FEMA Disaster Housing and Hurricane Katrina: Overview, Analysis, and Congressional Issues

Francis X. McCarthy
Analyst in Emergency Management Policy

August 8, 2008

Congressional Research Service
7-5700
www.crs.gov
RL34087

CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

Some have criticized the Federal Emergency Management Agency's (FEMA's) emergency housing policies, particularly its approach to health and safety standards (as exemplified by the evidence of formaldehyde in both trailers and mobile homes), as well as its overall strategy to perform its housing mission. To address disaster housing issues, Congress could opt to consider questions such as the following: how have disaster housing needs traditionally been addressed under the Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended)? How did FEMA's approach during Hurricane Katrina differ from previous disasters and why? Should FEMA have pursued expanded authorities at the start of the disaster? Should housing vouchers have been used earlier and tailored to the disaster event? With a substantial amount of available funding provided by Congress, but without requesting expanded authority, FEMA found its sole option was to use traditional disaster housing practices. Those practices, successful for disasters of a historically familiar size, were hard-pressed to meet the unprecedented demands of the Katrina catastrophic disaster.

There are potential events (New Madrid earthquake or other large natural or terrorist events) that could conceivably produce many of the same challenges presented by the Gulf Coast hurricane season of 2005. Those challenges include large, displaced populations spread across the nation and separated families unable to return because of the loss of not only their homes but also their places of employment. Federal disaster housing policy may remain an issue in the 110th Congress, because, as Hurricane Katrina illustrated, the continued existence of communities after a catastrophic event involves extensive federal assistance issues.

In the past, FEMA's approaches have turned on practical and theoretical considerations. Practical considerations include the agency's ability to house families and individuals within a short time frame and in proximity to the original disaster, and in the case of Hurricane Katrina, to make contact with the hundreds of thousands of applicants who registered for assistance. Some of the theoretical policy considerations include questions of equity, self-reliance, federalism, and the duration of federal assistance. Those considerations have led to process questions concerning program stewardship and the potential for waste, fraud, and abuse of federal resources.

The Post-Katrina Act, enacted in October of 2006 (P.L. 109-295), includes changes in FEMA housing policy that provide the President with greater flexibility for meeting the challenges of disasters on a large scale. Also, Public Law 110-28 has eased the cost-share burden for some housing costs and other disaster relief programs. Future debate on the housing issue will also be informed by the report on the National Disaster Housing Strategy (as directed in P.L. 109-295). This Strategy was due to Congress in 2007, but a draft was not provided until late July of 2008. Following a 60-day comment period, a final National Disaster Housing Strategy is scheduled to be presented to Congress.

This report will be updated as warranted by events.

Contents

Background 1
Stafford Act Section 403 2
Traditional Stafford Act Sheltering/Housing 2
Traditional Mass Shelters 3
Cruise Ships 4
Traditional Hotels and Motels 5
Traditional Apartment Rentals by States 6
The Transition to Section 408 7
Stafford Act Section 408 8
Traditional Section 408 Rental, Repair, and Replacement Assistance 9
Traditional Housing Repair and Replacement 10
Traditional Manufactured Housing 10
Health and Safety Concerns in Manufactured Housing 11
Housing Inspections: Strengths and Limitations 14
Issues for Congress 15
National Disaster Housing Strategy 15
FEMA Group Site Location 16
FEMA Group Site Management of Services 17
Delivering Housing: When and Where 18
Equity in Assistance 19
Choice for Disaster Assistance Applicants 20
Incentives for Communities 21
Unintended Consequences 22
Closer to Home: FEMA's Original Plan 23
Victims Without Homes 24
HUD-FEMA and Long Term Housing 25
The Road Home 26
Mortgage and Rental Assistance 26
Katrina Cottages 27
Possible Congressional Approaches 28
Catastrophic Tier 29
Catastrophic Housing 29
Incentives for Communities 30
FEMA Group Site Management Services 30
MRA Restoration 30
Regulatory Waivers 31
Cost-Share Waivers 31
Administrative Responsibility 32
Concluding Observations 32
Loma Prieta Earthquake 36
Hurricane Andrew 36

Appendixes

Appendix A. HUD and Other Federal Housing Resources 34
Appendix B. Victims Without Homes: The Loma Prieta Earthquake and Hurricane Andrew 36

Contacts

Author Contact Information 37

Background

Federal involvement in disaster housing can be traced back at least as far as the Great Mississippi River Flood of 1927. At that time, federal assistance was indirect, supporting the American National Red Cross (ANRC), championing ANRC fund-raising and donations to support the Red Cross housing/sheltering mission, and generally coordinating assistance.[1]

In 1951 President Truman built on the ANRC partnership in Executive Order 10221, which delegated the overall responsibility for federal supplemental disaster assistance to the Housing and Home Finance Administration (HHFA).[2] Just over two decades later, President Nixon assigned the emergency housing responsibility to HHFA's successor organization, the Department of Housing and Urban Development (HUD). Administration officials created HUD's Federal Disaster Assistance Administration (FDAA) to carry out temporary housing and other disaster response and recovery programs. The FDAA was one of the legacy components subsequently absorbed into FEMA in 1979 under Reorganization Plan Number 3.[3] The federal government's temporary disaster housing mission (an integral part of its overall authorities for disaster response and recovery) has remained at FEMA for more than a quarter of a century. On March 1, 2003 FEMA became a part of the Department of Homeland Security in accordance with the Homeland Security Act.[4]

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended) authorizes the President to provide temporary housing and other disaster response and recovery activities. Through executive orders this authority has been delegated to FEMA, and other federal departments or agencies as assigned by FEMA.[5] This act authorized discrete programs, including the Individual and Households Program (IHP), along with a variety of programs intended to address the unmet needs resulting from a major disaster of families, individuals, and state and local governments.

Assessing the performance of government at every level to respond to disaster victims who need housing assistance involves consideration of the continuum of options available to FEMA in its sheltering and housing mission. FEMA traditionally uses two separate Stafford Act authorities to carry out this mission—Section 403 authorities for emergency sheltering and Section 408 for temporary housing.[6] Distinct units within FEMA implement these housing authorities. The 403 provisions are administered by the Public Assistance (Infrastructure) Branch in the Disaster

[1] For more information, see CRS Report RL33126, *Disaster Response and Appointment of a Recovery Czar: The Executive Branch's Response to the Flood of 1927*, by (name redacted). Almost 80 years later, the same process (working through the ANRC and a network and system established by that organization) would be the initial entry point for the Federal Emergency Management Agency (FEMA) in the housing response to the needs of Hurricane Katrina victims.

[2] Executive Order 10221, *Federal Register*, vol. 16, March 6, 1951, p. 2051.

[3] Executive Order 12127, *Federal Register*, vol. 44, April 3, 1979, p. 19367. For more information, see CRS Report RL33369, *Federal Emergency Management and Homeland Security Organization: Historical Developments and Legislative Options*, by (name redacted) and (name redacted).

[4] P.L. 107-296, 116 Stat. 2214.

[5] For more information, see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by (name redacted).

[6] 42 U.S.C. §5170b and 42 U.S.C. §5174.

Assistance Directorate (formerly Recovery Division), while the 408 provisions are under the purview of the Individual Assistance Branch within that same directorate.[7]

Stafford Act Section 403

Section 403 provides for general federal assistance to meet immediate threats to life and property. This aid may include medicine, food and other consumables, and work and services performed on public or private land. It is the work and services category that is further defined to include debris removal, search and rescue services, emergency medical services, emergency mass care, and emergency shelter. The assistance provided by states and/or FEMA immediately following a disaster is usually referred to as "emergency shelter."[8] Emergency sheltering can take a variety of forms, some of which were adapted to meet the special needs following Hurricane Katrina.

Traditional Stafford Act Sheltering/Housing

This type of 403 assistance can take the form of mass shelters (such as those run by the Red Cross and designated by local governments), cruise ships (used for the first time after Hurricane Katrina), emergency group sites (using manufactured housing), rental assistance, and other supporting services paid for by state governments and reimbursed by FEMA. While elements of 403 are occasionally employed for disaster response, the sheltering provision is rarely used on a vast scale. The emergency aid in Section 403 is generally cost-shared, like other elements of the Stafford Act, on a 75% federal share, 25% state share. Since 403 is emergency sheltering, this program is used to house victims immediately and does not include a test for eligibility before shelter is provided, unlike Section 408.[9] Help under Section 403 generally is short term in nature and is provided in facilities close to the disaster area.

The Katrina Experience. Due to the unusually severe, widespread destruction, and dispersal of victims caused by Hurricane Katrina, Section 403 shelters were funded throughout the nation. Accordingly, FEMA issued disaster-specific guidance and other supporting documents delineating section 403 eligibility for the multitude of states involved in this unique catastrophic event. Though 403 sheltering aid is intended to be limited term help, after Katrina those limits were stretched due to the magnitude of the event. That stretching also included a 100% federal share for the emergency sheltering costs for all states hosting FEMA evacuees for up to 12 months, though shorter leases were encouraged.[10]

[7] In a letter dated January 18, 2007, from DHS Secretary Michael Chertoff to Senate Homeland Security and Governmental Affairs Committee Chair Joseph Lieberman, DHS announced it was changing the name of the Recovery Division to the Disaster Assistance Division.

[8] 42 U.S.C. § 5170b.

[9] U.S. Department of Homeland Security, Federal Emergency Management Agency, *Frequently Asked Questions: Section 403 Sheltering,* August 11, 2006, at http://www.fema.gov/government/grant/pa/faq_403sheltering1.shtm.

[10] U.S. Department of Homeland Security, Federal Emergency Management Agency, Hurricane Katrina Fact Sheet, *Frequently Asked Questions Section 403 Sheltering,* September 29, 2005, p. 6.

Traditional Mass Shelters

In 2006 FEMA and the ANRC entered into a Memorandum of Understanding (MOU) that specifically references their coordination of emergency mass care.[11] They formerly also had been the two parties charged with the responsibility for carrying out Emergency Support Function (ESF) #6 - Mass Care, in the National Response Plan (NRP). The NRP was the federal government's overall framework to allocate resources and coordinate the federal response following a major disaster event. Under the new National Response Framework, ESF #6 has expanded to include housing and human services. Due to that expansion, DHS/FEMA is now the lead for the function.[12] But regardless of that framework, the great majority of the hundreds of shelters used following Katrina (and most disasters) were managed by the ANRC. In addition, many other independent shelters were and continue to be run by state and local governments and non-governmental organizations.

The Katrina Experience. The shared responsibility in the NRP for mass care was a change from the past operational practices under the Federal Response Plan (FRP), which identified the Red Cross as the sole lead for the function. Shared responsibilities had begun prior to Katrina, but this disaster was the most strenuous test of this new arrangement. In the context of the Hurricane Katrina experience, the quantity and quality of the available emergency shelter space has been questioned by various reports, including the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Report, which noted that "State and local governments made inappropriate selections of shelters of last resort. The lack of a regional database of shelters contributed to an inefficient and ineffective evacuation and sheltering process."[13] The committee also acknowledged the difficulty of the task. The report noted that some experts believed that the shelter system eventually built up over the opening weeks of the Katrina disaster, with the inherent coordination that was necessary, was similar to "opening a Fortune 500 company in a couple days' time."[14]

FEMA provided to the states and their shelter partners disaster-specific- guidance that listed, in great detail, the costs that would be eligible for reimbursement.[15] Despite the guidelines, the ANRC and others involved in sheltering still coped with significant questions raised by the scope of the event. Emergency shelters are dependent not only on adequate space but also on many other logistical concerns including health and safety, the ability to serve special needs populations, and the availability of trained volunteers to staff these facilities. In the case of Hurricane Katrina, the size and scope of this disaster was truly unprecedented in comparison to other large events; as such, the disaster strained the traditional shelter system.[16]

---

[11] Memorandum of Understanding Between the U.S. Department of Homeland Security, Federal Emergency Management Agency, and The American National Red Cross, May 30, 2006.

[12] The NRF includes a roster of federal partners with the Red Cross remaining as a supporting partner along with other non-profit organizations. The Red Cross remains a key component of the team responsible for emergency feeding and sheltering for the general population. See http://www.fema.gov/pdf/emergency/nrf/nrf-esf-06.pdf.

[13] U.S. Congress, House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure Of Initiative*, 109th Cong., 2nd sess. (Washington: 2005), p. 312.

[14] Ibid., p. 346.

[15] See U.S. Department of Homeland Security, Federal Emergency Management Agency Memorandum, *Disaster Specific Guidance #2*, Nancy Ward, FEMA Area Recovery Manager, September 9, 2005.

[16] For additional information, see CRS Report RL33761, *Rebuilding Housing After Hurricane Katrina: Lessons Learned and Unresolved Issues*, by (name redacted).

As noted above, emergency shelters funded under Section 403 authority are intended to be temporary housing solutions. The decision by the Administration to accelerate the closing of the emergency shelters and move disaster victims to more suitable housing situations by October 15, 2005, about six weeks after the hurricane, meant that many families and individuals had to quickly find housing alternatives.[17] At its peak, the post-Katrina mass shelter network provided shelter for over 273,000 evacuees.[18] Although charting such an ambitious goal did speed up the emptying of the shelters, it also meant that alternative forms of housing were needed prior to the registration of evacuees with FEMA, and before any individuals and/or families could be presented with other options for their long term housing goals.

