our local governments are just as much victims of the disaster as are their citizens. Many of our parishes have themselves been devastated. For example, the loss of population and tax base in New Orleans has forced the City to take their Contracts Department and reduce it from 35 people before the storms to 2 people today. In some cases, revenues of our jurisdictions have been dramatically reduced due to disaster damages and loss of businesses. The simple fact is that in our hardest hit communities and parishes, the capacity and financial capability no longer exists to rapidly deal with the contracts, planning, and other responsibilities that the recovery requires.

This situation actually worsened after Katrina and Rita, when the Congress provided additional appropriation for the Community Disaster Loan (CDL) program. While this assistance was desperately needed at the time and has kept some of our local jurisdictions operational when they faced economic collapse, the Congress added a provision that eliminated the possibility of forgiving some or all of CDL loan amounts if, after three years, the receiving community can demonstrate continuing and significant economic hardship. This is the first time in the history of the program that the possibility of loan forgiveness in the face of dire economic hardship has not been allowed under the CDL program. The result is that the provision of CDL loans to impacted communities after Katrina and Rita – the most catastrophic events in our nation's history in which the long-term economic hardship of impacted communities is most likely – may eventually result in their economic collapse when loans come due, unless Congress takes action to repeal the provision of law that forbids forgiveness of CDL loans.

At the State level, agency staff have been doing all they can to address these problems to speed recovery at the local level. To the extent they can, they have designated State personnel and contractors to work with the south Louisiana parishes, and in many cases they are located in those very communities, living and working day-in and day-out with their local counterparts. And they have approved limited advances of Public Assistance funding of up to 10% of the face value of FEMA Project Worksheets to locals to help them afford the costs of engineering and design work associated with their projects. This has helped, but more needs to be done.

One solution the state has proposed which would help us address this issue is to have FEMA reconsider how it interprets its regulations related to State administrative costs to allow the State to use a portion of these funds to pay for accountants and engineers to help locals advance their Public Assistance projects.

In summary, FEMA provides administrative costs, calculated as a percentage of total eligible damages, so that a State can pay for carrying out its responsibilities related to the implementation of FEMA's disaster assistance programs. 44 CFR Section 206.228 describes the eligible use of these funds as follows: "Eligible costs include overtime pay and per diem and travel expenses, but do not include regular time for your State employees." FEMA has chosen to interpret this very narrowly as only overtime, per diem and travel expenses, even though the language does not limit those dollars for only those purposes and nearly all other Federal programs allow administrative costs to be interpreted much more broadly to include the provision of technical assistance to local governments.

Currently, the State has tallied over $20 million of state administrative cost monies – which is expected to be far more than the State will need for the narrow activities allowed by FEMA. If the Congress and this Committee could work with the Administration to have FEMA broaden their interpretation of this regulation, the State of Louisiana could have the resources it needs to fund technical experts at the parish and local level to help them advance their recovery efforts.

So far I have discussed issues related primarily to local capacity that are impacting the pace of recovery. Some of the issues that explain why nearly $3 billion in FEMA Public Assistance monies have not yet been paid to the locals, however, relate directly to the Stafford Act, FEMA's rules and regulations, and operational and policy decisions made by FEMA. For instance, the program is designed as a reimbursement program, requiring documentation such as signed contracts, invoices, and other details before payments on project work can be done. This means that we cannot send FEMA-obligated funds until they are requested, and until appropriate documentation is received.

Another source of problems deals with the Project Worksheets being prepared by FEMA to describe eligible scopes of work for damages. The magnitude of the Katrina / Rita disasters required FEMA to bring in many people to develop PWs who were under trained or under qualified for the task. The result is that most of the PWs that have been prepared provide improper descriptions of damages and assign incorrect valuation to the costs associated with that work. This has created serious problems for our Parishes and local applicants, in that the State's Public Bid Law requires that governmental entities provide assurance that 100% of the funding for public projects be committed and available prior to putting projects out to bid. If you are a Parish with a $1 million Project Worksheet for an improperly described repair that is actually expected to cost $2 million to complete, project bidding must be put on hold until the additional funding is identified.

