

House Appropriations Subcommittee on Homeland Security Holds Hearing on President Obama's Fiscal 2011 Budget Request for the Federal Emergency Management Agency

LIST OF PANEL MEMBERS AND WITNESSES

PRICE:

Subcommittee will come to order.

Good morning. Today we welcome the administrator of the Federal Emergency Management Agency, FEMA, Craig Fugate to discuss his agency's role in preparing for disasters and minimizing losses; and how the \$7.3 billion request for fiscal 2011 will assist in that effort.

The post-Katrina Emergency Management Reform Act of 2006 expanded FEMA's responsibilities and authorities for disaster response and recovery and integrated preparedness functions so that FEMA was responsible for all federal emergency management functions and activities. Now more than three years later we want to know how far we've come in rebuilding FEMA.

During my tenure as chairman of this subcommittee I've made strengthening FEMA a top priority. I, and I think all of our members, take seriously our subcommittee's responsibility to provide FEMA with the support the agency needs to fulfill its mission.

As a representative of a disaster-prone state, I've witnessed first-hand that having an effective emergency management capacity can be a life-or-death matter. And if disaster planning is done right it can make millions, possibly billions of dollars worth of difference in property losses.

During the past few years this subcommittee has provided resources to enhance the professionalism of its disaster workforce and to help clarify chain of command issues for disaster response. We've pushed FEMA to find solutions to the housing mess in the Gulf Coast by encouraging work with the Department of Housing and Urban Development.

And we've commissioned studies by the National Academy of Public Administration, the Government Accountability Office and the Inspector General on topics ranging from building robust regional offices to adequately addressing human capital issues.

We expected that with stronger authorities and sufficient resources FEMA would grow to be an agency that would be quick and well organized in its support to states and localities in times of disaster or emergency. We expect an agency that has efficient (ph) oversight over the billions of dollars of state and first -- and local first responder grants it is responsible for each year. We expect sound management of the agency's finances, logistics, human capital, and contracting.

Having served now for nearly a year as the FEMA administrator, Mr. Fugate, we look forward to hearing from you, hearing your thoughts on where improvement has been made and how we can continue to work together to make FEMA a stronger and more capable agency. The fiscal 2011 budget does not include substantial programmatic increases or policy changes, but proposes to realign resources to more accurately reflect the agency's workforce structure.

My biggest concern with the budget is the request for disaster relief. With this request it's likely, I fear, that the fund will be depleted four or five months into fiscal 2011. That would leave us where we find ourselves right now, in a precarious situation in which the fund is running low on balances.

I'd hoped the new administration would not continue the flawed budgeting methods of the past, ignoring the known costs of outstanding catastrophic events when formulating its request. So I trust that during our discussion today you can add some insight as to whether we should believe that this request is adequate.

Recent reports from the inspector general call into question the agency's management of disaster funds. While I recognize there's a difficult balance between response -- being responsive to the needs of a state in -- in the midst of a disaster and being a good steward of the taxpayer's dollars. These reports of -- of wasteful spending do concern us and we'll need to discuss how we can fix this problem.

I believe we still have some work to do when it comes to fully utilizing FEMA programs to ensure our communities are as resilient to disaster as possible.

We want to explore how FEMA's programs are coordinated with other federal programs to be certain we are fully leveraging our support to individuals and communities.

Perhaps the best opportunity for collaboration exists with the hazardous mitigation grant program and its intersection with recovery activities such as rebuilding homes and public infrastructure in the aftermath of a disaster. We all know that that interface hasn't worked always as well as it should and we want to make sure that we're not wasting opportunities.

During our hearings with Secretary Napolitano two weeks ago I brought up concerns with the implementation of congressional intent as well as the award timing for grants intended to hire and retain firefighters. We're facing an economic crisis at the local levels

of government. We want to make sure Congress and the administration are on the same page when it comes to the urgency of keeping our local firefighters on the job.

We're now discussing the fiscal year 2011 budget but meanwhile we're still awaiting award of fiscal 2009 grants for firefighters. The secretary stated that measures have been put in place so that a lag of 18 months will not happen in the future. The department has not yet identified what those measures are so we -- we hope to address the issue here today.

While we want to support our local first responders, we also continue to seek a method to determine that we're -- what we're getting for the billions in grant funding that we appropriate each year. The problem in defining and measuring preparedness for our first responders and state and local communities has -- has eluded us since these grant programs began. The committee began -- provided funding in last year's bill to bring stakeholders together to examine the problem so we can finally work toward a solution.

I'm hoping to hear there's a clear way forward regarding this issue so we can assure the American public that we're more prepared to respond to a disaster than we were 10 years ago and that we're utilizing our funds in a -- in a targeted and prioritized manner.

Administrator, as someone with a distinguished background of public service in state and local emergency management, I'm sure your attune to a number of these concerns. As a leader -- as the leader of FEMA you've been tasked with a great responsibility to improve the country's ability to prepare for, respond to, recover from, and mitigate against disasters and emergencies. I thank you. We all thank you for taking on such a job at -- at such an important times.

And we look forward to your thoughts on what progress you've made in the last year as well as the challenges that remain.

I -- we have a good turnout of colleagues this morning indicative of -- of interest on -- on both sides of the aisle. I do want to announce that because of a -- because of an important meeting at -- at the White House with the president of Haiti, President Preval, and -- and everyone knows, I'm certain, that FEMA has been involved extensively in the emergency response efforts in Haiti as well the Coast Guard, as well as a number of our homeland security agencies.

But it's important that the administrator be at that meeting and so -- so we will adjourn this hearing at promptly 11:15. We'll -- we'll try to move things in the meantime. We have a lot of interest, but I trust we can all be efficient in our handling of the time and -- and that we'll -- we'll have ample time here to -- to explore a full range of issues.

We'll ask you to abbreviate your statement. For the record, your full statement will be entered, of course, but we're going to ask you to limit your oral remarks to five minutes.

And before you begin I want to recognize our distinguished ranking member for his comments.

ROGERS:

Thank you, Mr. Chairman.

And welcome, Mr. Fugate, for what marks your first appearance before this subcommittee. Given your extensive emergency management experience at the state and local level in Florida, I look forward to hearing your insights on how FEMA is performing and how the agency can improve.

It was a little more than four years ago when FEMA was literally on life support. In the wake of Hurricane Katrina and despite laudable efforts by many FEMA employees in the field the organization was considered largely broken and dysfunctional.

But since that time Congress has provided substantial direction for reform as well as robust appropriations in an effort to enable the agency to fulfill its mission of ensuring our nation's resiliency to attacks and disasters.

However, FEMA still lacks fundamental processes and controls to properly account for its personnel and to effectively measure its efforts to improve our nation's preparedness.

Now I understand many people within FEMA are working hard to overcome these glaring deficiencies. But this begs the question, how can FEMA truly be effective at executing its mission when its own house is not in order?

Put another way the vital role FEMA plays in our nation's homeland security isn't cheap. Since 9/11 we've appropriated more than \$30 billion in first responder grants and spent billions more on disaster relief. Considering the costs of preparedness and disaster response and recovery, how do we know whether FEMA is capable of ensuring every single dollar is accounted for as well as working hard to make our nation safer and more prepared? This is the fundamental question I hope to examine here today with you.

FEMA must be a nimble and adaptable agency that understands and rapidly responds to the needs of local emergency managers and first responders as opposed to a bloated, sluggish bureaucracy that fails to deliver when our nation needs it most. After all, all response is in fact local. And FEMA primarily exists to augment and enable that local response. And I think being active on the state and local level you would -- you would agree with that.

All the more reason FEMA must be aware of the status of emergency management capabilities all across the country. And from what I've read, I believe Mr. Fugate has

relatively strong views on the roles and responsibilities of FEMA and the states in preparing for and responding to and recovering from disasters and attacks.

This subcommittee, which has earnestly set out to enhance FEMA's capacity, largely thanks to Chairman Price's insistence, needs to have unwavering confidence that each and every scarce dollar we appropriate is making a positive contribution to our nation's resiliency.

Like the chairman said, Mr. Fugate, I don't envy you. You have a truly thankless job since we only call upon you when things go bad. But with your familiarity with hurricanes and disasters, I know you have learned to stand up in the storm. And we look forward to hearing from you today.

Finally, let me also state for the record how grateful I am to the men and women of FEMA who came to the aid of the citizens of Kentucky in the wake of horrific ice storms and floods last year. Their efforts made a tremendous difference in Kentucky's response and recovery to that emergency, and I want to pass on my sincere appreciation to you and the men and women of FEMA for their great help.