Cruise Ships

The use of cruise ships as emergency shelters had reportedly been considered by FEMA officials as early as 1989 (following a disaster in the U.S. Virgin Islands). However, this form of shelter had never actually been employed.[19] For island disasters, and in coastal areas in particular, cruise ships were considered to be a strategically valuable form of shelter that could be brought rapidly to remote locations. Despite arguments for their use, however, no such contracts had previously been let prior to Katrina.

The Katrina Experience. Given the challenges posed by Katrina, FEMA chose to use the cruise ship alternative and asked the Navy to charter these ships.[20] The ships' most useful capabilities were to house both victims and relief workers in private rooms in close proximity to the disaster area, and to have on-site feeding facilities. The ships offered the possibility that some of the victims of the disaster could be a part of the rebuilding process by giving them access to the area where the work was being conducted. For a catastrophic disaster, this is a serious concern, particularly when a large work force is arriving in an area that has had a mass evacuation coupled with the destruction of rental units. Although housing shared by victims and workers arguably has benefits, some disadvantages were identified. For example, at a House Financial Services hearing on Katrina housing, one Member of Congress noted that the large FEMA contingent of workers in the area actually used a significant part of the remaining resources (both hotels and other housing) and suggested that FEMA staff were, in fact, in competition with local disaster victims wishing to return to the area.[21]

During their use the ships housed over 8,000 people and served over two million meals to Katrina victims and workers helping in the recovery.[22] While meeting emergency needs, critics questioned the cost of housing victims on the ships. Some doubted the efficacy of the plan, the location of

[17] "Most Katrina shelters cleared but housing problems remain," *USA Today*, October 15, 2005, at http://www.usatoday.com/news/nation/2005-10-15-katrinashelters_x.htm. While the October 15 deadline was not met in all cases due to a lack of availability of hotel/motel rooms or ongoing efforts at family reunification and other considerations, it was generally observed.

[18] Eric Lipton, "Number Overstated for Storm Evacuees in Hotels," *New York Times*, October 19, 2005, p. A1.

[19] Phone interview with Lawrence Zensinger, former FEMA Recovery Division Director, January 22, 2007.

[20] U.S. Department of Homeland Security Inspector General—*Chartered Cruise Ships, Audit Report N2006-0015*, February, 2006, http://www.dhs.gov/xoig/assets/kavorsght/OIG_NAV_N06-0015.pdf..

[21] Testimony of Representative Charles Melancon, in U.S. Congress, House Committee on Financial Services, *Federal Housing Response to Hurricane Katrina*, hearing, 110th Cong. 1st sess., February 6, 2007.

[22] U.S. Department of Homeland Security, Federal Emergency Management Agency—*Cruise Ships Leaving New Orleans March 1*-February 24, 2006.

some ships, the cost and length of the contract, and the process used to arrive at the agreement. As one story noted: "The six month contract—staunchly defended by Carnival but castigated by politicians from both parties—has come to exemplify the cost of haste that followed Katrina's strike and FEMA's lack of preparation."[23]

While the cruise ships attracted considerable media attention, one step taken in this process may warrant further consideration. The care of children in this situation is of interest, particularly since it served as a harbinger of what would become a very significant issue with regard to FEMA's management of its large mobile home and trailer parks. On one of the Carnival ships, the *Holiday*, the organization Save The Children (best known for its work overseas) joined with Carnival and other corporate givers to set up a child-care center. As summarized by the organization: "Save the Children worked with a local licensed child-care provider to turn the *Holiday* ship's 'Doc Holiday Lounge' into a child-care center that served about 70 children each day. Child care services were difficult to find as families sought to recover."[24] The same perceived needs would surface as areas of contention at FEMA's emergency trailer parks that were established on the Gulf Coast when FEMA child care services or other amenities were eligible expenses for the management of the trailer parks.[25] Similar concerns have long been a part of temporary housing operations, but the scale of the post-Katrina disaster environment brought greater scrutiny to the issues of supportive services for large temporary housing sites.

Traditional Hotels and Motels

The local chapters of the ANRC routinely provide brief hotel or motel stays as a form of emergency housing around the nation on a daily basis for disaster victims, including the victims of fires or other local emergencies. The local ANRC chapters are frequently reimbursed by FEMA for this work in presidentially declared disasters of a much smaller scale than Katrina. This form of assistance is referred to in regulations as "reasonable, short-term housing expenses."[26] However, because the practice of providing transient accommodations involves working with much smaller numbers of victims, the length of stay is usually brief, and the task of finding more suitable accommodations not as daunting as the Katrina experience.

The Katrina Experience. Hotels and motels were used around the country both by self-evacuated families and individuals and by disaster evacuees who were moved out of shelters and into these establishments by the ANRC and FEMA. Hotels and motels in the disaster area were also used to house relief workers.

Much of the work of placing victims in these facilities was managed by a contractor, Corporate Lodging Consultants (CLC), that worked originally for the Red Cross and then FEMA. CLC engaged the hotels and motels to track occupancy and managed the payments to the participating facilities.[27]

---

[23] Jonathan Weisman, "$236 Million Cruise Ship Deal Criticized," *Washington Post*, Sept, 28, 2005, p. 1.

[24] *Carnival Corporation, Sanofi-Aventis, Scholastic Book Clubs Helped Lead the Way in Hurricane Katrina Recovery Efforts, at* http://www.savethechildren.org/corporate/partners/carnival-corporation.html?print=t.

[25] Paul Singer, "Camp FEMA", *National Journal*, vol.38, March 11, 2006, pp. 21-26.

[26] 44 C.F.R., § 206.117 (b).

[27] Dana Hedgpeth and Ben White, "Hurricane Evacuees Boost Hotels' Profits," *Washington Post*, October 7, 2005, p. D1.

Many residents in harm's way had "self-evacuated" to hotels and motels outside of the immediate area as the storm approached. However, the majority in these establishments were families and individuals who moved from mass shelters to the hotels and motels to meet the October 15, 2005 deadline. This resulted in an extraordinarily high combined population in these commercial facilities. The peak was reached in late October of 2005 when 85,000 households were housed across the country in hotels and motels in 48 states.[28]

Due to the unique circumstances created by Hurricane Katrina, a traditionally short-term solution for small emergencies became a national program of unprecedented size. This greatly expanded program provided some privacy for families that had been spent a significant period of time in mass shelters. The hotel/motel option gave displaced victims a chance to be in a room with their own private space and a discrete address. However, the deadline for the movement out of shelters left little or no time for establishing protocols for lodging costs or exploring alternative housing.

Traditional Apartment Rentals by States

No evidence or data exist of a previous use of state contracting for apartments for disaster victims under Section 403. The states traditionally are engaged in Section 403 work through the debris removal program, congregate sheltering, and some other distinct missions such as search and rescue work or the provision of temporary school facilities.[29] The FEMA housing mission is, in part, carried out in cooperation with the states. But that cooperation generally entails state assistance only in locating temporary housing sites and in the administration of the Other Needs Assistance (ONA) program. ONA funds are used for furniture and clothing and other related needs, a use that works in tandem with the Section 408 housing program (discussed below).

The Katrina Experience. Following the evacuation of Katrina victims (both self-evacuated and those transported by FEMA) to many states, some of those states: rented apartments for the evacuees; provided other necessary support such as furnishings, food, transportation, and limited medical assistance; and made the rent payments that were subsequently reimbursed by FEMA under Section 403. There were, at the peak of this operation, approximately 67,000 apartment leases in 32 states. While the original instructions by FEMA offered to reimburse leases of up to 12 months, states were encouraged to engage in shorter leases if possible.[30]

States were solicited by FEMA to accept evacuees. They were asked to provide information to FEMA on the number of evacuees they could accommodate, the date they could begin receiving them, and the location of the receiving point. The potential hosting states were promised full reimbursement of their disaster related costs, with the general instruction to treat the Hurricane Katrina evacuees as they would disaster victims within their own state borders.[31]

[28] FEMA Extends Hotel Program for LA, MISS. Evacuees, http://www.foxnews.com/story/0,2933,185839,00.html.

[29] 42 U.S.C. §5170b.

[30] U.S. Department of Homeland Security, Federal Emergency Management Agency, Hurricane Katrina Fact Sheet, *Frequently Asked Questions: Section 403 Sheltering*, September 29, 2005, p. 6.

[31] Interview with former FEMA Recovery Division Director Daniel Craig, Washington, DC, January 22, 2007.

The Transition to Section 408

Due to the damage to permanent housing stock (both private homes and rental properties) by Hurricane Katrina, the transition from shorter-term Section 403 sheltering/housing to traditional, longer-term Section 408 temporary housing assistance was a difficult one. Normally, FEMA works with a relatively small population, which traditionally makes this "crosswalk" easier; however, that was not the case for this event. FEMA had to contact all recipients of 403 assistance in order to establish their eligibility for longer-term aid under Section 408. That contact also had to include an explanation of the process as well as available housing options, the location of some housing resources, and the time-tables involved. Disaster victims also had to be assured that the next form of housing assistance was available for those deemed eligible. Accordingly, checks for rental assistance, or a unit of manufactured housing, had to be available before the applicants were moved from their current residences.

Eligibility for Section 408 assistance is based on several conditions, including a finding by FEMA that:

- the applicant's primary residence is unlivable;
- the applicant is experiencing financial hardship and;
- there are other related difficulties in the aftermath of a declared disaster event.[32]

Eligibility determinations are routinely made in most disaster situations by staff at FEMA's National Process Service Centers (NPSCs). At the NPSCs, staff take registrations (both telephonically and on-line) working in concert with FEMA's on-site staff based at the Joint Field Offices (JFOs) in or near the affected area, and with FEMA's contracted housing inspectors.

A major challenge to this traditional approach rested in the sheer number of victims involved in the Katrina disaster; thousands of evacuees were placed in hotel/motel rooms in 48 states as well as in state-rented apartments in 32 states. The wide dispersal of victims compounded the transition process. This outreach mission was especially difficult to accomplish within shifting deadlines established by the Department of Homeland Security (DHS)/FEMA. Due to the extent of the devastation in the affected area, housing inspections could not always be conducted within the usual time frames; such inspections are generally critical to eligibility decisions. In addition, FEMA had to cobble together a series of outreach teams to spread out among the diaspora of disaster victims. These teams consisted of personnel from the Corporate Lodging Consultant (CLC) contractors, FEMA Community Relations staff, and available staff from the respective FEMA regional offices. The resources of these groups were already greatly taxed by their own disaster assignments.

DHS/FEMA had been contacted as early as September 6, 2005, by the Refugee Council USA with a proposed plan to reach out (through the Refugee Council's local affiliate network) and provide case management services to the displaced residents from the Gulf Coast.[33] The Council had developed the plan in conjunction with the White House Homeland Security Council and the Office of Faith-Based Initiatives and its traditional partners in refugee assistance at the

[32] 44 CFR §206.101 (f).

[33] Karen Walsh, *The Hurricane Katrina Disaster: RCUSA Contributions to the Relocation of Displaced Americans*, DRAFT, September 6, 2005, available from the author.

Department of State and the Department of Health and Human Services. Subsequent discussions raised questions about the authority of FEMA to carry out such a program as well as the potential cost. The plan was not adopted.[34]

Two competing imperatives faced FEMA: provide safe housing for disaster victims and remain responsible stewards of federal funds. The goal of transferring applicants from hotels, motels, and state-leased apartments to apartments paid with Section 408 rental assistance and manufactured housing was intended to address both goals, but some maintain that efforts to achieve both ends resulted in a disruptive and complicated process.[35] It was within this environment of shifting deadlines and lingering questions of applicant eligibility that reports of waste, fraud, and abuse within the program surfaced.[36] The situation led to litigation that continues to embroil FEMA, applicants, and public interest groups.

As of the end of 2006, approximately 40,000 households had been moved from 403 to 408 funding—either through CLC payments to landlords out of 408 funds or from 408 payments made to applicants to continue apartment rentals.[37] FEMA's presumption for this situation is that those households previously in 403 apartments and qualified for, but not receiving, 408 payments represent people no longer in need of FEMA assistance or those whose landlords did not make contact with CLC to maintain the arrangement.[38]

Stafford Act Section 408

Stafford Act Section 408 housing is administered through the Individual and Households Program (IHP), which consists of temporary housing and Other Needs Assistance (ONA). The housing portion is 100% federally funded. The ONA part of the IHP program (furnishings, uninsured medical costs, funeral expenses, etc.) is cost-shared with the state, on a mandatory 75%/25% basis.[39] The 408 amounts spent for rental/repair/replacement assistance and ONA are deducted from an overall IHP cap for each household, currently $28,800 (this amount is adjusted annually based on the Consumer Price Index). Direct housing assistance—that is, aid associated with mobile homes and travel trailers, is not deducted from that amount due to difficulties in precisely calculating the amount of assistance involved. In addition to the Section 408 temporary housing assistance, other federal housing resources were also made available by other federal agencies.

