

SERVING AMERICA'S DISASTER VICTIMS

FEMA

WHERE DOES IT FIT?

Issue Brief

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As the debate regarding the bureaucratic placement of the Federal Emergency Management Agency (FEMA) within the executive branch intensifies, we implore pundits and policymakers alike to pause and consider more broadly the implications of any reshuffling. Serving America's disaster victims must be the primary focus of any discussion regarding FEMA. It is our view that in considering the options, form should follow function, not vice versa.

FEMA has been put to the test since the failed response to Hurricane Katrina in 2005. In 2008 alone, the agency faced numerous natural disasters across the country, including very active hurricane and tornado seasons, intense wildfires, and widespread flooding. In fact the 2008 hurricane season broke two records: it was the first time that six consecutive tropical cyclones made landfall on the U.S. mainland and the first to have a major hurricane (Category 3 or higher) form in five consecutive months.¹ Unlike the response to Hurricane Katrina, federal, state, and local officials were prepared, garnering resources well ahead of the storm and executing timely and effective evacuations. In the aftermath of the storms there were more stories of triumph than tragedy: largely successful responses at all levels of government.²

The triumph is not just in lives saved because of evacuations and other measures, but also in the ability of the national system—including the convergence of local, state and federal efforts—to support response and recovery to the benefit of America's communities.

The government's improved response to natural disasters is more than a feel-good story. As America's homeland and national security policy is guided by a new presidential administration, it is

¹ "Atlantic Hurricane Season Sets Records," National Oceanic and Atmospheric Administration (November 26, 2008), online at: http://www.noaanews.noaa.gov/stories2008/20081126_hurricanesseason.html (accessed January 12, 2009).

² "Kind Words for New FEMA," *USA Today* editorial (October 2, 2008), online at: <http://blogs.usatoday.com/oped/2008/10/kind-words-for.html> (accessed January 12, 2009) and Fiore, Faye, "FEMA Says It's Applying Hurricane Katrina's Lessons to Gustav," *Los Angeles Times* (September 2, 2008), online at: <http://www.latimes.com/news/nationworld/nation/la-na-fema2-2008sep02,0,7688528.story> (accessed January 12, 2009).

an important reminder for policymakers to first assess how new or existing policies benefit the citizen. The bottom line is this: will these new policies increase our level of readiness for natural or manmade disasters? If this question cannot be answered in the affirmative, the new Administration should reflect and reassess, rather than rush to implement change.

The Debate

The debate over the FEMA's placement within the executive branch is a well worn one. In 2002, during the debate over the legislation creating DHS, it became a polarizing issue.³ The debate again surfaced in 2006 as Congress considered, and ultimately passed, FEMA reform legislation.⁴ So it is not surprising that once again policymakers and pundits alike are calling for various proposals to keep FEMA in DHS or move it out.⁵

At issue is whether FEMA should be an independent agency as it once was, or stay within DHS. The debate is spoken in terms of access to the president and strength of the organization.⁶ While FEMA's place on an organizational chart is an important issue, a larger, fundamental discussion must take place about the mission of FEMA and DHS—and their subsequent convergence or divergence—and how that affects our readiness as a nation to prepare for, respond to, and recover from disasters. In other words, policymakers should follow the principle that organization—or form—of FEMA should follow its function.

The mission of FEMA is “to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and

³ Keith Bea outlines the key issues in the 2002 debate on the placement of FEMA fostered by the 107th Congress. See Bea, Keith, “Proposed Transfer of FEMA to the Department of Homeland Security,” Congressional Research Service *RL31510* (July 29, 2002), online at: http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL31510_07292002.pdf (accessed January 12, 2009).

⁴ The Post Katrina Emergency Management Reform Act of 2006 became law on October 6, 2006. See, “Can Congress Rescue FEMA,” *The Washington Post*, (June 26, 2006), A19, online at: <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/25/AR2006062500645.html> (accessed January 12, 2009).