Thank you, Mr. Chairman.

PRICE:

Thank you very much.

Mr. Administrator, please proceed?

FUGATE:

Thank you, Chairman Price and Ranking Member Rogers and distinguished members of the committee.

Chairman Price, first, thanks for allowing me to testify earlier because of the prior engagement. And I will submit my written statement for record, and I will keep my written remarks short so that we can get to the questions you're raising.

I take very serious my responsibility as a fiscal steward of dollars. I also take very serious responsibility to ensure that as a partner that we are working as a team on behalf of the president, secretary of homeland security to (ph) support governors and local governments when disaster strikes.

As I like to remind people, FEMA's not the team. We're part of a team. And that team effort has to be built upon both trust but also effective and a rapid response during disasters as well as support and recovery; and as the chairman pointed out, never to miss

the opportunity to invest in protecting property and building back in such a way that we minimize future risk. It is a responsible way to manage our risk when we look at disasters, not in just a response phase but also when rebuilding or a before disaster how we can mitigate that.

Our request as you point out, Mr. Chairman, about \$7.3 billion, not a lot of big, major policy changes. Probably most substantially, a concern that has been raised is our effort to answer some questions regarding funding levels and consolidation of some grant programs. We are working from our budget recommendations from last year that support our process uses (ph) for going forward with our budgets. We also looked at the consolidation of grants based upon, in some cases input from our users, but also my experience as a state emergency manager, as the state administrative agency.

One of the things that was often times a paperwork burden is that having to apply for each grant individually, and then being locked into that allocation can only be for that use versus being able to prioritize across those funding streams.

And what we were looking for here was not to take away from the intention of the grants but, again, to provide flexibility to the applicants as well as reducing the number of grant applications by being able to submit one grant for the funds in a package. And that was the effort there to consolidate those grants.

As you point out, I'm going to give one example, one of the challenges I faced, and then I would, Mr. Chairman, defer to questions. I think it'd be much better in this short time frame to be able to answer questions directly.

In my confirmation process I was briefed on the situation that FEMA had found itself about \$100 million over budgeted in salaries, which to me as a state administrator and a former state director, I says, "How do you get \$100 million over what your budget is for salaries?" I mean that, to me, is (inaudible) what happened.

And for a variety of reasons what it turned out, quite simply, was there was no institutional controls that came back and made sure that as positions were added those salaries were subtracted against our salary overall. And that visibility was not done at a level that could have prevented that.

Fortunately, the acting administrator, Nancy Ward, and our chief financial officer, Norm Dong, had started the process before I ever got there of beginning to work to, A, deal with that over (ph) but also, put in the institutional control so we don't find ourselves spending more money than we have in salaries. I mean, to me that was just -- I couldn't conceive how do you get there?

And so, again, as you point out, a lot of what we're doing is self-discipline. I found ourselves at FEMA using the disaster response fund, to fund a lot of ongoing activities that were not tied to a disaster. And I said, "What are we doing here?" "Well, we've been

doing that. It's kind of what we've done." I said, "We're not doing that. The disaster relief response fund has to be tied to a disaster."

So we've been working very hard. We found a lot of our -- what we call core employees, which are term employees that were supposed to be tied to disasters, doing day-to-day work. So we've been working with committee staffs. We've been working to get these positions in our budget moved to our authorized funding strength.

If these positions were actually needed to do our day-to-day operations, they should be funded out of our budget, our M&A, not out of the DRF. That caused some consternation with folks because we hadn't done that before. We also found ourselves using a lot of our disaster assistance employees to fill in gaps across the program that weren't tied to a disaster. And I shut that off to varying degrees of success as I continue to find and unearth occasional people I missed.

But I'm trying to set the tone and the discipline that we are to operate within the budget we are allocated for the purpose that it is to be used. And if we cannot we have a duty to come back and clarify and express what those needs are.

So as you point out, the process of putting in those institutional controls at the highest level and then holding managers accountable has become one of our cornerstones.

The other direction that we had very clear in the post-Katrina emergency management format was to empower and strengthen our regions. But in many cases, many of the decision making authorities that previously were in the hands of the regional administrators had not been delegated to them. It was done at headquarters.

I asked Nancy Ward, who is acting administrator who's returning to her position as regional administrator, and I asked the simple question, "Nancy, what do you need that you're currently not authorized to do that you should be?" And we gave her those authorities and gave it to the regions. So we're serious about this.

In 10 months I -- as you point out, lot of challenges. But I never lost sight of the focus that we have to be ready for the next disaster by building a team. At the same time, I'm responsible as a fiscal steward for the U.S. tax dollar, every one of them.

PRICE:

Thank you very much. And I certainly want to commend you on -- on both of those efforts that you've just encapsulated, the -- the attempt to tighten up the management controls and the budget dollars going where they were intended and also the regional focus. I'm sure we'll want to explore these matters more fully.

And I'll start with a question, probably not surprisingly, having to do with that disaster relief fund and the kind of projections contained in the -- in the budget. You -- you have in the budget two requests for the disaster relief fund fiscal 2011 and then a fiscal 2010 supplemental.

FUGATE:

Yes, sir.

PRICE:

And that -- that kind of anticipates what I want to ask you about. You're continuing to rely on the five-year average cost of disasters, excluding large events. And that approach obviously has some rationale. But the problem is the department knows that it's still liable and going to be liable for costs associated with continuing recovery after these disasters.

Just yesterday we received a letter from the OMB director reiterating an urgent need to replenish the disaster relief account for the -- for the current year. So we find ourselves in this position of running low on balances as a result of this lack of sound budgeting in past years and we really do need to break that pattern.

Prior to running low on balances, the fund was being depleted at a rate of about \$500 million per month during this fiscal year. If we continue to see obligations at this rate into fiscal 2011, the budget request is going to be sufficient only for about four or five months of funding.

So how can you explain the rationale for this request? Why have you not more fully factored in the known costs associated with past disasters into these -- into these estimates? And have you considered alternative ways of -- of doing this, alternative methods for budgeting for major disasters?

FUGATE:

Mr. Chairman, my answer is going to be the one that I'm going to defer back to for further guidance to you, in that the way that I understand we have submitted our request for the disaster response fund is to take the bubble of catastrophic disasters out and budget for what we had seen as the historical averages.

My experience in Florida after Hurricane Andrew was we did what you're recommending. We actually put into the budget what we anticipated the full amount of authority we would need for reimbursement federal funds.

The problem with that was it created such a large bubble in our budget, it distorted everything else when people looked at the overall budget line. It was not seen as a separate line. It was looked at by total agency budget. So when you looked at our total agency budget, we had a disproportionate (sic) bubble that was moving through the system that was tied to catastrophic disasters but not related to the day-to-day operations and their disasters that we would normally experience.

Ultimately, we ended up with so much authority in the years when the disasters begin to spin down that we were carrying in some cases, for an agency that probably had a routine budget of a couple, you know, maybe about \$20 million, \$30 million, I was carrying in excess of close to \$750 million to \$800 million in authority.

So what our experience in Florida was, was to -- if we were to do that, was to separate out and have our core budget based upon our expected activities and not show a bubble of catastrophic dollars moving through our budgets. My understanding here at the federal level, that's been the approach of looking at how we submit our budget request, and not looking at the bubble but the sustained (inaudible).

PRICE:

Well, as a matter of fact, I would have to acknowledge that this subcommittee has -- has not always been fully supported by other partners in this process in terms of our -- of our conviction that -- really we ought to be budgeting more adequately for the major disasters as well as the routine ones and that we -- we shouldn't be systematically relying on supplementals to deal with this.

It -- it's also true, of course, that -- that to fully anticipate these items makes for a -- a much larger budget request and it does have implications elsewhere in the budget.

So as your -- as you dealing with a -- a tight budget and trying to do justice to a number of priorities, it's -- it's very tempting to kind of defer this and -- and to assume that it'd be dealt with off- budget or off -- out of the regular process. But I appreciate your candor on this. I mean we are going to need to -- to deal with the -- the numbers and also with the budgeting practice that lie -- lie behind them.

And -- and let me just quickly ask you for -- on a related note, you're aware, no doubt the inspector general recently indicated some issues with how FEMA closes out disasters. And -- and a report, this report states that as of September of '08, unobligated or unliquidated obligations for the 744 open disasters, or approximately \$16 billion. \$500 million of that was for disasters declared prior to 1999. These go -- these go beyond a decade ago.