[34] However, the Post-Katrina Act, effective October 6, 2006, includes a provision that provides the President the authority to "provide case management services, including financial assistance, to state or local government agencies or qualified organizations to provide such services ...". See P.L. 109-295, 120 Stat. 1453.

[35] Juliet Eilperin, "FEMA Extends Housing Deadline," *Washington Post*, November 23, 2005, p. A8.

[36] Testimony of Gregory D. Kutz, Managing Director, Forensic Audits and Special Investigations in U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Hurricane Katrina: Waste, Fraud and Abuse Worsen the Disaster*, GAO-06-403T, hearing, 109th Cong., 2nd sess., February 13, 2006.

[37] U.S. Department of Homeland Security, Federal Emergency Management Agency, "Fact Sheet for CRS Inquiry"—November 27, 2006.

[38] Ibid.

[39] 44 C.F.R. § 206.131(d)(2). Unlike other Stafford Act programs, the ONA cost-share cannot be waived by the President. However, Public Law 110-28 did waive the ONA cost-share provisions for all Gulf Coast states for the 2005 hurricane season.

Traditional Section 408 Rental, Repair, and Replacement Assistance

Assistance under Section 408 includes rental assistance to disaster victims who have found suitable rental property. It also includes repair assistance to make a dwelling habitable, and grants to contribute toward replacement housing for an applicant whose home has been destroyed by a disaster event.[40]

The Katrina Experience. One of the greatest challenges in the post-Katrina environment was the dearth of available rental property in the damaged area. As with private homes, many rental units also sustained major damage or were destroyed. In recognition of the difficulties inherent in this problem, Congress enacted a provision in the post-Katrina Reform Act that would "provide for the repair and improvement of multi-family rental properties in disaster areas to increase the rental stock available to disaster victims in the immediate area."[41]

Another Section 408 issue that emerged was FEMA's definition of Fair Market Rent (FMR).[42] FEMA uses the FMR set by HUD for a metropolitan area, which includes the cost of utilities. FEMA, however, pursuant to the Stafford Act, has determined that the amount of financial assistance available is based on "the fair market rent for the accommodation provided plus the cost of any transportation, utility hook-ups, or unit installation not provided directly by the President."[43] FEMA has traditionally interpreted the utility language to mean that hook-ups are the only utility costs eligible for assistance. As a result of this difference, which was also noted in ongoing litigation, Congress amended the Stafford Act to qualify utility costs as eligible expenses.[44]

Existing federal policy, notably the Stafford Act and its administration by FEMA, bases federal aid on the assumption that a household in need of temporary housing assistance will not have permanently lost employment or its principal means of support, let alone be displaced to another state. FEMA also presumes, based on typical program performance, that the Section 408 assistance provided will be relatively short in duration, generally much less than the 18 months of eligible help.[45] Certainly, many disasters are far more localized within states and communities. With a localized event, the difference in employment is the commuting distance from a temporary housing location rather than the retention of the job itself.

The challenge of continuing employment is one fundamental difference between most disaster declarations and an event such as Hurricane Katrina. This unique circumstance of sudden joblessness on a large scale underlines the difficulties in applying the Section 408 authority to catastrophic major disasters of this breadth, magnitude, and duration. In essence, Hurricane Katrina exceeded all previous experience and also the perceived reach of statutory authority.

---

[40] 42 U.S.C. §5174, Sec. 408 (c)

[41] P.L. 109-295, 120 Stat. 1454. In Congressional testimony, FEMA Administrator David Paulison noted that FEMA had not exercised this authority since the Agency had determined that this work should be done by HUD. Testimony of FEMA Administrator David Paulison, House Committee on Appropriations, Subcommittee on Homeland Security, "*Federal Emergency Management Agency: Is the agency on the right track?"*, 110th Cong. 2nd Sess. March 13, 2008.

[42] 42 U.S.C. §5174.

[43] Ibid.

[44] P.L. 109-295, 120 Stat. 1452.

[45] Interview with Donna Dannels, Individual Assistance Branch Chief, FEMA, April 16, 2007.

An additional consideration in the post-Katrina environment was the demographic profile of affected residents. As one report noted: "Hurricane Katrina disproportionately impacted communities where the poor and minorities, mostly African-Americans, resided. The three states where communities were damaged or flooded by the hurricane rank among the poorest in the nation."[46] This meant more renters were affected, and many victims had little means of support. These victims were sent far from home taking few or no resources with them.

Traditional Housing Repair and Replacement

When Hurricane Katrina struck, the housing repair element of Section 408 assistance authorized up to $5,000 in repairs to primary residences so that victims could make their homes habitable. [47] These same homeowners may or may not have received a Small Business Administration disaster loan for additional repairs. The $5,000 cap had been in place for several years since the passage of the Disaster Mitigation Act of 2000 (DMA2K- Public Law 106-390).

In addition to repair assistance, applicants whose homes have been destroyed can qualify for up to $10,000 to be applied toward a replacement home. This benefit is particularly available for mobile home owners without adequate insurance who can use these funds toward the purchase of another unit.

Traditional Manufactured Housing

FEMA traditionally uses mobile homes and travel trailers to meet the needs of disaster victims when needs cannot be met through home repair or available rental units. Mobile homes are larger and are generally used to house applicants who are unable to obtain rental housing in the area. Additionally, they are intended to meet longer-term disaster housing needs. Travel trailers are smaller units that are usually parked adjacent to the home so that the individual or family can continue repairs while the home itself cannot be occupied and not have to pay for the space to park the trailer. The units are also placed on existing commercial lots and in parks created by FEMA for that purpose. The travel trailers "have been used principally for shorter-term housing needs" following disaster events.[48]

Travel trailers, unlike mobile homes, are not classified as housing or dwellings. Instead they are considered transportation since they are often moved from site to site for recreational purposes. HUD has not established standards for trailers as it has for mobile homes which are considered housing and are "designed to be used as a dwelling."[49] The distinction between housing and transportation also becomes important when considering FEMA's own regulations which do not permit the placement of mobile homes within flood plains as temporary housing unless they are

[46] For additional information see, CRS Report RL33141, *Hurricane Katrina: Social-Demographic Characteristics of Impacted Areas*, by (name redacted) et al.

[47] The Post Katrina Reform Act amended this provision to remove the $5,000 cap. The overall ceiling of $28,800 for the Individual and Household Assistance Program, however, still applies. See, P.L. 109-295, 120 Stat. 1448.

[48] U.S. Department of Homeland Security, Federal Emergency Management Agency, "Alternative Housing Pilot Program—Guidance and Application Kit", September 15, 2006, p. 2.

[49] 24 CFR §3280.2.

elevated above the base flood elevation.[50] This allows trailers to be placed in flood plain areas on a temporary basis, particularly in group sites, while mobile homes may not.

While manufactured housing is a form of temporary housing, it sometimes gains permanence for the households occupying these units. This is based on a part of the Stafford Act which provides that a unit "may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing."[51] This is usually the case for applicants without other housing options.[52]

The Katrina Experience. Congressional testimony by a FEMA official noted that approximately 80% of manufactured dwellings were situated on private lots on the Gulf Coast.[53] This points to the large number of homes with major damage following the hurricanes of 2005. During the post-Katrina recovery phase, these trailers and mobile homes were the center of controversy for several reasons.

While manufactured housing is occasionally used, FEMA considers it the last housing option to be employed, and then only if home repairs are impractical or if there are no available units for rental assistance. But a catastrophic disaster such as Katrina removes many options. It not only spreads disaster victims across the nation but also makes home repair work difficult and slow at best. Additionally, a disaster of this magnitude wipes out most available rental housing in the affected area. With all of those factors considered, manufactured housing became the primary means of providing temporary housing in Gulf Coast communities for an extended period of time.

This form of housing also drew the media's attention due to a large number of units awaiting occupancy that have been stored in Hope, Arkansas.[54] Some of the reasons for the purchase of the excess units and the slow pace of their issuance are discussed in the Issues section below.

Health and Safety Concerns in Manufactured Housing

For the Katrina and Rita disasters, manufactured housing was used to an unprecedented extent. In summarizing the scope of the manufactured housing mission, the DHS Office of Inspector General observed:

> As of February 2007, in response to Hurricane Katrina, FEMA purchased a total of 145,699 travel trailers and mobile homes at a cost of approximately $2.7 billion. FEMA is also paying to store and maintain manufactured homes at 13 staging areas. The estimated expense to maintain these Emergency Housing sites is $36 million.[55]

[50] 44 CFR §9.13 (c)(4)(I).

[51] 42 U.S.C. §5174 (d)(2)(A).

[52] Paul Singer, "Camp FEMA," *National Journal*, vol. 38, March 11, 2006, p. 26.

[53] Testimony of David Garratt, FEMA Acting Recovery Division Director, in U.S. Congress, House Committee on Financial Services, *Federal Housing Response to Hurricane Katrina* hearing, 110th Cong., 1st sess., February 6, 2007.

[54] "Congress, FEMA Try to Free Up Stockpile of Trailers," *National Public Radio*, at http://www.npr.org/templates/story/story.php?storyId=5313004.

[55] Testimony of DHS Deputy Inspector General Matt Jadacki, in U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, 110th Congress, 1st sess., March 14, 2007, at http://www.dhs.gov/xoig/assets/testimony/OIGtm_MJ_031407.pdf.

Complaints regarding the safety of the units cropped up early in the recovery period. As early as late November of 2005, just three months after Katrina had made landfall, media accounts were highlighting formaldehyde issues prominently among a listing of the environmental problems resulting from the storms:

> Burning storm debris, more diesel exhaust, runaway mold and fumes from glue and plywood in new trailers are irritating people's lungs and nasal passages. ... Dave Farragut of DeLisle got one of the first new trailers from FEMA. The first couple of days the smell from the trailer made his eyes burn. When his girlfriend moved in a few days later, she also got sick at first.[56]

On July 19, 2007, the House Committee on Oversight and Government Reform held a hearing on the formaldehyde issue. Witnesses at the hearing included residents who had reported health problems due to their stay in the manufactured housing provided by FEMA. While the witnesses testified to their own health concerns and their experience working with FEMA field staff to address those concerns, the hearing also focused on FEMA documents that demonstrated differences within the agency on how to respond to the reported health threats. As the Oversight Committee's Supplemental Memo explained:

> In March 2006, news articles reported high levels of formaldehyde in FEMA trailers. FEMA field staff urged immediate action, saying "This needs to be fixed today," "we need to take a proactive approach," and there is an "immediate need" for a plan of action. FEMA testing of a trailer occupied by a pregnant mother and her infant in April 2006—apparently the only occupied FEMA trailer ever tested by FEMA—showed formaldehyde levels that were 75 times higher than the maximum workplace exposure level recommended by the National Institute for Occupational Safety and Health.
>
> Despite the evidence of a formaldehyde problem in FEMA trailers, FEMA officials in headquarters, acting on the advice of FEMA lawyers, refused to test occupied FEMA trailers. One FEMA attorney explained: "Do not initiate any testing until we give the OK. ... Once you get results and should they indicate some problem, the clock is running on our duty to respond to them."[57]

FEMA Administrator David Paulison, the government witness at this hearing. In his testimony, Mr. Paulison assured the Committee that an investigation was underway in June, 2007, one month prior to the hearing, on the formaldehyde matter. The group involved in the inquiry had a large cast of federal players including the Department of Housing and Urban Development (HUD), the Department of Health and Human Services (HHS), the Public Health Service, the Environmental Protection Agency (EPA), DHS' own Office of Health Affairs, and some industry representatives as well. Administrator Paulison added that "Together, we are beginning both short and long-term investigations. In fact, FEMA and CDC are scheduled to begin phase one of a study in the Gulf Coast within the next few weeks."[58]

---

[56] Seth Borenstein and Chris Adams, "Major Health Crisis Emerging," *The Sun Herald* (Biloxi, MS.), Knight/Ridder, November 30, 2005.

[57] U.S. Congress, House Committee on Oversight and Government Reform, "Hurricane Katrina Response—Committee Probes FEMA's Response to Report of Toxic Trailers," Supplemental Memo and Exhibits, July 19, 2007, at http://oversight.house.gov/story.asp?ID=1420.

[58] U.S. House of Representatives, Committee on Oversight and Government Reform, "Hearing on FEMA's Toxic Trailers," July 19, 2007, *Preliminary Transcript*, pp. 117-118.

