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Description of document: Each written response or letter from the Department of Homeland Security (DHS) to a Congressional Committee (not a congressional office or Committee Chair), 2011-2013

Requested date: 20-April-2013

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Source of document: FOIA Request
Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, D.C. 20528-0655

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FEMA

March 22, 2016

SENT VIA EMAIL

Re: FEMA 2014-FEFO-00411 Final Response

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated April 20, 2013, and seeking copies of each written response or letter from DHS to any of the following Members of Congress from January 1, 2011 through the date this search is conducted: Rep Michael McCaul, Rep. Candice Miller, Rep. Peter King, Rep. Patrick Meehan, Rep. Susan Brooks, Rep. Jeffrey Duncan, and Rep. Richard Hudson.

DHS referred your request to this office for processing under the FOIA. This request was received by the Federal Emergency Management Agency (FEMA) on February 4, 2014.

A search for documents responsive to your request produced a total of 82 pages. Of those pages, I have determined that 80 pages are releasable in their entirety and portions of two pages are exempt from release pursuant to Title 5 U.S.C. § 552(b)(3) and (b)(7)(E), FOIA Exemptions 3 and 7.

FOIA Exemption 3 protects information specifically exempted from disclosure by another statute, if the statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) established particular criteria for withholding or refers to particular types of matters to be withheld.

Section 133 of Title 6, United States Code, exempts from disclosure information contained in our grant applications, that pertains to actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates federal, state, or local law, harms interstate commerce of the United States, or threatens public health or safety.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or

FEMA 2014-FEFO-00411

prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. We determined that disclosure of certain portions of the documents could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you deem this advisement an adverse determination, you may exercise your appeal rights. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge. 6 C.F.R. §5.11(d)(4).

If you have any questions or would like to discuss this matter you can contact FEMA at 202-646-3323 and please reference the subsequent case identifier: **FEMA 2014-FEFO-00411**.

Sincerely,



Eric Neuschaefter
FOIA Program Specialist

Enclosure: Responsive Documents (82 pages)

Secretary

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

June 17, 2011

The Honorable Peter T. King
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Chairman King:

Thank you for your letter concerning the Fiscal Year 2011 Urban Area Security Initiative (UASI) grants.

As you note, the Department of Homeland Security's State and Local Preparedness Grants were cut by \$780 million in FY 2011 compared to the FY 2010 enacted level, nearly a quarter of our grant funding.

At the same time, [REDACTED]

[REDACTED] Consistent with recommendations from the 9/11 Commission, the FY 2011 homeland security grants focus the limited resources that were appropriated to mitigating and responding to these [REDACTED] Accordingly, to account for the significant reduction to the UASI program, 31 high-threat urban areas are eligible to receive UASI funds in FY 2011, as reflected in the recently released grant guidance.

Thank you again for your letter. Should you need any additional assistance, please do not hesitate to contact me at (202) 282-8203.

Yours very truly,


Janet Napolitano

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FEMA

February 10, 2012

The Honorable Peter T. King
Chairman, Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Chairman King:

Thank you for your recent letter regarding Congressional funding reductions to Department of Homeland Security (DHS) Preparedness Grants in fiscal year (FY) 2012. I was asked to respond on Secretary Napolitano's behalf.

We share your commitment to optimizing homeland security grant funding in FY 2012 and beyond, and to that end, we are implementing a risk-based approach to the management of all of our state and local programs, including the Urban Areas Security Initiative (UASI). The Department is working to identify, assess, and mitigate risks across the full spectrum of threats, and the complex threat environment facing New York and other UASI jurisdictions at highest risk will be an important element of this process. We also recognize the value of the Transit Security Grant Program (TSGP) and the Port Security Grant Program (PSGP) in securing critical components of our national infrastructure.

On January 26, 2012, I had the opportunity to meet with your staff to discuss this topic further. As discussed during the meeting, FEMA/Grant Programs Directorate (GPD) is focused on five main subjects over the next few weeks: Our plan for the distribution of FY 2012 preparedness grant funding, expediting the expenditure of currently awarded grant funding from FY 2007 through FY 2011, sustaining current capabilities, utilizing a risk formula that provides us with the best information from which to make grant allocation decisions, and ensuring that the formula and its components will be shared with the grantee community.

On December 23, 2011, the President signed the FY 2012 *Consolidated Appropriations Act* which provided \$1.3 billion for state and local preparedness grant programs. In addition, it provided \$675 million for Assistance to Firefighter Grants (AFG) and \$350 million for Emergency Management Performance Grants (EMPG). Out of the \$1.3 billion, a total of \$995,376,000 must be allocated based on threat, vulnerability, and consequence analysis, at the discretion of the Secretary of DHS. FEMA has 60 days to issue the grant guidance for all programs. Therefore, all grant guidance will be released on or before February 21, 2012. At this point, discussions within DHS continue regarding which programs to fund in FY 2012 and all grant guidance is currently in the DHS concurrence process. We value the input provided by your staff regarding which programs to fund in FY 2012.

Of the \$32 billion in preparedness grant funding that FEMA has awarded since 2002, roughly \$9 billion remains unspent. In most cases, the funding is committed at the state or local level to either contracts or vendor obligations. FEMA has analyzed the issues and intends to address the topic of

slow draw down rates in a variety of ways, including outreach with grantees and our federal partners. Many of these steps are underway, such as a conference call that I held on January 25, 2012 with grant recipients of TSGP funding. We discussed ways in which we can work together to ensure that the grant funding is spent efficiently on necessary capability gaps within their transit systems.

FEMA has made significant investments in national preparedness capabilities through the state and local preparedness grant programs. It is essential that the capabilities remain in place and are not abandoned due to lack of funding to support their sustainment. Due to the reductions in overall preparedness grant funding, FEMA will ask grantees to focus their funding on the sustainment of current capabilities. Building new capabilities will only be a priority when those capabilities can be nationally deployed in support of overall national preparedness. FEMA is reviewing our existing policy on maintenance and sustainment to see what flexibility can be offered to grantees in order to focus their funding on maintaining critical capabilities that were previously put in place with FEMA preparedness grant funding. FEMA conducts, and will continue to conduct, outreach with grantees to understand the full scope of the investment that will be needed to maintain current capabilities.

FEMA utilizes a comprehensive risk methodology to determine the eligibility and target allocations for the State Homeland Security Program (SHSP) and UASI. In addition, TSGP and PSGP use elements of risk, each in conjunction with Transportation Security Agency (TSA) and U.S. Coast Guard (USCG) analyses, to determine eligibility and funding amounts. Consistent with past years, FEMA is conducting a State and Urban Area outreach process which provides our grantees an opportunity to review and comment on their risk data prior to the release of the FY 2012 grant guidance. The only significant update to the risk formulas in FY 2012 is the addition of a vulnerability component to the TSGP risk formula in order to more closely align TSGP with the SHSP, UASI and PSGP formulas.

We look forward to working closely with you and your staff to implement these important programs. If you have any further questions or concerns, please have a member of your staff contact FEMA's Legislative Affairs Division at (202) 646-4500.

Sincerely,



Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate

CC: Lynn Gilmore Canton, Region II Administrator
Michael F. Moriarty, Region II Deputy Administrator



FEMA

0 8 MAR 2012

The Honorable Peter T. King
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative King:

Thank you for your recent letter regarding funding allocations for Department of Homeland Security (DHS) Preparedness Grants in fiscal year (FY) 2012. As the Assistant Administrator for the Grant Programs Directorate, I am responding on Secretary Napolitano's behalf.

The Administration, DHS, and the Federal Emergency Management Agency (FEMA) maintain a strong commitment to these critical programs and the role grants play in improving preparedness capabilities across the nation. As you are aware, in FY 2012, DHS preparedness grants were reduced by nearly \$1 billion from the FY 2011 enacted level and \$1.5 billion below the President's FY 2012 request. Given the significant reduction in grant funding and in accordance with the legislative requirements, the authorizing program language, and the Administration's national preparedness and homeland security priorities, we focused on maximizing limited grant dollars by setting clear priorities and focusing on the areas at greatest risk, including urban areas that continue to face the most significant threats. Reflected in the allocations announced on February 17, 2012, the FY 2012 homeland security grants prioritize mitigating and responding to evolving threats while beginning to transition to the new vision set forth in the President's FY 2013 Budget focused on building and sustaining the core capabilities outlined in the National Preparedness Goal.

Based on the Urban Areas Security Initiative (UASI) risk formula of threat, vulnerability, and consequence, New York's relative risk score resulted in \$151.6 million in UASI funding to the New York City Area and \$55.6 million in State Homeland Security Program (SHSP) funding to the State of New York. The Transit Security Grant Program (TSGP) and Port Security Grant Program (PSGP) are competitively awarded programs, in which the four New York City transit systems and New York and New Jersey ports are eligible to apply.

Looking towards FY 2013 and beyond, the Department will continue to work to identify, assess, and mitigate risks across the full threat spectrum and the complex threat environment facing New York and other communities across the nation.

I appreciate your interest in the DHS Preparedness Grants Programs and look forward to working with you on future homeland security issues. Senator Schumer, Senator Gillibrand, and Representative Rangel, who co-signed your letter, will receive separate, identical responses. If you have any further questions or concerns, please have a member of your staff contact EJMA's Legislative Affairs Division at (202) 646-4500.

Regards,



Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate

04 APR 2012



FEMA

The Honorable Michael T. McCaul
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative McCaul:

Thank you for your March 5, 2012 letter, regarding the Monaville Fire Department's application (1:MW-2011-FO-01871, submitted on September 12, 2011) for financial assistance under the Fiscal Year (FY) 2011 Assistance to Firefighters Grant (AFG) Program. You noted in your letter that the application submitted was for Homeland Security Grant Program funding; however, we have confirmed with the county that this application was submitted through the AFG Program.

The application period for the FY 2011 AFG Program closed on September 23, 2011. The grants are competitive, and the review is comprised of two phases. The first phase is an automated assessment of how well the applications align with the AFG Program funding priorities as outlined in the grant program guidance. The second phase is a review of the applications that best align with those priorities by a panel of fire service peers who score specific elements of the application narrative.

Unfortunately, the Monaville Fire Department's application was not recommended to proceed to peer review and as such, was turned down. Monaville Fire Department was informed of the AFG Program Office's decision on January 19, 2012.

For FY 2011, the AFG Program Office offers applicants that did not reach the peer review stage of the application process the opportunity to receive an analysis of their application. Applicants that wish to receive their analysis must send an email request to AFG.Turndowns@dhs.gov within 30 days of the turndown notice. It should be noted that the AFG Program Office is responding to these requests in the order they are received.

I appreciate your interest in the AFG Program and look forward to working with you on future homeland security issues. If you have any further questions or concerns, please have a member of your staff contact the Federal Emergency Management Agency's Legislative Affairs Division at (202) 646-4500.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth M. Harman".

Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate



Homeland Security

November 29, 2012

The Honorable Peter King
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your recent letter regarding the fiscal year (FY) 2013 preparedness grant programs.

While we are still developing the National Preparedness Grant Program (NPGP), our key priority remains collaboratively building and sustaining, at all levels of government, the core capabilities necessary to prepare for those threats that pose the greatest risk to the Nation's security. The Department remains committed to collaborating closely with Congress on the development of the NPGP and will not finalize any grant guidance until a final, Fiscal Year 2013 Department of Homeland Security appropriations bill is signed into law. Once that occurs, the Department will finalize the Fiscal Year 2013 grant guidance and allocate funding in accordance with the requirements of the fiscal year homeland security appropriations law. In the interim, the Department will continue to pursue NPGP and work with stakeholders across the Nation, including the House and Senate, to further define and develop the structure and parameters of NPGP.

Thank you again for your letter and your continued support of this very important program. Chairman Bilirakis, who co-signed your letter, will receive a separate, identical response. If you have any further questions, please do not hesitate to contact me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read "Nelson Peacock".

Nelson Peacock
Assistant Secretary for Legislative Affairs



FEMA

April 11, 2013

The Honorable Peter T. King
U.S. House of Representatives
Washington, DC 20515

Dear Representative King:

Thank you for your recent letter, which you co-signed with Representative Israel, regarding the provision of disaster assistance to housing cooperative (co-op) associations in the aftermath of Hurricane Sandy. I appreciate your patience while FEMA explored the available options. On March 20, FEMA's Chief Counsel conferred with Representative Israel's staff on the current state of the law and options for co-op associations. This letter recaps the key points from that discussion.

Community Development Block Grant disaster recovery (CDBG-DR) funds, administered by the Department of Housing and Urban Development (HUD), is currently the best Federal grant option available to assist co-op associations in recovery. HUD's recent Federal Register Notice specifies that eligible housing activities for CDBG-DR "include new construction and rehabilitation of single family or multifamily units (including garden apartments, condominiums, and units that participate in a housing cooperative)."¹ This initial allocation of \$5.4 billion (out of a total available appropriation of \$16 billion) in CDBG-DR funds appropriated by the Disaster Relief Appropriations Act, 2013 (P.L. 113-2) is for the purpose of assisting recovery in the areas most impacted and distressed by Hurricane Sandy. This first round of funding allocates \$1,713,960,000 to the State of New York and \$1,772,820,000 to New York City.

Under FEMA's current policy and practice, owner-occupants of co-op units may be eligible for FEMA assistance for their individual units, but costs associated with damage to common areas are not eligible. Although the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207) may provide FEMA with some modest additional flexibility to assist individual owner-occupants, Federal law does not provide FEMA with the authority to award grants to co-op associations to repair common area damage.

Under current regulations, housing cooperatives do not fit within any of the definitions of entities that are eligible for FEMA assistance. Attempting to address this issue under the current statutory and regulatory framework with each affected owner-occupant would raise a number of legal and practical concerns including, but not limited to, impact on the maximum assistance available under the Individuals and Households Program, applicability of insurance purchase requirements, and ensuring proper inspections and documentation to establish eligible disaster damage. These

¹ Federal Register at 78 FR 14329 (Mar. 5, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-03-05/pdf/2013-05170.pdf>. The Notice describes the grant award process, the criteria for plan approval, and the eligible disaster recovery activities for this first allocation of the CDBG-DR.

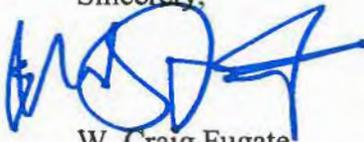
concerns would dramatically limit the efficacy of any assistance FEMA could provide and might result in owner-occupants having less grant funding available for their individual units and recovery needs.

Given the clear statutory, regulatory, and practical limitations applicable to co-op associations under the Stafford Act, we do not believe FEMA programs can provide the solutions you seek. Fortunately, HUD has made CDBG-DR grant funding specifically available for co-operative associations in the aftermath of Hurricane Sandy. As a member of the Hurricane Sandy Rebuilding Task Force, I commit to working with Secretary Shaun Donovan and the other members of the Task Force to identify funds from CDBG-DR, as well as other potential sources to address unmet needs.

We will also inform the other members of Congress who co-signed the March 19, 2013 letter of our determination.

Please have a member of your staff contact FEMA's Congressional Affairs Division at (202) 646-4500 if you require additional assistance on this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. Craig Fugate', is written over a light blue rectangular background.

W. Craig Fugate
Administrator



FEMA

SEP 31 2013

The Honorable Peter T. King
Chairman
Subcommittee on Counterterrorism and Intelligence
U. S. House of Representatives
Washington, DC 20515

Dear Chairman King:

Thank you for your June 26, 2013 letter concerning the Federal Emergency Management Agency (FEMA) Continuing Training Grants program, and the important training it provides in emergency preparedness, emergency response, and security oriented training to first responders and community stakeholders throughout the United States.

The Fiscal Year (FY) 2013 Continuing Training Grant applicants will be evaluated on their ability to develop and deliver training programs to participants on a national level that will build and sustain core capabilities. Applicants will be asked to describe their course delivery methods which may include instructor-led mobile deliveries (i.e. "portable" on location, peer to peer), resident, or on-line training. The FY 2013 Continuing Training Grants program does not promote one training delivery option over another.

Current FEMA sponsored training programs are being delivered in a "portable" fashion and will continue to be delivered as required to increase the level of national preparedness. Since FY 2000, FEMA Training Providers have trained (b)(7)(E) first responders via mobile delivery, to include (b)(7)(E) first responders trained via mobile delivery in FY 2012.

We look forward to receiving applications for the FY 2013 Continuing Training Grants and making awards that will fill critical shortfalls in core capabilities in our national training program. If you have any further questions, comments, or concerns, please do not hesitate to contact the Department of Homeland Security Office of Legislative Affairs at 202-447-5890.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy W. Manning".