So if this funding is sitting there 10 years later and it may not be needed, could it be deobligated? Could it be made available for current disaster relief opportunities -- for example, to relieve us in our present time of need? I understand that your CFO may have

considered -- have completed an exercise in which they were able to identify some of these funds for deobligation.

So questions. How -- how much funding in open disasters have you been able to identify for deobligation? Will that be available for the current shortfall that -- that we're addressing? What permanent changes here do you -- do you think you -- you need to put into place to ensure better control and policies for the disaster closeout process?

FUGATE:

Mr. Chairman, I would like to submit the actual numbers in a written response so I don't give you the overall bad numbers in my memory. But I believe it was several hundred million dollars that's already been -- because we went through and deobligated. And we found a lot of open missions -- actually it's some of our federal agency partners and others that we were able to -- it was actually dollars that weren't spent. They hadn't been actually drawn down but they were on paper obligated in the mission assignment. We were able to go back through and just do that part of the scrub and ensure that that agency had not expended those funds, had not needed to draw down those dollars and putting those back into the disaster response fund.

But it points out to one of the things that we're looking at as far as a closeout process. We've put so much emphasis on getting disasters up and running, we've never focus in on the same desire to close them. And in many cases it is not so much that these funds are still going to be spent as much as we have not done the final scrub of how much was obligated, how much was authorized but not drawn down, and they revert that back into the DRF.

And that is a resource issue. It's also a management issue to prioritize that as you have new disasters coming on and staff who are pulled at getting those disasters up and running. It's to put in the same effort into closing out disasters, particularly these older disasters where it is often times a final accounting that is required. But until you do that, you still show in the books obligations, which means you cannot free those dollars back up to go into the DRF.

But I will have the CFO submit for record what we've actually done so far and what we anticipate we're going to be able to do, and what our plan is to go forward in closing out the oldest disasters and working ourselves up to getting within, you know, about a four- to five-year process that -- disasters, except for the extremely large ones, should be fully accounted for, expended and in a closeout mode, unless there's some extenuating circumstances that go beyond that.

But generally, it doesn't do the applicant any good to have this hanging there. It doesn't do us any good. And it ties up allocations based upon those outstanding obligations that needed to be reconciled in an administrative closeout.

PRICE:

Thank you. We'll -- we'll await that. And -- and we hope in terms of the dollar implications for our current needs that -- that we can have a -- an indication very soon of -- of what we may be looking at there.

Mr. Rogers?

ROGERS:

Thank you.

And Mr. Director, I appreciated your opening remarks, which you made on the subject that is of most importance to us, and that is the fiscal dealings of the agency. And I noticed that you did it without reference to notes, which to me tells me that you have this in your head and it's on your mind, and I like that.

However, the I.G. of the department in it's -- in his audit and his report covered a lot of topics that you mentioned summary in your opening statement.

But anyway, the budget office said that the agency lacked visibility and control over its staffing, as you have admitted. The budget office found that they did not know exactly how many employees they had on board, did not have formal billet structures per office, and were hiring employees at rates above what the budget could support. And that created what FEMA called a "structural pay shortfall," which cost about \$35 million.

And then subsequently the subcommittee directed the I.G. to do an audit on the issue in the fiscal '10 appropriations bill. And it was not a glowing report.

But it did say that the I.G. found that FEMA has reconciled the discrepancy on the 50 employee -- double hiring that took place. Unclear whether FEMA simply reallocated those positions or looked for a cost saving offset. And the I.G.'s work on the determination of whether or not the \$35 million would -- would close the shortfall or not was still outstanding. What can you tell us about that?

FUGATE:

That is probably one of the challenges. As we started looking at how many positions were in a non-disaster role -- that was a, what we call a core position -- to identify where they were at. They were almost like rabbits. Every time we thought we got them counted, we found somebody had a few more that nobody knew about. And that went back to the original issue: Without this institutional controls, we had positions being filled at rates

above what they -- we could sustain, and we had positions that were being used that there was no way to track down and get to.

We've been scrubbing and scrubbing and scrubbing. I know one of the frustrations for staff is we came up with our initial numbers. We then found more staff that were in core positions that had not been made known to us. And then we had to add that in.

I think we're close to having this resolved because our position is by the end of this fiscal year and going into the F.Y. '11 request, we will not have any known, -- again, I will say that we are aware of; we may find somebody figured out something we didn't see coming. But it's our goal to not have any positions funded out of the DRF if they're not in a disaster, and that our recommendation for the budget reconciles converting those cores into full-time positions funded out of that M&A allocation for those costs so that they are funded appropriately, they are justified.

But you also alluded to another issue that I found ourselves dealing with. We have a lot of positions and a lot of job descriptions, far more than I think are necessary. I think our job descriptions add to this in that so many are tailored specifically to a position versus looking more generically at those jobs.

And we also have found that in many cases we've hired a lot of people at very high grades over time; that we want to go back -- and when positions become vacated, before we automatically make a decision that we're going to refill at a GS-14 or GS-15, we're scrubbing the job description to make sure that the grade is appropriate to the work. And when it requires it, we're going to downgrade those positions to more adequately reflect what a reimbursement should be for the work being done versus merely refilling positions that may have been at a rate far beyond what the workload would have required.

ROGERS:

Good, I'm glad to hear that. We're going to hold you to that. And the I.G., we're not through with him yet, nor are you. We're going to be sure that the I.G. can complete its audit and that we have complete confidence that you've got the proper controls in place. So we will continue to work with the I.G. to help you achieve those goals.

And you know, it's been a -- it's been a feeling for a long time that due to the emergencies that happen -- not regularly, obviously -- that FEMA sometimes has become a place to park very expensive personnel. And we don't want that to happen anymore. And I hear you, I think, saying that it's going to -- has stopped.

FUGATE:

Yes, sir.

ROGERS:

Can you say that louder?

FUGATE:

Yes, sir. It is my goal to make sure that we do not -- we found ourselves oftentimes looking at job descriptions that seem to have the position and the work, and what actually was being done did not always match up.

So this caused me multiple problems. A lot of the staff in FEMA that should have been considered for promotion weren't promoted because it was too great of a jump from a GS-12 to a GS-13 to a GS-15. So we wanted to come back and, A, and ask, "Well, what was your requirement for that position to be that high in the first place? Was it to meet a salary requirement or was it actually to meet the workload?"

And to be honest with you, sir, I don't think you could make a clear difference it was based upon workload in far too many cases that I've seen. So we're taking those positions. And it is our intention to make sure that the work justifies the position, but also if it requires to downgrade those positions, to downgrade them for filling them.

And also develop a better process to grow leadership within FEMA, rather than having to seek each opportunity to go outside of FEMA. I think there's a proper balance between bringing people from the outside, but also making sure that those people that have the skills and things that they take very seriously, they have an opportunity to move up.

And when you bring positions and try to fill them at such a high grade you literally cut off your best and brightest from moving forward.

ROGERS:

Well, to help you achieve that goal, I'm going to be talking to the chairman and urging that we perhaps withhold some of the funds until we see that that is being achieved. So in due course of time, Mr. Chairman, I may want to talk to you about that.

PRICE:

All right.

ROGERS:

Thank you.

PRICE:

Thank you, sir.

Ms. Lowey?

LOWEY:

Thank you, Mr. Chairman.

And I must say, Mr. Administrator, it's refreshing to find someone of your caliber and insight and determination, and we wish you good luck.

And it's really unfortunate that the past administration left you in such a difficult position. But we appreciate your honesty and your direct approach to straighten up the shop, shall we say.

Let me ask you a few questions. I've been concerned about the high-risk urban area program. It was created to support only high-risk urban areas. Now you actually began serving seven cities but has now ballooned to 64 potential recipients for F.Y. '10. Further the administration's F.Y. '11 proposal consolidates numerous other grant programs into UASI, which I'm concerned will further diminish the likelihood that only the most high-risk areas will receive the funding they need. So a few questions related to that.

First of all, Administrator Fugate, Congress does not set a floor for the number of UASI recipients. Is it likely FEMA will be awarding funding to all 64 areas that are eligible to apply?

In previous years I've been told that the department's political leadership determined the number of UASI recipients. Who decided to increase the number of F.Y. '10 UASI recipients to 64? And what assurances can you give us who represent high-risk areas that UASI was created to serve, such as New York, that they will not be short-changed by consolidating other grants into this program?

So if you can explain your approach, what we can expect, where do we go from here? And thank you, again, for your straightforward responses.

FUGATE:

Well, the first one is -- I'll answer is the commitment to the high risk. The list of cities is actually broken into two groups, the tier 1, which are the highest, and then tier 2,

which are considered secondary or a lesser threat but because of the population and vulnerabilities of that would warrant additional financial assistance through the urban security initiative program.