While not stipulating what phase one would represent, the actual testing of trailer units by the CDC did not begin for another five months, starting on December 21, 2007.[59] This delay was described by some as symptomatic of a longer delay in recognizing the need for testing and of seeking to influence its results. As one press account noted:

> The revelations come nearly two years after early tests showed high levels of the toxic gas in trailers and a month after a congressional committee accused FEMA of pressuring the CDC to downplay health risks attached to the trailers due to liability concerns. FEMA and CDC officials have denied the allegations.
>
> "FEMA has acted throughout this not out of concern for the health of the people who lived in the trailers but out of concern for public embarrassment and legal liability," said Rep. Brad Miller, D-N.C., of the House Committee on Science and Technology, which launched an investigation.[60]

The test results announced by CDC found "higher than typical indoor exposure levels of formaldehyde" in the travel trailers and mobile homes that have been serving as temporary housing for thousands of disaster victims.[61] In reaction to the CDC results, FEMA announced a number of steps to accelerate the relocation of disaster victims from the manufactured housing and into rental units, hotel and motel rooms or other alternative housing. FEMA pledged to provide food assistance, furniture for residents moving into unfurnished apartments, care for pets that may not be permitted in hotels and motels, and assistance in the actual move from a manufactured home to a safer residence.[62]

However, also in reaction to the CDC findings, a master complaint was filed based on the health risk represented by the formaldehyde findings. The clients "allege they were adversely affected by high formaldehyde levels in trailers supplied by the Federal Emergency Management Agency".[63] In addition to FEMA, the complaint also targets dozens of manufacturers. This action continues the trail of litigation in the housing arena since the hurricane struck in 2005.

In light of the information now available, FEMA has made a decision to no longer use travel trailers. However, FEMA will continue to use mobile homes since these types of units are regulated, with safety standards, by HUD. As FEMA's "Interim Directions" explains:

> Any type of manufactured housing regulated by HUD, or park model, may continue to be installed in support of and occupied by eligible disaster victims. FEMA will have the air quality of the unit independently tested to determine formaldehyde levels.[64]

---

[59] U.S. Department of Homeland Security, Federal Emergency Management Agency, "CDC Releases Results of Formaldehyde Level Tests," Release Number HQ-08-021, February 14, 2008, at http://www.fema.gov/news/newsrelease.fema?id=42606.

[60] Rick Jervis and Andrea Stone, "FEMA to step up trailer relocations," *USA TODAY*, February 14, 2008, at http://usatoday.com/news/nation/2008-02-14-toxic-trailers_N.htm.

[61] Ibid.

[62] U.S. Department of Homeland Security, Federal Emergency Management Agency, "FEMA Plan of Action on Formaldehyde Finding to be Implemented Immediately," Release Number HQ-08-022, February 14, 2008, at http://www.fema.gov/news/newsrelease.fema?id=42611.

[63] Daniel Fowler, *CQ, Homeland Security*, "Katrina Trailer Lawsuit Targets FEMA, but Faces a Tall Legal Order," March 18, 2008, at http://homeland.cq.com/hs/display.do?docid=2690387&sourcetype=31.

[64] U.S. Department of Homeland Security, Federal Emergency Management Agency, "FEMA Interim Directions on use of Temporary Housing Units," March 10, 2008.

The assistance promised by FEMA to facilitate a rapid relocation for those households currently in trailers will come at an additional cost that has yet to be estimated. It also stands in a long line of changing deadlines and directions regarding housing assistance over the extended disaster recovery period.[65] A particular dilemma in implementing this plan has been the relative paucity of rental units available in the immediate disaster area. Also, since the great majority of remaining travel trailer units are on private lots where owners are slowly repairing their homes, there may be additional logistical challenges for the government and decisions for families and individuals. In testimony before the Senate Homeland Security and Government Affairs Committee, DHS Secretary Chertoff summed up the situation:

> Now I recognize the reality is there's not a lot of housing in the area, and that may mean for some people they will have to move some distance away. That's been, frankly, one of the reasons why I think some people have been reluctant to move out of trailers. But from any number of standpoints, whether it be formaldehyde or just the fact that these trailers are not designed as permanent residences, I think that people would be much better served if they bit the bullet and moved out. And we will do everything that we can, certainly, to facilitate that.
>
> I guess a question we will have to wrestle with is whether we will compel people to move out.[66]

Housing Inspections: Strengths and Limitations

Traditionally, almost all key decisions in the FEMA housing mission are tied to an on-site inspection of the damaged housing by FEMA contract inspectors. The inspections provide FEMA with information on the degree of damage to the structure and contents of the house. The inspectors are assigned an address, locate the home, and assess its status on a hand-held computer that enables information to be downloaded rapidly to FEMA computers. The information is subsequently merged with an applicant's file.[67]

The Katrina Experience. With standing water throughout the southern parishes and counties, on-site inspections could not be conducted for thousands of homes for a considerable amount of time. As a result, FEMA used geo-spatial mapping of the area to help determine eligibility for FEMA housing assistance.[68] Geo-spatial mapping consists of overflights of an area that can produce maps that identify the average depth of water in a specific geographic area. From these maps FEMA can then project likely damage in that area. This form of verification was fast and practical but could not offer the same detail as on-site inspection, particularly for personal losses. Another key issue realized from Katrina is that the viability of neighborhoods cannot be determined. Even though on-site inspection reports are issued for each individual dwelling, the reports do not ordinarily provide, nor is it their assigned mission to provide, a picture or an assessment of neighborhood-wide conditions. For example, are schools or stores open? Is there

[65] "The Katrina Housing Debacle," *The New York Times,* November 24, 2005, at http://www.nytimes.com/2005/11/24/opinion/24thu3.html.

[66] U.S. Senate Homeland Security and Government Affairs Committee Hearing, *The Homeland Security Department's Budget Submission for Fiscal Year 2009*, 101st Cong. 2nd sess. February 14, 2008.

[67] U.S. Department of Homeland Security, Federal Emergency Management Agency, "Disaster Assistance - Frequently Asked Questions," at http://www.fema.gov/assistance/dafaq.shtm.

[68] U.S. Department of Homeland Security, Federal Emergency Management Agency, "Mapping Expedites Assistance for Louisiana," press release no. 3215-029, February 9, 2006.

general accessibility to community resources? Are essential infrastructure components operational?[69]

Issues for Congress

National Disaster Housing Strategy

In Public Law 109-295, the Post-Katrina Emergency Management Reform Act of 2006, known as the post-Katrina Act, Congress directed FEMA to develop, in concert with other federal departments and agencies, as well as the non-profit sector and other interested parties, an overall strategy for disaster housing.[70] This report was due 270 days after enactment, which would have placed its due date in July of 2007. In testimony to Congress, FEMA Deputy Administrator Harvey Johnson had pledged to deliver the strategy report in April of 2008.[71] A draft report was submitted to Congress on July 21, 2008. On July 24, 2008 FEMA began a 60-day public comment period on the strategy.[72]

The strategy, as released, defers most decisions and approaches to implementation, to a "National Disaster Housing Task Force" that would lead both planning and implementation efforts.[73] As one Senator noted, in describing an initial analysis of the draft strategy:

> In particular, the analysis found that rather than submitting plans for six of nine required improvements to the agency's disaster housing strategy, FEMA instead proposes creating a new entity to which it defers the bulk of these responsibilities.[74]

The draft strategy emphasizes the roles of partners in the disaster housing program, particularly state and local governments as well as the non-governmental organizations and the private sector. Less discussion is directed in the strategy to the federal role in catastrophic events. While the draft document amply described current practices, particularly the roles of the other actors, the federal role is only briefly referenced. Since it was a catastrophic event that was the basis for the request for this strategy, as well as its overall context, it should more directly address how the strategy would address a catastrophic event. Perhaps following the comment period, and the completion of the multiple annexes now under development, the strategy will be more direct in its recommendations and approach.

---

[69] Bruce Nichols, "Houston Team Inspects New Orleans Homes," *Dallas Morning News,* April 13, 2006, at http://www.redorbit.com/_include/banners/ad83.html.

[70] For summary information on the statute, see CRS Report RL33729, *Federal Emergency Management Policy Changes After Hurricane Katrina: A Summary of Statutory Provisions*, by (name redacted) et al.

[71] U.S. Senate, Homeland Security and Governmental Affairs Committee, Ad Hoc Subcommittees on Disaster Recovery and on State, Local, and Private Sector Preparedness and Integration, "*Is Housing too Much to Hope for? FEMA's disaster housing strategy*," 110th Cong. 2nd Sess., March 4, 2008.

[72] U.S. Department of Homeland Security, Federal Emergency Management Agency, "National Disaster Housing Strategy, 73 *Federal Register 43250,* July 24, 2008.

[73] U.S. Department of Homeland Security, Federal Emergency Management Agency, *National Disaster Housing Strategy*, p. 75 at http://www.fema.gov/good_guidance/download/10241.

[74] Press Release, U.S. Senator Mary Landrieu, *FEMA Delivers Housing Strategy Without a Plan,* July 21, 2008, at http://landrieu.senate.gov/~landrieu/releases/08/2008721A22.html.

Some of the issues discussed in this section, including FEMA's collaborations with HUD, temporary housing options, and other alternatives that could serve as "semi-permanent" or "interim" housing in the wake of disaster, are mentioned in the draft housing strategy.

FEMA has taken several actions that may reflect the eventual contents of its strategy. Two of these actions are the establishment of the Disaster Housing Assistance Program (DHAP), which transferred management of long-term rental housing to HUD,[75] and FEMA's recent announced reversal, in the housing strategy, of its previous decision to no longer use travel trailers, due to safety concerns, as a disaster housing option[76]. The strategy in fact calls for their use when no options remain and any units must meet HUD standards.[77] Actions such as these may be a component of a comprehensive disaster housing strategy, along with other elements such as "Katrina Cottages," mobile homes and their management, the congressional authorization for "semi-permanent housing" in P.L. 109-295, and the overarching themes of equity and choice.

FEMA Group Site Location

The reluctance of parishes near to but outside of the disaster area to host manufactured housing sites became a major impediment to development of a coherent housing plan following Katrina's impact. In late October, 2005, the Louisiana state government requested that FEMA pay a version of "impact fees," similar to those assessed on developers by local communities when new construction is planned.[78] The state believed such help would encourage the outer parishes to accept a significant number of mobile homes or travel trailers in their jurisdictions by helping them defer increased costs to the community caused by the new temporary sites. There is no record of FEMA responding officially to that overall proposal, but some examples of previous actions arguably indicate FEMA had given some support to the concept. Early in the disaster FEMA had set up temporary laundry facilities for one trailer park. During the hurricanes of 2004 in Florida, FEMA had helped a sewer district expand its capacity following the establishment of a trailer park within that jurisdiction. In each case, these actions had been ad hoc decisions made by the leadership in the field, not reflecting official policy.[79]

Later, in early November 2005, FEMA housing staff in Louisiana created their own version of a "supporting services" listing, to encourage more local support for the trailer parks. The proposal from the FEMA field staff was a six page memorandum that described types of assistance that could potentially be available to the hosting community from FEMA or other federal agencies. The recognized areas for additional help to the local community included road repair and traffic management, public works, and other community services.[80] This proposal was not adopted, but FEMA continued to review the suggestions.

---

[75] U.S. Department of Homeland Security, Federal Emergency Management Agency, "Disaster Housing Assistance Program," October 3, 2007, at http://www.fema.gov/hazard/hurricane/2005katrina/dhap.shtm.

[76] Leslie Eaton, "Agency is Under Pressure to Develop Disaster Housing," *New York Times*, April 13, 2008, at http://www.nytimes.com/2008/04/13/us/13trailers.html.

[77] Ibid. *National Disaster Housing Strategy*, p. 43.

[78] "Louisiana's Transitional Housing Impact Fee Plan, Draft," October 3, 2005. Available from author.

[79] Interviews with former FEMA staff members Mike Hirsch and Brad Gair, January 18, 2007.

[80] *Strategy for the Provision of Services for Group Housing Sites - Hurricane Katrina: Louisiana*, revised DRAFT, November 10, 2005, available from author.

FEMA ultimately decided it was authorized to provide limited community service help and sent out a two-page memo in mid-December of 2005 offering potential help for fire and safety forces that provide service to the trailer parks in their jurisdictions.[81] Some FEMA staff believed the delay in arriving at a decision and the limited reach of the final decision resulted in increased reluctance on the part of local officials to host such trailer parks. FEMA's leadership took its position from the Stafford Act quote that "the President may provide temporary housing units ...."[82] Since Congress did not specifically authorize other support, FEMA concluded that no other support is implied or was legally possible when creating a temporary housing community.

FEMA Group Site Management of Services

FEMA's interpretation of its limited authority to support the group sites that it had established extended not only to the surrounding community, but to services within the sites as well. FEMA considers the need for recreational facilities or services to augment educational opportunities, or other services that contribute to a sense of community, to be beyond any and all Stafford Act authorities, noting that these are intended to be temporary sites. Some contend that each additional service provided is an enticement to transform a temporary site, as authorized by law, into something far more permanent. It is argued that such a site with amenities and services sponsored by the government does not contribute to the process of helping residents transition to more permanent housing.

FEMA's position, according to one journalist, is that such help, if needed, should be provided by private charitable groups. However, in its interactions with charitable groups interested in providing additional services, FEMA has reportedly been a reluctant partner. In describing the philosophical approach to the management of a trailer park site, such as Renaissance Village in Baker, Louisiana, one reporter explained the FEMA position as follows:

> FEMA is the federal agency charged with providing temporary housing to displaced people. Its officials read that mandate very narrowly—they will supply housing, and little else, for as long as 18 months while people get back on their feet. ... The government provides evacuees a trailer, water and sewer lines, and electricity. Residents must now get pretty much everything else on their own or from a charity. FEMA does not want anyone to get too comfortable here.[83]

In the case of Renaissance Village, some charitable and social service groups expressed particular concern because, "anyone" included nearly 370 children under the age of 12.[84] Some contend that community services are a necessary component of a temporary trailer park because children need recreational opportunities and facilities and child care and related services. Others, however, believe that the establishment of services, and the long-term residency they imply, runs counter to the interest of Congress to provide minimal or temporary housing.

