United States General Accounting Office

GAO

Report to the Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations, U.S. Senate

August 2001

# DISASTER ASSISTANCE

# Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures

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Accountability * Integrity * Reliability

GAO-01-837

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**Abbreviations**

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| FEMA | Federal Emergency Management Agency |
| NEMIS | National Emergency Management Information System |

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Accountability * Integrity * Reliability
**United States General Accounting Office**
**Washington, DC 20548**

August 31, 2001

The Honorable Barbara A. Mikulski
Chair
The Honorable Christopher S. Bond
Ranking Minority Member
Subcommittee on VA, HUD, and
Independent Agencies
Committee on Appropriations
United States Senate

Since 1990, FEMA has expended over $27 billion in disaster assistance, over half of which was spent for Public Assistance projects such as repairs of roads, government buildings, utilities, and hospitals damaged in declared disasters. FEMA has established criteria that it uses to determine whether to (1) recommend that the President declare a disaster and, once a disaster has been declared, (2) approve and fund Public Assistance projects. However, over the past decade, the President, the Congress, FEMA's Inspector General, and GAO have expressed concerns over the adequacy and application of these criteria. As the President noted in his fiscal year 2002 budget proposal, the lack of clear and meaningful criteria for recommending disaster declarations puts FEMA at risk of providing federal funds to some states that do not need assistance, while ignoring the legitimate needs of others.

This Committee asked us to review FEMA's processes for recommending a disaster declaration and for ensuring that only eligible Public Assistance projects are funded.

As agreed with your offices, this report assesses (1) the adequacy of the current criteria used to determine whether a disaster exceeds state or local capability to respond effectively and a presidential disaster declaration should therefore be recommended and (2) the progress FEMA has made in ensuring that only eligible projects within a declared disaster area are funded. FEMA provides disaster assistance grants through its Public Assistance, Hazard Mitigation, and Individual Assistance programs. This report focuses on the Public Assistance program because it provides the most funding for disaster assistance. To assess the adequacy of the criteria FEMA uses to recommend a presidential disaster declaration, we analyzed available data on damage estimates to determine whether disasters met the statewide financial criteria for recommending a disaster declaration and estimated how the use of other financial measures of state fiscal capacity would affect declaration recommendations. We also examined applicable laws, regulations, and past reports by GAO, FEMA's Inspector General, and others. To determine whether FEMA's procedures ensure that projects meet eligibility requirements, we interviewed agency officials and reviewed relevant documentation and data from the agency's National Emergency Management Information System (NEMIS). Our scope and methodology are described further starting on page 23 of this report.

## Results in Brief

The Stafford Act (P. L. 93-288) requires a finding that conditions are beyond state and local capability to respond effectively before major disaster assistance from the federal government is warranted. The law, however, specifically prohibits FEMA from denying federal assistance "solely by virtue of an arithmetic formula or sliding scale based on income or population."[1] In 1999, FEMA published formal criteria for recommending presidential approval of disaster declarations. These criteria include both minimum financial thresholds and other qualitative measures that FEMA applies in deciding whether to recommend presidential approval. Under its current financial thresholds, FEMA can recommend a disaster declaration if preliminary estimates of the damage exceed $1.04 per capita statewide and $1 million in total. FEMA's other criteria include qualitative factors such as the heavy impact of a disaster on a particular area or the occurrence of recent multiple disasters in the same area. These criteria are not necessarily indicative of a state's ability to pay for the damage because they do not consider the substantial differences in states' financial capacities to respond when disasters occur. As a result, federal funds may be provided for some disasters when they are not needed—a result that would be inconsistent with the Stafford Act's intent.

While FEMA has made substantial progress in developing clear criteria for determining individual projects' eligibility, problems with applying the criteria remain. In part, these problems may persist because many of the staff assigned to disaster field offices who make eligibility decisions are temporary and may not have the skills and training needed to make appropriate decisions. FEMA has developed a credentialing program to establish qualifications and training requirements for these staff but has not implemented this program. According to FEMA officials, budgetary

[1] 42 U.S.C. 5163.

and programmatic factors have delayed implementation. In addition, FEMA's review process does not ensure that all projects are reviewed by the most knowledgeable officials. FEMA also lacks centralized, quantified information that would be useful for managing the Public Assistance program. Its information system—essentially an electronic filing cabinet—stores information project by project and does not provide effectively for programwide analysis. Furthermore, according to FEMA officials, the system is unreliable and difficult to use. As a result, data are lost or never entered. FEMA's reliance on temporary staff who often lack experience with the system or training in its use may exacerbate these problems.