Timothy W. Manning
Deputy Administrator
Protection and National Preparedness

04 APR 2012



FEMA

The Honorable Michael T. McCaul
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative McCaul:

Thank you for your March 5, 2012 letter, regarding the Monaville Fire Department's application (1:MW-2011-FO-01871, submitted on September 12, 2011) for financial assistance under the Fiscal Year (FY) 2011 Assistance to Firefighters Grant (AFG) Program. You noted in your letter that the application submitted was for Homeland Security Grant Program funding; however, we have confirmed with the county that this application was submitted through the AFG Program.

The application period for the FY 2011 AFG Program closed on September 23, 2011. The grants are competitive, and the review is comprised of two phases. The first phase is an automated assessment of how well the applications align with the AFG Program funding priorities as outlined in the grant program guidance. The second phase is a review of the applications that best align with those priorities by a panel of fire service peers who score specific elements of the application narrative.

Unfortunately, the Monaville Fire Department's application was not recommended to proceed to peer review and as such, was turned down. Monaville Fire Department was informed of the AFG Program Office's decision on January 19, 2012.

For FY 2011, the AFG Program Office offers applicants that did not reach the peer review stage of the application process the opportunity to receive an analysis of their application. Applicants that wish to receive their analysis must send an email request to AFG.Turndowns@dhs.gov within 30 days of the turndown notice. It should be noted that the AFG Program Office is responding to these requests in the order they are received.

I appreciate your interest in the AFG Program and look forward to working with you on future homeland security issues. If you have any further questions or concerns, please have a member of your staff contact the Federal Emergency Management Agency's Legislative Affairs Division at (202) 646-4500.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth M. Harman".

Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate



1.1 AUG 2011

The Honorable Peter T. King
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative King,

Thank you for your July 25, 2011 in support of the application submitted by Port Authority of New York and New Jersey for financial assistance under the Federal Emergency Management Agency's (FEMA) Fiscal Year (FY) 2011 Transit Security Grant Program (TSGP).

Under the FY 2011 TSGP, FEMA will provide \$200 million to create a sustainable, risk-based effort to protect critical surface transportation infrastructure and the traveling public from acts of terrorism, major disasters, and other emergencies. The grants under the FY 2011 TSGP will be awarded on a competitive basis.

The application period for the FY 2011 TSGP closed on July 5, 2011. At this time the application submitted by Port Authority of New York and New Jersey is still under consideration. We anticipate that final allocation determinations and announcements will be made in August 2011, and awards will be made no later than September 30, 2011. Once decisions are reached, each applicant will be directly notified of the outcome.

I appreciate your interest in the FY 2011 TSGP and look forward to working with you on future homeland security issues. If you have any further questions or concerns, please have a member of your staff contact FEMA's Legislative Affairs Division at (202) 646-4500.

Regards,

A handwritten signature in blue ink that reads 'Elizabeth M. Harman'. The signature is fluid and cursive, written over a light-colored rectangular background.

Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate

CC:

Lynn Canton, FEMA Region III Administrator
Michael Moriarty, FEMA Region III Deputy Administrator



FEMA

1 8 JUL 2011

Hector F. Gonzalez MD, MPH
Director of Health
City of Laredo Health Department
2600 Cedar St., P.O. Box 2337
Laredo, TX 78044

Dear Director Gonzalez:

Thank you for your June 23, 2011 letter to Secretary Napolitano regarding health security along the U.S./Mexico Border. Your letter was forwarded to us at the Department of Homeland Security's Federal Emergency Management Agency (FEMA), Grant Programs Directorate (GPD), as we handle grant inquiries of this nature.

GPD is responsible for assisting States, local and tribal jurisdictions, and regional authorities to reduce vulnerabilities against terrorism and to prevent, respond to, and recover from terrorist acts. One of GPD's principal programs for assisting States and localities is the Homeland Security Grant Program (HSGP). Under this program, the governor of each state has designated a State Administrative Agency (SAA) to administer preparedness activities for their state with HSGP funds according to their Homeland Security Strategy. I recommend that you contact your SAA to try and identify funding opportunities.

The SAA for the State of Texas is the Deputy Director of Texas Homeland Security. For further information and assistance, you should contact Robert J. Bodisch, who can be reached by mail at PO Box 40867, Austin, TX 78773 or by telephone at (512) 424-2368.

I hope this information is helpful and wish you luck in your endeavors.

Regards,

A handwritten signature in blue ink that reads "Elizabeth M. Harman".

Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate

Cc:

Tony Russell, Region VI Administrator
Gary Jones, Region VI Deputy Administrator

SEP 26 2011



Homeland
Security

Pursuant to the requirements of 31 U.S.C. Section 720, the Department of Homeland Security (DHS) is submitting this written statement on actions taken regarding the Government Accountability Office (GAO) recommendations contained in its report, GAO-07-300, HURRICANES KATRINA AND RITA DISASTER RELIEF: Continued Findings of Fraud, Waste and Abuse.

This letter provides a status update on efforts to implement the GAO recommendations contained in the report and is being provided to the following Members of Congress and the Director of OMB:

The Honorable Peter King
Chairman, Committee on Homeland Security

The Honorable Bennie G. Thompson
Ranking Member, Committee on Homeland Security

The Honorable Darrell Issa
Chairman, Committee on Oversight and Government Reform

The Honorable Elijah Cummings
Ranking Member, Committee on Oversight and Government Reform

The Honorable Joseph I. Lieberman
Chairman, Committee on Homeland Security and Governmental Affairs

The Honorable Susan M. Collins
Ranking Member, Committee on Homeland Security and Governmental Affairs

The Honorable Jacob Lew, Director
Office of Management and Budget

Please contact me at (202) 447-5890 if I may be of further assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "Nelson Peacock".

Nelson Peacock
Assistant Secretary
Office of Legislative Affairs

Pursuant to the requirements of 31 U.S.C. Section 720, the Department of Homeland Security (DHS) is submitting this written statement on actions taken regarding the Government Accountability Office (GAO) recommendations contained in its report, GAO-07-300, HURRICANES KATRINA AND RITA DISASTER RELIEF: Continued Findings of Fraud, Waste and Abuse.

“We recommend that the Secretary of Homeland Security direct the Director of FEMA to take the following six actions to address weaknesses identified in the administration of IHP.

Recommendation 1: To prevent rental assistance payments from being provided at the same time that FEMA provides free housing (including trailers, mobile homes, and apartments), FEMA should develop processes for comparing IHP registrant data with FEMA direct housing assistance data to prevent IHP registrants from receiving payments for rental assistance covering the time they are living in FEMA-provided housing.”

Response: Federal Emergency Management Agency (FEMA) concurs with this recommendation. FEMA’s response to the Draft Report on February 15, 2007, did not concur with the examples GAO provided in the Statement of Facts that led to this recommendation for a number of reasons. Applicants who are housed through direct assistance (travel trailers, park models, and manufactured homes) may be eligible for financial reimbursement for costs incurred prior to being housed. Applicants may also be eligible for rental assistance in order to transition out of direct assistance. In several post-Katrina lawsuits (including *McWaters vs. FEMA*, *Ridgely vs. FEMA*, and the *Association of Community Organization Now vs. FEMA*), FEMA was barred from stopping rental assistance as part of an injunction. As stated in the response to the Draft Report, no duplication of benefits occurs if an applicant receives multiple forms of assistance that do not provide overlapping periods of assistance. Without information about the specific cases that GAO reviewed and considered to be ineligible, FEMA is unable to address whether those payments were proper or improper.

Although FEMA did not have sufficient information to agree with GAO’s assessment in the Statement of Facts, FEMA had already implemented significant, additional controls to prevent applicants from receiving overlapping financial and direct rental assistance. Since this report was originally issued, FEMA has made numerous system and procedural changes to minimize the chance for duplication of benefits between financial and direct assistance. These procedural and system changes include:

- The National Emergency Management Information System (NEMIS) has been upgraded numerous times since March 2007 – increasing data collection and reducing the potential for duplication of benefits. In April 2007, FEMA deployed the NEMIS Direct Assistance module (DARAC) version 1.5 to improve data visibility into direct assistance in manufactured unit (travel trailer, park model, and mobile home) operations. During our response to hurricanes Katrina and Rita, manufactured housing action data was stored in locally maintained databases. These databases were not integrated with NEMIS. Caseworkers in NEMIS would not know if an individual had been housed in a manufactured unit unless we received a request to enter a housing record for that individual.

The DARAC 1.5 release puts all direct housing transactions into NEMIS, the system of records for housing. As soon as an individual is housed in a manufactured unit, a housing decision record is added to NEMIS. Caseworkers reviewing an applicant for financial rental assistance immediately know if an applicant is housed in a manufactured unit, which helps prevent duplication of benefits. In NEMIS Version 3 Maintenance Release 8 (V3MR8), released in January 2009, an additional payment rule was added to require additional manual review prior to payment of financial assistance to an applicant receiving direct assistance.

- In January 2010, a new housing tab was added to the NEMIS Individual Assistance processing module. The housing tab displays all housing assistance an applicant has received, including direct housing, financial rental assistance, transient accommodation reimbursement, and sheltering through the Transitional Sheltering Assistance program. This information allows caseworkers reviewing requests for assistance to view all housing actions in a single location, improving their ability to identify potential overlapping assistance.

Recommendation 2: “Provide clear guidance to IIP registrants, including rental assistance registrants, indicating how the payments are to be used.”

Response: FEMA concurs with this recommendation. FEMA’s response to the Draft Report on February 15, 2007, stated that a comprehensive review of our notification methods was being performed. Since that time, several steps have been implemented to improve communications with disaster applicants.

- Beginning with DR 1734, declared in December 2007 for the State of Washington, FEMA now inserts a rental assistance explanation into the eligibility letter for applicants receiving rental assistance. Appendix A includes the text of this rental assistance notification. The letter explains why the applicant is receiving the funds, how the funds are to be used, and how the funded amount was determined, as well as the appeal process if the applicant disagrees with FEMA’s decision.
- In July 2008, FEMA began sending a recertification letter to applicants who had received initial rental assistance. This letter was sent 15 days after applicants received initial rental assistance and informed them of the requirements for receiving continued assistance, including the requirement to provide rent receipts (within 45 days) showing they had exhausted previous rental assistance. A sample of the letter is included as a separate attachment.
- In August of 2008, the “Use of Funds” letter was implemented. This letter informs applicants who have received the maximum amount of financial assistance available under Individuals and Households Program (IHP) that any funds awarded for home repair or replacement housing may also be used to pay for short-term lodging or rental

payments to meet their housing need and instructs the applicant to contact the FEMA Helpline if they intend to do so. Applicants are also instructed to save all receipts for three years, as well as to contact the Small Business Administration (SBA) if they have an SBA loan or are in the process of obtaining one. Appendix B includes the text of the "Use of Funds" letter.

- In addition to the updated letters and language for eligible applicants, the text for Ineligible Letters was updated (beginning in 2007) to give the applicants a clearer understanding of the reasons why he or she was ineligible for the requested assistance. This also provides applicants with information about what is needed to qualify for assistance. Applicants determined to be ineligible for assistance receive a decision letter that provides them with all reasons for ineligibility. For instance, an applicant with insurance who failed FEMA's identity checks would receive both the ineligible insurance and failed identity verification decision paragraphs that would explain what documentation they have to provide in order to overcome all of their reasons for ineligibility. A separate attachment entitled "Fulsome Letter Text Inserts" contains the text for all initial and appeal decisions.

Recommendation 3: "With respect to duplicate assistance payments across multiple disasters, FEMA should implement and/or enable controls to prevent duplicate payments to the same individual from different disasters for the same damage done to the same address."

Response: FEMA concurs with this recommendation. FEMA's policy is that individuals whose homes were impacted by two or more separate events are eligible to apply and receive assistance to address the unique damage incurred by each event. By law, an applicant may receive multiple payments as a result of multiple disasters. Additional damages could and did occur in certain areas struck by both hurricanes Katrina and Rita, and some individuals experienced additional damage to an already repaired home.

In FEMA's response on February 15, 2007, to the draft version of this report, FEMA agreed that some improper payments could have been made and welcomed the opportunity to review specific cases cited by the GAO to ensure any overpayments were recouped. Numerous enhancements have been made to NEMIS since the issuance of this report which has significantly reduced the potential for fraudulent payments, including:

- Identity and occupancy verification checks in NEMIS (added in March 2006) prevent automated payments to applicants who may have used a fraudulent name, social security number or address. Duplicate registrations created on the internet are disallowed. System controls in NEMIS flag "high risk" addresses such as check cashing stores, mail drops, cemeteries, and jails are blocked from receiving payments without on-site verification by a field inspector. Since June of 2007, caseworkers processing continued rental assistance are required to enter dates for the period of assistance. Requiring dates for the period of assistance helps prevent case processing errors such as duplicative

rental assistance payments for overlapping months. Additional upgrades to NEMIS prevent payments over the IHP maximum and payments for items that are covered by insurance.

On January 31, 2010, a new version of NEMIS was deployed. Controls include additional warning flags to caseworkers regarding duplicate applications, as well as providing caseworkers with more information about other potential duplicate applicants. Enhancements in the January 2011 NEMIS upgrade included providing inspectors with the results of automated identity and occupancy checks in order to allow the inspectors to scrutinize documents more carefully. This updated version also included a number of new system controls, including an advisory warning to caseworkers who are attempting to pay rental assistance in cases where the inspector did not verify an applicant is in need to relocate.

- New releases of NEMIS are issued twice a year. The latest release, August 2011, contained updates on electronic communication but did not add any additional checks on identity or occupancy as contained in the January 2011 release,

Recommendation 4: “To prevent improper payments to nonqualified aliens, FEMA should provide clear guidance and training to FEMA and contractor employees on the specific types of aliens eligible for financial disaster assistance, and identify nonqualified aliens.”

Response: FEMA concurs with this recommendation in part. FEMA estimates that non-qualified aliens that applied for assistance in Hurricanes Katrina and Rita made up less than one tenth of one percent of the total population and contends that manual verification of these individuals would have been impractical without halting the automated eligibility determination process established at that time. However, FEMA concurs in part with this recommendation and agrees that if errors can be corrected we should do all we can to implement controls to do so.

To clarify, neither FEMA nor contract employees make initial eligibility decisions or identity verification determinations for individuals that apply for assistance under FEMA’s IHP. The automated processes of NEMIS, whose business rules align with IHP policy, makes the initial eligibility decision. Those business rules include identity checks implemented since Katrina/Rita that will disqualify any applicant that does not meet the predetermined eligibility criteria including nonqualified aliens.

As previously cited, the January 31, 2010, version of NEMIS has controls that include additional warning flags to caseworkers regarding duplicate applications, as well as providing caseworkers with more information about other potential duplicate applicants. The establishment of the following enhancements and improvements further help prevent occurrences of fraud, waste, and abuse:

- IHP Assistance Group: The IHP Assistance Group was established in 2008 to provide clear, consistent and timely guidance regarding IHP policies and case processing procedures to the National Processing Service Centers (NPSC) front line workers through

a dedicated phone system. The overall goal of the group is to reduce case processing errors, improve operational efficiency and improve overall delivery of service.

- Re-Credentialing Training: The NPSCs have updated their IHP credentialing training curriculum to include changes in IHP policy and case processing procedures. In 2009, all NPSC staff involved in manual case processing received re-credentialing training. NPSC employees also receive refresher training periodically every year.
- Quality Control Enhancements: In the past, the NPSC's quality control endeavors did not reach beyond a review of a sampling of employees Registration and Helpline calls or casework determinations. Our Quality Control group has expanded its scope to include reviews of special projects and new case processing procedures. This has enabled the NPSCs to rapidly identify problems with projects and new processing guidelines and take remedial action as necessary.

Recommendation 5: "Develop processes to identify and deny assistance to nonqualified aliens who register for IHP assistance using valid Social Security numbers through data comparisons with agencies that maintain data on legal aliens with Social Security numbers."

Response: FEMA concurs with this recommendation. Since the publication of the report, FEMA has implemented many automated system controls to prevent assistance from being provided to all nonqualified individuals. FEMA upgraded the internet registration application that disallows any duplicate registrations. Automated system controls are also in place to prevent two applicants from applying with the same Social Security Numbers (SSN) regardless of whether they apply through the call center or over the internet. FEMA queries private sector databases to check that SSNs: (1) are valid, (2) match the registrant's name, and (3) do not belong to a deceased individual. NEMIS also queries the United States Postal Service and other data service providers to verify that addresses are legitimate, belong to a dwelling, and are owned and/or occupied by the applicant applying for assistance.

Recommendation 6: "With respect to property bought with DHS purchase cards, if FEMA cannot locate this property in a reasonable time period, it should work with DHS to reconcile its tracking system data and declare these items lost or stolen."