[81] U.S. Department of Homeland Security, Federal Emergency Management Agency, David Garratt, *Disaster Specific Guidance - Hurricane Katrina and Rita Provision of Essential Services in Support of Direct Housing*, December 15, 2005.

[82] 42 U.S.C. § 5174.

[83] Paul Singer, "Camp FEMA," *The National Journal*, vol. 38, March 11, 2006, p. 25.

[84] Ibid., p. 26.

In a hearing of the House Transportation and Infrastructure Committee's Subcommittee on Economic Development, Public Buildings and Emergency Management, the subcommittee chair, Representative Norton, acknowledged the complexity of the issue. Representative Norton signaled that FEMA should not be required to provide comprehensive services on site or establish "a village" that could further isolate the residents. Instead, she observed that FEMA should be providing transportation to temporary housing residents to connect them with the surrounding communities where services may already exist.[85]

Delivering Housing: When and Where

Certain issues had to be resolved prior to the installation of temporary housing for Katrina victims.

One limiting factor for housing (both temporary and permanent) was the utility problem in New Orleans. FEMA's contractors were hard pressed to keep up with the number of requests for temporary housing units; the lack of utilities meant that site preparation lagged. Entergy is a private utility company that had been New Orleans' last Fortune 500 company but found itself in precarious financial straits following the devastating event.[86] The lag time on utility restoration became yet another "chicken and egg" situation. Which would come first: the arrival of housing units or the utilities to support them? A similar question arose regarding neighborhood schools: should the schools be repaired, or should the students be present first? The inertia that resulted from these sticking points has been a common factor for post-Katrina communities. Local leadership and community-based decision making organizations arguably are equipped to set the priorities that could resolve these issues. FEMA's local partnerships, particularly the interaction of a Federal Coordinating Officer and staff with experience in similar situations, can be useful. Their cooperation with local leadership can contribute to a more effective transition for the community.

Issues also arise as to where temporary manufactured housing should be sited. FEMA's regulations prohibit the placement of mobile homes in flood plains to avert similar disasters in the future.[87] This has discouraged the placement of housing needed by Katrina victims. FEMA has, however, permitted the use of travel trailers (rather than mobile homes) in such vulnerable areas under the assumption that they can be moved out of harm's way more rapidly. This assumption is questionable when large numbers of travel trailers are being used in a concentrated area and FEMA requires that contractors strap down all of the manufactured housing installed on the Gulf Coast. The increased safety created by tying down the mobile homes restricts mobility. This is a dilemma without a simple answer since it involves the pursuit of two goals potentially in conflict—the need to provide housing in proximity to the disaster-stricken area and the assurance that safe temporary housing will be placed in secure, disaster resistant areas.

The high levels of formaldehyde in travel trailers and mobile homes revealed by the Centers for Disease Control (CDC) serves to underline the importance of health and safety concerns when establishing temporary housing for disaster victims. FEMA has indicated it may continue to

[85] Rep. Eleanor Holmes Norton, Chair, House Transportation and Infrastructure Committee, Subcommittee on Economic Development, Public Buildings and Emergency Management, *Post-Katrina Temporary Housing: Dilemmas and Solutions,* hearing, 110th Cong., 1st sess., March 20, 2007.

[86] "Entergy New Orleans files for bankruptcy," CNN Money.com, September 23, 2005, at http://money.cnn.com/2005/09/23/news/fortune500/katrina_entergy/.

[87] 44 C.F.R. §206.117(b)(ii)(C).

employ mobile homes that are subject to HUD and industry standards for their safety but will no longer use travel trailers since similar standards do not exist. The commitment of DHS/FEMA to no longer use one type of temporary unit is arguably understandable given the recent experience. But some may question what the alternative form of housing will be since the travel trailers were such a commonly used resource in previous FEMA recovery operations.

An additional topic of interest is the influence of FEMA's temporary housing program and policies on eventual resettlement and rebuilding decisions at the state and local levels. Some of the FEMA recovery program elements fall outside the defined temporary housing arena but have a direct impact on rebuilding and other related developments within the disaster area. This includes elements such as transportation costs for victims to return to their homes, the establishment and locations of group temporary housing sites, and the progress of infrastructure repair and mitigation projects and the support they could provide for neighborhood redevelopment.

FEMA involvement in community rebuilding is considerable, but local decision making is also important to accelerate the work. FEMA actions are dependent on choices and priorities established by the state and local governments, in terms of both infrastructure repair and the priority given to debris removal and mitigation projects. Conversely, when fundamental decisions, like those concerning cost-share waivers are delayed, very little can proceed at the local level. The experience of FEMA (and its federal, state, and local partners) over the last two years may provide a guide to what worked well, what did not, and what options remain under current authorities.

Equity in Assistance

A key concern in the implementation of disaster temporary housing programs was how to achieve equity with a huge and diverse population that was receiving various degrees of assistance. The variation depended not only on a family's or individual's circumstances (for example, whether relatives were able to provide help), but also on the resources of the receiving state. One concern was that those receiving 403 assistance would have all of their 408 accounts remaining (referencing the $28,200 maximum available under the Individual and Households Program), while those who had successfully registered and received help through more traditional FEMA processes were already drawing down from the total Section 408 amount available to them and their families. Given the unprecedented size of this disaster, the 403 solution bought necessary time while the 408 processing went on. However, as a result, some were arguably penalized for their prompt application for Section 408 aid.

Efforts to address the equity problems in the delivery of FEMA disaster housing may consider the exclusion of initial housing costs under Section 408 from the legislative caps (see Options section of this report). Under this arrangement, all applicants would begin with the same amount of available resources within their IHP accounts. This change, however, would increase costs since it would be equivalent to increasing the amount of help made available. Further, all of the aforementioned considerations do not include the assistance some families and individuals received from charitable groups as well.

Choice for Disaster Assistance Applicants

Disaster victims have limited discretion to choose among the types of housing assistance authorized. The Stafford Act authorizes the President to provide "financial assistance, and, if necessary, direct services."[88] Those applying for help must generally accept the form of housing offered. This is underlined in FEMA's regulations, which stress that an applicant is "expected to accept the first offer of housing assistance" and threatens forfeiture of benefits if aid is refused.[89] How much choice should be involved when the government is providing a direct benefit to the disaster victim? In the case of Katrina disaster victims in Louisiana, FEMA estimates it will eventually expend more than $10 billion to provide human services (housing, crisis counseling, disaster unemployment assistance) to that population.[90] Given such expenditures, government officials may be expected to make choices that combine sound stewardship of funds with efficient management.

Conversely, the misfortune of a natural or man-made disaster can determine a family's housing choices and actual housing location for an extended period of time. But the housing aid offered has a couple of imperatives that may not be complimentary. A key question is whether the goal of the housing mission in the Stafford Act is to place families as close to their original residences as possible or to house as many people as economically as possible? In a catastrophic situation involving thousands of evacuees, the idea of choice may be temporarily exchanged for an immediate response, with different results. As the Director of the Natural Hazards Research and Application Center observed:

> Worse yet, instead of having their needs addressed in a timely manner, those stranded in New Orleans after Katrina were not so much assisted as they were policed. Literally treated like criminals, they were confined to shelters under strict control. Later, they were transported, again under the control of law enforcement agencies and the military, to over forty states around the country, without even having the opportunity to choose where they would be sent.[91]

The use of housing vouchers does not necessarily enable a victim to return to an area with very few remaining rental units available, nor can vouchers accommodate the desire of a displaced person for a rapid return. But the vouchers can provide a greater degree of choice, as a Heritage Foundation housing expert explained:

> Obviously, giving evacuees access to housing vouchers that can be used in any metropolitan area in the nation will increase the likelihood that many will choose not to return. With vouchers, they will have access to better housing than they had in the slums of New Orleans and will have the choice to remain in communities where they can improve their standard of living and quality of life.[92]

---

[88] 42 U.S.C. § 5174.

[89] 44 C.F.R. § 206.110(c).

[90] DHS-FEMA Disaster Relief Fund Monthly Report to Congress, April 6, 2007, p. 12.

[91] Kathleen Tierney, "Social Inequality, Hazards and Disasters" in Ronald J. Daniels, Donald F. Kettl, and Howard Kunreuther, eds., "*On Risk and Disaster: Lessons from Hurricane Katrina*," (Philadelphia: University of Pennsylvania Press, 2006), pp. 122 and 123.

[92] Ronald Utt, "After Weeks of Confusion, the Right Course for Evacuee Housing Assistance," Heritage Foundation, September 28, 2005, at http://www.heritage.org/Research/SmartGrowth/wm866.cfm.

After the Katrina disaster, FEMA generally provided the initial form of assistance it would normally provide in most disasters: rental assistance in the form of a check (or an Electronic Fund Transfer) equal to a couple of months rent for the area where the applicant was located. This provision of cash assistance provides flexibility to victims to use the funds to meet their housing needs and, if funds remain, to meet other disaster-related needs.

Housing vouchers issued by HUD can provide both choice and mobility. Also, given the nature of the vouchers being issued by housing authorities that establish relationships with landlords, the vouchers offer more controls and accountability. But in the case of Katrina, HUD vouchers were never used apart from the assistance given to some households that previously received HUD aid. In the area of choice, the distinction between cash and vouchers becomes more complicated. A cash grant provides the ultimate discretion to a disaster victim on its use, with reporting of those uses trailing months behind. A voucher also gives the victim wide latitude, but is more directed toward housing resources. Additionally, the relationship with the issuing authority (e.g. a local public housing authority) offers the potential of additional help for consultation on housing issues.

Most localized disasters do not involve the problems of applicants being displaced vast distances from their homes, jobs, and schools. The evacuation after Katrina had to be carried out rapidly, since there were no housing resources in the flooded city. The speed of the evacuation appeared to make choice a moot point. Could the evacuation have been organized to a point where evacuees could have chosen a destination? The requirement for prompt action argued against that, but transportation funds were provided to reunite families at the location of their choice. Although difficulties are readily apparent, the matter of choice remains an issue for consideration in general for disaster housing law and policy.

Incentives for Communities

Some contend that, in light of the Katrina experience, the Stafford Act should include incentives for communities to host temporary housing sites that could become permanent housing subdivisions. It may be argued that Congress provided some of this flexibility by replacing "temporary housing" with "semi-permanent housing" authority within the Post-Katrina Act (P.L. 109-295).[93] On the other hand, some may argue that hosting communities have existing incentives since they already benefit from spending by the residents of the sites at local business establishments where they purchase products and services, and pay local taxes.

In the same vein, it may be argued that FEMA should have explicitly defined authority regarding the agency's ability to make large temporary housing sites more supportive of community spirit and recovery. As the earlier discussion in this section on "Management of Services" indicates, there has been confusion during the post-Katrina recovery as to who should or would even be permitted to provide such additional help for these temporary communities. Some have observed that this form of support for the group trailer sites could become the fundamental contribution made by the state and its local governments to the temporary housing mission.

[93] P.L. 109-295, 120 Stat. 1447.

Unintended Consequences

For two decades (1975-1995) FEMA maintained its own manufactured housing storage sites (principally at Palo Pinto, Texas and Bluegrass, Kentucky) where the units were stored and refurbished for future use. This was a challenging proposition (as the current Hope, Arkansas experience attests) since the quality of the units' upkeep was, at least in part, determined by the forces of nature and age.[94] The condition of the units was diminished further by repeated travel to disaster sites and back to the storage sites.

In 1995, FEMA's Reinventing Government, Phase II Committee, recommended the closing of the two sites and the sale of the units, arguing that local purchasing, as needed, would be more efficient. The committee also noted that most temporary housing in the early 1990s had been provided through home repairs and rental assistance. This was partly due to the Northridge earthquake experience (at the time FEMA's costliest disaster), where repair and rental assistance, due to the area affected, were more useful options for temporary housing than was manufactured housing. This recommendation was adopted; the sites were closed, and the GSA auctioned off and/or dispersed the remaining units. As a consequence, since stand-by contracts were not in place, FEMA officials had to make fast and expensive decisions to purchase thousands of housing units.

Another unanticipated consequence occurred with the reduction of home repair grants from $10,000 or more to $5,000, the elimination of the Mortgage and Rental Assistance Program (MRA) discussed later in this report, and the elimination of the option for households who failed to qualify for SBA loans to return to FEMA for additional help with home repairs. Those changes, enacted in the Disaster Mitigation Act of 2000 (DMA2K), arguably pushed FEMA back in the direction of providing direct housing assistance in the form of manufactured housing.