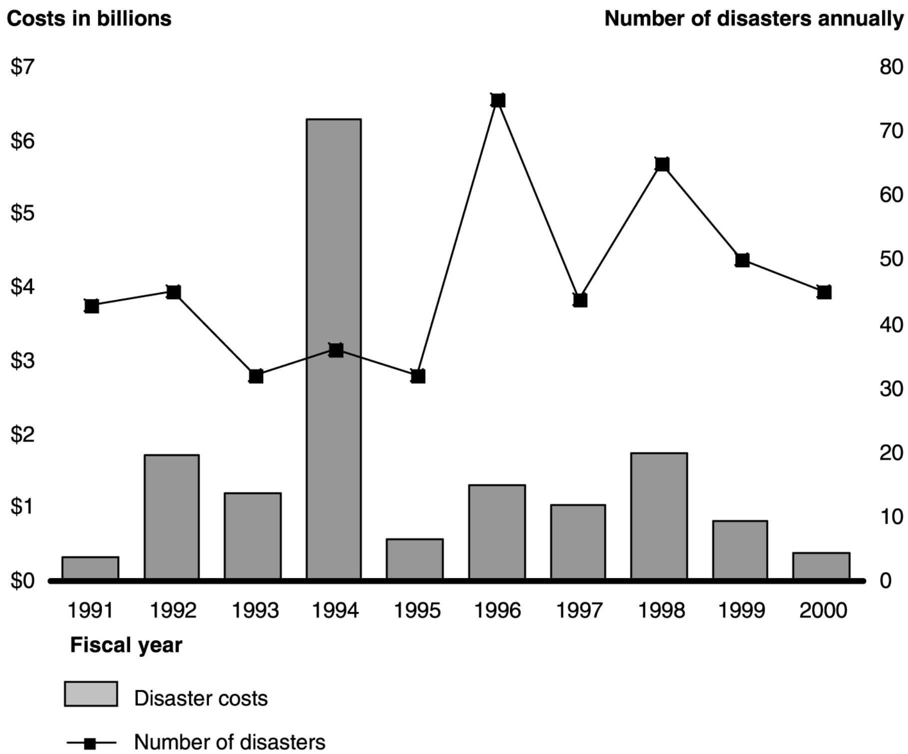
We are recommending actions designed to improve FEMA assessment of state or local capability to respond to a disaster and to ensure the appropriate application of project eligibility criteria within FEMA's Public Assistance program. These actions include (1) developing criteria that more accurately reflect the affected state and local governments' capability to respond to a disaster, (2) improving the processes for reviewing proposed disaster projects to better ensure they meet eligibility requirements, (3) assigning a higher budget priority to implementing a credentialing and training program for federal disaster staff, and (4) establishing a plan to identify recurring problems and take appropriate actions.

FEMA found our observations about the disaster declaration process timely and valuable for its review of disaster declaration criteria. The agency also stated that its current procedures were designed to ensure appropriate review and validation of proposed projects for eligibility considerations. While we acknowledge the intent of these procedures, our review found areas where the procedures did not always accomplish their intent.

## Background

Over the last several years, the Congress has expressed concern over the number and costs of disaster declarations. GAO has also identified the cost of disaster assistance as one of FEMA's major management challenges. Figure 1 depicts the number of major disasters declared since fiscal year 1991 and FEMA's share of the Public Assistance program costs for projects associated with them.

**Figure 1: Presidential Disaster Declarations and FEMA's Public Assistance Costs, Fiscal Years 1991-2000**




Note: The costs shown are the Public Assistance funding provided to states for completed projects and for incomplete projects whose costs have been estimated. Dollars are adjusted for inflation. Approximately $4.6 billion in fiscal year 1994 is attributable to the Northridge, California, earthquake.

Source: FEMA's Office of Financial Management (as of May 31, 2001).

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), as amended,[2] establishes the process for states to request a presidential disaster declaration. The Stafford Act requires that "requests for a declaration by the President that a major disaster or emergency exists shall be made by the Governor of the affected state."[3] As part of the request to the President, a governor must affirm that the state's emergency

[2] 42 U.S.C., 5121 *et seq.*

[3] A state also includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

plan has been implemented[4] and the situation is 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."[5]

Before a governor asks for disaster assistance, federal, state, and local officials normally conduct a joint preliminary damage assessment. FEMA is responsible for recommending to the President whether to declare a disaster and trigger the availability of funds as provided for in the Stafford Act. FEMA uses the damage assessment data in preparing its recommendation to the President.[6] When an obviously severe or catastrophic event occurs, a disaster may be declared before the preliminary damage assessment is completed.