Response: FEMA concurs with this recommendation. FEMA has reconciled its tracking system data and declared these items lost. FEMA initiated a Board of Survey to investigate missing items on December 4, 2007. The findings from the Board of Survey have been received. It has been determined that all but five printers and one laptop had been located. The Board of Survey concluded that "no further action/investigation is required. There is no suspected negligence involved." The missing inventory was a result of the duress of the Katrina response and the lack of accountable property officers available to receive the inventory.

Attachments (4)

Attachment A - Text of Rental Assistance Explanation

Attachment B - "Use of Funds" letter text

Attachment C - Declaration of Continuing Need for Temporary Housing

Attachment D - Fulsome Letter Text Inserts

Appendix A: Text of Rental Assistance Explanation

“You have been approved to receive rental assistance from FEMA. We are providing you this assistance so that you and members of your pre-disaster household can temporarily rent a place to live. We expect all families who receive FEMA temporary rental assistance to return to their damaged home when it is repaired or to locate and occupy affordable housing without FEMA rental assistance at the earliest possible time.

The monthly amount of rental assistance we provided you is based on rental rates determined by FEMA and the U.S. Department of Housing and Urban Development (HUD). If you are unsure what specific days are covered by this assistance, please contact the FEMA Helpline at 1-800-621-FEMA (3362). TTY is available for persons who are hearing or speech impaired, please call 1-800-462-7585.

If you think we have not paid you the appropriate amount of rental assistance for your area, you have the right to appeal. Please send us a statement that describes the number of bedrooms occupied in your home at the time of the disaster. It is also very important that you include your current address and contact information.

Appendix B: "Use of Funds" letter text

"Based on our records, FEMA has provided you the maximum amount of financial assistance in the amount of \$30,200.00 for housing and/or other disaster needs under the Individuals and Households Program. The funds you received for Home Repair or Replacement Housing may also be used to pay for short-term lodging or rental payments to meet your housing needs.

If you plan to use any portion of your Home Repair or Replacement Housing funds on rent or short-term lodging, you must contact the FEMA Helpline at 1-800-621-FEMA (3362) for additional information. As always, you must keep all receipts for 3 years showing how the funds were used for your disaster-related housing needs.

In addition, if you have a Small Business Administration (SBA) loan or are in the process of obtaining a loan, please contact your SBA loan officer for loan adjustment consideration that may be available to you.

If you have any other disaster-related questions, please call the FEMA Disaster Helpline at 1-800-621-FEMA (3362) (hearing/speech impaired only, call 1-800-462-7585), or visit www.fema.gov and click on FAQ's for Disaster Assistance."

**APPENDIX C:
Declaration of Continuing Need for Temporary Housing (RA)**

A. APPLICANT INFORMATION - PLEASE PRINT - Complete all applicant information fields.

FEMA Application No: _____
Disaster No: _____
Name: _____
Phone No: _____
Address: _____

(Please include Name, Application Number, and Disaster Number on each page where indicated)

B. DECLARATIVE STATEMENTS - Carefully read the statements below.

1. My housing needs are not met by another source. I am not receiving housing assistance from another public agency such as the Department of Housing and Urban Development, Veterans Affairs, a local housing agency or other agency or organization.
2. I do not own a secondary or vacation home within reasonable commuting distance of my pre-disaster home.
3. I cannot live in and/or access my pre-disaster primary home due to the disaster.
4. At this time, I have looked for, but have not found, an alternate, adequate home that is within reasonable commuting distance of work and/or school and is within my financial ability. (Title 44 of the U.S. Code of Federal Regulations in Parts 206.111 and 206.114).
5. I will develop a housing plan to obtain affordable housing that is within reasonable commuting distance of work and/or school. (Title 44 of the U.S. Code of Federal Regulations in Parts 206.111 and 206.114).
6. If I intentionally make false statements or conceal any information in an attempt to obtain additional disaster assistance, it is a violation of federal and state laws, which carry criminal and civil penalties, including fines, imprisonment, or both. (18 U.S.C. §§ 287, 1001, and 3571).

APPENDIX C Continued
Declaration of Continuing Need for Temporary Housing (RA)

C. CURRENT HOUSING STATUS - Read each statement and check only one that applies to your housing status.

I am a PRE-DISASTER HOMEOWNER and my pre-disaster and current monthly housing costs include (fill in all that apply):

HOUSING COST PRE-DISASTER CURRENT
Mortgage \$ _____ \$ _____
Real Estate Taxes \$ _____ \$ _____
Rent Not Applicable \$ _____
Insurance \$ _____ \$ _____
Water \$ _____ \$ _____
Gas \$ _____ \$ _____
Electric \$ _____ \$ _____
Heating Fuel \$ _____ \$ _____
Propane \$ _____ \$ _____
Sewer \$ _____ \$ _____
Total \$ _____ \$ _____

I am a PRE-DISASTER RENTER and my pre-disaster and current monthly housing costs include (fill in all that apply):

HOUSING COST PRE-DISASTER CURRENT
Rent \$ _____ \$ _____
Insurance \$ _____ \$ _____
Water \$ _____ \$ _____
Gas \$ _____ \$ _____
Electric \$ _____ \$ _____
Heating Fuel \$ _____ \$ _____
Propane \$ _____ \$ _____
Sewer \$ _____ \$ _____
Total \$ _____ \$ _____

NOTICE: Housing costs do NOT include cable television, internet, or telephone expenses

APPENDIX C Continued
Declaration of Continuing Need for Temporary Housing (RA)

D. INCOME - Read the two statements; fill in the income amounts.

1. Before the disaster my household income was: \$ _____ per month

2. As a result of the disaster, my household income is: \$ _____ per month

E. ELIGIBILITY NOTICE - FEMA may only provide continued rental assistance to a household when other adequate alternate housing is not available (Title 44 of the U.S. Code of Federal Regulations in Part 206.114).

F. SUBMISSION OF DOCUMENTS:

LEASE: FEMA requires a copy of your current lease on file. If you have already sent your current lease to FEMA, you do not need to send it again. If you have not already provided us your current lease, you MUST attach a copy of the current lease agreement with this declaration.

RENT RECEIPTS/CHECKS: For all rental assistance requests, you MUST submit a copy of all rent receipts and/or cancelled checks showing that you paid rent with the temporary rental assistance that FEMA previously gave you. If a rent receipt has already been submitted with a prior rental assistance request, you do not need to send it in again.

INCOME: You MUST attach a copy of each of the following income documents that apply: recent pay statements, social security income statements, unemployment benefit statements, retirement benefit statements, and other documents reflecting monthly income for all members of your current household above the age of 18.

G. SIGNATURE - This declaration will not be processed without a signature. I hereby declare under penalty of perjury that the foregoing is true and correct.

Applicant's Signature Applicant's Printed Name Date

You must complete the Declaration of Continuing Need for Temporary Rental Assistance in full each time you request additional rental assistance.

If you have any questions about completing this document you should call the FEMA Disaster Helpline at 1-800-621-FEMA (3362) (hearing/speech impaired only: 1-800-462-7585) as soon as possible.

**APPENDIX C:
Declaration of Continuing Need for Temporary Housing (RA)**

A. APPLICANT INFORMATION - PLEASE PRINT - Complete all applicant information fields.

FEMA Application No: _____
Disaster No: _____
Name: _____
Phone No: _____
Address: _____

(Please include Name, Application Number, and Disaster Number on each page where indicated)

B. DECLARATIVE STATEMENTS - Carefully read the statements below.

1. My housing needs are not met by another source. I am not receiving housing assistance from another public agency such as the Department of Housing and Urban Development, Veterans Affairs, a local housing agency or other agency or organization.
2. I do not own a secondary or vacation home within reasonable commuting distance of my pre-disaster home.
3. I cannot live in and/or access my pre-disaster primary home due to the disaster.
4. At this time, I have looked for, but have not found, an alternate, adequate home that is within reasonable commuting distance of work and/or school and is within my financial ability. (Title 44 of the U.S. Code of Federal Regulations in Parts 206.111 and 206.114).
5. I will develop a housing plan to obtain affordable housing that is within reasonable commuting distance of work and/or school. (Title 44 of the U.S. Code of Federal Regulations in Parts 206.111 and 206.114).
6. If I intentionally make false statements or conceal any information in an attempt to obtain additional disaster assistance, it is a violation of federal and state laws, which carry criminal and civil penalties, including fines, imprisonment, or both. (18 U.S.C. §§ 287, 1001, and 3571).

APPENDIX C Continued
Declaration of Continuing Need for Temporary Housing (RA)

C. CURRENT HOUSING STATUS - Read each statement and check only one that applies to your housing status.

I am a PRE-DISASTER HOMEOWNER and my pre-disaster and current monthly housing costs include (fill in all that apply):

HOUSING COST PRE-DISASTER CURRENT
Mortgage \$ _____ \$ _____
Real Estate Taxes \$ _____ \$ _____
Rent Not Applicable \$ _____
Insurance \$ _____ \$ _____
Water \$ _____ \$ _____
Gas \$ _____ \$ _____
Electric \$ _____ \$ _____
Heating Fuel \$ _____ \$ _____
Propane \$ _____ \$ _____
Sewer \$ _____ \$ _____
Total \$ _____ \$ _____

I am a PRE-DISASTER RENTER and my pre-disaster and current monthly housing costs include (fill in all that apply):

HOUSING COST PRE-DISASTER CURRENT
Rent \$ _____ \$ _____
Insurance \$ _____ \$ _____
Water \$ _____ \$ _____
Gas \$ _____ \$ _____
Electric \$ _____ \$ _____
Heating Fuel \$ _____ \$ _____
Propane \$ _____ \$ _____
Sewer \$ _____ \$ _____
Total \$ _____ \$ _____

NOTICE: Housing costs do NOT include cable television, internet, or telephone expenses

APPENDIX C Continued
Declaration of Continuing Need for Temporary Housing (RA)

D. INCOME - Read the two statements; fill in the income amounts.

1. Before the disaster my household income was: \$ _____ per month

2. As a result of the disaster, my household income is: \$ _____ per month

E. ELIGIBILITY NOTICE - FEMA may only provide continued rental assistance to a household when other adequate alternate housing is not available (Title 44 of the U.S. Code of Federal Regulations in Part 206.114).

F. SUBMISSION OF DOCUMENTS:

LEASE: FEMA requires a copy of your current lease on file. If you have already sent your current lease to FEMA, you do not need to send it again. If you have not already provided us your current lease, you MUST attach a copy of the current lease agreement with this declaration.

RENT RECEIPTS/CHECKS: For all rental assistance requests, you MUST submit a copy of all rent receipts and/or cancelled checks showing that you paid rent with the temporary rental assistance that FEMA previously gave you. If a rent receipt has already been submitted with a prior rental assistance request, you do not need to send it in again.

INCOME: You MUST attach a copy of each of the following income documents that apply: recent pay statements, social security income statements, unemployment benefit statements, retirement benefit statements, and other documents reflecting monthly income for all members of your current household above the age of 18.

G. SIGNATURE -This declaration will not be processed without a signature. I hereby declare under penalty of perjury that the foregoing is true and correct.

Applicant's Signature Applicant's Printed Name Date

You must complete the Declaration of Continuing Need for Temporary Rental Assistance in full each time you request additional rental assistance.

If you have any questions about completing this document you should call the FEMA Disaster Helpline at 1-800-621-FEMA (3362) (hearing/speech impaired only: 1-800-462-7585) as soon as possible.

IV.F.1.ja FULSOME LETTER TEXT INSERTS

Revised:
02/10/2010

AUTHORITY:

A. Background

1. Updating the text for FEMA Letters began in 2007.
2. The texts for Ineligible Letters were the first to be updated to allow the Applicants to clearly understand the reasons why he or she was ineligible for the requested assistance.
3. The updating process continues and new texts will be posted as they become available.

B. Ineligible Text Inserts

General Ineligible Text Inserts

Eligibility Code	Description	Approved Date
I69B	Ineligible – Signature Not Obtained (90-69B)	12/10/07
A-I69B	Appeal – Signature Not Obtained (90-69B)	12/21/07
IAW	Ineligible – Same Address	12/10/07
A-IAW	Appeal – Same Address	12/21/07
ICBRA	Ineligible - Damaged Dwelling located in CBRA or OPA	06/26/08
A-ICBRA	Ineligible - Damaged Dwelling located in CBRA or OPA	06/26/08
IDUPA	Ineligible – Duplicate Application	02/22/08
IID	Ineligible – Insufficient Damage	12/10/07
A-IID	Appeal – Insufficient Damage	12/21/07
IIDV	Ineligible – Failed Identity Verification	12/10/07
A-IIDV	Appeal – Failed Identity Verification	12/21/07
ILDOBR	Ineligible Linked for Duplicate Review	01/19/10
IMI	Ineligible – Missed Inspection	12/10/07
A-IMI	Appeal – Missed Inspection	01/25/08
INCI	Ineligible – No Contact Inspection	12/10/07
A-INCI	Appeal – No Contact Inspection	01/25/08
INDM	Ineligible Damage Not Disaster Related *A pre-existing condition, not significantly worsened by a disaster.	01/19/10
INDR	INDR – Ineligible – Damage Not Disaster Related *An occurrence which falls outside of the incident period or damage types not associated with a declared disaster.	06/26/08
A-INDR	INDR – Ineligible – Damage Not Disaster Related	06/26/08
INFI	Ineligible – Flood Insurance. The HSS will have 2 options from which to choose for the initial ineligible text insert: Ineligible – Insurance Settlement Exceeds FEMA Eligible Damage Ineligible – Missing Insurance Settlement or Denial Letter	07/13/10
A-INFI	Appeal – Has Flood Insurance	12/10/07

**IV.F.1-ja. FULSOME LETTER TEXT
INSERTS**

Revised:
08/10/2010

AUTHORITY:

General Ineligible Text Inserts

Eligibility Code	Description	Approved Date
INI	Ineligible - Insurance (with inspection). The HSS will have 3 options from which to choose for the initial ineligible text insert: Ineligible - Insurance Covers Living Expense Ineligible - Insurance Settlement Exceeds FEMA Eligible Damage Ineligible - Missing Insurance Settlement or Denial Letter	07/13/10
A-INI	Appeal - Ineligible Insurance. Either an auto-determined INS and/or an INI/INFI decision is present. The HSS will have 3 secondary options from which to choose for the appeal ineligible text insert: Appeal - Insurance Covers Living Expenses Appeal - Insurance Settlement Exceeds FEMA Eligible Damage Appeal - Missing Insurance Settlement or Denial Letter	12/21/07
A-INO	Appeal - After 60 Day Deadline	02/22/08
INO	Ineligible - Ownership Not Proven	01/25/08
A-INO	Appeal - Ownership Not Proven	01/25/08
INO	Ineligible - Not a Legal Resident	01/25/08
A-INO	Appeal - Not a Legal Resident	01/25/08
A-INO	Appeal - Unable to Reimburse over Approved Rental Rate	02/22/08
INO	Ineligible - Roads and Bridges - Another Access	06/26/08
A-INO	Ineligible - Roads and Bridges - Another Access	06/26/08
INO	Ineligible - Roads and Bridges - Another Applicant	06/26/08
A-INO	Ineligible - Roads and Bridges - Another Applicant	06/26/08
A-INO	Ineligible - Additional Repair Assistance	06/26/08
A-INO	Ineligible - Exceeds Standard Pricing - Home Repair	06/26/08
INONV	Ineligible - Occupancy Not Verified	12/10/07
A-INONV	Appeal - Occupancy Not Verified	01/25/08
INPR	INPR - Ineligible - Not Primary Residence	06/26/08
A-INPR	INPR - Ineligible - Not Primary Residence	06/26/08
INR	Ineligible - Will Not Relocate	12/10/07
INS	Ineligible - Insured (with no inspection)	12/10/07
A-INS	Appeal - Insured	12/21/07
INSFI	Ineligible - Flood Insurance	12/10/09
IOVR	Ineligible - Over Program Maximum (Updated Annually)	12/10/07
A-IOVR	Appeal - Over Program Maximum (Updated Annually)	01/25/08
IOWNV	Repair Ineligible - Ownership Not Verified	01/19/10
ISC	Ineligible - Sanctioned Community in SFHA	12/10/07
A-ISC	Appeal - Sanctioned Community in SFHA	12/21/07
NCOMP	Ineligible - Noncompliant with Flood Insurance Requirement	12/10/07

**IV.F.1 ja. FULSOME LETTER TEXT
INSERTS**

Revised
08/10/2010

AUTHORITY:

General Ineligible Text Inserts

Eligibility Code	Description	Approved Date
A-NCOMP	Appeal – Noncompliant with Flood Insurance	12/21/07
WVO	Withdrawn – Applicant Withdrew Voluntarily	12/10/07

Recertification Ineligible Letter Inserts

Eligibility Code	Description	Approved Date
IRCT	Financial Ability	09/18/08
A-IRCT	Appeal – Financial Ability	09/18/08
IRCT	No Contact 90 Days	09/18/08
A-IRCT	Appeal – No Contact 90 Days	09/18/08
IRCT	Not Completed 120 Days	09/18/08
A-IRCT	Appeal – Not Completed 120 Days	09/18/08
IRCT	Received Rental Assistance from Another Agency	06/23/10
A-IRCT	Appeal - Received Rental Assistance from Another Agency	06/23/10
IRCT	Moved into Permanent Housing	06/23/10
A-IRCT	Appeal – Moved into Permanent Housing	06/23/10
IRCT	Direct Housing Assistance from FEMA	06/23/10
A-IRCT	Appeal - Direct Housing Assistance from FEMA	06/23/10

C. Letter Text Inserts

I69B

Initial

I69B – Ineligible – Signature Not Obtained (90-69B)

Based on our records, we do not have a signed Declaration & Release Form (90-69B) for your application in our file. This form is required before FEMA can provide you any assistance that you may be eligible to receive.