Previously, greater assistance had been available for home repair, since it had long been the preferred form of disaster temporary housing assistance.[95] As GAO pointed out in its report following the Northridge earthquake in 1994: "Individuals and families whose homes are damaged can apply to FEMA for a grant, to make repairs to restore habitability. For the Northridge earthquake, applicants could obtain a maximum of $10,000."[96] But at times, the amount was more than that. As the FEMA Office of Inspector General pointed out, according to a study prepared by FEMA, "four percent received awards of $10,000 or more, which accounted for 18 percent of expenditures."[97]

The cap on housing repair was a significant part of DMA2K, P.L. 106-390, and was the main source of savings in temporary housing that the Congressional Budget Office estimated at "$10 million for 2002 and $19 million in each following year."[98] The $5,000 cap had been a point of

[94] H.R. 4830 introduced by Rep. Mike Ross (Ark) would require FEMA to assess its manufactured housing needs during disasters and also devise a disposal plan for excees unit. H.R. 4830 is included in H.R. 6658, the Disaster Response, Recovery, and Mitigation Enhancement Act of 2008.

[95] 42 U.S.C. § 5174.

[96] U.S. Government Accountability Office, *Los Angeles Earthquake: Opinion of Officials on Federal Impediments to Rebuilding*, GAO/RCED-94-193, p. 2, at http://archive.gao.gov/t2pbat3/151823.pdf.

[97] U.S. Department of Homeland Security, Federal Emergency Management Agency, Inspector General, *Audits of Home Repair Grants Provided Through FEMA's Disaster Housing Program*, September 20, 1996, p. 7.

[98] U.S. Congressional Budget Office - Cost Estimate, *H.R. 707 Disaster Mitigation and Cost Reduction Act of 1999*, May 5, 2000, at http://www.cbo.gov/showdoc.cfm?index=2025&sequence=O&from=6.

contention since its legislative imposition in 2000; changing the provision had been a goal of groups active in disaster recovery work.[99]

Some tried, apparently without success, to read additional help for home repair into the law.[100] But FEMA contended the cap provided no recourse for families and individuals unable to obtain SBA loans. The cap has now been removed by the Post-Katrina Act.[101] However, the cap on home repairs was in place during Katrina and for a year after that event. Given the smaller amount available for home repairs, as well as the devastation of the Katrina event that made repairs more costly and time-consuming, manufactured housing became the only alternative based on the time pressure associated with Katrina.

The priority use of manufactured housing may not have been a preferred option, but it was one that, if coupled with a drastically diminished rental inventory in a disaster area (e.g., Katrina, unlike Northridge), provided housing opportunities as other possible housing avenues were decreasing. However, health and safety concerns based on the Katrina experience may reduce the future use of this form of housing. Vouchers offer some freedom of choice for displaced applicants, but the existence of vouchers alone cannot reconstitute rental housing options in an area as demolished as southern Louisiana.

Closer to Home: FEMA's Original Plan

FEMA's original plan for housing strategy solutions immediately following the impact of Hurricane Katrina, titled "Closer To Home," anticipated some of the problems that have confronted the housing mission since September 2005. The plan included the concept of "transitional communities" to meet the needs of large events.[102] The plan proposed that communities provide sites for a temporary housing solution for disaster victims that would offer the amenities and support services that could lead to a transition back to their home communities. The plan also included the framework for that same transitional community to become a permanent housing addition to its host area. Though FEMA/DHS leadership did not act on the strategy, the Director of the Office of Recovery and Renewal for the State of Mississippi also noted the "transitional communities" concept as a promising avenue to explore as a means to "supplementing housing needs."[103] Opponents of the concept might contend that communities unwilling to accept temporary manufactured housing would be much less likely to consider a semi-permanent housing development.

---

[99] National Voluntary Organizations Active in Disasters (NVOAD), *2006-2007 Priorities for the National VOAD Public Policy Committee*, August 1, 2006, at http://www.nvoad.org/report.php?reportid=159.

[100] Senator Robert Smith, et al., "Robert T. Stafford Disaster Relief and Emergency Assistance Act," remarks in the Senate, *Congressional Record*, daily edition, vol. 123, (October 5, 2000), p. S10019. Since the DMA2K had been enacted without a House-Senate conference, several questions regarding legislative intent were in question. Former Senators Bob Graham and Bob Smith held a colloquy on their intent to allow applicants turned down by SBA to return to FEMA for additional help. It concluded with Senator Graham's summary that "if an individual or a household was unable to obtain a loan from SBA, or assistance from another source, then they could be eligible to receive additional emergency home repair assistance ...." Senator Smith concurred with that assessment of the legislation.

[101] P.L. 109-295, 120 Stat. 1448.

[102] U.S. Department of Homeland Security, Federal Emergency Management Agency, *Closer to Home—Housing Strategy Solutions in Response to Hurricane Katrina*, September 12, 2005, Appendix B, p. 28, available from the author.

[103] Statement of Gavin Smith, Director, Office of Recovery and Renewal, State of Mississippi, before the House Financial Services Committee, Subcommittee on Housing and Community Opportunity, January 14, 2006.

Although the notion of transitional communities was not accepted in the early days of post-Katrina recovery, subsequent congressional action on "Katrina Cottages" and the concept of alternative housing indicates a policy shift in viewing some temporary housing as a prelude to semi-permanent or permanent housing.[104] When considering such an approach, maintaining a distinction between catastrophic disasters and most disasters may be important. The larger events arguably might invite bold thinking and creative approaches. Smaller disasters may not require transitional communities, only the repair and restoration of the disaster-damaged community.

Victims Without Homes

Even with the enormous commitment of federal resources following Katrina and the varied forms of available help, there were still applicants deemed ineligible for traditional federal assistance programs (from both FEMA and HUD). These were people with no previous permanent address who were not receiving official government help before they were evacuated. In many instances they became wards of the community that had accepted them as evacuees. However, HUD did provide voucher assistance for this special group through the Katrina Disaster Housing Assistance Program - Special Needs (KDHAP-SN) program and subsequently the Disaster Voucher Program. Congress may ultimately choose to explore the needs of these applicants and their status (previously homeless, part of a separated household, etc.) in future disasters to determine if the help provided should be by exception or through standard programs.

To date the answer has been simple and direct under FEMA authorities: previously homeless individuals and families will return, as with other disaster victims, to their pre-disaster status. When they are moved from the mass shelters they could again be homeless. Reliance upon only this approach, following Hurricane Katrina, would have meant that these individuals and households were solely dependent upon the local government and the existing social service structure in the area that had hosted their evacuation.[105] But given the help from the KDHAP-SN program, the local hosts had some resources to call upon to meet the special needs of this population.[106]

Should the fact of being in a disaster area improve someone's circumstances? Perhaps not, but the government also can consider the results it wishes to see from its investment in such an event. If FEMA temporary housing assistance is not available under current regulations for previously homeless families and individuals, then the KDHAP-SN program might be considered as a possible model in the post-disaster environment for limited service for a known population with identified needs. As with other housing issues, this may be another area that lends itself to more collaboration between FEMA and HUD in establishing general policies rather than ad hoc approaches.

FEMA had faced similar problems in the past with distinctly different responses and results (see **Appendix B** of this report). The basic issue is whether federal disaster policy should essentially return victims to their pre-disaster conditions or whether the disaster recovery process should

[104] P.L. 109-234, § 2403, 120 Stat. 460.

[105] "Post-Katrina Issue," Catholic Legal Immigration Network, Inc., at http://www.cliniclegal.org/Katrina/Newsletters/Jun012006newsletter10.pdf.

[106] U.S. Department of Housing and Urban Development Notice PIH 2006-12, "Disaster Voucher Program (DVP) Supplemental Guidance: Rental Assistance for Special Needs Families Displaced by Hurricanes Katrina and Rita," at http://www.nelrod.com/dvp%20sn%20guidance.pdf.

facilitate an improvement in individuals' conditions, or at least a continuation of previous aid, such as the HUD program in the wake of Katrina.

HUD-FEMA and Long Term Housing

On April 26, 2007, the Administration announced that it would extend disaster temporary housing assistance through March of 2009. This new Disaster Housing Assistance Program (DHAP) provides HUD with the resources from FEMA to assume the management of the rental assistance program.[107] There were a few significant differences between the former FEMA program and the new HUD-managed program. One housing authority participating in the program explained that,

> evacuees who continue in the program will be required to sign up with a case manager designated by the housing authorities. Beginning in March 2008, evacuees must begin paying $50 monthly toward their rent. That amount will increase by $50 monthly until the end of the program.[108]

FEMA had announced that the same formula of payments would apply to disaster victims staying in mobile homes or travel trailers.[109]

The program is slated to run through March of 2009, which means that temporary housing rental payments will have been made for more than three and a half years, far beyond the one and half year limit in the Stafford Act. But the extension has been defended as being in keeping with the statutory language and program regulations that permit extension for "extraordinary circumstances."[110]

The decision to vest DHAP program responsibility in HUD conforms with a recommendation made by the White House staff in the "Lessons Learned" report issued by the Administration after Hurricane Katrina. The report recommended that HUD be designated the lead federal agency for the provision of temporary housing for disaster victims, but that the Department of Homeland Security should retain responsibility for coordinating "the entire disaster response."[111] Some may contend that this recommendation and the Administration decision to give HUD responsibility runs counter to the congressional directive that the "President, acting through the [FEMA] Administrator ... shall establish and conduct a pilot program ... designed to make better use of existing rental housing ... to provide timely and cost-effective temporary housing assistance ... where alternative housing options are less available or less cost-effective."[112] However, others might agree with the contention of the FEMA Administrator, however, that the repair of rental

[107] U.S. Department of Housing and Urban Affairs, "Disaster Housing Assistance Program (DHAP)," at http://www.hud.gov/news/dhap.cfm.

[108] Community Settlement Network, "HUD Selects Housing Authorities for DHAP Houston Rental Plan," August 30, 2007, at http://www.houstonhurricanerecovery.org/show_content_article.asp?id=8142007-103310.

[109] U.S. Department of Homeland Security, Federal Emergency Management Agency, "Fact Sheet: Providing Continued Assistance For Gulf Coast Hurricane Victims," Release Number: HQ-07-042, April 26, 2007, at http://www.fema.gov/news/newsrelease.fema?id=35730.

[110] 44 CFR § 206.110 (e).

[111] White House Katrina Lessons Learned Report, Recommendation #69: "Designate HUD as the lead federal agency for the provision of temporary housing," at http://www.whitehouse.gov/reports/katrina-lessons-learned/appendix-a.html.

[112] P.L. 109-295, §689(I), 120 Stat. 1454.

units is appropriately a continuation of HUD's everyday responsibility. As a result, FEMA has not responded to the congressional directive.[113]

The Road Home

The "Road Home" program in Louisiana would merge Community Development Block Grant (CDBG) funding and FEMA Section 404 hazard mitigation grant funds and other funding sources to re-establish communities. This is the large program to rebuild and replace residences and help compensate homeowners and encourage their return.[114] Follow-up studies and the data from this program may provide important information on how, or if, Stafford Act assistance contributed to the eventual reconstruction of communities.

FEMA has raised objections that the "Road Home" program may not be following the statutory direction of the Stafford Act. The prime "statutory direction" FEMA is referencing is the use of Hazard Mitigation Grant Program (Section 404) funds within the "Road Home" to ensure safer and more disaster resistant housing. Section 404 is the section within the Stafford Act that authorizes mitigation assistance. Mitigation projects are the projects that provide protection from natural hazards and help to reduce damage from future disaster events. Given the rebuilding going on in the disaster area, FEMA's emphasis on stressing the hazard preventive nature of these funds appears to reflect the intent of Section 404. What is unclear in the dispute is the degree of agreement between FEMA and the State of Louisiana to ensure that the repair or replacement of homes under the "Road Home" incorporates mitigation measures to build back safer housing and reduce future risks.

Another source of the dispute is that the state has been seeking federal funding commensurate with the number of homes destroyed or with major damage. The federal government has responded that the help was intended only for flooding victims and not for homeowners who lost their homes due to hurricane force winds.[115]

Mortgage and Rental Assistance

Congress might elect to give attention, in the reviews of the recovery phase of Katrina, to how mortgages were handled. Various lenders suspended payment schedules or made other allowances that permitted homeowners to hold on to their homes while still being able to fund their own interim housing needs. For example, a report by the Government Accountability Office (GAO) noted that:

> HUD's Federal Housing Administration (FHA) also issued a 90-day moratorium on foreclosures for all FHA-insured loans on properties located in areas affected by Hurricanes Katrina and Rita. HUD subsequently extended the moratorium on foreclosures twice for areas eligible for FEMA's Individual Assistance, because it found that due to the magnitude

[113] Testimony of FEMA Administrator David Paulison, House Committee on Appropriations, Subcommittee on Homeland Security, "Federal Emergency Management Agency: Is the agency on the right track?," 110th Cong. 2nd sess. March 13, 2008.

[114] For further information, see CRS Report RL34410, *The Louisiana Road Home Program: Federal Aid for State Disaster Housing Assistance Programs*, by Natalie Paris Love.

[115] Bruce Alpert, "Road Home rescue unlikely, Powell says," *Times-Picayune*, May 25, 2007, at http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-8/1180078623155350.xml&cloo=1&thispage=3.