As I understand it, the -- particularly with the city of New York, they have since the inception of the program, been the highest recipient and received the most funds, and as a primary target for certain terrorist organizations that warrants.

However, I would caution, we have a tendency in this country to always prepare for the last event, the last attack, and assume that all future attacks will follow the same pattern. That would be true if our adversaries don't change.

But the reality is, as we've seen, terrorism may come from offshore. It may come from home. It may be based upon ideologies. It may not be based upon a particular political bent as much as a disagreement or a -- an action that an individual or small group may take against some part of our communities.

So our goal is -- is to look at how do we base our funding to support against a known adversaries, against those threats, but also recognize that our enemies are adaptive. They seek out our vulnerabilities. And if we make one area of the country protected and leave other parts totally vulnerable, there's no reason to suspect they wouldn't change their tactics and take advantage of that. So we look and take very seriously the process.

And yes, it is a true statement that the political leadership makes these because we are the ones that the Senate confirmed, we are the ones the president appointed. It is our duty to do our best to reconcile the needs and an adversary that is never going to stay the same against our funding ability and trying to manage our risk against those threats that we've had experience with, those threats that are emerging, and those threats that we have not yet anticipated.

But, again, concerns being when we have large population centers, that vulnerability cannot be understated. And, again, we have prioritized the in a tier 1 based upon the historical threat we're in, in this current environment, but recognizing that our adversaries aren't all the same and the threats don't stay static.

LOWEY:

No, I understand. And thank you for your thoughtful response -- except I wonder what confidence can you give us that the high-risk areas won't be shortchanged. I'm not saying there shouldn't be other funding, other programs for any potential, I don't want to say operation, threat, but I'd want to feel confident that in high- threat areas, areas that remain high-threat, that they won't be changed in this -- short-changed in this program.

I certainly welcome other areas getting all the assistance they need but perhaps it shouldn't be in the UASI program.

FUGATE:

With the tools we're getting in the budgets we work with, we are, again, supporting those high-risk areas at levels that we have recommended previously. And some of the consolidation, again, it was similar to the state home and security grant consolidations to give the locals more flexibility within those funding streams.

LOWEY:

Thank you. I think my time is up.

PRICE:

Thank you.

Mr. Carter?

CARTER:

Thank you, Mr. Chairman. More than \$43 billion in federal grant money spent in 2004 and 2008 to improve interoperability among the first responders nationwide. This is more than any other DHS initiative.

FEMA states that in 2009 they distributed 56 interoperability emergency grants for a total of \$48.5 million. Are these grants still focused on purchasing equipment or is there added focus on the planning and organization aspects? Equipment alone cannot provide interoperability. I'm especially interested because my district has Williamson County and all the surrounding counties directly north of Austin, a tier 2 city.

FUGATE:

Sir, interoperability means that if all the radios are talking but nobody's planning to talk together, we haven't solved the problem. And you're right, a lot of the emphasis has to be on building. Who talks to who? And how they need to communicate and what they need to communicate before you apply a technology solution. So a good percentage of these funds have been going for planning, exercising, training, and then providing limited capitalization.

Ultimately the goal is, is before we go off and invest large sums of dollars in interoperable solutions, we have to have the planning done, the coordination done. And including the governance, because most of these solutions are not done within a specific jurisdiction. They're often times regional or statewide. And we have found, and my experience has always been, it's best governed when it's not directed from the top down. But the locals build their governance, how they're going to operate and then apply the technology solutions.

So there has been considerable investment in this. But a lot of these programs are focused on developing and working with the plans. In fact, within DHS, we serve as the secretary for a lot of the emergency communications within our 10 regionals as they work with the states as they develop their regional communication plans.

CARTER:

Well, as you know, it's extra critical and crucial and there are those who will take the bull by the horns and try to work with others to -- to put together plans and solutions in organizations. And there are others who need to be taken by the hand and dragged across the line. And it sounds like you're moving in that direction. And I think that's very critical because first excuse you hear if something goes wrong is, we couldn't talk to each other.

So I thank you for that and I thank you being on top of that problem.

Thank you, Mr. Chairman.

PRICE:

Thank you.

Ms. Roybal-Allard?

ROYBAL-ALLARD:

In -- in the -- your prepared statement you mentioned under the "Enhancing the Preparedness of our Nation," you say that we start with our citizens and that it is critical to response and recovery success.

Yet according to the Norman Lear Center at USC, a -- magnitude 7.8 seismic event in downtown Los Angeles could claim close to 2,000 lives and inflict more than \$200 billion in damages.

And then although California is nationally best prepared for a disaster, a recent study published by the University of Southern California found that rates of preparedness have been stagnate over the past decade. Only 30 to 40 percent of California families have adequate disaster supplies and most are unfamiliar with basic earthquake safety procedures. This lack of knowledge is especially acute in minority and low-income communities.

Could you please tell the committee how FEMA's working with state and local authorities in California and other vulnerable states to educate the public about disaster preparedness in general, earthquake preparedness in particular.

And also, as part of that -- that question, if you could also talk about how FEMA is doing outreach to minority communities and those that have limited English proficiency. Because as studies have shown and as Hurricane Katrina and Rita and California wildfires have demonstrated, there are significant challenges faced by Latinos and other groups with limited proficiency during a disaster.

FUGATE:

That's a lot of ground to cover. I -- the short answer is, in emergency management, historically, we've talked about the public being prepared but then we don't really follow up on what does that mean.

If you read most documents and you look at the way we look at the public in general, we look at the public as a liability. We look at them -- and I don't say that negatively, I just say we plan for having to take care of everybody. Instead of recognizing that in the disaster you described -- quite honestly I don't really care how much money you're authorizing, couldn't get there fast enough.

And the other part is if we have a system that's based upon a government-censured (ph) approach of trying to meet all those needs, the most vulnerable citizens won't get served. And so we're trying to change this dialogue when we talk about preparedness. It's not just something that is a good thing to do. It's absolutely necessary.

My experience -- when I went down to Haiti about a week into the earthquake, the Haitians were taking care of themselves because it was that difficult outside aid in. And time and time again we underestimate and undervalue what people will do and can do. And we often take what I call almost a parental approach to engaging the public.

I think we have to change that and stop looking at the public as a liability and as a resource. Because as you point out, we have a tendency in emergency management -- and I will say this is true probably in a lot of other areas of government -- to plan for what is easy to implement versus what the needs are in a disaster.

And what I have found time and time again is, if we don't factor in that the children and the infants, the elderly, the frail, the people with disabilities and language barriers are not what we plan for up front, it fails. And so both changing that culture within FEMA but within the emergency management community, but also recognizing that we have a tremendous ability if we can figure out how to effectively harness tools such as social media.

We've seen time and time again that the public actually solves problems faster than the government response. But our tendency has been, it's not official, it's not something we control, it's not something we're directing, and there's a fear of the public engaging. The reality is we have -- in this type of a situation, we need neighbor helping neighbor. We need them telling us what's going on, rather than us waiting for official reports. And we need to do more outreach, as we've already started in working with various coalitions and constituency groups ahead of a disaster to establish dialogue of how to get information out, preparedness information, and identify the unique needs that various communities have.

But it is a mindset and a culture that -- you know, I'm finding myself dealing with a lot of cultures (inaudible) like being fiscally accounted, you know, and holding ourselves to that. But also changing this idea that government itself is going to solve all these problems, with the reality on a day-to-day basis, the private sector does a lot of the things that we would depend upon them to get back up and running.

So we are working -- particularly earthquakes -- the lessons of Haiti to apply into our catastrophic planning. Looking at the Chilean response and factoring that in. And continuing to work with our partners and state and local level as we prepare for other types of no-notice events of that magnitude.

But the underlying issue has been we've got to get away from what I call a government-censured (ph) approach to solving this problem and work to engage the public as a resource. Because if we don't the most vulnerable citizens will not get the help they need because everybody else is competing when they could have been part of the solution.

ROYBAL-ALLARD:

Let me also suggest that you consider working with members of Congress. We all do all kinds of workshops and outreach to our constituents and could also help you in terms of -- of meeting those needs.

PRICE:

Thank you.

Mr. Calvert?

CALVERT:

Thank you, Mr. Chairman.

I understand you're going over to the White House later today and to thank some of the people that responded at the Haiti disaster. Part of that, of course, is the urban search-and-rescue teams. And we have a number of them in California, certainly around the United States. Necessary, obviously for domestic events, but, obviously, helpful -- disasters such as Haiti.