You can find this form near the back of the Applicant’s Guide that we mailed to you when you applied (**Help After a Disaster**, Applicant’s Guide to the Individuals and Households Program) or at our website www.fema.gov and click on Apply for Assistance. You can also call the FEMA Helpline to have another copy mailed to you.

Please complete and sign the Declarations & Release Form (90-69B) and return it to us as soon as possible at the address we provide in this letter.

[Back to Table](#)

A-I69B**Appeal****I69B – Ineligible – Signature Not Obtained (90-69B)**

In a previous letter, we explained that a 90-69B form was required before FEMA can provide you any assistance that you may be eligible to receive. We explained where you could find a copy of the form and requested that you sign it and return it to us.

According to our records, after reviewing the additional information that you sent, we still do not have a signed Declaration & Release Form (90-69B) in your file. FEMA can only provide assistance if the 90-69B form is signed, dated and in your file. As a result, we are not able to process your application further at this time.

[Back to Table](#)**IAW****Initial****IAW – Ineligible – Same Address**

Based on our records, at the time of the disaster you were living at the same address as someone who already applied for FEMA housing assistance. Because they already applied for this assistance, you will not be eligible for FEMA housing assistance under your application. If you need to know who applied at your address, please call the FEMA Helpline for additional information. If you do not agree with our decision, you have the right to appeal. Please send us documents showing that at the time of the disaster you were not living with the person who already applied for housing assistance at your address. Documents could include a lease, rental agreement or verifiable rent receipts showing that you lived at a different address at the time of the disaster.

[Back to Table](#)**A-IAW****Appeal****IAW – Ineligible – Same Address**

In a previous letter, we explained that our records showed that at the time of the disaster you were living at the same address as someone who already applied for FEMA housing assistance. We explained that you would not be eligible for FEMA housing assistance under your application because FEMA is only able to consider a single application for housing assistance from the same address. We described the documents that you could submit which would show that at the time of the disaster you were not living with the person who already applied for housing assistance at your address.

We have reviewed your appeal and any additional documents you may have provided and we are still not able to verify that you lived at a different address than the person who applied. As a result, your appeal is not approved and you are not eligible for housing assistance from FEMA.

This decision only applies to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

ICBRA

Initial

ICBRA – Ineligible - Damaged Dwelling located in CBRA or OPA

Based on our records, your home is located in an area which is protected by the Coastal Barrier Resources Act (CBRA) or an otherwise protected area (OPA). As a result, you are not eligible for FEMA home repair/replacement or personal property assistance. However, FEMA may be able to provide you rental assistance if the damage caused by the disaster made your home unlivable. Assistance may also be available for such needs as medical, dental and funeral expenses as a result of the disaster. For questions regarding available assistance, please call FEMA's Helpline.

If you do not agree with our decision that your home is located in an area which is protected the Coastal Barrier Resources Act (CBRA) or an otherwise protected area (OPA), you have the right to appeal. If you decide to appeal, please provide a written statement from a local Flood Plain Manager that shows that your home is not located in a protected area.

[Back to Table](#)

A-ICBRA

Appeal

ICBRA – Ineligible - Damaged Dwelling located in CBRA or OPA

In a previous letter, we explained that you are not eligible for home repair/replacement or personal property assistance because your home is located in an area protected by the Coastal Barrier Resources Act (CBRA) or an otherwise protected area (OPA).

We have reviewed your appeal and any additional information you may have provided and we have still determined that your home is located in a protected area. As a result, your appeal is not approved and you are not eligible to receive home repair/replacement or personal property assistance from FEMA.

This decision only applies to your appeal for FEMA home repair/replacement or personal property assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

IDUPA

Initial

IDUPA – Ineligible – Duplicate Application

Based on our records, you have already applied for FEMA assistance on this disaster. FEMA can only consider a single application from you. As a result, we have combined these applications under the single FEMA Application Number 00-0000000. Please refer only to this Application Number in all contact with FEMA regarding this disaster.

If our information is incorrect, and you have not already applied with FEMA for this disaster, please call FEMA's Helpline at 1-800-621-3362.

[Back to Table](#)

IID

Initial

IID – Ineligible – Insufficient Damage

Based on your FEMA inspection, we have determined that the disaster has not caused your home to be unsafe to live in. This determination was based solely on the damages to your home that are related to this disaster.

Although the disaster may have caused some minor damage, it is reasonable to expect you or your landlord to make these repairs. At this time you are not eligible for FEMA housing assistance.

If you do not agree with our decision, you have the right to appeal. Please send us documents such as a statement from local officials, contractor estimates, etc. to show that the damage to your home was caused by the disaster and has caused unsafe or unlivable conditions.

[Back to Table](#)

A-IID

Appeal

IID – Ineligible – Insufficient Damage - Owner

In a previous letter, we explained that you were not eligible for FEMA housing assistance because when FEMA inspected your home it was determined that the disaster had not caused your home to be unsafe to live in. This determination was based solely on the damage to your home that is related to this disaster. We explained that although the disaster may have caused some minor damage, it was reasonable to expect you or your landlord to make these repairs. We described the documents that you could submit to us to show that the damage to your home was caused by the disaster and has caused unsafe or unlivable conditions.

We have reviewed your appeal and any additional documents you may have provided, along with the FEMA inspection(s) on your home. We have determined that our initial decision was correct that you did not suffer disaster related damage that made it unsafe for you to live in your home.

This decision only applies to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

IIDV**Initial****IIDV – Ineligible – Failed Identity Verification**

Before we are able to consider your application for disaster assistance, FEMA is required to verify the information you provided on your application. At this time we are unable to match your name and social security number in order to verify your identity.

First, check the spelling of your name at the top of this letter. If your name is spelled incorrectly, please call the FEMA Helpline so that we can correct it.

If your name is spelled correctly, please provide a copy of any of the following government issued documents to help us match your name and social security number. Any documents submitted must include your first and last name and your social security number.

- A driver's license or identification card
- A marriage license (that matches your maiden name and social security number)
- A letter or Numident Report from the Social Security Administration
- W-2 or 1099 tax documents

If you need help determining whether a document can be considered proof of identity, please call the FEMA Helpline.

[Back to Table](#)**A-IIDV****Appeal****IIDV – Failed Identity Verification**

In a previous letter, we explained we needed additional information from you to verify your identification before we could consider your application for disaster assistance. FEMA is required to verify the information you provided on your application and we were unable to match your name and social security number to verify your identity. We described the documents that you could send that might provide the needed verification.

We have reviewed your appeal and any additional documents you may have provided. We are still unable to verify your identity. FEMA is not able to provide any assistance to individuals without first verifying their identity. As a result, your appeal is not approved and we are not able to process your application.

[Back to Table](#)

ILDOBR HA and ONA**Initial****ILDOBR - Ineligible - Multiple reasons and possible duplicate**

In addition to the ineligible decisions listed within this letter, FEMA has determined that at the time of the disaster you were living at the same address as someone who already applied for FEMA assistance.

If you decide to appeal the other ineligible decisions within this letter, please also provide documents to demonstrate that at the time of the disaster you were not living with or assisted by the person that already applied at your address. If you need to know who applied at your address, please call the FEMA Helpline for additional information.

[Back to Table](#)**IMI - (New Code)****Initial****IMI - Ineligible - Missed Inspection**

Based on our records, you did not keep your appointments with the FEMA inspector. In order to be considered for FEMA housing assistance, you (or another household member over the age of 18) must meet with the inspector to evaluate the disaster related damage to your home. At this time, you are not eligible to be considered for FEMA housing assistance.

FEMA will not attempt to contact you again to schedule an inspection appointment. If you need to meet with an inspector, please contact FEMA's Helpline.

[Back to Table](#)**A-IMI****Appeal****IMI - Ineligible - Missed Inspection**

In a previous letter, we explained that in order to be considered for FEMA housing assistance, you (or another household member over the age of 18) must meet with the inspector to assess the disaster related damages to your home, and that our records showed that you did not keep your appointments with the FEMA inspector. You contacted the FEMA Helpline and another inspector was assigned to assess your home. Once again you did not keep your appointment. As a result, we will not be able to assist you further.

[Back to Table](#)

INCI

Initial

INCI – Ineligible – No Contact Inspection

A FEMA inspector has not been able to contact you to schedule an appointment. In order to be considered for FEMA housing assistance, you (or another household member over the age of 18) must meet with an inspector to evaluate the disaster related damage to your home. At this time, you are not eligible to be considered for FEMA assistance.

FEMA will not attempt to contact you again to schedule an inspection appointment. If you need to meet with an inspector, please contact the FEMA Helpline. Please be sure to provide your current phone numbers and the best time of day to reach you.

[Back to Table](#)

**A-INCI
Appeal**

2nd Initial -

INCI – Ineligible – No Contact Inspection

In a previous letter, we explained that in order to be considered for FEMA housing assistance, you (or another household member over the age of 18) must meet with an inspector to assess the disaster related damage to your home, and that a FEMA inspector had not been able to contact you to schedule an appointment. You contacted the FEMA Helpline and another inspector was assigned to assess your home. After repeated attempts, that inspector has been unable to reach you to schedule an inspection. As a result, we will not be able to assist you further.

[Back to Table](#)

INDM

Initial

INDM – Ineligible – Damage Not Disaster Related

Based on the FEMA inspection of your home, your home is in need of repairs but the damage was not caused or made worse by the declared disaster. Although your home is in need of repairs, FEMA can only provide assistance for disaster related damage. As a result, you are not eligible for FEMA housing assistance.

If you do not agree with our decision, you have the right to appeal. If you decide to appeal, please send us documents such as written statements from local officials or detailed estimates from licensed contractors stating that the damage to your home was caused or made worse by the disaster.

****This code is used for a pre-existing condition, not significantly worsened by a disaster. ****

[Back to Table](#)

INDR**Initial****INDR – Ineligible – Damage Not Disaster Related**

Based on the FEMA inspection of your home, your home is in need of repairs but the damage was not caused or made worse by the declared disaster. Although your home is in need of repairs, FEMA can only provide assistance for disaster related damage. As a result, you are not eligible for FEMA housing assistance.

If you do not agree with our decision, you have the right to appeal. If you decide to appeal, please send us documents such as written statements from local officials or detailed estimates from licensed contractors stating that the damage to your home was caused or made worse by the disaster.

This code is used for an occurrence which falls outside of the incident period or for damage types not associated with a declared disaster.

[Back to Table](#)**A-INDR****Appeal****INDR – Ineligible – Damage Not Disaster Related**

In a previous letter, we explained that you were not eligible for FEMA housing assistance because when FEMA inspected your home it was determined that your home was in need of repairs but the damage was not caused or made worse by the declared disaster. We described the documents that you could submit to us to appeal our decision.

We have reviewed your appeal and any additional documents you may have provided, along with the FEMA inspection(s) of your home. We have determined that our decision was correct and that the damage to your home was not caused or made worse by the disaster.

This decision only applies to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)**A-INFI****Appeal****INFI – Ineligible – Missing Flood Insurance Settlement or Denial Letter**

In a previous letter, we explained you were not eligible for FEMA home repair or replacement assistance because you have flood insurance on your home. We described the documents that you could send to appeal our decision.

We have reviewed your appeal and any additional documents you may have provided and we are still not able to verify the amount of your insurance settlement. As a result, your appeal is not approved and you are not eligible for FEMA housing assistance.

If you have questions about what documents you still need to submit, please contact the FEMA Helpline at the number provided in this letter.

This decision only applies to your appeal for FEMA home repair or replacement assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

INI

Initial

INI – Ineligible – Insurance (with inspection)

The following are optional inserts that HSS's can choose from under the appeal ineligible insurance texts:

1. INI

Initial

INI – Ineligible – Insurance Covers Living Expenses

Based on the information you provided, the home that you lived in at the time of the disaster is covered by insurance. Any damage identified in your FEMA inspection should be covered by your insurance. The insurance you have on your home provides funds for you to rent a temporary place to live while repairs are being made to your home. Because we recognize that even with insurance you may have serious and necessary housing needs, you may also appeal to FEMA for rental assistance if one of the following conditions applies:

1. You have used all the available funds provided to you by your insurance company for the purpose of renting a temporary place to live. This is usually called Additional Living Expenses (ALE) or Loss of Use. You will need to provide a copy of your insurance policy stating the limits of your ALE and documentation showing that you used these funds for living expenses

OR

2. Your insurance settlement is delayed longer than 30 days from when you filed the claim and you need an advance of rental assistance. If Loss of Use funds or Additional Living Expenses are received from your insurance company at a later date, any advanced funds will be required to be returned to FEMA.

We have not received documents that show that you have used all available funds for renting a temporary place to live or that your insurance settlement has been delayed. As a result, you are not eligible to receive rental assistance from FEMA.

If you have questions about our decision, please contact the FEMA Helpline.

This decision only applies to FEMA rental assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

2. INI/INFI

Initial

INI/INFI - Ineligible - Insurance Settlement Exceeds FEMA Eligible Damage

Unlike private insurance, the FEMA housing repair program is limited only to essential repairs. As a result, it is not uncommon for insurance settlements to exceed what FEMA can provide for repair assistance. According to our records, the total amount of your insurance settlement for housing damage is greater than the amount of FEMA repair assistance you are eligible to receive. Because FEMA cannot duplicate assistance provided by insurance, your assistance for home repair is not approved.

If you disagree with our decision that your house is covered by insurance or some of your damage is not covered, you have the right to appeal. If you appeal because some of your damage is not covered, please be sure to include Insurance settlement documents or a denial letter and any other supporting information.

This decision only applies to FEMA home repair or replacement assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

3. INI/INFI

Initial

INI/INFI - Ineligible - Missing Insurance Settlement or Denial Letter

During the registration process or during the inspection process you stated that you have insurance on your home.

We have completed the inspection process and have reviewed the documents that you provided. We are unable to complete our processing because we did not receive detailed insurance settlement documents or an insurance denial letter.

If you have not done so already, please file a claim with your insurance company. If some of your damage is not covered by insurance, please submit the insurance settlement documents or denial letter, and any other supporting information.

This decision only applies to FEMA home repair or replacement assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

A-INI

Appeal

INI – Ineligible – Insurance

The following are optional inserts that HSS's can choose from under the appeal ineligible insurance texts:

1. A-INI

Appeal

INI – Ineligible – Insurance Covers Living Expenses

Based on the information you have submitted, the insurance you have on your home provides funds for you to rent a temporary place to live while repairs are being made to your home. We have not received documents that show that you have used all available funds for renting a temporary place to live or that your insurance settlement has been delayed longer than 30-days from when you filed a claim. As a result, your appeal is not approved and you are not eligible to receive rental assistance from FEMA.

This decision only applies to your appeal for FEMA rental assistance. Your request for any other form of assistance is considered separately.

2. A-INI

Appeal

INI – Ineligible – Insurance Settlement Exceeds FEMA Eligible Damage

Unlike private insurance, FEMA housing repair program is limited only to essential repairs. As a result, it is not uncommon for insurance settlements to exceed what FEMA can provide for repair assistance. According to our records, the total amount of your insurance settlement for housing damage is greater than the amount of FEMA repair assistance you are eligible to receive. Because FEMA cannot duplicate assistance provided by insurance, your appeal is not approved.

This decision only applies to your appeal for FEMA home repair or replacement assistance. Your request for any other form of assistance is considered separately.

3. A-INI

Appeal

INI - Ineligible – Missing Insurance Settlement or Denial Letter

In a previous letter, we explained you were not eligible for FEMA home repair or replacement assistance because you have insurance on your home. That letter also described the documents that you could send to appeal our decision.

We have reviewed the documents that you provided and we are unable to process your appeal because we did not receive detailed insurance settlement documents or an insurance denial letter.