> of storm damage, lenders and borrowers may still need additional time to develop and finalize plans for home repairs and resumption of mortgage payments.[116]

The initiatives of Fannie Mae were another example of special steps taken in the aftermath of Katrina were. As a Fannie Mae official explained:

> To address the potential for "sticker shock" down the road when homeowners began to make up missed payments we authorized loan servicers to modify loan terms and develop repayment plans. We placed a one-year moratorium on all foreclosures in the most damaged areas. Once that moratorium expired we continued to work through our lender partners to give individual homeowners time to pursue insurance and government assistance and make critical decisions about rebuilding and relocating. Also we asked credit agencies not to report mortgage payment delinquencies.[117]

Congress could opt to evaluate the FHA and Fannie Mae actions.[118] The Section 408(b) Mortgage and Rental Assistance (MRA) program of the Stafford Act, as amended in 1974, was not included in the Section 408 amendments in DMA2K that took effect following the World Trade Center disaster. The MRA program helped victims maintain their mortgages and rents until they could return to the area and their dwellings. FEMA, however, concluded that it was too cumbersome administratively to "1) define the victim ...2) determine the extent of the applicant's inability to pay ... 3) ... verify losses of income and late payments and ... 4) determine the appropriate period for the provision of MRA assistance."[119] Congress apparently agreed, and struck the MRA authority from the Stafford Act. Thus, MRA was not available from FEMA for Hurricane Katrina victims.

In the 110th Congress, legislation has been introduced, S. 2386 in the Senate and H.R. 5685 in the House, that would restore the MRA program in the Stafford Act. That legislation was later incorporated into the "Disaster Response, Recovery, and Mitigation Enhancement Act of 2008," H.R. 6658.

Katrina Cottages

The "Katrina Cottages" program grew out of the architectural suggestions that were a part of the creative response to this catastrophic event. "Katrina Cottages" now serves as a generic term for alternative housing that provides more living area, a more attractive physical appearance and the capacity to withstand hurricane force winds. The "Katrina Cottages" generated so much interest that Congress authorized a trial program to evaluate different versions of these dwellings in different settings across the Gulf Coast.

---

[116] Government Accountability Office, *Catastrophic Disasters - Enhanced Leadership, Capabilities, and Accountability Controls Will Improve the Effectiveness of the Nation's Preparedness, Response, and Recovery System*, GAO-06-618, September 6, 2006.

[117] Interview with Fannie Mae staff, May 3, 2007.

[118] Sen. Feinstein and Sen. Boxer have introduced S. 2386, the Mortgage and Rental Disaster Relief Act of 2007, which approximates the former MRA program. See CRS Report RS22828, *Mortgage and Rental Assistance as Disaster Relief: Legislation in the 110th Congress*, by (name redacted).

[119] U.S. Federal Emergency Management Agency, "Mortgage and Rental Assistance," by Mike Hirsch, formerly with the Office of General Counsel, May, 2003.

The "cottages" may eventually be considered an alternative to FEMA's current use of manufactured housing. The changes in P.L. 109-295, specifically the references in the post-Katrina Act to "semi-permanent" housing, arguably authorize the use of such cottages. The awards for this $400 million pilot program have been made amidst some controversy regarding the selection process.[120] A report by the DHS Inspector General observed that "As a consequence of FEMA decisions, the communities hardest hit by the 2005 hurricanes did not receive proportional shares of the $400 million appropriated for the program."[121]

As the Katrina Cottages pilot program progresses, it warrants additional study to assess its impact and whether it lends itself to replication in varied disaster settings. Such an assessment is now a part of the Joint Housing Solutions Group (JHSG) established by FEMA's Disaster Assistance Directorate (formerly the Disaster Recovery Division). The JHSG includes:

> housing specialists from the U.S. Department of Housing and Urban Development; building science experts from the National Institute of Building Sciences (NIBS); and specialists from FEMA housing policy, Individual Assistance, Long Term Recovery and Public Assistance divisions. The group is exploring the latest in factory-built contemporary housing, modular homes based on universal design, housing built from recyclable materials, and innovative work by schools or architecture and design at universities across the country.[122]

The group has noted that its review will place special emphasis on "indoor air quality hazards in FEMA-provided temporary housing units."[123] The JHSG has developed an assessment tool for alternative housing to test housing in the field and also has suggested the development of specifications that could be used in the development of new housing lines. The work of the JHSG may be a part of the Disaster Housing Strategy that has been promised by FEMA to be provided to Congress in April of 2008.

Possible Congressional Approaches

Congress has generally chosen to address significant disaster situations in an ad hoc fashion, in part because individual disasters often have unique requirements and also because large disasters frequently require supplemental appropriations.[124] Within those supplemental appropriations bills, Congress has addressed disaster-created needs across the government. This has entailed crafting legislation to fund specific programs within different departments and agencies and also directing certain actions, or waiving certain provisions in law, to assist the disaster response and recovery efforts. This section discusses some options Congress may choose to consider incorporating into standing law to hasten the response and recovery effort and eliminate some uncertainty in policy and program applications following large disaster events.

---

[120] Bill Barrow, "Financing feud mires Katrina Cottages," *Times Picayune*, at http://www.nola.com/frontpage/t-p/index.ssf?base/news-a/11877624359270.xml.

[121] U.S. Department of Homeland Security, Office of Inspector General, 016-07-39, "Evaluation of the Federal Emergency Management Agency's Alternative Housing Pilot Program," p. 4.

[122] U.S. Department of Homeland Security, Federal Emergency Management Agency, "FEMA Evaluating Non-Traditional Alternatives To Trailers/Mobile Homes for Future Disaster Housing," Release Number: HQ-08-028, February 29, 2008, at http://www.fema.gov/news/newsrelease.fema?id=42811.

[123] Ibid.

[124] For additional information, see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by (name redacted).

Catastrophic Tier

A catastrophic tier for disaster relief, in housing and other elements of the recovery process, is a policy area that Congress might address. The aftermath of Hurricane Katrina illustrated the challenge of implementing Stafford Act programs on a large, national scale. Programs that work effectively in a multi-county area of one state or two can be overwhelmed by a multi-state catastrophic event that poses problems not previously addressed.

The catastrophic disaster tier could be triggered by the number of potential applicants or evacuees, estimated damage (including a large per capita amount), or disruptions to continuity of government. Other factors could include widespread, nationwide dispersal of population, questions regarding the viability of the affected areas to allow residents to return, the span of the geographical area affected, destruction to centers of employment, the time residents might be forced to be away from their homes, and similar elements.

Any catastrophic tier could arguably be tied to a high threshold not easily reached in lesser events. The rhetorical argument often broached is that every disaster, regardless of size, is a catastrophic event for the individuals and families involved. While this argument may be difficult to sustain, some might attempt to do so. Some states may point to their own limitations (legal and budgetary) as an argument for waivers of cost-shares and regulations in non-catastrophic events. The Stafford Act already provides the President with the discretionary authority to make judgments on when an event is beyond the capabilities of the state and local governments.[125] But while that discretion is provided for an initial disaster declaration, additional guidance might be desirable to establish criteria for a separate tier for catastrophic events. The following are some of the policy areas that could receive attention with regard to disaster housing after "worst case" events occur.

Catastrophic Housing

One possible approach is to develop something like an automatic three-to-six month FEMA Section 403 sheltering/housing program for all disaster victims of a catastrophic event, with FEMA Section 408 assistance commencing for all eligible applicants at the same date and time when the system is ready to absorb the large numbers. The time-span of such a sheltering/housing program could be shifted to nine or 12 months, depending on the federal and state governments' ability to make contact with victims and provide them resources for alternative forms of housing. This might help to address equity concerns.

Rather than concentration on Section 403, Congress could consider amending the Stafford Act or the pertinent HUD authorities to have the catastrophic tier trigger a special six-to-18 month voucher program administered by HUD (preferably for this discrete purpose and not impinging on HUD Section 8) for disaster victims. This would not be an inexpensive alternative, since it would likely be in addition to current Section 8 vouchers and would not supplant those vouchers. Past experience indicates, however, that it is difficult to impose such a time cap on housing vouchers.[126] But the same concerns with costs exist regarding current FEMA temporary housing

[125] 42 U.S.C. §5170.

[126] For more information, see CRS Report RL33173, *Hurricane Katrina: Questions Regarding the Section 8 Housing Voucher Program*, by (name redacted).

practices. The FEMA temporary housing program has been extended for long periods, and the cost of setting up manufactured housing sites is high and the process complicated for local governments.

The HUD approach has the benefit of tapping existing resources (local public housing authorities) that can provide case management or other services and also linking some victims with longer-term housing aid that they may require. This latter linkage is also something that FEMA and HUD should arguably consider for all major disaster declarations that result in long-term housing challenges. Some may contend, however, that disaster housing is best administered by FEMA officials, not individuals concerned with "long term" or permanent housing.

Another factor that might be considered as Congress weighs the housing voucher issue is whether people unfortunate enough to be within an area declared a major disaster by the President are entitled to more housing assistance than ordinary citizens who have been waiting for similar help for an extended period of time. This is another side of the equity question raised earlier. The voucher approach raises this question of fairness, given the long waiting list for HUD vouchers in most communities.

Incentives for Communities

The Katrina experience arguably illustrates that FEMA (or HUD) needs specific language, with an explicit definition of community housing, to provide or augment the basic support services that communities require when hosting a temporary housing group site. On the other hand, Congress could consider a definition that specifically prohibits such inducements. As the earlier discussion on "Location" shows, very little assistance is offered to a community willing to absorb a significant number of disaster victims. While debate may ensue on which option is the better policy, there is arguably little debate that clarification of the issue would eliminate future confusion and would speed actions during the post-disaster period.

FEMA Group Site Management Services

The required contributions by either FEMA or the state to the quality of the temporary housing group sites could be more explicitly stated in the law to make a clear delineation of responsibility for the provision of such supportive services. One difficulty in such an approach is that often the affected governments are victims themselves in the early stages of disaster recovery when these large sites are being established. For that reason, the provision could be flexible and provide FEMA the discretion to approach this problem on a case-by-case basis. Also, if the assumption is that non-profits and charitable groups can provide such support, then disaster housing polices and processes could encourage this help.

MRA Restoration

Some argue that the Mortgage and Rental Assistance (MRA) program was a missing component in the menu of available help for disaster victims in the Katrina response. The FHA and Fannie Mae examples (see pages 29 and 30) point to the possible alternatives that would make the MRA provisions unnecessary. However, these ad hoc responses were triggered by a major catastrophic event. It is unclear if similar actions can be presumed for other presidentially declared disasters on a smaller scale. Legislation has been introduced in the 110th Congress, S. 2386 and H.R. 5685

(now a part of H.R. 6658), that would restore the program within the Stafford Act. If the program is restored, it could be run cooperatively with FEMA by another department or agency with expertise in this area, similar to the Department of Health and Human Services involvement with the Crisis Counseling program or the Department of Labor's management of the Disaster Unemployment Assistance (DUA) program.

Regulatory Waivers

Congress could opt to provide expanded authority for agency heads to issue automatic waivers following a catastrophic event. Such waivers of current regulations could accelerate early response work and the eventual recovery operations. This could involve automatic waivers or streamlining of regulations regarding debris removal (on both public and private property), environmental and historic preservation, and the waiver of cost-share commitments by affected state governments.

Some of these waivers are currently employed during disasters by FEMA on an ad hoc basis using its authority from the Stafford Act to waive certain administrative conditions.[127] The authority is used sparingly by FEMA. While this process can be accelerated, it could be expedited if automatically triggered by a catastrophic event. Also, the sooner regulatory waivers are decided, the faster recovery activity can advance. However, it can be argued that an automatic trigger also could represent a loss of program control and administrative judgment.

Cost-Share Waivers

Currently, Stafford Act Sections 406 and 407 of Public Assistance (infrastructure repair and debris removal) can be adjusted from a 75% federal and 25% state and local cost share to a 90/10 cost-share for large-impact disasters. These large disasters are identified by a per capita cost of over $117 per state resident as of FY2007.[128] Often, debris removal costs are waived for the opening days of a disaster, generally for a 72 hour period chosen by the state. For Katrina, the debris removal costs were waived indefinitely.

Congress might explore the implications of allowing Other Needs Assistance (ONA) within Section 408 (and cost-shared by statute at 75/25) to be provided at the same 90/10 percentage. Congress might also consider making ONA 100% federal assistance when the actual spending for essential assistance involves many states outside those affected by the event. Congress recently passed legislation (P.L. 110-28), signed into law by President Bush, which accomplishes this waiver for the Gulf Coast states affected by the Katrina disaster.[129] Such changes might also be considered for non-catastrophic disaster events.

Another possibility would be that since ONA spending is done in conjunction with the state, the affected states and FEMA regions would continue to compile a list of eligible items and costs that might be reimbursed through a block-grant program administered by the state. The responsibility of administering the program could then become the state contribution, assuming the state has

[127] 42 U.S.C. § 5141.

[128] 44 C.F.R. § 206.47.

[129] P.L. 110-28, 121 Stat. 156.

retained the capacity to manage it after a significant disaster event. This alternative might be applicable to non-catastrophic events, too.

