The Heritage Foundation
LEADERSHIP FOR AMERICA

ISSUE BRIEF

No. 3606 | MAY 18, 2012

Congress Should Act on FEMA's Refusal to Reform

Matt A. Mayer

It is one thing for government entities to dismiss the criticisms from outside groups. It is quite altogether something else to dismiss the criticisms of government-empowered investigators who have access to the closely held data.

Based on its reaction to an audit by the U.S. Department of Homeland Security Office of Inspector General (OIG), the leadership at the Federal Emergency Management Agency (FEMA) simply refuses to acknowledge that reforms are necessary to end the federalization of natural disasters.

The OIG Report. The OIG report, *Opportunities to Improve FEMA's Public Assistance Preliminary Damage Assessment* [PDA] *Process*,[1] presents a shocking finding that any reasonable person would be hard pressed to ignore. Any person, that is, except a bureaucrat at FEMA. Specifically, the OIG found:

> If FEMA had adjusted the $1 per capita statewide per capita indicator by the CPI [consumer price index] or by the changes in the national per capita income since 1983, a significant number of 2009 and 2010 PDAs would not have exceeded the States' indicator. ...
>
> More than 36% of the PDAs would not have exceeded the States' indicators if the $1 per capita amount had been indexed back to the change in the CPI since 1983. If FEMA had updated its 1983 national per capita income of $1 to reflect 2009 and 2010 national per capita income, more than 56% of PDAs would not have exceeded the indicator.

The per capita indicator is a metric that FEMA uses to determine the overall damage in a state after a natural disaster strikes. To grant a Major Disaster Declaration (MDD), the damages must exceed the threshold for that affected state. There were 140 MDDs in 2009 and 2010. Had FEMA reformed how it calculated PDAs, it would have issued between 50 and 78 fewer MDDs, thereby saving tens of millions of federal dollars and ensuring that the Disaster Relief Fund operated longer before it needed to be replenished. As the OIG noted:

> The $1 inflation-adjusted State per capita amount that FEMA uses to measure whether a disaster is beyond the capacity of State and local governments has not kept up with inflation, and is not necessarily a realistic measure of a State's true ability to respond to a disaster. ...
>
> FEMA did not adjust the per capita indicator amount for changes in income or purchasing power from 1983 to 1999. By not adjusting the per capita amount for 16 years, FEMA's calculations did not take into account a 142% percent increase in per capita income and a 65% percent increase in the CPI. ...
>
> FEMA's per capita arithmetic formula has no direct relationship to the Stafford Act's requirement that FEMA measure whether the severity and magnitude of a disaster is beyond the capability of the State and its

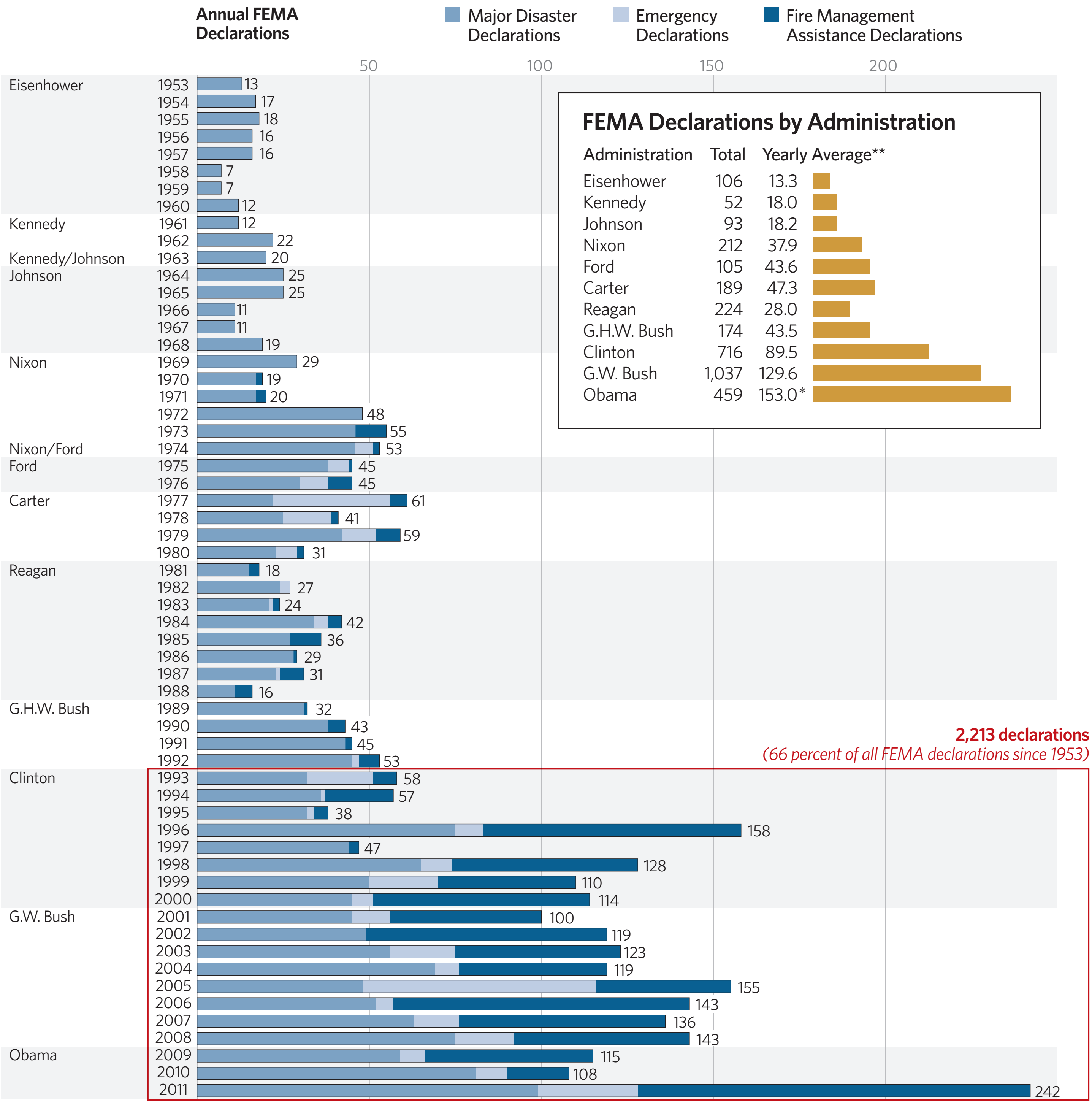
This paper, in its entirety, can be found at **http://report.heritage.org/ib3606**