If you have questions about what documents you still need to submit, please contact the FEMA Helpline at the number provided in this letter.

This decision only applies to your appeal for FEMA home repair or replacement assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

A-INO**Appeal****INO – Ineligible – After 60 Day Deadline**

In a previous letter, we explained that any appeal of a FEMA decision must be submitted within 60 days of our decision letter. You did not submit your appeal until after the 60 day deadline. As a result, your appeal will not be considered unless one of the following conditions prevented you from completing your appeal:

- Hospitalization, illness, disability, or death of an immediate family member;
- Personal or business travel that kept you out of the area for the full appeal period.

If you want FEMA to consider your appeal, you may send a letter of explanation and submit all related documents that clearly show why you were unable to complete your appeal.

[Back to Table](#)**INO****Initial****INO – Ineligible – Ownership Not Proven**

Our records indicate that you have not proven that you owned your home at the time of the disaster. As a result, you are not eligible for FEMA home repair or replacement assistance.

If you disagree with our decision, you have the right to appeal. If you decide to appeal, please provide documents such as the title or deed, tax assessment, mortgage payment letter, or other documentation that proves that you are the owner of the damaged home.

[Back to Table](#)**A-INO****Appeal****INO – Ineligible – Ownership Not Proven**

In a previous letter, we explained that you have not proven that you owned your home at the time of the disaster. We described the documents that you could submit which would show ownership of the damaged home.

We have reviewed your appeal and any additional documents you may have provided and we are still not able to verify that you owned the home. As a result, your appeal is not approved and you are not eligible for FEMA home repair or replacement assistance.

This decision only applies to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

INO

Initial

INO- Ineligible – Not a Legal Resident

A signed Declaration and Release Form (90-69B) is required before FEMA can consider you for any assistance you may be eligible to receive. Based on our records, we received a form from you, but it does not indicate that you or any member of your household is a U.S. Citizen, Non-Citizen National, or a Qualified Alien. As a result, you are not eligible for FEMA assistance.

Please complete and sign the Declaration & Release Form (90-69B) and return it to us as soon as possible at the address provided in this letter. You can find this form near the back of the Applicant's Guide (**Help After a Disaster**, Applicant's Guide to the Individuals and Households Program) that we mailed to you when you applied or at our website www.fema.gov and click on Apply for Assistance. You can also call the FEMA Helpline to have another copy mailed to you.

Please feel free to consult with an attorney or other immigration expert if you have any questions regarding your U.S. Citizen, Non-Citizen National, or Qualified Alien status.

[Back to Table](#)

A-INO

Appeal

INO – Ineligible – Not a Legal Resident

In a previous letter, we explained that FEMA could not consider you for any assistance that you may be eligible to receive until you indicate on your Declaration and Release Form (90-69B) that you or any member of your household is a U.S. Citizen, Non-Citizen National, or a Qualified Alien. We also suggested that you complete and submit another form.

We have reviewed your appeal and any additional documents you may have provided and we are still unable to determine that you or any member of your household is a U.S. Citizen, Non-Citizen National, or Qualified Alien. As a result, your appeal is not approved and you will not be considered for FEMA assistance.

[Back to Table](#)

A-INO

Appeal

INO - Ineligible -Unable to Reimburse over Approved Rental Rate

Previously, we explained that the amount of FEMA monthly rental assistance is based on the number of occupied bedrooms in your home at the time of the disaster and is limited to rental rates determined by FEMA and the U.S. Department of Housing and Urban Development (HUD).

We have reviewed your appeal and any additional information you may have provided. We have determined that the monthly rate we paid you was the appropriate amount. As a result, your appeal is not approved and we are not able to pay you a higher monthly rental rate.

This decision only applies to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

INO

Initial

INO - Ineligible - Roads and Bridges - Another Access

Based on our records, an access route to your home was damaged by the disaster, but there is another route that you can use. FEMA is only able to provide assistance for repairs to an access route if there is no other way to get to your home. As a result, you are not eligible to receive assistance to repair this access route.

If you disagree with our decision, you have the right to appeal. If you decide to appeal, please provide documents such as a written statement from local officials that describe why the alternate access route cannot be used to gain access to your home.

[Back to Table](#)

A-INO

Appeal

INO - Ineligible - Roads and Bridges - Another Access

In a previous letter, we explained that you were not eligible for assistance to repair the access route to your home because there is another route that you can use. We explained that FEMA is only able to provide assistance for repairs to an access route if there is no other way to get to your home.

We have reviewed your appeal and any additional documents you may have provided and we determined that there is another way to get to your home. As a result, we are unable to provide you assistance to repair your access route.

This decision only applies to your appeal for FEMA repair assistance for your access route. Your request for any other form of assistance is considered separately.

[Back to Table](#)

INO**Initial****INO – Ineligible – Roads and Bridges – Another Applicant**

Based on our records, the access route to your home was damaged by the disaster. FEMA attempts to divide the total assistance necessary for repairs to a shared road between all affected applicants. To expedite repair of your access route, FEMA has already provided the total amount of assistance necessary for repairs to one or more applicants on your access route. At the time that we made this decision, we did not have enough information to provide you assistance to repair the access route.

By law, we are unable to disclose information about who has received FEMA assistance. We encourage you to contact other residents who share your access route to determine who has received assistance for this purpose.

If you disagree with our decision that you share your access route with other applicants, you have the right to appeal. If you decide to appeal, please provide documents that show that you do not share this access route.

[Back to Table](#)**A-INO****Appeal****INO – Ineligible – Roads and Bridges – Another Applicant**

In a previous letter, we explained that you were not eligible for assistance to repair the access route to your home under your application. We explained that FEMA had already provided the total amount of assistance necessary for repairs to one or more applicants on your access route.

We have reviewed your appeal and any additional documents you may have provided and we determined that you share this access route with the applicant(s) who received the assistance for repair. As a result, we are unable to provide you assistance to repair your access route.

This decision only applies to your appeal for FEMA repair assistance for your access route. Your request for any other form of assistance is considered separately.

[Back to Table](#)**A-INO****Appeal****INO – Ineligible – Additional Repair Assistance**

We have reviewed your appeal for additional home repair assistance and any documents you may have provided, along with the FEMA inspection(s) of your home. We have determined that the previous amount of assistance we provided was correct. As a result, your appeal is not approved and you are not eligible for additional FEMA assistance of this type.

This decision only applies to your appeal for FEMA assistance of this type. Your request for any other form of assistance is considered separately.

[Back to Table](#)

A-INO

Appeal

INO - Ineligible - Exceeds Standard Pricing - Home Repair

We have reviewed your appeal and any additional documents that you may have provided. The amount of assistance FEMA provides for home repair is based on standard pricing for your area. We have determined that the amount of assistance that we have provided you was correct. As a result, your appeal is not approved and you are not eligible for additional FEMA assistance of this type.

This decision only applies to your appeal for FEMA assistance of this type. Your request for any other form of assistance is considered separately.

[Back to Table](#)

INONV

Initial

INONV - Ineligible - Occupancy Not Verified

When you applied for FEMA assistance, you informed us that the home damaged by the disaster was where you live the majority of the year. At the time of your FEMA inspection, you were unable to provide documents that demonstrate that the home we inspected is where you live. Until we can verify that you lived at the address you provided, you are not eligible for FEMA housing assistance.

If you disagree with our decision, you have the right to appeal. If you decide to appeal, please provide a copy of one of the following documents to prove that the home damaged by the disaster is the home where you live.

Driver's License (Copy) Merchant's Statement (Credit Card Bill)
Employer's Statement Official's Statement (Postmaster)
Federal or State Tax Return (Copy) Utility Bill
Landlord's Statement
Voter's Registration Card (Copy)

[Back to Table](#)

A-INONV

Appeal

INONV - Ineligible - Occupancy Not Verified

In a previous letter, we explained that we could not verify that the home you reported as damaged by the disaster was where you live (d). We described the documents that you could submit to prove that the home damaged by the disaster was where you live (d).

We have reviewed your appeal and any additional documents you may have provided and we are still not able to verify that the home you reported was where you live (d). As a result, your appeal is not approved and you are not eligible for FEMA housing assistance.

This decision only applies to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

INPR

Initial

INPR – Ineligible – Not Primary Residence

When you applied for FEMA assistance, you informed us that the home damaged by the disaster is where you live (d) the majority of the year. Based on available information, we have determined that this is not correct. As a result, you are not eligible for FEMA housing assistance.

If you do not agree with our decision, you have the right to appeal. If you decide to appeal, please provide a copy of one of the following documents to prove that the home damaged by the disaster is the home where you live (d) the majority of the year.

- Driver's License (Copy)
- Official's Statement (such as Postmaster)
- Federal or State Tax Return (Copy)
- Landlord's Statement
- Voter's Registration Card (Copy)
- Employer's Statement

[Back to Table](#)

A-INPR

Appeal

INPR – Ineligible – Not Primary Residence

In a previous letter, we explained that you were not eligible for FEMA housing assistance because the home damaged by the disaster is not where you live (d) the majority of the year. We described the documents that you could submit to us to appeal our decision.

We have reviewed your appeal and any additional documents you may have provided and have determined that our initial decision was correct and that the home damaged by the disaster is not where you live (d) the majority of the year. As a result, your appeal is not approved and you are not eligible for housing assistance.

This decision applies only to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

INR

Initial

INR – Ineligible – Will Not Relocate

Based on our records, you told the FEMA inspector that you were not going to move from your damaged home while repairs are being made. Since you do not plan to move, you are not eligible for FEMA rental assistance at this time.

If you do need to move while repairs are being made, please contact the FEMA Helpline.

[Back to Table](#)

INS

Initial

INS - Ineligible - Insured

Based on our records, the home that you lived in at the time of the disaster is covered by insurance. Any damage you reported at the time of your application for FEMA assistance should be covered by your insurance. FEMA cannot provide assistance which is available from another source, including insurance; therefore, you are not eligible for FEMA home repair or replacement assistance at this time.

You should file a claim with your insurance agent as soon as possible because FEMA may be able to assist you for losses not covered by your policy.

If you disagree with our decision that your home is covered by flood insurance or if you file a claim with your insurance agent and some of your damage are not covered, you have the right to appeal. If you appeal because some of your damage is not covered, please be sure to include insurance settlement documents or a denial letter and any other supporting information.

Because we recognize that even with insurance you may have serious and necessary housing needs, you may also appeal to FEMA for rental assistance if one of the following conditions applies:

1. You have used all the available funds provided to you by your insurance company for the purpose of renting a temporary place to live (usually called Additional Living Expenses (ALE) or Loss of Use). You will need to provide a copy of your insurance policy stating the limits of your ALE and receipts showing you used these funds for living expenses OR
2. Your insurance settlement is delayed (longer than 30 days from when you filed the claim) and you need an advance of rental assistance.

If you have questions about our decision, please contact the FEMA Helpline.

[Back to Table](#)

A-INS

Appeal

INS – Ineligible – Insured

Based on our records, the home that you lived in at the time of the disaster is covered by insurance. Any damage you reported at the time of your application for FEMA assistance should be covered by your insurance. FEMA cannot provide assistance which is available from another source, including insurance; therefore, you are not eligible for FEMA home repair or replacement assistance at this time.

You should file a claim with your insurance agent as soon as possible because FEMA may be able to assist you for losses not covered by your policy.

If you disagree with our decision that your home is covered by flood insurance or if you file a claim with your insurance agent and some of your damage are not covered, you have the right to appeal. If you appeal because some of your damage is not covered, please be sure to include insurance settlement documents or a denial letter and any other supporting information.

Because we recognize that even with insurance you may have serious and necessary housing needs, you may also appeal to FEMA for rental assistance if one of the following conditions applies:

1. You have used all the available funds provided to you by your insurance company for the purpose of renting a temporary place to live (usually called Additional Living Expenses (ALE) or Loss of Use). You will need to provide a copy of your insurance policy stating the limits of your ALE and receipts showing you used these funds for living expenses OR
2. Your insurance settlement is delayed (longer than 30 days from when you filed the claim) and you need an advance of rental assistance.

If you have questions about our decision, please contact the FEMA Helpline.

[Back to Table](#)

INSFI

Initial

INSFI – Ineligible – Flood Insurance

Based on our records, the home that you lived in at the time of the disaster is covered by flood insurance. At this time, you are not eligible for assistance for damage to your home that is covered by your flood insurance.

You should file a claim with your insurance agent as soon as possible because FEMA may be able to assist you for some damage not covered by your policy.

If you disagree with our decision that your home is covered by flood insurance or if you file a claim with your insurance agent and some of your damage is not covered, you have the right to appeal. If you appeal because some of your damage is not covered, please be sure to include insurance settlement documents or a denial letter and any other supporting information.

If you have questions about our records showing that your home is covered by flood insurance, please contact the FEMA Helpline. If you have questions about your flood insurance policy, please contact the National Flood Insurance Program Helpline at 1-800-621-FEMA (3362).

[Back to Table](#)

IOVR

Initial

IOVR - Ineligible – Over Program Maximum

Based on our records, the maximum amount of FEMA financial assistance of \$30,300.00 (**updated annually**) has already been provided to you for housing and/or other disaster needs. As a result, you are not eligible to receive additional financial assistance from FEMA.

If you disagree with our decision, you have the right to appeal. Before you appeal, we suggest that you contact the FEMA Helpline for a full explanation of the amount of financial assistance that has been provided to you. The FEMA Helpline may also be able to provide you with telephone numbers of other agencies to help you in your continued recovery.

[Back to Table](#)

A-IOVR

Appeal

IOVR - Ineligible – Over Program Maximum

In a previous letter, we explained that you were not eligible for further assistance from FEMA because the maximum amount of FEMA financial assistance of \$30,300.00 (**updated annually**) had already been provided to you for housing and/or other disaster needs. We suggested that you contact the FEMA Helpline for a full explanation of the amount of financial assistance that has been provided to you and advised you of your right to appeal.

We have reviewed your appeal and any additional documents you may have provided. Our records still show that you have reached the FEMA maximum financial assistance limit. Therefore, we are unable to provide you additional assistance from FEMA.

[Back to Table](#)

IOWNV

Initial

IOWNV - Ineligible – Ownership not verified

In addition to the ineligible decisions listed within this letter, FEMA has determined that at the time of the disaster you were living at the same address as someone who already applied for FEMA assistance.

If you decide to appeal the other ineligible decisions within this letter, please also provide documents to demonstrate that at the time of the disaster you were not living with or have not received disaster assistance from the person that already applied at your address. If you need to know who applied at your address, please call the FEMA Helpline for additional information.

[Back to Table](#)

ISC

Initial

ISC – Ineligible - Sanctioned Community in SFHA

Based on our records, your home is located in a flood zone and was damaged by flood. Unfortunately, your community is not currently participating in the National Flood Insurance Program. Because your flooded home is located in a flood zone and your community is not participating in the National Flood Insurance Program, FEMA is not allowed to provide you repair or replacement assistance at this time.

If your community participates in the National Flood Insurance Program within six (6) months from the date of the disaster, further FEMA assistance may become available to you. FEMA will notify you if the status of your community changes.

FEMA is also able to provide you rental assistance if your inspector determined that your home is unsafe and you need to relocate while repairs are being made. If you have questions regarding available rental assistance, please call the FEMA Helpline.

If you do not agree with our decision that the cause of damage to your home was flood or that your home is located in a flood zone, you have the right to appeal. If you choose to appeal that your damaged home is in a flood zone, please submit documents such as letters or maps from your local government to prove that your home is not located in a flood zone. If your home damage was not caused by flood, please provide an explanation in your appeal letter of how your home was damaged.

[Back to Table](#)

A-ISC

Appeal

ISC – Ineligible - Sanctioned Community in SFHA

In a previous letter, we explained you were not eligible for FEMA home repair or replacement assistance because your home is located in a flood zone within a community that is not currently participating in the National Flood Insurance Program (NFIP). That letter also described the documents that you could send to appeal our decision.

We have reviewed your appeal and any additional documents you may have provided. Our records still show that your home is located in a flood zone and that the damage to your home was caused by flood. As a result, your appeal is not approved and you are not eligible for FEMA housing assistance.

If your community participates in the National Flood Insurance Program (NFIP) within six (6) months from the date of the disaster, further FEMA assistance may become available to you. FEMA will notify you if the NFIP status of your community changes.

This decision only applies to your appeal for FEMA home repair or replacement assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

NCOMP

Initial

NCOMP - Noncompliant with Flood Insurance Requirement

Based on our records, you have a requirement to maintain flood insurance coverage on your property. Since your home was damaged by flood and you do not have an active flood insurance policy on file with the National Flood Insurance Program, we cannot provide you repair or replacement assistance at this time.