⁵ For example, Congressman James Oberstar (D-MN) authored a memorandum to President-elect Barak Obama calling for FEMA to be “re-instated as an independent cabinet-level agency reporting directly to the President,” because it has “consistently failed to meet the expectations of the American people and Congress” since its incorporation into the Department of Homeland Security—a place where its mission has been “distorted by a focus on terrorism” and where state, local, and its relationship with local and state entities has been “impeded.” See, Oberstar, James, “Memorandum: An Independent FEMA,” as obtained by *Congressional Quarterly* (December 17, 2008), online at: <http://homeland.cq.com/hs/flatfiles/temporaryItems/20081218FEMAletter.pdf> (accessed January 12, 2009). However, Representative Bennie Thompson (D-MS), calls for FEMA to stay where it is as quoted in a recent interview: “Pulling FEMA out of the department will once again fracture the nation’s ability to respond to all types of catastrophes — whether natural or man-made,” he said. Instead of “focusing on dismantling the department,” the emphasis should be on “strengthening its components.” See, Fowler, Daniel, “Oberstar Appeals to Obama to Create an Independent FEMA,” *Congressional Quarterly* (December 18, 2008), online at: <http://homeland.cq.com/hs/display.do?docid=2999304&sourcetype=31&binderName=news-all> (accessed January 12, 2009).

⁶ For example, the National Association for Emergency Managers calls for FEMA to become “an independent agency reporting directly to the President.” See, “IAEM-USA Requests for Consideration by the President-elect,” *IAEM* (December 8, 2008), online at: <http://www.iaem.com/committees/GovernmentAffairs/documents/IAEMrequestsforconsiderationbyPres-Elec120808.pdf> (accessed January 12, 2009). Additionally, the *New York Times* believes that under the Department of Homeland Security, FEMA “degraded into a patronage-ridden weakling,” and lifting it to the level of the President’s cabinet will redeem it from this status. See, “Fixing FEMA,” *New York Times* editorial (November 24, 2008), online at: <http://www.nytimes.com/2008/11/24/opinion/24mon3.html> (accessed January 12, 2009).

supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.”⁷ FEMA itself is more of a facilitator and coordinator of Federal support to state and local officials, rather than a massive Federal department with organic response assets. It relies heavily on other Federal departments and agencies, contractors, and state and local assets to perform its coordination mission.

Consistent with its coordination mission, FEMA led the effort to revise the 2005 National Response Plan (NRP) and replace it with the National Response Framework (NRF), a guide for how the nation “conducts all-hazards response – from the smallest incident to the largest catastrophe.”⁸ More than just a simple name change, the NRF establishes a revised “response doctrine” and calls for “engaged partnerships” amongst all levels of government, non-governmental organizations and the private sector.⁹ The NRF is an example of FEMA’s capacity to serve as a facilitator at the national level, while simultaneously empowering local, state, and federal authorities to respond quickly and efficiently during crises.

Finally, despite the organizational changes over the years, leadership seems to have been a significant contributing factor for FEMA’s successes or failures. FEMA leaders such as James Lee Witt have been lauded for their leadership of the agency. Director Witt inherited the beleaguered agency in 1993 following a widely criticized response to Hurricane Andrew the year before.¹⁰ Infamously, FEMA Director Mike Brown failed to respond effectively to Hurricane Katrina. Most point to Brown as the culprit for the failings, but some feel FEMA’s placement in DHS contributed as well. However, Brown’s successor David Paulison reinvigorated FEMA’s role and capabilities by making dramatic changes inside the organization as well as building bridges within DHS, the executive branch, and with state and local officials. The results were clear: much improved Federal responses to the many natural disasters that occurred under Paulison’s leadership.

Now with a new presidential administration, we are again at a crossroads in FEMA’s future. As both sides of the FEMA organizational debate lobby their positions publicly and privately, below we provide the general arguments made by each side.

Arguments for Making FEMA an Independent Agency

- *Focus.* In the aftermath of Katrina, DHS leadership rightly focused their attention on the failed response and explored solutions to the problems. However, the significant attention

⁷Federal Emergency Management Agency website, “About Us,” online at: <http://www.fema.gov/about/index.shtm> (accessed January 12, 2009).

⁸ “National Response Framework: Frequently Asked Questions,” *Federal Emergency Management Agency*, online at: http://www.fema.gov/pdf/emergency/nrf/NRF_FAQ.pdf (accessed January 12, 2009).

⁹ National Response Framework, Federal Emergency Management Agency, Department of Homeland Security (January 2008), p. 8, online at: <http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf> (accessed January 12, 2009).

