

ISSUE BRIEF

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FEMA Reform Needed: Congress Must Act

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Several weeks ago, President Barack Obama announced that the Department of Homeland Security (DHS) would provide work authorization and protection from deportation to as many as 5 million unlawful immigrants. A serious consequence of this policy is the harmful redirection of attention and resources from other pressing homeland security issues. In order to implement the President's sweeping order, Homeland Security Secretary Jeh Johnson and other leaders at DHS will simply not have the time, money, manpower, or trust of Congress to make significant reforms to these other areas of critical importance. It falls to Congress to correct these misplaced priorities.

Congressional action is sorely needed to reform the Federal Emergency Management Agency's (FEMA's) emergency response and grant system. Current law stands in the way of reforming FEMA, but neither the Administration nor Congress has seriously pushed to reform FEMA. This should change, as preparedness for emergencies and properly allocating security and preparedness grants are too important to leave at the status quo.

Federalism and Disaster Response

Throughout most of U.S. history, state and local governments were responsible for responding to

nearly all disasters. Under President Ronald Reagan, FEMA averaged 28 federal disasters declarations a year. Following the passage of the Stafford Act in 1988, this number dramatically changed, with federal disaster declarations steadily rising so that under President George W. Bush and President Obama, the U.S. has averaged around 130 federal disaster declarations a year.¹ The result has been that FEMA now responds to a disaster every 2.8 days and has needed more and more money to cover the costs of responding to growing numbers of disasters to which it responds. The Stafford Act has at least two provisions that are to blame. First, the act shifts at least 75 percent of disaster response costs to the federal government.² In the event of a disaster, states normally have to pay for the costs of responding, but if the President declares the disaster a major disaster worthy of federal assistance, then 75 percent or more of response costs are covered by the federal government. The result has been that states now request federal help whenever they can, since it will bring federal dollars. This creates a vicious cycle as states respond to increased federalization of disasters by preparing less and setting less funding aside for disasters. As a result, states are less prepared for disasters, they request more government help, and thus the cycle is perpetuated.

The second problematic provision of the Stafford Act makes it far too easy for states to request disaster assistance. The act vaguely requires that a disaster be "of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary,"³ and that storm-related damages top approximately \$1.40 per capita,

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which for several states is less than \$1 million.⁴ So even local disasters that are centered in one state and cost as little as \$1 million can be considered federal disasters. This combination of easy-to-acquire federal assistance and the substantial monetary benefit from federal involvement puts FEMA in high demand, leaving it unprepared—both in terms of readiness and money—for truly catastrophic disasters where it is most needed.

To stop the over-federalization of disasters and the harm it does to FEMA's ability to respond, Congress must return more responsibility for smaller disasters to states. Specifically, Congress should:

- **Reduce the federal share for all FEMA declarations to a maximum of 25 percent of the costs.** This way at least three-fourths of the costs of a disaster are borne by the taxpayers living in the state or states where the disaster took place. For catastrophes with a nationwide or regional impact—such as 9/11 and Hurricane Katrina—a relief provision could provide a higher federal cost-share if the total costs of the disaster exceed a certain threshold.⁵
- **Modify the Stafford Act to establish clear requirements that limit the situations in which FEMA can issue declarations.** This should include eliminating some types of disasters entirely from FEMA's portfolio. One way to accomplish this is to align declarations with the various scales used for disasters (such as the Saf-

fir-Simpson Scale, the Richter Scale, and the Fujita Scale). Another way is to raise the minimum-dollar threshold for requesting disaster declarations. Increasing the per capita threshold to a minimum of \$5 million (and a maximum threshold of \$50 million) and properly indexing these sums for inflation would significantly reduce the number of events that would warrant a federal disaster declaration.⁶

Risk-based Allocation of DHS Grants

FEMA is also responsible for administering various homeland security grant programs. These include the State Homeland Security Program (SHSP); the Urban Areas Security Initiative (UASI); Operation Stonegarden (OPSG); various transportation and port security grants; grants for hazard mitigation, such as Flood Mitigation Assistance; grants for firefighters and emergency personnel, such as the Staffing for Adequate Fire and Emergency Response (SAFER); and other preparedness grants, such as the Emergency Management Performance Grants (EMPG).⁷