In response to a governor's request, the President may declare that a major disaster or emergency exists.[7] This declaration activates numerous assistance programs from FEMA and may also trigger programs operated by other federal agencies, such as the Departments of Agriculture and Labor, the Federal Highway Administration, the Small Business Administration, and the U.S. Army Corps of Engineers, to assist a state in its response and recovery efforts.[8] The federal disaster assistance provided

[4]Under terms of the Stafford Act, to be eligible for disaster assistance, each state must have submitted a plan that sets forth "a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters," including provisions for assisting individuals, businesses, and local governments, as well as for training emergency staff and establishing necessary regulations and procedures. (42 U.S.C. sec. 5131.)

[5]42 U.S.C. sec. 5170.

[6]FEMA also uses the data from the damage assessment to determine what resources are necessary to respond to the disaster, including the personnel required to staff FEMA's disaster field offices and the resources needed from other federal agencies involved in the disaster response.

[7]If the President declares an emergency, rather than a major disaster, the federal response is limited to the immediate and short-term assistance that is necessary to save lives, protect property and public health and safety, or lessen or avert the threat of a catastrophe. FEMA's expenditures may not exceed $5 million under an emergency declaration, unless the Congress is notified of the nature and extent of the assistance requirements. Approximately seven emergencies, averaging about $7 million, have been declared annually over the past decade. Our focus is on disaster, not emergency, declarations.

[8]Some agencies, including the Department of Agriculture, the Small Business Administration, and the Federal Highway Administration, have the authority to initiate certain emergency assistance efforts without a presidential disaster declaration.

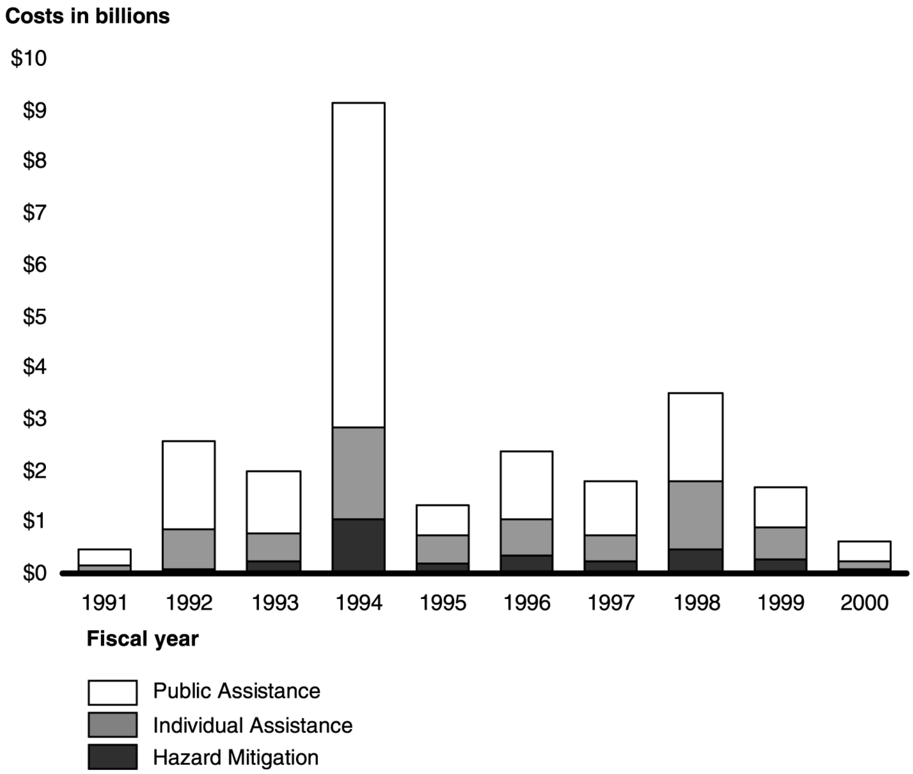
under a major disaster declaration has no dollar limit. FEMA provides assistance through one or more of the following grant programs:

- Public Assistance provides aid to state government agencies; local governments; Indian tribes, authorized tribal organizations, and Alaskan Native villages; and private nonprofit organizations or institutions that provide certain services otherwise performed by a government agency. Assistance is provided for projects such as debris removal, emergency protective measures to preserve life and property, and repair and replacement of damaged structures, such as buildings, utilities, roads and bridges, recreational facilities, and water-control facilities (e.g., dikes and levees).
- Individual Assistance provides for the necessary expenses and serious needs of disaster victims that cannot be met through insurance or low-interest Small Business Administration loans. FEMA provides temporary housing assistance to individuals whose homes are unlivable because of a disaster. Other available services include crisis counseling to help relieve any grieving, stress, or mental health problems caused or aggravated by the disaster or its aftermath. FEMA provides unemployment compensation and can cover a percentage of the medical, dental, and funeral expenses that are incurred as a result of a disaster.
- The Hazard Mitigation Program provides additional funding (currently up to 15 percent of total federal aid for recovery from the disaster)[9] to states to assist communities in implementing long-term measures to help reduce the potential risk of future damages to facilities.

Figure 2 shows the obligations for each of these three general programs for fiscal years 1991 through 2000. As this figure indicates, the Public Assistance program is the largest of the three grant categories, in terms of dollars expended.

[9]Under recent amendments to the Stafford Act, funding for mitigation can be increased to 20 percent for states that meet enhanced planning criteria. FEMA is currently developing regulations to implement this provision.

Figure 2: Total Costs for the Public Assistance, Individual Assistance, and Hazard Mitigation Programs for Presidential Disaster Declarations, Fiscal Years 1991-2000.




Note: The costs shown are the Public Assistance funding provided to states for completed projects and for incomplete projects whose costs have been estimated. Dollars are adjusted for inflation. Approximately $4.6 billion in fiscal year 1994 is attributable to the Northridge, California, earthquake.

Source: FEMA's Office of Financial Management (as of May 31, 2001).

Not all programs are activated for every disaster. The determination to activate a program is based on the needs identified during the joint preliminary damage assessment. For instance, some declarations may provide only Individual Assistance grants and others only Public Assistance grants. Hazard Mitigation grants, on the other hand, are available for most declarations.

In addition to its central role in recommending to the President whether to declare a disaster, FEMA has primary responsibility for coordinating the federal response when a disaster is declared. Typically, this response consists of providing grants to assist state and local governments and certain private nonprofit organizations to alleviate the damage resulting from such disasters. Once a federal disaster is declared, FEMA usually establishes a field office at or near the disaster site. This office is generally staffed with a crew of permanent, full-time FEMA employees; a cadre of temporary reserve staff, also referred to as disaster assistance employees; and the state's emergency management personnel. Damage estimates for each project, known as project worksheets, can be prepared either by FEMA staff or by personnel from applicants, such as state agencies, communities and certain nonprofit organizations. Full-time FEMA staff then review these project worksheets for final approval.

To facilitate their review, approval, and funding, projects are divided into two groups. Projects are considered small if their estimated cost does not exceed $50,600.[10] If a FEMA employee or state representative prepares a worksheet for a small project and it passes all appropriate reviews, it is funded according to its estimated costs. However, if an applicant prepares a project worksheet, FEMA or state officials may verify the accuracy of the claims by validating the project's cost and eligibility.[11] Typically, officials validate a sample of an applicant's small projects before approving the funding for them. Large disaster projects, whose estimated costs exceed $50,600, are funded incrementally as work on each phase is completed. In all cases, the states, as the grantees, are responsible for disbursing FEMA funds to the applicants and for certifying that all costs were appropriate and that work on the project was completed in accordance with the approved project estimates.

The Stafford Act sets the federal share for the Public Assistance program at no less than 75 percent of eligible costs of a disaster. The President can increase the federal share for the Public Assistance program if it is determined that the disaster costs greatly exceed a state's financial capabilities. The federal share can sometimes reach 100 percent for emergency work, for limited periods, if it is deemed necessary to prevent further damage, protect human lives, or both. FEMA officials indicated they are reluctant to recommend a 100-percent federal share for projects because this percentage provides no incentives for the states to control costs.

[10]This value applies to projects funded in fiscal year 2001. It is adjusted for inflation annually.

[11]An applicant may be a local municipality, state agency, public utility, or certain private nonprofit entities within designated counties or equivalent official boundaries of the state.