¹⁰ “Coping With Catastrophe,” National Academy of Public Administration for the U.S. Congress and the Federal Emergency Management Agency (February 1993), online at: [http://71.4.192.38/NAPA/NAPAPubs.nsf/17bc036fe939efd685256951004e37f4/78f9632b737c132b85256886007eb4bc/\\$FILE/93-01--Coping+with+Catastrophe.pdf](http://71.4.192.38/NAPA/NAPAPubs.nsf/17bc036fe939efd685256951004e37f4/78f9632b737c132b85256886007eb4bc/$FILE/93-01--Coping+with+Catastrophe.pdf) (accessed January 12, 2009).

FEMA received from DHS leadership may have been to the detriment of other important DHS components, from Customs and Border Protection to the Domestic Nuclear Detection Office, for example, because the department's leadership was focused on fixing FEMA. If FEMA were to be removed from DHS, the Department leadership could focus on prevention of threats more effectively—rather than spending time filling sandbags for the press corps.¹¹

- *Bureaucracy and Resources.* Within DHS, FEMA must compete with eight other major components for resources, priorities, and strategic direction. If FEMA were to be removed from DHS, it could compete and direct resources of its own accord, determine its own policies and programs, and independently request funding levels. As an independent agency, other agencies with a critical disaster response mission, such as the Department of Health and Human Services, would be on equal par with DHS, rather than competing with the DHS mission.¹²
- *Psychological.* The battering of FEMA during the creation of DHS, Hurricane Katrina, and subsequent changes, resulted in a significant turnover of dedicated and long-serving talent from FEMA, and an inability of remaining staff to reach their professional objectives.¹³ Removing FEMA from DHS could provide a morale boost for staff thereby enabling the organization as a whole to better accomplish its mission.
- *Readiness.* Taking FEMA out of DHS could make the agency a more nimble organization, better able to respond to disasters without the oversight of DHS. There would be no “mother may I” mentality that is perceived by some inside the organization.¹⁴

Arguments for FEMA remaining within DHS

- *Focus.* If DHS is to execute its incident management responsibilities, it should be vested with the critical preparedness and response missions of FEMA. Without FEMA, DHS will have little statutory or organizational capability to effectively manage the response to an incident.¹⁵
- *Bureaucracy and Resources.* With the Secretary of Homeland Security representing FEMA's interests, FEMA has a powerful advocate within the executive branch. As a Cabinet Secretary, the DHS Secretary has the standing to raise issues with and garner the attention of his or her Cabinet peers and the President. The Secretary can also direct DHS resources to

¹¹ Jamison, Tim, “Homeland Security Chief Visits Waterloo Flood Scene,” *Waterloo-Cedar Falls Courier* (June 12, 2008), online at: http://www.wfcourier.com/articles/2008/06/12/news/top_story/doc485195ae8c9f1610373764.txt (accessed January 12, 2009).

¹² See, “IAEM-USA Requests for Consideration by the President-elect,” *IAEM* (December 8, 2008), online at: <http://www.iaem.com/committees/GovernmentAffairs/documents/IAEMrequestsforconsiderationbyPres-Elec120808.pdf> (accessed January 12, 2009).

¹³ “Department of Homeland Security: 2007 Annual Employee Survey (Component Results: Federal Emergency Management Agency),” *The U.S. Department of Homeland Security* (February 2008), online at: <http://www.dhs.gov/xlibrary/assets/dhs-annual-employee-survey-fema-2007.pdf> (accessed January 12, 2009).

¹⁴ Oberstar, p.2.

¹⁵ For a full listing of FEMA statutory authority, see, “Robert T. Stafford Disaster Relief and Emergency Assistance Act,” P.L. 93-288, as amended, 42 U.S.C. 5121-5207, and Related Authorities, Federal Emergency Management Agency (June 2007), online at: http://www.fema.gov/pdf/about/stafford_act.pdf (accessed January 12, 2009).

the FEMA mission during a disaster.¹⁶ Additionally, as provided for in the Post-Katrina Emergency Reform Act, FEMA has a direct line to the President during crisis.¹⁷ Extracting FEMA could also cause bureaucratic confusion among agencies, as well as state and local officials who have labored to learn and abide by the current system's protocols. Congress would be required to provide significant legislation to re-define roles, responsibilities, and authorities, to include statutory authority and funding. Additionally, separating FEMA from DHS would result in an unknown increase of the federal budget to re-create separate governmental administration systems.