A cost-share serves not only as a necessary legal contribution from the state; the investment it represents may also result in more discerning judgment and may contribute to the quality and quantity of projects submitted for supplemental help. The difficult challenge, under a generous cost-share, is to retain that leverage or incentive for the responsible selection and prioritization of projects by the state to ensure that federal objectives are achieved.

Administrative Responsibility

Another policy question is which federal agency should be primarily responsible for catastrophic disaster housing. Should HUD run the longer term housing/sheltering program through state and local housing authorities and non-governmental organizations (NGOs) since it has experience with voucher programs and ongoing relationships with those same metropolitan housing authorities and related NGOs? While such an approach makes sense for large events spread out over many states and localities, some may contend that using the same approach on smaller disasters may be problematic. In those instances, the management of housing resources would be falling on the locality with the fewest resources and to the entity (a unit of local government) that may, itself, be a disaster victim. Alternatively, HUD does have the capacity to call on its relationships with PHAs around the country to assist with unmet needs so a transition to HUD for the housing mission may be the most effective approach.

On April 26, 2007, the Administration announced a plan in which FEMA and HUD would collaborate to provide housing to Katrina victims for an additional 18 months beyond the current August 2007 deadline.[130] This, coupled with previous Katrina experience, may provide a test case for the efficacy of this approach.

Concluding Observations

The housing strategy employed following Hurricane Katrina was driven by size, time and circumstance. While some decisions were forced by immediate needs, others were choices made by FEMA, DHS, and the Administration. Still other decisions were driven by choices not made, avenues not explored, perhaps due to caution, or decisions postponed, which became tantamount to decisions themselves. Since the Administration did not request expanded authorities, the traditional FEMA housing programs for much smaller disasters became the default action plan of the federal government for the largest natural disaster event in U.S. history. It can be argued that parts of this plan worked very well, such as the rental housing provided by hosting states. However, other parts, such as the dependence on mobile homes and travel trailers, appear not as suitable to either the magnitude or location of this catastrophic event.

What should disaster temporary housing be? Is it mainly a home-repair option or a rental-assistance option (either with cash assistance or a voucher), or should manufactured housing be presented as the only option? FEMA itself has had a shifting emphasis over the years, much of it

[130] Libby George, "Lawmakers Applaud White House Plan on Long-Term Housing Aid," *CQ Homeland Security*, April 26, 2007, at http://homeland.cq.com/hs/display.do?docid=2499045&sourcetype=6&binderName=news-all.

driven by the nature and location of individual large disasters, which in turn has moved its policies and vehicles for providing temporary housing on a large scale. That shifting emphasis is reflected in the temporary housing response to Katrina. With the discovery of unsafe levels of formaldehyde in trailers, FEMA may be shifting its approach once again. A more definitive approach might be helpful to FEMA, its state partners, and the disaster victims; flexibility, however, might also be needed.

Despite the very real problems encountered by victims, their communities and their host communities, thousands of families and individuals have received a significant amount of supplemental aid from the government for housing. At present, the amount of funding spent on housing (both rental assistance and manufactured housing) for the Gulf Coast hurricane season of 2005 stands at over $10 billion.[131] FEMA and other staff at federal, state, local, and voluntary agencies struggled to address an unprecedented event. There have been many challenges along the way, perhaps most importantly, the difficulty in communicating complicated housing policy decisions to a vast and dispersed population.

Many of the staff involved, both in the governmental and non-governmental sectors, at all levels, provided assistance through the temporary housing programs and administrative channels that existed. Those programs were severely challenged by a disaster of unprecedented size, compounded by unique problems of devastation and mass evacuations. New partnerships were established and a significant level of federal resources were provided, if not always judiciously employed. Programs that can work well for a "garden variety" disaster may not be appropriate for a catastrophic event. Assumptions based on the average can be overwhelmed by the exceptional. For an event such as Katrina, new approaches were apparently considered but often rejected in favor of the familiar. This is understandable given the propensity to avoid establishing precedent based on an outlier event, and the body of law and regulations and policies supporting current housing practices. However, effective leadership, and carefully drawn legislation, can help to distinguish between the extraordinary and the common events and respond appropriately.

Even now, long after Katrina's landfall in August of 2005, Congress continues to debate long-term recovery roles among federal agencies and state governments that are still uncertain but clearly consequential. Congress could opt to consider the lessons of this disaster in terms not only of program adjustments and corrections, but also the appropriate governmental role throughout the recovery process for any possible future events of this magnitude.

[131] U.S. Department of Homeland Security, Federal Emergency Management Agency, *Congressional Monthly Report*, May 4, 2007, p. 10.

Appendix A. HUD and Other Federal Housing Resources

While FEMA has the principal responsibility for temporary housing following a Presidentially declared disaster, the Department of Housing and Urban Development and other federal departments and agencies also played a prominent role in the post-Katrina housing mission. Information about the involvement of HUD and other federal partners in providing housing aid; along with the size and extent of their mission in the disaster housing arena, follows.

KDHAP and HUD Assistance.—This was the Katrina Disaster Housing Assistance Program paid for by FEMA (from the Disaster Relief Fund) but managed by HUD through an inter-agency agreement. Under this program, HUD assisted those citizens who had previously received HUD housing assistance at the time of the disaster. The cooperation between FEMA and HUD has been inconsistent throughout the process. As a result, Congress eventually transferred the funding to HUD for this purpose. It was at this point that HUD renamed the program the Disaster Voucher Program (DVP replacing KDHAP). Regardless of the acronym employed, the HUD-assisted program appears to have reached its targeted population.[132] Further cooperation and information sharing between FEMA and HUD (and other federal agencies) might contribute to applicants being aware of all housing options and also lessen each program's susceptibility to fraud.

There have been frequent references to HUD Section 8 housing vouchers as a solution for the Katrina evacuees. The response to the Northridge earthquake in 2004 is usually listed as a prime example of the efficiency of this approach.[133] FEMA provided over $140 million in immediate housing help in the form of funds for applicants to rent alternative living spaces (three months to homeowners and two months to renters) to more than 47,000 households.[134] One consideration is whether such vouchers should be limited as disaster housing assistance is (generally 18 months), or if they should continue to be renewed in the manner of regular Section 8 vouchers.

For the Katrina disaster, unlike some other disasters, HUD's help was focused on assisting its own population of clients that had been displaced by the disaster. As noted earlier, the Disaster Voucher Program is the successor to KDHAP (though, unlike KDHAP it also provides help to Hurricane Rita victims, explaining the more generic title) and helps Hurricanes Katrina and Rita victims maintain housing over a longer term. The DVP vouchers are administered by local Public Housing Authorities (PHAs), which were granted a degree of discretion in their use and in defining the coverage of expenses. Congress provided $390 million for this program; it is projected to conclude on September 30, 2007.[135] Given the announcement on April 26, 2007, of a proposed extension of FEMA housing help and a transfer to HUD, these dates may be adjusted depending on the reaction of Congress to that plan.

---

[132] For more information, see CRS Report RS22358, *The Role of HUD Housing Programs in Response to Hurricane Katrina*, coordinated by (name redacted) et al.

[133] "Housing Katrina's victims," *The International Herald Tribune*, September 24, 2005, at http://www.Iht.com/articles/2005/09/23opinion/edhouse.php.

[134] Government Accountability Office (GAO) Report - *Disaster Assistance - Guidance Needed for FEMA's Fast Track Housing Assistance Process*, October, 1997, at http://www.gao.gov/archive/1998/rc98001.pdf.

[135] For more information, see CRS Report RL33173, *Hurricane Katrina: Questions Regarding the Section 8 Housing Voucher Program*, by (name redacted).

The creation of the Disaster Housing Assistance Program (DHAP), which was announced in April of 2007 and took effect in November of that year, constituted HUD involvement in long-term disaster housing that had been urged by some from the onset of the Katrina disaster. HUD assumed management of the housing rental program, while FEMA maintained management of the manufactured housing (trailers, mobile homes) program. When the program was announced, official statements emphasized the assistance that would be available to bring closure to the program. One of the actions detailed in the announcement of DHAP stated that "Families and individuals in both the rental and trailer/mobile home programs will be given complete information, supportive services, resources and ample time to prepare themselves for the end of temporary, subsidized housing."[136] The DHAP housing program is scheduled to end in March of 2009.

In addition to its other programs, HUD, along with other federal entities, provided housing assistance in the form of their own inventories of housing stock. In addition to HUD, other federal entities providing available housing included the Department of Agriculture, the Department of Veterans Affairs, and Fannie Mae. This assistance was also provided through inter-agency agreements. Some of the houses made available were immediately helpful, while others were in areas too remote to benefit the disaster victims. That is a central consideration when assessing housing resources for disaster victims interested in being close to home or at least close to new employment and educational opportunities. FEMA has been tasked by P.L. 109-295 to convene a group to devise a National Housing Strategy. This will include HUD and the other federal players, as well as other parties with experience in the disaster housing arena.[137] Congress still awaits that report.

While chartered by Congress, the Federal National Mortgage Association (Fannie Mae) is a private, shareholder-owned company. Given that special status[138] and a mission to increase the prospect of home ownership for low and moderate income families, Fannie Mae's contributions following Katrina have been significant. The company made some of its properties available for rent-leasing for up to 18 months for Katrina victims. In all, Fannie Mae provided

> 1,500 single-family properties from its inventory of Real Estate Owned (REO) for temporary housing for individuals and families displaced by hurricane Katrina. Nearly 4,600 evacuees have been provided temporary housing at no cost through the company's initiative. ... Today, Katrina evacuees are living rent-free in Fannie Mae-owned properties in 20 different states. ...[Fannie Mae] is also making $15,000 available for down payment and closing cost assistance for qualified evacuee families who wish to purchase any Fannie Mae-owned home any time during their rent-free lease period. To date, 80 families have taken advantage of the assistance and purchased the Fannie Mae-owned properties.[139]

[136] Ibid.

[137] 120 Stat. 1446.

[138] For a discussion of the "quasi-governmental" organizations, see CRS Report RL30533, *The Quasi Government: Hybrid Organizations with Both Government and Private Sector Legal Characteristics*, by (name redacted).

[139] Fannie Mae News Release, May 3, 2007, at http://www.fanniemae.com/newsreleases/2007/3996.jhtml?p=Media&s=News+Releases.

Appendix B. Victims Without Homes: The Loma Prieta Earthquake and Hurricane Andrew

Loma Prieta Earthquake

Following the Loma Prieta earthquake in the autumn of 1989, FEMA administered a large temporary housing program. FEMA asked for proof of residency before providing assistance and required that an applicant live at least 30 days at one address to be eligible for assistance. Due to the unique nature of the Bay Area's low income population, many of the applicants had lived in Single Residency Occupancy (SROs) apartments that were similar to YMCAs. Due to the force of the earthquake, approximately 2,200 of these rooms had been lost. Oftentimes the applicants had stayed in these rooms for fewer than 30 consecutive days. For this reason, FEMA judged them to be ineligible for temporary housing assistance.

The Legal Aid Society of Alameda County sued FEMA over its interpretation of eligibility and prevailed in court. The plaintiffs realized that temporary housing, as defined under Section 408, would not help the applicants because they no longer had SRO rooms available to them. They also realized that the private property owners of the buildings might not be interested in remaining in the SRO business. Instead the settlement was for financial resources to help restore that part of the housing stock. The eventual settlement was for

> $23 million to fund 2,200 SRO units. The settlement sum was arrived at by multiplying the number of SRO units lost by a unit cost of about $10,500. The flexibility of the final settlement was ideal from the point of view of the local agencies, because the funds were provided in a block grant fashion to the counties and as such allowed them the freedom to decide how to put the money to best use, with very few restrictions. Overall, 1,200 to 1,500 units were actually rebuilt using lawsuit funds.[140]

Since FEMA funds could not be provided to private developers, the local governments arranged for the sale of the buildings to non-profit groups, sometimes using Community Development Block Grant funds to complete the projects.[141]

Hurricane Andrew

In the aftermath of Hurricane Andrew in 1992, FEMA had a very large temporary housing program in south Florida. Here, too, many people in the area when the hurricane struck were judged not to be eligible for FEMA temporary housing assistance because they could not prove previous residency through rental agreements. However, in this instance FEMA found a way to work with the local community and contribute to the solutions.

> The [Dade]County Manager's Office of Homelessness working "in conjunction with Catholic Community Services first attacked the homeless family problem by establishing a tent city. This comprehensive approach included day care, job counseling, and mental health assistance. Unfortunately, the tent city proved too vulnerable to bad weather and had to be

[140] Mary C. Comerio, *Housing Repair and Reconstruction After Loma Prieta*.

[141] Ibid.

closed. Subsequently, through a coalition of homeless providers and the County, a plan for expanding shelter bed availability was approved. Local agencies involved in hurricane response have received FEMA funds to continue their expanded services and to initiate new projects to address post-Andrew needs."[142]

Author Contact Information

(name redacted)
Analyst in Emergency Management Policy
[redacted]@crs.loc.gov, 7-....

[142] Gigi Laudisio, "Disaster Aftermath: Redefining Response—Hurricane Andrew's Impact On I&R Switchboard of Miami, Florida," at http://www.airs.org/documents/AIRS-HurricaneAndrew.doc.