However, FEMA is able to provide you rental assistance if your inspector determined that your home is unsafe and you need to relocate while repairs are being made. If you have questions regarding available rental assistance, please call the FEMA Helpline.

If you do not agree with our decision that your home was damaged by flood or that you do not have an active flood insurance policy, you have the right to appeal. If you choose to appeal, please submit a copy of your flood insurance policy that was active at the time of the disaster. If your home damage was not caused by flood, please provide an explanation of how your home was damaged. If you have questions about why your home has a flood insurance requirement, please contact the FEMA Helpline.

[Back to Table](#)

A-NCOMP

Appeal

NCOMP - Noncompliant with Flood Insurance Requirement

In a previous letter, we explained you were not eligible for FEMA home repair or replacement assistance because you did not maintain the required flood insurance for your property. We also described the documents that you could send to appeal our decision.

Since we have not received documentation to determine that your home was not damaged by flood and/or we have not received documents showing that you do have an active flood insurance policy on your property, your appeal is not approved.

This decision only applies to your appeal for FEMA home repair or replacement assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

WVO

Initial

WVO - Withdrawn - Applicant Withdrew Voluntarily

Based on our records, you indicated that you did not want FEMA assistance. As a result, we have withdrawn your FEMA application for disaster assistance.

If we misunderstood or if you do not want your application withdrawn, please contact the FEMA Helpline.

[Back to Table](#)

Ineligible – Recertification Letter Inserts**IRCT****Initial****IRCT - Ineligible – Financial Ability**

Based on the information you provided in your Declaration and the documents you submitted, we have determined that you have obtained housing within your financial ability. As a result, you are not eligible for additional rental assistance, unless your current home is not within reasonable commuting distance of work and/or school. If your current home has made your commute to work and/or school unreasonable, please complete the CURRENT ADDRESSES information below.

If you disagree with our decision that you have obtained housing within your financial ability, you have the right to appeal. The financial ability determination is based on a comparison between your current housing costs and your household gross income. If you wish to appeal, please review the information and documents previously provided regarding your housing costs and your household gross income. If the housing and income information that you provided on your Declaration was not correct, please provide the correct information below and send a copy of this information along with your appeal.

[Back to Table](#)**A-IRCT****Appeal****IRCT - Ineligible – Financial Ability**

In a previous letter, we explained that you were ineligible for continued housing because you had obtained housing within your financial ability. We further explained what documents were needed to show our initial decision was incorrect.

We have reviewed your appeal and any additional documents you may have provided. Based on the information, we have determined that our previous decision was correct; that you have obtained affordable housing within a reasonable commuting distance to work and/or school. As a result, your appeal for continued rental assistance is not approved and we are not able to process your application further.

[Back to Table](#)

IRCT

Initial

IRCT - Ineligible - No Contact 90 Days

In a previous letter to you, we explained how to request continued rental assistance and the documents you were required to submit. That letter also advised that you had 90 days to express your continued need for rental assistance. We did not receive your request for continued rental assistance within the 90 day period. As a result, you are not eligible for continued rental assistance unless one of the following conditions prevented you from making your request:

- Hospitalization, illness, or disability;
- Hospitalization, illness, disability or death of an immediate family member;
- Personal or business travel that kept you out of the area for the full 90 day period.

If you disagree with our decision, you have the right to appeal. You may appeal the decision that you did not contact us within 90 days, or you may also appeal if one of the conditions above prevented you from making your request in 90 days. If you decide to appeal, please send a letter of explanation and submit any related supporting documents.

[Back to Table](#)

A-IRCT

Appeal

IRCT - Ineligible - No Contact 90 Days

In a previous letter, we explained that you were ineligible because you did not express your continued need for rental assistance within 90 days. We also explained the acceptable reasons and conditions that needed to be included with your appeal to demonstrate why you were unable to express the need for continued rental assistance within 90 days.

We have reviewed your appeal and any additional documents you may have provided. Based on the information, we have determined that your appeal does not meet the acceptable reasons and/or conditions for not making contact within the 90 day period. As a result, your appeal for additional rental assistance is not approved and we are not able to process your application further.

[Back to Table](#)

IRCT

Initial

IRCT - Ineligible – Not Completed 120 Days

In a previous letter to you, we explained how to request continued rental assistance and the documents you were required to submit. That letter also advised that you needed to complete this process by {RECERT_DUE_DT}. Although we have made attempts to help you, you did not complete this process by the required date. As a result, you are not eligible for continued rental assistance unless one of the following conditions prevented you from completing this process:

- Hospitalization, illness, or disability;
- Hospitalization, illness, disability or death of an immediate family member;
- Personal or business travel that kept you from completing the process within the 120 day period.

If you disagree with our decision, you have the right to appeal. You may appeal the decision that you did not complete this process within the 120 day period, or you may also appeal if one of the conditions above prevented you from completing the process within the 120 days. If you decide to appeal, please send a letter of explanation and submit any related supporting documents.

[Back to Table](#)

A-IRCT

Appeal

IRCT - Ineligible – Not Completed 120 Days

In a previous letter, we explained that you were ineligible because you did not complete the required process for continued assistance within the 120 period. We also explained the acceptable reasons and conditions that needed to be included with your appeal to demonstrate why you were unable to complete the continued assistance process within 120 days.

We have reviewed your appeal and any additional documents you may have provided. Based on the information, we have determined that your appeal does not meet the acceptable reasons and/or conditions for not completing the process within the 120 day period. As a result, your appeal for continued rental assistance is not approved and we are not able to process your application further.

[Back to Table](#)

IRCT

Initial

IRCT - Ineligible – Received Rental Assistance from another Agency

Based on our records, you are currently receiving rental assistance from another agency. Because FEMA cannot duplicate benefits, we are unable to provide rental assistance at this time.

If you disagree with our decision, you have the right to appeal. Please contact the FEMA Helpline where an agent can advise you which documents you should submit to prove the assistance is not a duplication of benefits with FEMA rental assistance.

This decision applies only to your request for FEMA rental assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

A- IRCT

Appeal

IRCT - Ineligible – Received Rental Assistance from another Agency

In our previous letter, we explained you were not eligible for FEMA rental assistance because our records show another agency is providing you assistance with rent. We explained that if you chose to appeal our decision, a Helpline agent could advise you of documents you should submit to prove the assistance was not a duplication of benefits with FEMA rental assistance.

We have reviewed your appeal and any additional documents you provided. We are still unable to determine you are not receiving rental assistance from another agency. Because FEMA cannot duplicate rental assistance provided by another agency, your appeal is not approved.

This decision applies only to your request for FEMA rental assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

IRCT

Initial

IRCT – Ineligible for Recertification – Moved into Permanent Housing

Based on our records, repairs have been made to your damaged dwelling by you or your landlord or you have purchased another home. As a result, you are not eligible for additional rental assistance since you no longer live in temporary housing.

If you decide to appeal, please provide your rental receipts that show you continue to live in temporary housing or documents such as statements from local officials or contractors that show that your home is not yet repaired.

[Back to Table](#)

A- IRCT

Appeal

IRCT – Ineligible for Recertification – Moved into Permanent Housing

In a previous letter, we explained that you were not eligible for further rental assistance because your damaged dwelling has been repaired or you purchased another home. As a result, you are not eligible for additional rental assistance since you no longer live in temporary housing. We described the documents that you could submit to show us that your home is not repaired or that you are still living in temporary housing.

We have reviewed your appeal and any additional documents you have provided. We are not able to verify that you are still living in rented housing and that your home has not been repaired. As a result, your appeal is not approved and you are not eligible for rental assistance from FEMA.

This decision applies only to your request for FEMA rental assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

IRCT

Initial

IRCT – Ineligible for Recertification – Direct Housing Assistance from FEMA

Based on our records, you are currently residing in FEMA-provided manufactured housing. As a result, you are not eligible for rental assistance, as it would be a duplication of benefits.

If our information is incorrect and you are not living in FEMA-provided manufactured housing, you have the right to appeal. Please send us documents, such as rent receipts and a lease or rental agreement, verifying you are not currently living in a FEMA-owned housing unit.

This decision applies only to your request for FEMA housing assistance. Your request for any other form of assistance will be considered separately.

[Back to Table](#)

A- IRCT

Appeal

IRCT – Ineligible for Recertification – Direct Housing Assistance from FEMA

In a previous letter, we explained you were not eligible for further rental assistance because our records indicate you are currently residing in a FEMA-provided housing unit. We described documents you could submit to show us you are not currently living in a FEMA-owned housing unit, and you are paying rent for your home.

We have reviewed your appeal and any additional documents you may have provided and we are still not able to verify you are paying rent for your home. As a result, your appeal is not approved and you are not eligible for rental assistance from FEMA.

This decision applies only to your request for FEMA rental assistance. Your request for any other form of assistance is considered separately.

[Back to Table](#)

SEP 26 2011



**Homeland
Security**

Pursuant to the requirements of 31 U.S.C. Section 720, the Department of Homeland Security (DHS) is submitting this written statement on actions taken regarding the Government Accountability Office (GAO) recommendations contained in its report, GAO-11-383, Catastrophic Planning: States Participating in FEMA's Pilot Program Made Progress, but Better Guidance Could Enhance Future Pilot Programs.

This letter provides a status update on efforts to implement the GAO recommendations contained in the report and is being provided to the following Members of Congress and the Director of OMB:

The Honorable Peter King
Chairman, Committee on Homeland Security

The Honorable Bennie G. Thompson
Ranking Member, Committee on Homeland Security

The Honorable Darrell Issa
Chairman, Committee on Oversight and Government Reform

The Honorable Elijah Cummings
Ranking Member, Committee on Oversight and Government Reform

The Honorable Joseph I. Lieberman
Chairman, Committee on Homeland Security and Governmental Affairs

The Honorable Susan M. Collins
Ranking Member, Committee on Homeland Security and Governmental Affairs

The Honorable Jacob Lew, Director
Office of Management and Budget

I appreciate your interest in the Department of Homeland Security. If I may be of further assistance, please contact me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read "N. Peacock".

Nelson Peacock
Assistant Secretary
Office of Legislative Affairs

Pursuant to the requirements of 31 U.S.C. Section 720, the Department of Homeland Security (DHS) is submitting this written statement on actions taken regarding the Government Accountability Office (GAO) recommendations contained in its report, GAO-11-383, Catastrophic Planning: States Participating in FEMA's Pilot Program Made Progress, but Better Guidance Could Enhance Future Pilot Programs.

"We recommend the Administrator, Federal Emergency Management Agency, take the following two actions:

Recommendation 1: To help ensure future pilot programs achieve their intended results and provide the performance information needed to make effective management decisions for broader implementation, develop and implement policies and guidance for pilot programs that follow sound management practices."

Response: FEMA concurs. FEMA will develop protocols for the management of pilot programs that include, at a minimum, requirements for:

- a definition of what constitutes a pilot program;
- a clearly articulated methodology with objectives reflective of overall program goals and standards for determining program performance;
- procedures for monitoring program performance;
- a data collection plan;
- a data analysis plan; and
- a process to disseminate the results and lessons learned that emerge from the pilot.

This guidance should be completed by December 31, 2011.

Recommendation 2: "To help ensure stakeholders receive valuable information regarding catastrophic preparedness from lessons learned during the TFER pilot program, disseminate the evaluation results and recommendations that emerge from the TFER pilot program in ways that meet the needs of current and future stakeholders."

Response: FEMA concurs. The report issued by FEMA addressing the results of the pilot will be shared with relevant stakeholders outside the TFER pilot project and will be executed as needed.

MAY 25 2011



**Homeland
Security**

Foreword

I am pleased to present the following report, "Use of the Defense Production Act to Reduce Interruptions in Critical Infrastructure and Key Resource Operations During Emergencies" for Calendar Year 2010. This report is required by Subsection 1002(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 [Public Law 110-53]. The report is an interagency effort led by the Federal Emergency Management Agency in the Department of Homeland Security and including the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, and Transportation.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Tim Johnson
Chairman
Senate Banking, Housing, and Urban Affairs Committee

The Honorable Richard C. Shelby
Ranking Member
Senate Banking, Housing, and Urban Affairs Committee

The Honorable Spencer Bachus
Chairman
House Financial Services Committee

The Honorable Barney Frank
Ranking Member
House Financial Services Committee

The Honorable Joseph I. Lieberman
Chairman
Senate Homeland Security and Governmental Affairs Committee

The Honorable Susan M. Collins
Ranking Member
Senate Homeland Security and Governmental Affairs Committee

The Honorable Peter T. King
Chairman
House Homeland Security Committee

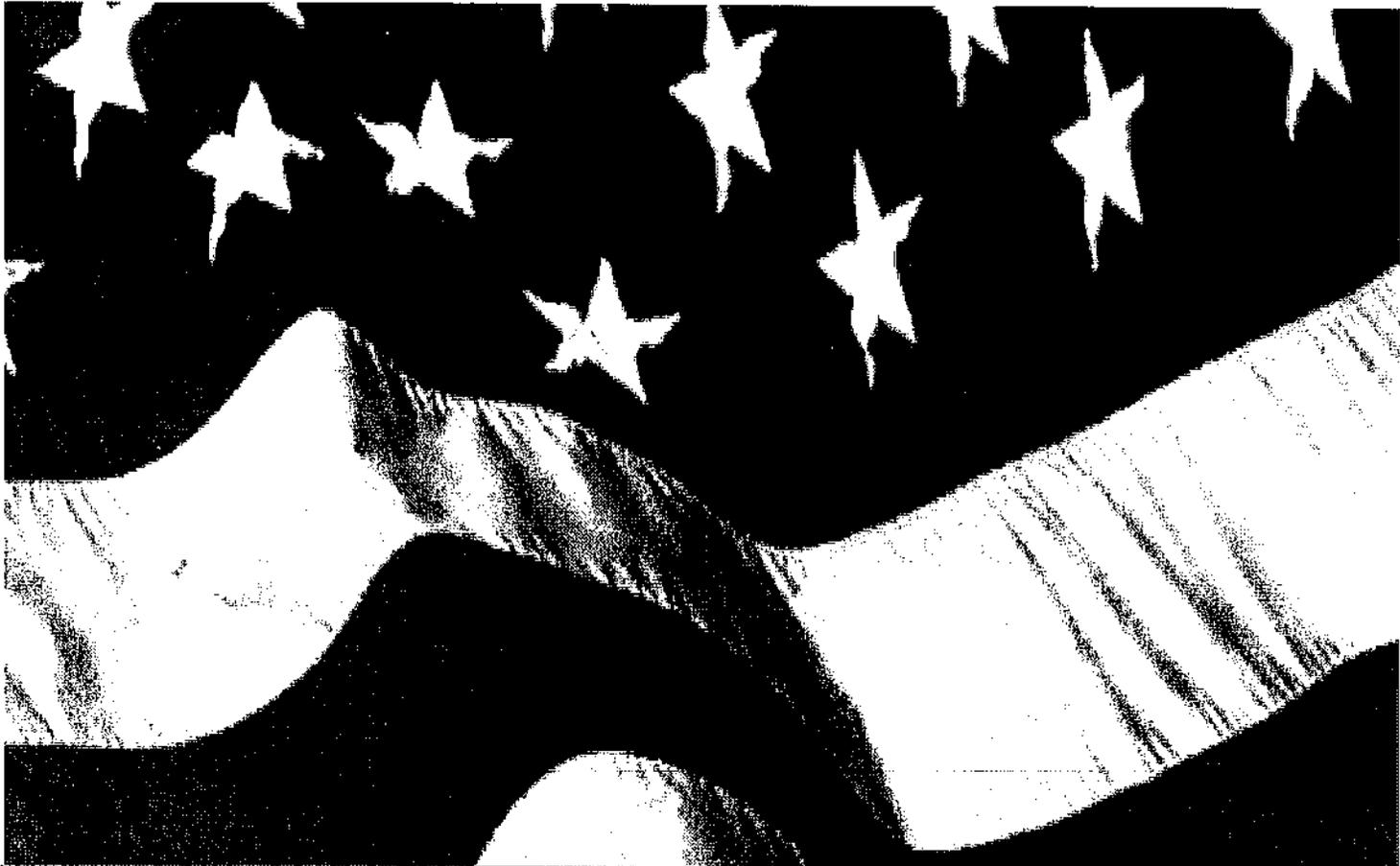
The Honorable Bennie G. Thompson
Ranking Member
House Homeland Security Committee

Please direct inquiries relating to this report to me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read 'N. Peacock', written in a cursive style.