Produced by the Douglas and Sarah Allison Center for Foreign Policy Studies

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

CHART 1

FEMA Declarations, by Year and by Presidential Administration



FEMA Declarations by Administration

Administration	Total	Yearly Average**
Eisenhower	106	13.3
Kennedy	52	18.0
Johnson	93	18.2
Nixon	212	37.9
Ford	105	43.6
Carter	189	47.3
Reagan	224	28.0
G.H.W. Bush	174	43.5
Clinton	716	89.5
G.W. Bush	1,037	129.6
Obama	459	153.0*

* Based on data through January 19, 2012.   ** Figures are prorated for Kennedy, Johnson, Nixon, and Ford Administrations.

Note: Annual totals may not add up to presidential totals during the same time period due to the January 20 inauguration date.

Source: FEMA Disaster Search database, http://www.fema.gov/femaNews/disasterSearch.do?action=Reset (accessed January 20, 2012).

IB 3606 heritage.org

local governments to respond effectively.

The chart above shows the federalization of natural disasters that began in 1993. Imagine what this chart would look like had FEMA made the proper adjustments. Though hard to quantify, the savings likely run into the hundreds of millions of dollars.

Based on the above findings, the OIG concluded:

> The PDA process does not provide a thorough, accurate assessment of a State's economic capacity to respond to and recover from a disaster. To enhance the PDA process, FEMA should improve the Public Assistance PDA to estimate more accurately the magnitude and economic impact of a disaster. FEMA should reevaluate the State per capita criteria used to measure a State's capacity to respond to a disaster. Furthermore, FEMA should determine whether other Federal data measures could better evaluate a State's capacity to respond to disasters.

FEMA's Shocking Admission. FEMA's main response has been to dismiss the OIG's finding by grossly misrepresenting it: "FEMA did not believe that it was reasonable to retroactively apply an adjustment that could result in over one-third of currently declared incidents not being declared major disasters."[2] The OIG retort: "We did not recommend the retroactive adjustment on previously declared disasters."[3] In fact, nowhere in the OIG report does the word *retroactive* even appear.

More importantly, in an admission that goes to the heart of the federalization of natural disasters over the last two decades, FEMA expressly admits that compliance with the Stafford Act is not the main concern it has; rather, FEMA's concern is with the fiscal condition of the states. FEMA's response to the OIG notes:

> FEMA is fully cognizant of current constraints on the Federal budget, and is implementing measures to closely manage the Disaster Relief Fund (DRF) in particular. However, many State and local governments are likewise experiencing significant budgetary constraints, which often makes Federal disaster assistance dollars all the more important to communities recovering from the impact of major disasters.

Not surprisingly, the OIG did not find this explanation persuasive. Not to leave any confusion, the OIG explicitly reminded FEMA that

> FEMA is a steward of Federal assistance funds and should develop measures that ensure that funds are spent effectively and efficiently. In addition, GAO [Government Accountability Office] made a similar recommendation in reports issued in 2001 and 2012.

Push FEMA to Reform. Congress should do for FEMA what it refuses to do itself. With the urgent need to reduce federal spending, reducing the flow of money from FEMA's spigot would require less annual funding and would extend the funds already in the DRF. Congress should:

- **Change the PDA formula.** Congress should statutorily change the PDA formula as recommended by the OIG. The change is a common-sense one that both the GAO and the OIG have suggested. FEMA's intransigence must come to an end.

- **Modify the Stafford Act.** As the litmus test for federal disaster dollars, the Stafford Act fails to accurately determine which disasters meet the federal requirements and which do not. Congress should establish clear requirements that limit the types of situations in which declarations can be issued—eliminating some types of disasters entirely from FEMA's portfolio.

- **Reduce the cost-share.** Congress should reduce the cost-share provision for all FEMA declarations to no more than 25 percent of the costs. This will help to ensure that at least three-fourths of the costs of a disaster are borne by the taxpayers living where the disaster took place. For catastrophes with a nationwide impact—such as 9/11 and Hurricane Katrina—a relief provision could provide a higher federal cost-share where the total costs of the disaster exceed a certain threshold amount.

1. U.S. Department of Homeland Security, Office of Inspector General, *Opportunities to Improve FEMA's Public Assistance Preliminary Damage Assessment Process*, May 2012, http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-79_May12.pdf (accessed May 18, 2012).
2. Ibid.
3. Ibid.

No More FEMA Bailouts. Congress can no longer simply give FEMA another round of taxpayer dollars to maintain the status quo. After last year's record-breaking year of FEMA declarations, Americans can no longer afford FEMA's desire to operate as a bailout bank. The current approach leaves state and local governments less prepared and FEMA undoubtedly ill-equipped for the next truly catastrophic disaster.

—***Matt A. Mayer*** *is a Visiting Fellow at The Heritage Foundation and author of Homeland Security and Federalism: Protecting America from Outside the Beltway.*