While federal grants to state and local partners may be of value in some cases, the current structure does not adequately prioritize grants based on the risk they are trying to reduce. To the Administration's credit, it has recommended consolidating many of these grants into a new National Preparedness Grant Program that will allot grants in a more risk-based fashion.⁸ Grant consolidation should be revisited by Congress and expanded to cover more grant programs. Grants that meet the greatest need

1. Ellen Prichard and David Inserra, "Where Does Your State Rank in Disaster Preparedness?" The Daily Signal, December 12, 2014, <http://dailysignal.com/2014/12/12/state-rank-disaster-preparedness/>.
2. 42 U.S. Code § 5170
3. Ibid.
4. News release, "Dr. Coburn Releases Report on the Fleecing of Taxpayers through Disaster Declarations," U.S. Senate Homeland Security and Governmental Affairs Committee, December 31, 2014, <http://www.hsgac.senate.gov/media/minority-media/dr-coburn-releases-report-on-the-fleecing-of-taxpayers-through-disaster-declarations> (accessed January 29, 2015).
5. Steven Bucci et al., "After Hurricane Sandy: Time to Learn and Implement the Lessons in Preparedness, Response, and Resilience," Heritage Foundation *Special Report* No. 144, October 24, 2014, <http://www.heritage.org/research/reports/2013/10/after-hurricane-sandy-time-to-learn-and-implement-the-lessons>.
6. Ibid.
7. Federal Emergency Management Agency, "Preparedness (Non-Disaster) Grants," FEMA, August 6, 2014, <https://www.fema.gov/preparedness-non-disaster-grants> (accessed January 29, 2015).
8. David Perera, "House and Senate Appropriators Reject National Preparedness Grant Program Proposal," Fierce Homeland Security, May 16, 2012, <http://www.fiercehomelandsecurity.com/story/house-and-senate-appropriations-reject-national-preparedness-grant-program/2012-05-16> (accessed January 29, 2015).

in areas of high risk should be prioritized. These grant dollars should not be viewed as another entitlement to send back to each congressional district, but as limited homeland security funding that will alleviate the greatest risks.⁹ Failure to prioritize grants weakens security and preparedness and continues waste and abuse.¹⁰

In this process of moving DHS grants to a more risk-based allocation system, these grant programs must be evaluated to see which needs they are meeting and how well they are doing it. Grant programs that are found to be ineffective or unneeded should be cancelled. Heritage Foundation research has found that a variety of firefighter and emergency personnel grants, including SAFER as well as Fire Preventions and Safety (FP&S) grants and Assistance to Firefighter Grants (AFG), are not effective at reducing fire casualties and merely subsidize local fire services.¹¹ With other more important and more effective areas where such funding could be spent, such grants are a luxury the U.S. cannot afford.

Congress should:

- **Consolidate homeland security and emergency preparedness grant programs and allocate funds in a risk-based manner.** Rather than treat grants as federal dollars that should be spread around, federal grant dollars should be focused on the highest-risk areas or issues. As part of this consolidation, grant programs should be evaluated, and ineffective ones, such as SAFER, FP&S, and AFG, should be cancelled.

Preparedness, Not Amnesty and Pork

FEMA is in need of serious reform. Disaster relief and response should be focused on the truly catastrophic, and DHS grants should be focused on those areas of greatest risk. Such reforms will free up DHS resources and funding that can be redirected to underfunded priorities, such as the Coast Guard, Immigration and Customs Enforcement, or efforts to counter violent extremism and terrorism. Rather than focusing on developing and implementing executive amnesty as DHS currently is, it is time that Congress gave FEMA the attention, focus, and scrutiny it deserves.

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9. Jena Baker McNeill and Matt A. Mayer, "Homeland Security Grants Should Not Become Another Federal Entitlement Program," Heritage Foundation *WebMemo* No. 3151, February 14, 2011, <http://www.heritage.org/research/reports/2011/02/homeland-security-grants-should-not-become-another-federal-entitlement-program>.

10. "Sen. Coburn Questions Homeland Security Spending," Fox Business, December 5, 2012, video, <http://video.foxbusiness.com/v/2014282289001/sen-coburn-questions-homeland-security-spending/?#sp=show-clips> (accessed January 29, 2015).

11. David B. Muhlhausen, "Fire Grants: Do Not Reauthorize an Ineffective Program," Heritage Foundation *Issue Brief* No. 3505, February 15, 2012, <http://www.heritage.org/research/reports/2012/02/fire-grants-do-not-reauthorize-an-ineffective-program>.