To their credit, FEMA has recognized this systemic problem, and has agreed to review and prepare versions – or scope revisions – based on an applicant's Architect & Engineering reports. The problem is that the Parishes do not have the capacity to get this work done. The money isn't there.

That is why the State of Louisiana has taken the risk of providing advances of up to 10% of the value of FEMA's current Project Worksheets to help locals fund the A&E work they need to do to correct for the errors on the original PWs. But this, again, is a work-around for a problem has created significant problems and delays in the recovery in south Louisiana.

It should also be noted that due to the financial problems of the City of New Orleans and other municipalities, much of the financial problem that we continue to read about in the papers is linked to ongoing operational costs more than repair costs. Our municipalities are facing very real cash-flow problems. FEMA's regulations prohibit the use of PA funds by applicant's to cover ongoing operational costs and overhead, meaning that the State needs to make sure that FEMA dollars – even those advanced to locals – are used only for project-related costs directly associated with the approved scopes of work. All of these factors limit our flexibility.

ISSUES IMPACTING THE USE OF CDBG FUNDS

I'd like to change focus a bit here for a moment and speak about The Road Home program and some of the issues that we are facing in providing homeowner assistance.

Louisiana's Road Home Program has struggled to exist within the bounds of very restrictive federal provisions. The concept of the program is straightforward: Provide grant assistance to help homeowners rebuild or relocate. From that basic idea, the state has had to bend and weave around regulations designed to guide basic community development across the country, but not designed with the flexibility of disaster recovery in mind.

The Road Home Homeowner Assistance Program has now received over 102,000 applications, out of an expected total population of 123,000 households that suffered major or severe damages according to FEMA estimates. Over 67,000 of these families have had their intake appointment, over 26,000 have received their first grant offer, and more than 11,000 have accepted their award. Despite this significant progress since September, the few hundred Road Home closings that the State's contractor has completed as of today satisfies no one – and in large part, their biggest hang-up is due to the difficulties associated with compliance with Federal requirements. These requirements have caused "hang-ups" and delays prior to closing including the need to conduct insurance payment verifications from insurance companies, verify individual income, and obtain information about FEMA and SBA payments, among others. For owners of severely damaged properties, the program originally sought to award homeowners their full pre-storm value for rebuilding; however, HUD would not allow this calculation if it included their land value (which is necessary for simplicity and basic fairness). If these and other issues can be resolved with your help, we can begin to accelerate closings with Road Home applicants, and tens-of-thousands more Louisianians can quickly obtain the help they so desperately need.

The following provide some examples of other related challenges we face with the use of CDBG funding in this disaster:

- The state of Louisiana sought to help homeowners repair and rebuild. However, repair programs under HUD regulations must follow the onerous, time consuming regulations that are used to ensure that federal transportation projects don't endanger protected wetlands or land in polluted areas. These are not relevant to apply in helping homeowners rebuild homes on the same footprint and on the same property where they and others have lived for many years. Yet, even though HUD has told us that they would like to waive these provisions, their hands are tied because Congressional legislation for the funding does not allow a waiver. This means that, homeowners seeking to use the funds to rebuild would have had to wade through months of delays from inspections, paperwork, and bureaucratic approvals. As a result, HUD has worked to develop a concept of a compensation grant, which essentially accomplishes the fact of providing assistance to homeowners for the same things, but requires the state to walk around on tiptoes to ensure that no activity triggers the provisions of these onerous, unnecessary federal inspections.

- Similarly, the requirement that all environmental rules must be met prior to commencing a Federally-funded rehabilitation project is getting in the way of our recovery. While we do expect that HUD will be able to allow the use of CDBG funds to cover the cost of home repair work done by homeowners that was started prior to their receiving an award through the Road Home, we are being told that as soon as the award is issued and a homeowner is notified about the environmental review requirements, they will have to be told to stop their reconstruction efforts at that time and wait for the complete environmental review to be completed before they can proceed. According to HUD, this mandatory cessation of work cannot be waived, and will likely result in delays that could run in excess of forty-five (45) days.