- *Psychological.* If FEMA were to be removed from DHS, staff in both agencies would likely feel the strain from yet another reorganization.¹⁸ Many feel that FEMA is finally a core component of DHS and any changes would crystallize the perception that FEMA is in a never ending state of flux.
- *Readiness.* The consequence of extracting FEMA from DHS could be a lower level of national readiness to respond to disaster.¹⁹ Instead of focusing on current disasters and preparing for future ones, the agency would instead be hobbled with required statutory, policy, budgetary and other bureaucratic manifestations of a reorganization.

Looking Ahead: A New and Improved FEMA?

There is little controversy over the fact that since Katrina, FEMA has demonstrated substantial progress. The challenge for those on both sides of the debate will be to demonstrate that this progress will not be lost, benefits will be realized and that opportunity costs will not outweigh the benefits.

Whether FEMA stays in DHS or becomes independent, policymakers should clearly articulate FEMA's role. For example, FEMA is currently configured as a support and coordination entity for state and local governments, but the public often believes that the organization alone is capable of providing substantial "boots on the ground." Policymakers must either confront the reality that FEMA is a disaster coordinator and appropriately manage the public's expectations, or invest substantial resources to provide significant capabilities to FEMA. Such a discussion could take place during the upcoming Quadrennial Homeland Security Review.

¹⁶ In just one example, the Federal Emergency Management Agency (FEMA) worked effectively with another Department of Homeland Security (DHS) agency, Customs and Border Protection Agency, which provided a "real-time streaming aerial video of damaged levees, roads, bridges and oil terminals over a secure Internet feed to 1,200 personnel from multiple federal agencies who worked ... at the Federal Emergency Management Agency's joint field office. Federal officials in Washington, as well as state and local officials throughout Louisiana, could access the feed." Brewin, Bob, "Customs and Border Protection Lends Aerial Vehicle for Hurricane Damage Assessment," *Next Gov.Com* (September 5, 2008), online at: http://www.nextgov.com/nextgov/ng_20080905_9890.php (accessed January 12, 2009).

¹⁷ See, P.L. 109-295, § 611(11), new HSA Sec. 503(c)(4)(A), 120 Stat. 1397, online at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ295.109.pdf (accessed January 12, 2009).

¹⁸ See, Baker-McNeil, Jena, "Cabinet-level FEMA Not Needed," *The Heritage Foundation Web-Memo #2153* (December 4, 2008), online at: <http://www.heritage.org/Research/HomelandSecurity/wm2153.cfm> (accessed January 12, 2009).

¹⁹ Grorud, Larry J., Harold A. Schaitberger, and William Jenaway, "Letter to President-elect Obama," Congressional Fire Service Institute (December 22, 2008), online at: http://www.iafc.org/associations/4685/files/ntlRegResp-gr_IAFC-IAFF-CFSI-081222-LtrToPresElectObamaReFEMA.pdf (accessed January 12, 2009).

If policymakers decide FEMA should remain within DHS, DHS leadership must be able to demonstrate that FEMA will remain a priority for the department and not succumb to bureaucratic atrophy. And if the decision is to make FEMA an independent agency, great care must be taken to divide roles and responsibilities between and among DHS and FEMA, while ensuring that operational readiness is not compromised.

Disasters don't halt for bureaucratic reshuffling. As in the past, the "problem is not one of organizational design – the requisite policy and law exists. The challenge is one of management and leadership. The future leadership of FEMA must understand that they are part of an all hazards preparedness team – that response and recovery complement preparedness and protection."²⁰ For FEMA to succeed within or outside of DHS, the mission must be clear, and leadership at all levels must embrace it.

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²⁰Cilluffo, Frank J., "Hurricane Katrina: Recommendations for Reform," testimony before the Homeland Security and Government Affairs Committee, U.S. Senate (March 8, 2006), online at: http://www.gwumc.edu/hspi/congress/March8_06.htm (accessed January 12, 2009).