Nelson Peacock
Assistant Secretary
Office of Legislative Affairs



Use of the Defense Production Act to Reduce
Interruptions in Critical Infrastructure and Key
Resource Operations During Emergencies

Calendar Year 2010 Report to Congress

May 25, 2011



Homeland
Security

Federal Emergency Management Agency

Executive Summary

This is the fourth annual report to Congress on actions taken by the Federal Government using the priorities and allocations authority provided in Section 101 of the Defense Production Act of 1950 (DPA) to ensure the preparedness of industry to reduce interruption of critical infrastructure and key resource (CIKR) operations under emergency conditions. This report was prepared in accordance with Subsection 1002(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 [Public Law (P.L.) 110-53]. The Department of Homeland Security (DHS) developed this report in cooperation with the Departments of Agriculture (USDA), Commerce (DOC), Defense (DOD), Energy (DOE), Health and Human Services (HHS) and Transportation (DOT). The reporting period for this report is from January 1, 2010 to December 31, 2010.

Section 101 authorizes the President to require acceptance and priority performance of contracts or orders and to allocate materials, services, and facilities to promote the national defense or to maximize domestic energy supplies. Executive Order (E.O.) 12919 delegates the President's priorities and allocations authorities to USDA, DOC, DOD, DOE, HHS, and DOT with respect to resources within each of these departments' jurisdictions. It provides that the priorities and allocations authorities may only be used for programs that have been determined to be "necessary or appropriate to promote the national defense" by DOD (for military and space programs), DOE (for energy resources), or DHS (for essential civilian needs).

Section 101(d) of the DPA directs the head of each of the six Federal departments to which the President has delegated priorities and allocations authority to issue final rules that establish standards and procedures by which this authority is used to promote the national defense. During 2010, an interagency working group, led by DHS, coordinated development of common provisions to be incorporated into the priorities and allocations rules of the six departments. These provisions, based on the Defense Priorities and Allocations System administered by DOC, establish a foundation for "a consistent and unified Federal priorities and allocations system," in accordance with section 101(d)(2) of the DPA.

In addition to developing new and updated guidance and procedures for use of the DPA section 101 authorities, the six Federal departments with delegated DPA priorities and allocations authorities and the departments with responsibilities for protection and restoration of critical infrastructure and key resource operations have continued to develop plans to use the authorities in support of emergency preparedness and response activities. These Federal departments and agencies have also provided for use of priority-rated contracts and orders, as needed and appropriate, to prevent or minimize interruptions in CIKR operations caused by acts of terrorism or natural disasters.

Table of Contents

1. Introduction	1
1.1. Purpose and Scope	1
1.2. Background	2
1.2.1. Protection of Critical Infrastructure and Key Resources (CIKR)	2
1.2.2. Defense Production Act	4
1.2.3. Federal Priorities and Allocations System (FPAS)	5
2. Priorities and Allocations	6
2.1. Department of Agriculture	6
2.2. Department of Commerce	7
2.3. Department of Defense	8
2.3.1. The Defense Priorities and Allocations System (DPAS)	8
2.3.2. Priority Allocation of Industrial Resources	8
2.3.3. Special Priorities Assistance (SPA)	9
2.4. Department of Energy	10
2.4.1. Use of DPA Section 101 Authorities to Reduce Interruption of Energy Resources	11
2.4.2. Conclusion	11
2.5. Department of Health and Human Services	11
2.6. Department of Homeland Security	12
2.7. Department of Transportation	13
Appendix A. Acronyms	A

1. Introduction

1.1. Purpose and Scope

This report was prepared pursuant to Subsection 1002(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 [Public Law (P.L.) 110-53]. Subsection 1002(b) directs the Secretary of Homeland Security to submit an annual report to Congress on actions taken by the Federal Government to ensure, in accordance with Subsections (a) and (c) of Section 101 of the Defense Production Act of 1950 (DPA) [50 U.S.C. App. 2071], the preparedness of industry to reduce interruption of critical infrastructure¹ and key resource² (CIKR) operations during an act of terrorism, natural catastrophe, or other similar national emergency.³

This report was prepared by the Federal Emergency Management Agency in the Department of Homeland Security (DHS/FEMA) in cooperation with the Departments of Agriculture (USDA), Commerce (DOC), Defense (DOD), Energy (DOE), Health and Human Services (HHS), and Transportation (DOT). This report is being submitted to the Senate Committees on Banking, Housing, and Urban Affairs and Homeland Security and Governmental Affairs, and the House Committees on Financial Services and Homeland Security.

¹ As defined in the Defense Production Act of 1950, critical infrastructure means “any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health and safety.”

² As defined in the Homeland Security Act of 2002, key resources are “publicly or privately controlled resources essential to the minimal operations of the economy and government.”

³ Subsection 1002(b) reads as follows: “(b) Report on Industry Preparedness.--Not later than 6 months after the last day of fiscal year 2007 and each subsequent fiscal year, the Secretary of Homeland Security, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy, shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with Subsections (a) and (c) of Section 101 of the Defense Production Act of 1950 [50 U.S.C. App. 2071], the preparedness of industry to reduce interruption of critical infrastructure and key resource operations during an act of terrorism, natural catastrophe, or other similar national emergency.”

1.2. Background

1.2.1. Protection of Critical Infrastructure and Key Resources (CIKR)

Protection of the Nation's critical infrastructure and key resources is one of the core missions of the Department of Homeland Security. Through the efforts of its Office of Infrastructure Protection (DHS/IP), DHS is at the forefront for promoting industry preparedness to reduce interruption of CIKR operations. DHS works with industry on a daily basis to reduce both the likelihood and consequences of interruptions to CIKR operations due to terrorism, natural catastrophes, or other national emergencies.

DHS is responsible for coordinating interagency CIKR protection and resilience and emergency preparedness planning efforts, including the National Preparedness Guidelines, the National Response Framework (NRF), and the National Infrastructure Protection Plan (NIPP). Together these strategic documents provide the context for integrating critical infrastructure protection and resilience as a key component of the Nation's unified approach to homeland security. They provide a concept of operations and a framework for implementation of the DPA provisions when relevant and appropriate to address processes for reducing interruptions of CIKR operations under terrorist threats and emergency conditions.

Federal Government policies for CIKR protection, resilience, and restoration charge the Secretary of Homeland Security with responsibility for coordinating the national effort to enhance CIKR protection and resilience. Federal Government policy, through Homeland Security Presidential Directive 7 (HSPD-7) and the NIPP, also designates Federal Sector-Specific Agencies (SSAs) with responsibility for coordinating planning, preparedness, and protection activities within the 18 identified CIKR sectors and authorizes the Secretary to designate additional sectors. This approach provides the structure needed to address the unique characteristics and operating models of each of the CIKR sectors.

The overarching framework for the critical infrastructure mission is outlined in the NIPP and supporting Sector-Specific Plans (SSPs). The NIPP serves as the foundation for the integrated risk-informed approach used by government and private sector partners to identify, assess, and prioritize risks to CIKR and implement programs to enhance CIKR protection and resilience. The NIPP, first issued in 2006, was updated and reissued in 2009. The CIKR sectors and the SSAs are listed in Table 1-1.

Table I-1. Sector-Specific Agencies for CIKR

Sector-Specific Agency	CIKR Sector
Department of Agriculture ⁴	Agriculture and Food
Department of Health and Human Services ⁵	
Department of Defense ⁶	Defense Industrial Base
Department of Energy ⁷	Energy
Department of Health and Human Services	Healthcare and Public Health
Department of the Interior	National Monuments and Icons
Department of the Treasury	Banking and Finance
Environmental Protection Agency	Drinking Water and Water Treatment Systems
Department of Homeland Security <i>Office of Infrastructure Protection</i>	Chemical Commercial Facilities Critical Manufacturing Dams Emergency Services Nuclear Reactors, Materials, and Waste Communications
<i>Office of Cyber Security and Communications</i>	Information Technology
<i>Transportation Security Administration</i>	Postal and Shipping
<i>Transportation Security Administration/U.S. Coast Guard⁸</i>	Transportation Systems ⁹
<i>Federal Protective Service</i>	Government Facilities

⁴ The Department of Agriculture is responsible for agriculture and food (meat, poultry, and egg products)

⁵ The Department of Health and Human Services is responsible for food other than meat, poultry, and egg products.

⁶ Nothing in this plan impairs or otherwise affects the authority of the Secretary of Defense over the Department of Defense, including the chain of command for military forces from the President as Commander in Chief, to the Secretary of Defense, to the commander of military forces, or military command and control procedures.

⁷ The Energy Sector includes the production, refining, storage, and distribution of oil, gas, and electric power, except for commercial nuclear power facilities.

⁸ The U.S. Coast Guard is the SSA for the maritime transportation mode.

⁹ As stated in HSPD-7, the Department of Transportation and the Department of Homeland Security collaborate on all matters relating to transportation security and transportation infrastructure protection.

1.2.2. Defense Production Act

The Defense Production Act provides a number of important authorities to expedite and expand the supply of materials and services from the U.S. industrial base to protect and restore critical infrastructure and key resource operations, as well as to support military, energy, stockpiling, space, domestic disaster preparedness, and other homeland security programs.

This report focuses on use of the authorities provided in subsections 101(a) and 101(c) of the DPA. Subsection 101(a) authorizes the President to: (1) require acceptance and preferential performance of contracts or orders (other than contracts of employment) that he deems necessary or appropriate to promote the national defense; and (2) allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.¹⁰ Subsection 101(c) authorizes similar priorities and allocations actions to maximize domestic energy supplies, if the President finds that: (1) materials, services, and facilities needed to maximize domestic energy supplies are scarce, critical, and essential; and (2) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the priorities and allocations authority.¹¹

The President's authorities under subsection 101 are delegated in subsection 201(a) of Executive Order (E.O.) 12919 (National Defense Industrial Resources Preparedness) to:

¹⁰ Section 101(a) reads as follows: "(a) Allocation of Materials, Services, and Facilities. The President is authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense."

¹¹ (c) Domestic Energy; Materials, Equipment, and Services

(1) Notwithstanding any other provision of this Act [50 U.S.C. App. § 2061-2171], the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, materials, equipment, and services in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, services, and facilities in the marketplace, unless the President finds that—

(A) such materials, services, and facilities are scarce, critical, and essential—

(i) to maintain or expand exploration, production, refining, transportation;

(ii) to conserve energy supplies; or

(iii) to construct or maintain energy facilities; and

(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

(3) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.

- The Secretary of Agriculture with respect to food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer;
- The Secretary of Energy with respect to all forms of energy;
- The Secretary of Health and Human Services with respect to health resources;
- The Secretary of Transportation with respect to all forms of civil transportation;
- The Secretary of Defense with respect to water resources; and
- The Secretary of Commerce for all other materials, services, and facilities, including construction materials.

Section 202 of E.O. 12919 provides that the section 201(a) authority of E.O. 12919 may be used only to support programs that have been determined in writing as necessary or appropriate to promote the national defense by:

- DOD with respect to military production and construction, military assistance to foreign nations, stockpiling, outer space, and directly related activities;
- DOE with respect to energy production and construction, distribution and use, and directly related activities; and
- DHS with respect to essential civilian needs supporting national defense, including civil defense and continuity of government and directly related activities.

In general, proposed uses of DPA Section 101 authority for protection or restoration of most types of critical infrastructure must first be determined by DHS to be “necessary or appropriate to promote the national defense.”

1.2.3. Federal Priorities and Allocations System (FPAS)

A new section 101(d) in the DPA, signed into law by the President on September 30, 2009, directs the head of each of the six Federal departments to which the President has delegated priorities and allocations authority to issue final rules that establish standards and procedures by which this authority is used to promote the national defense. An interagency working group (IWG) was established by DHS/FEMA to coordinate the rule-making efforts of these departments. The IWG met eight times between October 15, 2009, and March 3, 2010, and developed common provisions to be incorporated into the priorities and allocations rules of the six departments. These provisions establish a foundation for “a consistent and unified Federal priorities and allocations system,” in accordance with section 101(d)(2) of the DPA. The common provisions incorporate several key elements of the Defense Priorities and Allocations System administered by DOC: mandatory acceptance of priority-rated contracts and orders (“rated orders”), preferential scheduling of rated orders to meet delivery requirements, and extension of priority ratings by contractors to lower level suppliers and subcontractors.

2. Priorities and Allocations

Federal departments, both individually and collectively, have taken a number of actions to implement DPA Section 101 authorities in support of CIKR protection and restoration in recent years. Representatives of the Federal departments with delegated DPA authorities and responsibilities meet periodically to review DPA delegations and guidance with regard to CIKR protection and restoration. DPA authorities, including the priorities and allocations authority, have been incorporated into Federal emergency preparedness plans. This chapter describes recent and ongoing actions in all of these areas.

2.1. Department of Agriculture

The President has delegated DPA Section 101 authority to USDA with respect to food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer. In addition, the Stafford Act, E.O. 12656, and E.O. 12919 authorize the Secretary of Agriculture to establish plans to provide for the continuation of agricultural production, food processing, storage, and distribution through the wholesale level and to place priorities on contracts for continuation of agriculture production during times of national emergency (including national defense, domestic emergency preparedness, and CIKR protection).

USDA participated in the IWG meetings that developed common provisions in support of a unified Federal priorities and allocations system. USDA's Agriculture Priorities and Allocations System (APAS) regulation, submitted to the Office of Management and Budget for final review, approval and publication in the Federal Register, was developed using the common provisions established by the IWG and provides for USDA's support of agriculture production by ensuring agriculture producers, processors, distributors, and wholesalers give preferential scheduling to contracts for items necessary to promote the national defense (including for emergency preparedness activities and critical infrastructure protection and restoration). USDA anticipates its APAS rule to be implemented in FY 2011.

USDA has two programs that have been approved by the Secretary of Homeland Security for priorities and allocations support pursuant to section 202(c) of Executive Order 12919. They include:

1. Food and food resources (civilian): Programs involving food and food resources processing and storage in support of emergency preparedness activities conducted pursuant to Title VI of the Stafford Act. Such programs involve activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions that would be created by the hazard, and to make emergency repairs to, or the emergency restoration of, vital utilities and food resource facilities destroyed or damaged by the hazard. (A pre-approved program exists with the Department of Defense to provide food and food resources for the military. See Defense Program "C1," Schedule I to 15 CFR Part 700.)

2. Agricultural and food critical infrastructure protection and restoration: Programs to protect or restore the agriculture and food system from terrorist attacks, major disasters, and other emergencies. In Homeland Security Presidential Directive HSPD-9, Defense of United States Agriculture and Food, dated January 30, 2004, such programs involve activities and measures to:
 - 1) Identify and prioritize critical infrastructure and key resources in the agriculture and food system for establishing protection requirements;
 - 2) Develop awareness and early warning capabilities to recognize threats;
 - 3) Mitigate vulnerabilities at critical production and processing nodes;
 - 4) Enhance screening procedures for domestic and imported products; and
 - 5) Enhance response and recovery procedures.

These two programs ensure the continuation and viability of the agriculture and food sectors to support the national defense, including emergency preparedness activities and critical infrastructure protection and restoration.

USDA also has one program that has been approved by the Secretary of Defense specifically for provision of combat food rations.

USDA and DOC also concluded an arrangement that authorized FEMA to place priority ratings, in accordance with DOC's DPAS, on orders for food resources to support FEMA's emergency preparedness activities beginning in July 2010 and ending at the time USDA's APAS is implemented or June 30, 2011, whichever comes first.

2.2. Department of Commerce

DOC is delegated authority, through E.O. 12919, to implement the DPA priorities and allocations provisions for industrial resources.¹² DOC has continuously administered a priorities and allocations system for industrial resources since 1950. DOC's Bureau of Industry and Security (DOC/BIS) administers the DPAS and may exercise priorities and allocations authority to ensure the timely delivery of industrial items to meet approved programs (including homeland security, and critical infrastructure protection and restoration activities) requirements. The DPAS establishes procedures for the placement, acceptance, and performance of priority-rated contracts and orders and for the allocation of materials, services and facilities. All companies in the United States must comply with the provisions of the DPAS regulation.

DOC/BIS has delegated authority to DOD, DOE, DHS, and the General Services Administration, in accordance with the DPAS regulation and under the authority of the Defense Production Act and E.O. 12919, to place priority ratings on contracts or orders for industrial resources to support programs determined by DOD, DOE, or DHS as "necessary or appropriate to promote the national defense." DOC/BIS may also authorize other government agencies, foreign

¹² For the purposes of DPAS, "industrial resources" includes all materials, services, and facilities, including construction materials, the authority for which has not been delegated to other agencies under Executive Order 12919 (e.g., food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer, all forms of energy, health resources, all forms of civil transportation, and water resources).

governments, owners and operators of critical infrastructure, or companies to place priority ratings on contracts or orders for industrial resources on a case-by-case basis. Such requests must first be determined “necessary or appropriate to promote the national defense” by DOD, DOE, or DHS.