- As you are aware, the Davis Bacon Act applies to the use of CDBG funds in this disaster – something that the Governor and the State supports. The delay in obtaining approval to use CDBG dollars as Global Match for FEMA Public Assistance projects, however, has made it difficult to meet this requirement. Because of the disagreements between FEMA and HUD on this issue, substantial time has passed and our recovery could not wait. As a result, many of the projects that we were hoping to use as Global Match have already been initiated by our cities and parishes, and to try to recreate the documentation and adjust the contract instruments to satisfy Davis-Bacon at this time would be onerous and near impossible to achieve. To address this problem, we would like Congress to alter the requirement on the use of Davis Bacon such that it will only apply for Global Match projects that are initiated after the Global Match process is approved.

- The Small Business Administration has made loans to many homeowners in the months after the disaster to help those who could qualify to have lower interest rates on the capital they might need to repair and rebuild. As any loan, the borrower signs a binding contract to repay the government this money. However, under regulations of the SBA, if a homeowner receives a grant to rebuild, it must use those funds NOT to rebuild, but to repay the SBA, placing a homeowner in a situation again of limiting their resources to rebuild. Even the SBA Administrator has admitted that a subsidized-interest-rate loan is not the same thing as a grant, and that a borrower – regardless of the grant – has an obligation to repay the loan note. Homeowners going to closing today are having their grant amounts reduced at closing to give this money back to the federal government immediately, even though homeowners need it more today and have an ongoing responsibility to the federal government (which has already budgeted for these loans) to repay the note with interest.

- One of the most stringent delays of the program has come from the Stafford Act requirement that homeowner's insurance benefits and FEMA disaster benefits must be deducted from their calculation of grant assistance. The deduction of insurance and FEMA funds are two examples of verifications that we have no choice but to include in our program design, but that are taking significant resources and time in order to comply with when attempting to move as quickly as possible to provide assistance to homeowners.

CONCLUSIONS

To say that Louisiana faces challenges in its recovery is an understatement. Replacing 200,000 homes, rebuilding an economy, addressing the issues created by demographic and economic shifts, reconnecting people to their neighborhoods and cultures again – all complex problems that we need to address.

We are all learning each and every day how to make progress. And we are learning lessons and changing our approaches to take into account the reality that the recovery from catastrophic disasters is fundamentally different than recovery from more garden variety ones. We aren't just rebuilding homes and infrastructure – we are rebuilding civil society and community. That takes new ideas and creativity, along with a commitment to making things work.

Because we are breaking new ground, mistakes have and will be made. Not every creative idea will work. But if we continue to try, and focus on solving problems instead of finding reasons why things can't be done, we can make recovery happen.

Unfortunately, the State of Louisiana is suffering under Federal relief programs that were never designed to address the needs of a catastrophic disaster. We are being limited by red tape, inflexibility, and bureaucratic inertia. We are struggling against people and programs that are not prepared to meet the timelines and requirements of communities in crisis. And we are being forced to fight for equal treatment and fairness in the distribution of disaster relief. These are all areas where Congress and the Administration in Washington, DC can help significantly.

I am pleased that the U.S. Congress has decided to create this new subcommittee to focus on the needs of our nation in disaster response and recovery, because the experience of the last sixteen months has shown serious flaws in our readiness and weaknesses in our laws and regulatory frameworks – at the Federal, state and local levels. Perhaps with the leadership of this subcommittee, we can fix what is wrong, not only so Louisiana can recover more quickly from Katrina and Rita, but also other states in future catastrophic disaster won't have to go through what we have gone through and continue to go through.

Thank you for the opportunity to appear before you today. I'd be happy to take any questions that you may have.