Under the budget request there's a significant cut in what's proposed. As you know, these task forces claim that the actual cost to these teams are about \$1.8 million to \$2.2 million per team, and we're contributing approximately \$1 million per team to these teams.

I also understand that -- that when this program was first conceived it was supposed to be of minimal impact to these local agencies and obviously that's not the case. And you know, many of these communities are strapped anyway and they have to maintain an inventory, vehicles, keep that up-to-date, maintain the rest.

I'm also concerned because I understand that talking to a number of these groups throughout the country that the bottom line is that there's really not a lot of local benefit relative to the cost. A 50/50 split may sound good in the context of most federal mandates, but in this case the locals aren't receiving a 50 percent benefit as -- at least that's what they claim.

What -- well, what do you feel about that? And is there any movement as far as what we can do to help these search-and-rescue teams throughout the United States?

FUGATE:

Well, the request we've placed into this year's budget is a request based upon our last year's request. As far as the shared responsibility, we are meeting actively with the chiefs of the urban search-and-rescue teams. As you point out, was originally conceived, was that these teams are not standing full-time federal teams only authorized for federal response. And there is no prohibition against that equipment or personnel being utilized on a day-to-day basis.

And so my understanding as the program was originally created was it was a shared responsibility, the benefit of the team for that community versus the funding that the federal government provided to go outside of their community during disasters.

During a disaster response FEMA picks up the majority of what we've identified and what the teams have identified cost, including such costs as back-filling their positions while they're deployed.

But I guess this is the fundamental question you're raising, is what is the equitable split for a joint funding of a resource that is not on a day-to-day basis federalized except during disasters?

And we are in discussions with the chiefs of the USAR (ph) teams. We are actually having an after action with those chiefs here in the next week, talking about the Haiti response and lessons learned. But again, the program was established upon a shared funding, shared responsibility as these teams were not a federal standing team, but rather a local team that we provide funding to that had the capability to deploy out of their community.

CALVERT:

Well, you know we're in the process of working towards this mark-up on this bill here soon. And we're hearing from a number of these teams saying that they may not be able to sustain, some of them talking about shutting down their operation based upon their budget costs that they're incurring back in some states, especially in California.

So if -- if you can get back to us while we're going through this process of marking up this bill, that would be helpful. Because I know city of Los Angeles, San Francisco, other -- Orange County, all these teams are under tremendous stress right now and they want us to get back to them as soon as possible.

One other quick question regarding the NEPA process and its grant programs to the ports. As you know, in a state like California we have -- we have the CEQA process, which is even more intense than the NEPA process and these grants are being held up.

You know, we have one of the largest port facilities -- the largest port facility in the country at Port of L.A.-Long Beach. And it seems, in my opinion, nonsensical that the federal government does not allow a state's environmental requirements to supersede the NEPA requirements and allow the FEMA grants to move forward. It's just holding up the entire program. I understand months, if not years, with some of these programs. Would you like to comment on that?

FUGATE:

I follow the law that Congress passed, which says I must do NEPA reviews on those types of projects, and I have no relief if a state has a higher standard. That is the law that I have to follow in those regards.

CALVERT:

Would you be willing to address a review of that process and make recommendations to the Congress to see if we can't streamline that process?

FUGATE:

I'd be willing to work with the committee. I think it's important that we -- as long as we can achieve the original intent that Congress laid out in the NEPA process through other alternative means that are less burdensome but achieve the same outcome, we would be willing to provide technical advice and expertise based upon our experiences.

CALVERT:

Thank you.

PRICE:

Thank you.

Mr. Farr?

FARR:

Thank you, Mr. Chairman.

Congratulations on your appointment, and welcome.

PRICE:

Thank you, sir.

FARR:

I think of you as the chief first responder in the nation. And you're talking to a Congress which all 435 members think of themselves as first responders because we get calls on every human concern in American society in our offices, and so we have to respond to those -- and we go home every week.

My concern, I think, shares some of the concerns that Mr. Rogers pointed out, is the first responders are always at the local level. And I hope you never forget where you came from. Because you've moved from a state with a -- and a big state -- with a \$745 million budget and overseeing 67 counties and local governments to a \$7 billion budget. And frankly, I think that if we really did our job FEMA would work itself out of a position.

So I don't know if you kind of think of how do we can -- how can we transfer all of this sort of money in Washington to essentially the communities' ability to want to prevent disasters (inaudible) mitigation.

And two, to respond. Because the first responder is, indeed, that. And, you know, in order to get FEMA involved you've got to go through the declaration process.

I don't want to wait around and try to figure out, when my home's destroyed or something happens in my community, whether it's going to meet a threshold that it will get a state or national disaster declaration. I want somebody there to help alleviate the situation immediately.

So my concern is that you -- and I'm kind of interested in your discussion.

I mean,, I think what FEMA ought to be doing, and where it failed in Katrina, is that it's the responsibility to have a check-off system to see if, in fact, you plans and your local response is doable; whether you have the capable staff to do it, the equipment to do it, and whether you have the capacity; whether the financial capacity's there to respond. That's where I think your professional -- you, the FEMA at the federal level -- is there to check off to see whether these local plans and all the best wishes of government.

I wondered how you did that in Florida with the 67 countries, and how -- whether you got involved. See, I don't think you ought to give money to pre-mitigation unless people will do zoning changes and retrofits and building codes. I mean, California -- not because of FEMA -- we responded with a very conservative governor. Governor Deukmejian, after the Loma Prieta earthquake, went out and raised the sales taxes; a governor who said he'd never vote -- you know, raise taxes under any condition. A disaster came and he said, "This is the exception to the rule."

He raised the sales taxes -- most of them being paid for in southern California -- the earthquake was in northern California -- for a number of years to retrofit everything, every structure in California for earthquake preparedness. So all our bridges and highways and everything got -- overpasses all got retrofitted, paid for by local money.

We ought to be -- you ought to be checking off to see if the states are doing that. And they ought to be not getting the -- the money without having integrated that.

So my question goes to why are we doing, out of a \$7 billion budget, only keeping the program funding for pre-disaster mitigation at \$100 million, leaving it flat. Seems to

me that's where the action is and that's where money ought to be spent. And you background ought to know how to do that very well.

FUGATE:

Two ways you could approach that. Are we using the grants, actually to do mitigation, or are they ending up not being awarded competitively? And two, oftentimes the level of work that would need to be done could never be addressed by any sustained funding that I think Congress would be in a position to provide. The real benefit of those pre-disaster dollars...

(CROSSTALK)

FARR:

Part of that is to make sure that the local governments -- I mean, whether they're county, city or state, has put the resources in to do it. I mean, they're coming back here and relying on the federal government to do what is a local responsibility for that first responder capability.

FUGATE:

And this goes back to what I think is why -- and having the answer to this hard question, why is it a good investment for the U.S. taxpayer for \$100 million of mitigation, which, quite honestly, is not going to significantly change a large-scale disaster impact? It's seed money and it provides planning.

(CROSSTALK)

FARR:

But why keep it flat when it's so essential to do the upgrading and the preparedness?

FUGATE:

Again, we had to look at our overall budget and make decisions about what we would be able to continue and where we would have to hold funding. And our experience tells us that the real benefit from that mitigation program is the planning and efforts it takes to continue to provide seed money.

Before this program and the wisdom of Congress to be even beginning to address this, we provided no funding before disasters. We always did it after the horse got out of a barn. We only did mitigation after a disaster struck.

So this is really a tool for us as -- I would say, it's sort of like some sand to try to make a pearl. It's a catalyst to get local governments and state governments who would not otherwise have the wisdom or the disaster to think about mitigation, to at least begin that process.

You also point out one other important part of this. That I don't have current tools -- and I'm not sure I would be the appropriate entity to have tools. But we do know the best mitigation is often effective and enforced zoning, building codes that are built and enforced to the hazards. But these are primary inherent state responsibilities. Our role at the federal level is oftentimes as an encouragement, not necessarily directing that as a separation...

(CROSSTALK)

FARR:

In you commenting on disaster planning, can you make that comment? That your zoning and your building codes are not adequate?

FUGATE:

I've actually gone back and pointed out that one of our challenges with a state -- with 50 states, the territories, and the District is the most effective way to mitigate that we've seen -- and your experience in California, our experience in Florida -- is to have building codes that reflect the hazards we face; and build our homes and build our schools and build our communities stronger and better.

But there is, as you point out, tremendous costs to that and, oftentimes a resistance to do that. Because -- I hear this a lot -- "Well, if we do that, homes won't be affordable." I've also seen the other half, where people lost their homes.