DOC/BIS has also authorized other Federal agencies, on a case-by-case basis, to place priority ratings on orders to expedite the delivery of industrial resources necessary or appropriate to support the protection of government facilities, a critical infrastructure sector. In addition, DOC’s DPAS delegation to DOD provides that DOD may authorize persons to place rated orders for delivery of production or construction equipment required to support DOD-approved programs and projects, when the equipment is necessary for the timely performance or completion of rated contracts or orders and timely delivery of the equipment cannot be obtained otherwise. DOD has authorized companies in the defense industrial base, a critical infrastructure sector, to place priority ratings on orders to expedite the delivery of industrial resources, including supporting recovery from industrial accidents that have adversely impacted production capabilities.

2.3. Department of Defense

2.3.1. Defense Priorities and Allocations System (DPAS)

The DPAS provides DOD with powerful authorities to help protect our Nation. DOC has delegated to DOD authority under the DPAS to:

- Apply priority ratings to contracts and orders supporting approved national defense programs; and
- Request that DOC provide Special Priorities Assistance (SPA) to resolve problems involving rated contracts and orders and authorize use of priority ratings by foreign firms.

Except for end items that are commonly available in commercial markets in sufficient supply and for items to be used primarily for administrative purposes, all DOD contracts for industrial resources (including construction contracts and Foreign Military Sales contracts) are rated orders under the DPAS. DOD uses two levels of rating priority, identified by the rating symbols “DO” or “DX.” If a contractor cannot meet all required delivery dates because of schedule conflicts, DO-rated orders automatically must be given preference over unrated orders and DX-rated orders automatically must be given preference over DO-rated orders and unrated orders. Such preferential treatment is necessary even if it requires the diversion of items being processed for delivery against lower rated or unrated orders. Only the Secretary and Deputy Secretary of Defense can authorize DOD programs to use a DX rating.

2.3.2. Priority Allocation of Industrial Resources

On occasion, military operations may require increased or accelerated delivery of weapons, supplies, and systems. These emergent requirements may create competing demands within DOD for limited industrial resources. The Department’s Priority Allocation of Industrial Resources (PAIR) Task Force is charged to ensure that industrial resources are allocated among

DOD programs in a comprehensive and integrated manner, in accordance with operational priorities. The PAIR Task Force's mission is to:

- Determine the industrial resources required to accomplish emergent plans;
- Identify any conflicting DOD demands on these resources; and
- Devise approaches to resolve these conflicts based on warfighting requirements established by the Joint Chiefs of Staff.

The Task Force typically utilizes the DPAS to implement production resource allocation (delivery) decisions as needed to resolve competing requirements among defense-related critical infrastructure for limited resources. The Office of the Under Secretary of Defense for Acquisition, Technology and Logistics usually issues a request for Special Priorities Assistance (see 2.3.3) to the Department of Commerce to prioritize materials or expedite deliveries of defense items, in accordance with PAIR decisions.

For example, the PAIR process was used to assist an Intelligence, Surveillance and Reconnaissance (ISR) Task Force chartered by the Secretary of Defense with the rapid acquisition and deployment of ISR systems. Particularly noteworthy, the PAIR resolved a delivery constraint that, if left unaddressed, would have significantly delayed operational fielding. Multiple buying activities placed or were about to place competing purchase orders for hundreds of sensor arrays from a single supplier located in a Security of Supply (SoS) partner nation. The Department has established SoS arrangements with some of its closest allies to provide reciprocal priority and allocation support. The supplier was informed of the arrangement between the U.S. and its government and explained the importance of the requirement. As a result, the supplier agreed to increase production capacity, thereby ensuring the simultaneous and on-time delivery of antennas for multiple ISR systems.

2.3.3. Special Priorities Assistance (SPA)

Although the DPAS is largely self-executing, the contractor or DOD may ask DOC for SPA to resolve any problem that may occur. SPA is a process used to:

- Expedite delivery at any level of the supply chain to meet a specific need or to accelerate delivery under a rated order due to a change in military urgency;
- Resolve delivery conflicts among various rated orders; and
- Authorize an industrial priority rating for foreign nation defense contracts within the United States, when such authorization would further U.S. national defense interests.

Any entity within the acquisition or production supply chain of a rated order may request SPA. If SPA requests cannot be resolved within DOD, the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics is authorized to endorse the request for SPA and forward it to DOC for action.

2.4. *Department of Energy*

DOE derives its authorities and procedures with respect to DPA Subsections 101(a) and 101(c) from several sources:

- E.O. 12919 has several provisions regarding use of priorities and allocations authority with respect to energy resources:
 - Section 201 delegates the President's priorities and allocations authority with respect to "all forms of energy" to the Secretary of Energy;
 - Section 202 states that DPA Section 101 authority may only be used "with respect to energy production and construction, distribution and use, and directly related activities" to support programs that have been determined by the Secretary of Energy to be necessary or appropriate to promote the national defense; and
 - Section 203 of E.O. 12919 delegates the President's authority under Subsection 101(c), which involves maximizing domestic energy supplies, to the Secretary of Commerce but provides that DOC re-delegates to DOE the authority to make the findings described in subsection 101(c)(2)(A) that the materials (including equipment), services and facilities are critical and essential. The Secretary of Commerce makes the finding described in 101(c)(2)(A) that the materials (including equipment), services, or facilities are scarce, and the finding described in subsection 101(c)(2)(B) that is necessary to use the authority provided by subsection 101(c)(1).
- 10 C.F.R. Part 221 sets forth the procedures to be used by DOE and DOD, pursuant to the DPA, whenever the priority supply of crude oil and petroleum products is necessary or appropriate to meet national defense needs.
- 10 C.F.R. Part 216 describes and establishes the procedures to be used by DOE to make the findings required by DPA Section 101(c)(2)(A). This regulation was updated in 2008.
- 10 C.F.R. Part 217 expands upon 10 C.F.R. Part 216, as it implements DOE's administration of priorities and allocations actions in order to promote the national defense pursuant to its DPA authorities other than Section 101(c). DOE is in the process of promulgating these regulations.¹³
- A Memorandum of Understanding between DOE and DOC spells out the respective jurisdictions and responsibilities of these two departments for products and equipment associated with the production of petroleum and gas.

¹³ Final publication of 10 C.F.R. Part 217 should be finished by the time this Report is submitted to Congress.

2.4.1. Use of DPA Section 101 Authorities to Reduce Interruption of Energy Resources

It has rarely been necessary to consider use of the priority authority to address emergency supply needs to restore electric power, because it is common industry practice for affected utilities to “borrow” needed components from unaffected utilities, when such components are available. Certain high impact but low frequency events, such as major earthquakes or solar electromagnetic pulse circumstances, may require use of priority ratings to assist utilities with restoration and recovery.

DOE includes priority ratings in its maintenance and operations contracts for national laboratories and other facilities that support DOD nuclear programs. These contracts support efforts to protect and restore operations at these facilities, in the event of a disruption caused by an act of terrorism, natural catastrophe, or other similar national emergency.

2.4.2. Conclusion

DOE has not encountered emergency conditions requiring use of DPA Sections 101(a) and 101(c) authorities to reduce interruptions in energy supplies caused by natural or man-caused disasters since the DPA definition of “national defense” was expanded in 2003 to include “critical infrastructure protection and restoration.” Nevertheless, in cooperation with DHS, DOC, DOD, HHS and DOT, DOE adopted common provisions in 10 C.F.R. 217 in order to fulfill its congressional mandate. DOE has considered the use of these authorities in response to a number of emergency preparedness and disaster response cases since 2003 but has determined, in each case, that priorities or allocations action was not needed to protect or restore the impacted energy supplies. The fact that these authorities were not used in 2010 for protection and restoration of energy resources does not lessen their potential importance for addressing energy supply problems caused by catastrophic disasters or other threats to national defense and homeland security.

2.5. *Department of Health and Human Services*

Section 201(a)(3) of E.O. 12919 delegates to the Secretary of HHS the President’s authority under Section 101 of the DPA to require acceptance and priority performance of contracts and orders with respect to health resources. HHS is drafting a regulation titled “Health Resources Priorities and Allocations System Regulations” to establish an HHS system for priority ratings, procedures for both HHS agencies and other Federal agencies to request priority-rating authorization and preferential scheduling, and a framework for HHS to consider and act on such requests. The regulation will also cover acceptance and rejection of rated orders, usage of rated orders, resolution of conflicts between rated orders, changes or cancellation of rated orders, limitations on rated orders, extension or priority rating, and limitations on the use or issuance of such orders. The proposed regulation will amend the HHS Acquisition Regulation. This regulation was constructed after an interagency working group, hosted by FEMA, completed work on common provisions during early 2010.

There were no contract awards that warranted DPA procedures in 2010. There were lessons learned in 2009 from the response to the H1N1 influenza pandemic that have been brought

forward to assist HHS to better structure preparedness approaches and to establish a better preparedness platform.

2.6. Department of Homeland Security

E.O. 12919 assigns a number of important responsibilities to the Secretary of Homeland Security with respect to DPA authorities. Responsibilities impacting the use of DPA authorities to ensure the preparedness of industry to reduce interruption of critical infrastructure and key resource operations include: (1) serving as an advisor to the National Security Council (NSC) on national security resource preparedness and use of DPA authorities; (2) providing coordination and guidance for use of these authorities by Federal departments and agencies; and (3) determining which civilian programs are eligible to be supported using the priorities and allocations authorities.

Under DPAS Delegation 4 from the Department of Commerce, the Secretary is also authorized to place priority-rated contracts and orders in support of DHS programs and on behalf of State and local governments with respect to emergency preparedness activities conducted pursuant to title VI of the Stafford Act. Within DHS, the Secretary's DPA responsibilities, including the DPAS Delegation 4 responsibilities, are delegated to the Administrator of FEMA, who has exercised the Government-wide DPA coordination and guidance for more than 30 years. During 2010, DHS/FEMA took action in a number of areas to help ensure the preparedness of industry to reduce interruption of CIKR operations under emergency conditions:

1. Pursuant to the DPA coordination and guidance responsibilities, DHS/FEMA established an interagency working group (IWG) to coordinate priorities and allocations rule-making by the six resource departments that are delegated DPA section 101 authority in E.O. 12919. The work of the IWG was completed in March 2010, but DHS/FEMA continued to work with the resource departments, throughout 2010, to support their efforts to develop and issue final priorities and allocations rules.
2. Pursuant to the delegation of authority under DPAS Delegation 4, DHS/FEMA authorized use of priority-rated contracts and orders in support of DHS programs, involving or potentially involving protection and restoration of critical infrastructure operations, including:
 - a. Emergency preparedness, response, and recovery activities, associated with the 2010 hurricane season, conducted pursuant to title VI of the Stafford Act; and
 - b. Homeland Security Technology Programs, supporting critical infrastructure protection and restoration activities (as well as border and transportation security and counter-terrorism activities).
3. Pursuant to the DHS responsibility under section 202(c) of E.O. 12919 to determine which civilian programs are eligible to be supported using the DPA section 101 authority, DHS/FEMA made a number of new determinations regarding program eligibility under the Federal Priorities and Allocations System. Program determinations specifically involving critical infrastructure protection and restoration included:

- **Programs to protect or restore critical infrastructure.** This includes U.S. critical infrastructure and key resource operations, as identified in relevant statutes, executive orders, Presidential directives, national strategies, and other Federal planning documents, such as: Homeland Security Presidential Directive (HSPD) 7 (“Critical Infrastructure Identification, Prioritization, and Protection”); the National Strategy for the Physical Protection of Critical Infrastructure and Key Assets; and the National Infrastructure Protection Plan and supporting Sector-Specific Plans.
 - **Programs to protect or restore the agriculture and food system from terrorist attacks, major disasters, and other emergencies.** In IISPD 9, Defense of United States Agriculture and Food, dated January 30, 2004, such programs involve activities and measures to: (a) identify and prioritize critical infrastructure and key resources in the agriculture and food system for establishing protection requirements; (b) develop awareness and early warning capabilities to recognize threats; (c) mitigate vulnerabilities at critical production and processing nodes; (d) enhance screening procedures for domestic and imported products; and (e) enhance response and recovery procedures. These programs ensure the continuation and viability of the agriculture and food sectors to support the national defense, including emergency preparedness activities and critical infrastructure protection and restoration.
4. DHS/FEMA developed internet-based training courses and updated DPAS Delegation 4 guidance for FEMA and other DHS personnel involved in placing priority-rated contracts and orders for programs involving critical infrastructure protection and restoration, as well as other programs eligible for support using the DPA priorities authority under DPAS.

2.7. Department of Transportation

The DOT is delegated DPA Section 101 authority with respect to all forms of civil transportation. The DOT’s plans and procedures to address civil transportation preparedness and response for emergency conditions are addressed in Emergency Support Function #1 (Transportation) of the National Response Framework, which therefore also addresses use of DPA authorities in emergency conditions. The Federal Aviation Administration Crisis Management Handbook also contains guidance regarding the DPA. In addition, the DOT ensures that senior leadership and necessary decision-makers are briefed on the applicability of the DPA for reducing disruptions to critical infrastructure in emergency conditions.

The DOT is developing a rule for the execution of the DOT’s priorities and allocations authorities, as required by the DPA Reauthorization Act of 2009. This rule clarifies the prioritization and allocation authorities exercised by the DOT under Title I of the DPA and sets forth the administrative procedures by which the DOT will exercise this authority. To the extent practicable, this rule follows the principles of “a consistent and unified Federal priorities and allocations system,” in accordance with section 101(d)(2) of the DPA (see Section 1.2.3. of this

report for more). The DOT anticipates its Transportation Priorities and Allocations System (TPAS) rule will be finalized and implemented in FY 2011.

The U.S. Maritime Administration (MARAD) has a long-established regulation derived from the DPA:

- 46 C.F.R. Part 340- Priority Use and Allocation of Shipping Services. This regulation is designed to ensure that the DOD will have access, as necessary, to shipping services and port facilities in crisis or war.

The MARAD is currently reviewing this existing regulation to determine if it will require modification to conform to any final rules issued by the DOT.

Appendix A. Acronyms

APAS	Agriculture Priorities and Allocation System
CIKR	Critical Infrastructure and Key Resources
DHS	Department of Homeland Security
DHS/FEMA	Department of Homeland Security/Federal Emergency Management Agency
DHS/IP	Department of Homeland Security/Office of Infrastructure Protection
DOC	Department of Commerce
DOC/BIS	Department of Commerce/Bureau of Industry and Security
DOD	Department of Defense
DOE	Department of Energy
DOT	Department of Transportation
DPA	Defense Production Act of 1950
DPAS	Defense Priorities and Allocations System
FPAS	Federal Priorities and Allocations System
E.O.	Executive Order
FY	Fiscal Year
HHS	Department of Health and Human Services
HSPD	Homeland Security Presidential Directive
ISR	Intelligence, Surveillance, Reconnaissance Systems
IWG	Interagency Working Group
MARAD	Maritime Administration
NIPP	National Infrastructure Protection Plan
NRF	National Response Framework
NSC	National Security Council
PAIR	Priority Allocation of Industrial Resources
P.L.	Public Law
SoS	Security of Supply
SPA	Special Priorities Assistance
SSAs	Sector-Specific Agencies
SSPs	Sector-Specific Plans
TPAS	Transportation Priorities and Allocations System
USDA	United States Department of Agriculture



FEMA

SEP 31 2013

The Honorable Peter T. King
Chairman
Subcommittee on Counterterrorism and Intelligence
U. S. House of Representatives
Washington, DC 20515

Dear Chairman King:

Thank you for your June 26, 2013 letter concerning the Federal Emergency Management Agency (FEMA) Continuing Training Grants program, and the important training it provides in emergency preparedness, emergency response, and security oriented training to first responders and community stakeholders throughout the United States.

The Fiscal Year (FY) 2013 Continuing Training Grant applicants will be evaluated on their ability to develop and deliver training programs to participants on a national level that will build and sustain core capabilities. Applicants will be asked to describe their course delivery methods which may include instructor-led mobile deliveries (i.e. "portable" on location, peer to peer), resident, or on-line training. The FY 2013 Continuing Training Grants program does not promote one training delivery option over another.

Current FEMA sponsored training programs are being delivered in a "portable" fashion and will continue to be delivered as required to increase the level of national preparedness. Since FY 2000, FEMA Training Providers have trained 987,921 first responders via mobile delivery, to include 80,116 first responders trained via mobile delivery in FY 2012.

We look forward to receiving applications for the FY 2013 Continuing Training Grants and making awards that will fill critical shortfalls in core capabilities in our national training program. If you have any further questions, comments, or concerns, please do not hesitate to contact the Department of Homeland Security Office of Legislative Affairs at 202-447-5890.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy W. Manning".

Timothy W. Manning
Deputy Administrator
Protection and National Preparedness