FARR:

They won't be insurable either.

FUGATE:

That's exactly right. We've seen -- I've seen far too many people who lost their homes because we didn't spend the extra money to protect them, their insurance did not cover their losses, they were upside down in their mortgages, and they walked away homeless.

FARR:

Well, just I hope that you can comment to the states as we try to assist them in checking off their plans; is that they need to do some work on their -- and give them examples of other communities that have done it. Because I think if we fail to do that pre-mitigation we're going to be the Haiti rather than the Chile.

PRICE:

Thank you.

Mr. Rothman?

ROTHMAN:

Thank you, Mr. Chairman.

Mr. Administrator, great pleasure meeting you and thank you for your service at the state level and here at the national level. And you've had a quite a career, and we hope that this will be the crown jewel of you accomplishments, and we wish you well.

Two questions. First one is about flood risk mapping contracts. I'm told that for the last five years FEMA has been working on developing updated flood insurance rate maps which try to assess the risk both in places that flood often and in places that could flood disastrously.

FEMA has recently decided, so I'm told, to revise their contract process for firms doing survey work on the agency's watershed studies related to digital flood insurance rate maps, transferring the contracts from local firms in the area affected by flooding to larger, national firms.

If this is so, my first question is, why did FEMA decide to stop contracting local firms to do watershed surveys for digital flood insurance rate maps when, so I'm told, in a straight-up competition the national firms were beaten out by the local firms in terms of price and qualifications.

FUGATE:

I would like to provide a detailed written report on this. I will give a summation as I understand it. As I was briefed on this issue, what I encountered early in my tenure was that we had requirements that our staff believed that we were required to follow certain contracting requirements when it came to professional and technical services; that that process was done under our contracting and under federal contracting rules to secure those services.

And part of that was a process by which we broke the contracts into regional contracts and we allowed consortiums of contracts to come in.

ROTHMAN:

Sir, if I may -- I know my time is brief. If the lawyers were to tell you that under the laws that govern FEMA it would be permissible to deviate from that model and go to a circumstance where local firms who were just as qualified or better qualified, who could provide the services for less money, were available -- if your lawyers told you that your model could be changed so that these local small business people could get these contracts instead of the national firms who charged more -- so would you be willing to consider that, sir?

FUGATE:

I'm a big fan of buy local, hire local. And so -- and the response to that, as long as the quality of the product met the requirements and was cost-effective I have no preference on how we go about, you know, the contracting as much as -- as you point out, getting a product that meets the requirements that is cost-effective.

ROTHMAN:

Right. But from what I heard from you, sir, was it -- when you first -- your understanding is that the lawyers basically said you were locked into this regional approach. If you were to learn from the lawyers, or anyone else you respected more -- or other lawyers who you respected more -- that you were able to do it differently, get the quality you needed at a lesser price, and buy local, would you do that?

FUGATE:

Without a -- without having that information -- and attorneys can agree to disagree. So I would be very interested in what my counsel says. And as long as -- I mean, to me, I do not have a preconceived opposition to contracting with local firms.

ROTHMAN:

No, I understand that. But if you given those choices, in that scenario, wouldn't you choose the local firm -- if you were allowed to, by law?

FUGATE:

If we got the same quality of work that was cost- effective within the contracting provisions I would not oppose it. I prefer to hire local, buy local whenever possible in our programs.

ROTHMAN:

Great. Glad to hear that, sir.

And I look forward to your written response to flesh that out.

Finally, there was an article recently in a major newspaper that talked of the heroic work of FEMA in Haiti. And we all applaud your work, and the work of those who work under you at FEMA, in sending what the article described as -- let's see -- a number of teams from FEMA to Haiti. It was a -- it was six American teams, according to the article, out of a total of 43 international teams, rescue teams; six out of 43.

But our American teams, according to the article, was responsible -- were responsible for a third of the lives saved. This article goes on to encourage FEMA to increase the number of the 28 overseas teams that we can deploy, saying that 28 is not enough. Lots of budget constraints. Just wondering what your response is to that kind of a request for additional, more than 28 teams.

FUGATE:

Well, the first part of this is, is that FEMA was doing -- was providing support to -- USAID was the lead, so we were responsive to USAID as part of the international response. As far as the teams that went, there are two teams that are currently what we call "dual head." FEMA provides funding for the domestic response; USAID provides responding for international response.

Because of the proximity of Haiti we actually deployed four more teams who were not pre-trained for international response, meaning they didn't have their passports and a lot of other stuff. We were able to get those teams into Haiti. The Department of State worked with us to get those teams into Haiti. But we felt that there may be some opportunity to look at increasing the number of teams that are qualified for international

response, and we are working with Administrator Shah now at USAID on what he would see that need to be.

As far as increasing numbers of teams based upon that response to Haiti, we are still -- based on our funding levels now, the level of participation now, and looking at the after-action reports of Haiti. There is often times a question of how many more teams.

And again, we should not forget that many of the funds that we provide in the urban security and the state homeland security programs have also developed and built robust urban search-and-rescue teams that are not federally sponsored for deployment, but are part of our statewide and national response.

And my experience in Florida...

(CROSSTALK)

ROTHMAN:

And can they be called upon for a nearby international disaster?

FUGATE:

Well, again, we're able to provide mutual aid within state -- we, again, at the request of USAID, are working with Administrator Shah to see how and what additional resources within the teams we have we can provide.

ROTHMAN:

Thank you, and well done, sir.

PRICE:

Thank you, and let me echo that on behalf of all of us. As we said in the beginning of the hearing we really are appreciative that you and your agency reached out in the way that you did. And we know you saved lives and made a huge difference.

And let me use the occasion also to remind members that we are looking at a hard deadline of 11:15 to conclude this morning, precisely because the administrator has to meet with President Preval at the White House.

Let me follow up on Mr. Farr's line of questioning and turn to -- very briefly because I want to get into the Firefighter Grant Administration, as well. But let's turn very briefly to the post- disaster mitigation.

I think we're all well aware of the arguments for pre-disaster as opposed to post-disaster mitigation. On the other hand, the experience in our state and I'm sure many other places is that post- disaster mitigation does often find a more receptive audience, so to speak.

Because after a disaster has hit and we are looking at the recovery effort and rebuilding, there is often a recognition that there wasn't before of the need to build to better standards and to prevent such disasters in the future.

So in North Carolina and lots of places around the country we've made very, very good use of post-disaster mitigation support. It didn't work that well in New Orleans, although it does appear, belatedly, to be kicking in, in New Orleans, in a -- in a more positive way.

I was back in New Orleans in January, and we saw many encouraging signs after years that some especially housing efforts were coming together, better coordination with FEMA and HUD and so forth.

And post-disaster mitigation is kicking in, as well, but pretty late, really, to have much effect on a lot of the rebuilding. Funding took a long time to become available. It wasn't -- it wasn't well- coordinated. I expect you would agree with other recovery activities.

For example, many people have now already rebuilt their homes with the Road Home program. Now they're learning that post-disaster hazard mitigation money is available to them to elevate those homes so they'd be less prone to flooding. In some cases, they're getting these grants and they're (ph) going back in and -- and altering the earlier construction. But it clearly would have been so much better if there had been a coordinated approach at first that had made a blending of funds available, and would have resulted in building homes to better standards.

Retroactively, a lot of people have very little interest in the grant, although some are drawing on the grants. So what are your thoughts on that? How can we encourage better coordination on federal recovery programs in general? And in particular is there a way to learn from the New Orleans experience and get these post-disaster mitigation grants available earlier in the recovery process, and integrate them more effectively with other resources that are available to individuals, business owners, and so forth?

FUGATE:

Mr. Chairman, I think you hit the first thing that was, to me, the most obvious stumbling block. You couldn't even get the public assistance program up and going and getting projects obligated.

Generally, in the life cycle of a disaster, local and state governments are focused mainly first on those things that were destroyed, damaged, or they're having to rebuild. And then they move into the mitigation phase as they start getting lock-ins from their allocations, which are generally within about nine months to a year into that you finally get your final lock-in and you know what you have to go forward.

When you take up to five years to get your public assistance program going and projects, it's hard for local governments to really think about mitigation or the state to really think about mitigation. And so you get this natural wave of public assistance is a high priority, but as you get to a stabilization, now you start doing your mitigation. This time the gap was too far, we missed opportunities.

The other thing that I've observed, both in my state and in this response, is we miss opportunities when we're rebuilding damaged structures. You've given us two very powerful tools in mitigation: Section 406, which applies to those structures that are damaged during a disaster that we can build them back, not just back to what was replacing them, but actually provide additional funds to build them stronger against a next hazard. And those funds have to be written into those projects as we're going through.

We have a bad tendency, sir, to sometimes do what I call what's easy versus what's right. And when you're writing literally hundreds, if not thousands, of project work sheets sometimes people are more interested in production and not always taking the opportunity to come back and say, "Are we capturing every possibility to build this back in a way that reduces its impact from future disasters?"

And then the programs you're talking about post-disaster mitigation, Section 404, which is a percentage of the overall disaster which the state can now administer through grant programs to do such things are helping elevate homes or leveraging with community block development grant dollars to mitigate things that may not have been damaged or destroyed but are vulnerable in that state.

You gave us a very powerful tool in the Disaster Mitigation Act of 2000 to encourage states to develop statewide and then local hazard mitigation plans. And if they develop an enhanced mitigation plan, provide a higher percentage of funds post-disaster.

That is something that we have constantly have to continue to reinforce is, if you want for a disaster to think about what you need to do to mitigate against that threat you're oftentimes going to miss opportunities.

If you took the time ahead of time to think about it and at least have that plan, you would have an idea of the threats you face and the projects you would like to do.

And that's why I think the pre-disaster mitigation plan is so important, because PDM gives states that don't have any active disasters a chance to at least go through some of the process of applying for grants and looking at mitigation. But if we don't build it back better, we don't mitigate against the hazards -- and we oftentimes, in these very large disasters, stay so focused on just getting things done -- we're, unfortunately, at risk to repeat that the second time and miss opportunities when you could have gotten projects done early in the process that the communities would have embraced and would have really changed the future.

PRICE:

I couldn't agree more. And I'm encouraged to hear that with your leadership we're going to be building this kind of thinking and planning into our -- into our response to major disasters from the -- from the very first so that it's not an afterthought; that it's -- that it's a -- a resource that we're fully utilizing.

Let me move on quickly because we have other questions. But I do want to underscore the concern this subcommittee has had with the economic downturn, the recession that our country and our communities have faced. Our main vehicle has been through the -- through the Recovery Act and also through our regular appropriations bill for the current year.

Where, as you know, we made a shift, a temporary shift, but a significant shift, in our firefighter grant program toward personnel. And we included a good many waivers -- or gave you waiver authority with respect to cost-sharing and matching provisions. We also gave you additional flexibility with respect to the continuation of effort requirements, saying that these funds could be used not just for new hires, but for preventing layoffs and for hiring people who had been lay off -- laid off.

In other words, we're addressing the situation that many, many local communities are facing, and trying to make certain that whatever strains develop in their budget do not result in reduced public protection.

That's the bottom line. And it's -- congressional intent, I think, is fully -- is clear in this respect. And we want to make sure that we're on the same page in terms of realizing this intent.

In particular, I am concerned, as I said in the opening statement, about the time lag in getting these funds out. And we also wonder about the -- whether we're really applying these funds as fully as they might be to prevent layoffs, to retain firefighters in place.

I understand the COPS program, which has -- is operating under similar temporary revised provisions, has been able to implement guidelines to allow for police officers not to be laid off. And I wonder why we can't do this more effectively for firefighters, or what you would say about how we can do it.

The House did include precise language in the jobs bill that passed in December, and I, of course, have communicated with -- with you and with the secretary about these concerns.

So do you expect more fully to utilize the waivers on cost-sharing and other local matching provisions in this -- in this 2010 grant cycle? Will you fully implement congressional intent for this program to be used to retain firefighters?

FUGATE:

Mr. Chairman, to the best of our ability we are -- I hate to sound like a bureaucrat, but as we got additional authorities and then we had the fire station and construction grants coming into those cycles, we found ourselves having to reissue guidance several times, and also implementing the waiver so we weren't prohibiting what our language would have suggested would be supplanting for maintaining your workforce.

As I understand it, we now have got our grants going (inaudible) we are awarding grants. We look to have, I believe, the AFG grants and SAFER grants pretty much complete the awards for this year by May. We understand the frustration in working this through.

But again, given the tools and the system we have, as we got additional changes we had to go back and continue to update the process in the application. And the fire station grants, in the middle of this, became our priority to get those out. And we had to literally take staff to work on that to get those out to come back to the other grants.

I'm not offering an excuse. I'm just trying to explain what we did.

The other thing I'm very proud of is the Senate has recently confirmed our new grants administrator, who's come on board this past week to help us not fall back into a situation where we get this far behind in the grant process and structuring ourselves as we anticipate going forward in 2011.

PRICE:

Well, all these programs are important. But there is a priority, clearly, to the personnel issue. As important as the fire grants are, the facilities and equipment grants, the personnel issue at making certain that stressed communities and their budgets don't result in a reduction in basic protection. And so we -- we know the -- there's a variety of measures that we've undertaken here in the way of waivers, in the way of a stress on retention.

Maybe not all that will work equally well. We do need to work with you to know what's working and how we can make this have its desired effect in local communities.

FUGATE:

The other part of your question was -- there is probably a lot more communities that could be applying for grants that have not. So we're working more outreach, working back through the various associations -- iChiefs (ph), the International Association of Firefighters, but also through our U.S. Fire Administration with our chief of the U.S. Fire Administration, Kelvin Cochran -- of really trying to get outreach and explain to people what these grants can do.

I sometimes think the unknown and the sense of how hard it may be or what the relative worth of competition would be for these. But this is one area that I'm very proud of; that in selecting grants is actually done by the peers, bringing in peer review and actually going through and doing peer review. That's kind of a unique thing for the federal government, is actually asking the people that ultimately are the people that use these programs and are at the local level to come in and help provide the input on prioritizing those competitive grants.

PRICE:

Well, that kind of proactive effort to make certain that communities, especially the communities most stressed, most in need are aware of the opportunities, aware of the temporary changes that have been made that may give them an opportunity -- I think that's extremely important to be proactive in that -- in that regard.

Mr. Rogers?

ROGERS:

Well, on that subject, know that there's two points of view on this matter. I have a real problem with using FEMA monies designed for emergency purposes to subsidize the regular operating expenses of local first responders, which is purely a local responsibility. By definition, the Federal Emergency Management Agency is for emergencies.

And I know the stimulus bill allows those cost-sharing requirements to be waived temporarily to spend stimulus funding. But the chairman has agreed that that only will go through fiscal '10, and that when the new appropriations bill for fiscal '11 takes effect that will not be a part of the law.

So I do have a real reservation about becoming the sponsor and payer of regular local firefighting or other types of first responder operations; which everyone admits and agrees is a state and local responsibility.

Now, Mr. Farr, I think it was, brought this up. And let me go ahead with it a bit further. And that is, the administration of the grants programs. You know, we have spent \$31.7 billion for first responder grants since 9/11. And we began to question what sort of requirements surround the awarding of those grants, and whether or not we can say that those grants have contributed to the capability of states and local communities to respond to all hazards.

In other words, can we effectively, objectively evaluate whether or not these grants are doing what we intended that they do, and that's to improve the capability of local communities to respond. Because absent any kind of objective measurement, these grants are no more than a cost-sharing program for local operations.

Can you tell us -- well, in fiscal '09 we provided \$5 million to, quote, "develop tools to measure the achievement and effectiveness of certain grant programs, including how grants increase the capability of states and local communities to respond to all hazards." And that resulted in the cost-to-capabilities so-called process -- C2C.

In fiscal '10 we raised concerns about whether that really, truly was measuring the impact of these grants. We asked the GAO to continue to push FEMA to follow through on the congressional direction. The administration has now put a hold on that initiative. So where are we?

FUGATE:

The short answer is, if we were looking for a measurement to judge against -- the cost-to-capabilities was not taking us there. We found ourselves going into widget counting and not really being able to demonstrate real capability.

We took the direction -- we've heard the issues and concerns, and we think that a better way to develop this is to go back out to the community itself, ask them to come in and help us design how do we do this.

I can tell you with absolute certainty that you have built capability that has been demonstrated, but most people don't know about it. I had the opportunity to be part of the team from the state of Florida that went to provide, under emergency management assistance, compact assistance, to the state of Mississippi in Katrina. The communication, the search-and-rescue teams, the interoperability -- I would say almost 99 percent of all the things we were able to take were leveraged against our homeland security dollars and the investments that the state of Florida had been making to build capability for all hazards.

While many people could not talk from the coast to anywhere else, we had direct communication with our folks on the field and the most impacted communities on the coast of Mississippi directly back to our state EOC. One of my former staff members, back here developing maps and GIS from data that Mississippi sent us on their system

that we sent back out of our interoperable solution to county EOCs that couldn't even get dial tone out of their EOCs.

So we do know that we have built that. What we cannot do is provide that in such a way that we can look at that investment strategy and those outcomes based upon a real capability that we need to demonstrate; how much of that capability have we built up; and the most important thing, as you point out, that is a shared responsibility.

Again, 4,500 folks responded from Florida, about 6,000 over the life of that disaster. The funding did not pay for the people, but they gave us tools we would not have otherwise had and capabilities we built that we used.

And nobody had ever anticipated or ever thought we would send that many people to another state in a hurricane (inaudible) mutual aid response. But those capabilities were strictly because of the funding we had gotten from homeland security dollars and the urban security initiative dollars to build that capability, including sending urban search-and-rescue teams that were not the federal teams, sending in our (inaudible) communication that we had built for in-state response that we were able to deploy; a lot of incident management teams to join -- just the planning process of getting law enforcement, fire, EMS to plan and talk about how we were going to spend grant dollars built a robust capability to respond that would not have otherwise been there without the catalyst of those dollars.

ROGERS:

Now let me switch gears on you real quick here. Running out of time, and you are too. The '11 budget request was originally accompanied by an '10 supplemental request for \$3.6 billion to cover known costs for disasters for the balance of '10, in addition to the \$1.6 billion appropriated in the '10 Appropriations Act.

But in the meantime, FEMA has recently lost several arbitration rulings pertaining to household liabilities on damage from Katrina. Central among the arbitration rulings was the January 27th decision on Charity Hospital in New Orleans. The federal arbitration panel ruled that FEMA should provide \$474.8 million to replace the hospital, substantially more than your \$126 million repair estimate.

That three-judge panel ordered you to award the amount to Louisiana for the state-owned hospital, since the cost of repairing the hospital would be more than 50 percent of the replacement cost.

What's striking about the unanimous ruling was that the panel said, and I quote, "FEMA did not present a sound basis for challenging Louisiana's Office of Facility Planning and Control, and that FEMA reps who performed the damage estimates did not have the necessary experience and expertise to perform costs and repair (ph)

assessments." So this could get pretty doggoned expensive real quick, as the ruling has demonstrated.

You've submitted a '10 supplemental request for \$5.1 billion, which is \$1.5 billion more than the original supplemental of \$3.6 billion. But that includes an estimated \$1.2 billion to cover the cost of arbitration findings. Now, what can we do about this? They said that you did not have adequate experience and expertise to perform assessments. What do you think?

FUGATE:

I read the report and, unfortunately, it validated a lot of my concerns about some of the things we were sending up for arbitration. We have since, in some cases, settled because I disagreed with what we had -- positions we'd taken. We've also gone back and looked at -- and I was very fortunate to have part of our team a former state public assistance director, Beth Zimmerman, to join our team to help us.

And you get to a point that, to me, is of great concern, and that is, we should have been -- whatever the arbitration tells us, we need to take that to heart of what went wrong and why it went wrong and how we fix it to make sure that in future disasters we have the right expertise. A hospital is a very complex building. It's not like I'm going out and surveying a warehouse. And to make sure we have the right expertise and right competencies in complex projects.

And I think lesson taken to heart that when we're out with our contract support doing public assistance and we have a complex project like a hospital, it should be a no-brainer to us that we have to solicit expertise far beyond what you would normally see in other types of public assistance processes.

I read that report and I drew the conclusion, unfortunately, that each one of these arbitrations is probably, unless there is a technical reason -- we went ahead and went back on our budget request and said we need to factor in the full awards.

In some cases we've been able to settle. And we also have the recovery school district of Louisiana, which is an aggregation of all of all of the school projects finally coming to a proposed settlement there; which is not an arbitration, but it was -- instead of treating each school as a project, looking at the entire school district. That estimate is about \$1.1 billion.

ROGERS:

But they said that you did not have adequate assessments, didn't have the expertise to do adequate assessments. What are you doing about that?

FUGATE:

Well, again, we're going back to look at who would you contract with, and having contingency contracts for subject matter experts to come in when we deal with those type of technical responses.

If we do not have that core competence, sir, then it's our duty to identify where we would get that, whether it be from another federal agency, or whether that be contract support to give us that information, so when we do those assessments on those complex structures we have the right experts to do that assessment.

ROGERS:

Well, I mean, the -- you've already been hit with almost a half a billion dollars on one building, so this could get expensive real quick.

FUGATE:

Based upon the existing outstanding arbitrations, that was factored into our -- to our request for the supplemental. And we have, in some cases, already settled some of those - - or are working to settle some of those based upon a consensus that we're not going to be able to, in all cases, win these arbitrations. And we had actually, in our initial supplemental, were figuring about middle-of- the-road settlements.

So we took that and came back and said we need to assume that if these are all lost what does that look like, and make that the request for the supplemental versus the assumption that they weren't going to go against FEMA and that we had factored too low.

ROGERS:

Thank you, Mr. Chairman.

PRICE:

Thank you.

Ms. Roybal-Allard?

ROYBAL-ALLARD:

Mr. Fugate, I'd like to ask you a little bit about our federal government's ability to communicate with -- with the public in a national crisis. A report by GAO in September of 2009 said that the emergency alert system was ineffective and unreliable, and that it had -- it lacked redundancy, there were gaps in coverage, and a lack of testing and training, among other shortcomings.

The GAO analysis also found that the integrated public alert and warning system program, which in -- FEMA envisions as an alternative to EAS, has been grossly mismanaged and that little progress has been made since 2007.

Can you inform the committee as to what progress is being made with regards to the alternative program? And what is it that is being done to address the weaknesses of the current system in the event that we have a disaster prior to the completion of this new program?

FUGATE:

I would like to submit a full answer in writing, due to the time. But in briefly, we've taken to heart those recommendations in moving forward.

Two key milestones was the publication of the common alerting protocol, latest version. That is the standard for integrating the systems. It's a XML standard, allows us to not be type-specific but allows the use of a lot of different types of devices.

The second piece is the cellular alert system -- that the FCC published rules on that. We are working with industry to implement. That will move into that.

And finally, the third part is we had nationally, which is kind of surprising, the first national test of the national activation of the emergency alert system in Alaska. We did have some technical issues with some stations, however overall the system from the origination here in Washington did reach Alaska, did trigger the system, did go out.

There were some stations that had technical difficulties that we are working on, and we will provide a full report on the status of what we have done based upon that report, and how we're moving that program forward.

ROYBAL-ALLARD:

Appreciate it. Thank you.

PRICE:

Thank you.

Mr. Carter?

CARTER:

Mr. Chairman, I realize we're running out of time. I'd like -- and so I'm just going to ask you to do me a favor. There's a -- there's an issue in Texas on the Leon River, and it looks like to me that -- that multiple branches of the federal government have come into the Leon and they're proposing to put it -- try to take a river which was moved into a fast-flowing river so it would -- and it ultimately goes into a water storage lake where we get drinking water.

And now somebody has decided they needed more wetlands, so the engineers are going to reengineer that river to put it back to its original banks. And then FEMA's coming in, based on that, and writing new floodplains, which is putting a huge community all inside the floodplain. And in addition, quite honestly, the Corps is probably going to flood all these communities because they're redoing the river for some environmental group that wants to change it back to wetlands.

And it's kind of got people to think that the government's insane. Take a look at the Leon, and see what you can do to help. I'd appreciate it.

I know your time has run out. I'm not going to ask for an answer because I doubt if you know about the Leon. But if you do, I'm glad to hear it, and I'd sure appreciate you taking a look at it.

FUGATE:

We'll take a look at it, sir. We'll have our staff get with your staff, follow up, and...

(CROSSTALK)

CARTER:

I'm going to be -- I'm going to be all over the engineers, I can promise you.

FUGATE:

Yes, sir.

PRICE:

Thank you.

And Administrator we thank you for your good work, for the energy and experience you've brought to this job, and for your continued cooperation with this committee.

FUGATE:

Thank you, Mr. Chairman.

PRICE:

And with that, we will adjourn the hearing and go with you to greet our friends from Haiti.

FUGATE:

My honor, sir. We're trying to be green, and carpool.

CQ Transcriptions, March 10, 2010

List of Panel Members and Witnesses

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WITNESSES:

CRAIG FUGATE, ADMINISTRATOR, FEDERAL EMERGENCY
MANAGEMENT AGENCY