To better use disaster resources and devolve major management responsibility for the Public Assistance program to the states, the Director of FEMA implemented a pilot project in 2000 to allow those states that have the capability to do so to manage the Public Assistance segment of their own small disasters.[12] Under this Public Assistance pilot project, the states and affected communities make all project eligibility determinations and ensure that all disaster projects comply with current codes and standards, as well as with federal laws, regulations, and FEMA policies. To participate in this pilot project, a state must, in FEMA's view, be capable of managing its own disaster recovery program, have a sound financial accounting system to track disaster projects, and enter into an operational agreement with FEMA that defines its roles and responsibilities.[13]

## Criteria for Assessing State and Local Response Capability Do Not Adequately Reflect Capacity

In 1999, FEMA published its criteria for evaluating a governor's request for a disaster declaration. For the Public Assistance program, FEMA identified two specific financial thresholds, as well as several other less specific criteria, such as severe local impact, previous actions taken that helped mitigate the disaster damages, and the overall impact of multiple recent disasters in the state. Any or all of these, as well as "other relevant information," can be used to determine whether a disaster declaration should be recommended under the Public Assistance program.

### FEMA's Financial Thresholds Are Poor Proxies for a State's Fiscal Capacity

FEMA's explicit financial thresholds are less accurate measures of a state's true ability to respond effectively to a disaster than other available financial measures. In responding to congressional interest in more objective disaster declaration criteria, FEMA set two financial thresholds to be considered in evaluating when a disaster has exceeded a state's capacity to respond without federal assistance. First, it estimates the per-capita impact of the disaster damages in the state through the preliminary damage assessment process. In 1999, FEMA set a figure of $1.00 per capita as a critical threshold that might warrant federal assistance. This figure, which is currently $1.04, is adjusted annually for inflation. Secondly, it set

[12]Small disasters are defined as those whose estimated infrastructure damages do not exceed an estimate of $15 million (Public Assistance projects) and do not exceed $2 per capita statewide.

[13]As of May 2001, three states were participating in the pilot project: Florida, Arizona, and Oklahoma.

a $1 million threshold for statewide Public Assistance damages. This threshold, however, is not adjusted for inflation.

## FEMA's Development of the Per-Capita Criterion

In 1986, FEMA proposed the $1.00-per-capita threshold as a means of gauging state fiscal capacity. The measure was based on the 1983 per-capita personal income nationwide, then estimated at $11,667. FEMA thought it reasonable "that a State would be capable of providing $1.00 for each resident of that State to cover the costs of State efforts to alleviate the damage which results from a disaster situation," inasmuch as this amount was roughly equivalent to 0.1 percent of estimated General Fund expenditures by states.[14] FEMA proposed to adjust this figure each year by the ratio of each state's personal income to the nationwide average, thus making it more sensitive to interstate differences over time. This proposal met with opposition from state and local officials and resulted in a provision in the Stafford Act that prohibited denying federal disaster assistance "solely by virtue of an arithmetic formula or sliding scale based on income or population."[15] Nevertheless, the unadjusted $1.00-per-capita threshold continued to be used informally as part of FEMA's preliminary damage assessment efforts.

In 1998, FEMA submitted a concept paper for consideration by state emergency managers. In the paper, the agency recommended that the per-capita threshold be set at $1.51. This figure accounted for inflation since 1986, but was no longer linked to average state tax expenditures as the 1986 threshold had been. In response to comments from state emergency management officials, FEMA used the $1.00-per-capita threshold when it published its formal criteria in 1999. It further provided that adjustments based on annual inflation be made and applied uniformly to states.

## Measures of State Capability

A state's capacity to respond to a disaster using state resources depends on several factors, the most important of which is perhaps the underlying strength of the state's tax base and whether that base is expanding or in decline. A state's tax base represents the resource base against which it can draw to fund its public services needs, including the necessary repairs that arise in the wake of a disaster. An expanding economy also provides more potential revenues than one that is flat or in decline.

[14] 51 Fed. Reg. 75, p. 13333 (4/18/86).

[15] 42 U.S.C. 5163.

A readily available indicator of states' funding capacities and one commonly used in many formula grant programs is state per-capita personal income. Per-capita income provides a quantitative measure of income received by state residents. As such it provides a reasonable starting point for gauging a state's capacity to bear the burden of making the necessary repairs in the aftermath of a major disaster. Per-capita personal income is commonly used in federal grant programs as a basis for sharing program costs between states and the federal government.

Better measures of a state's fiscal capacity, however, exist. Per-capita personal income, while providing a reasonable indication of state funding capacity, has a number of defects as well. In the past, we have found per-capita income to be a relatively poor indicator of a state's fiscal capacity because it does not comprehensively measure income potentially subject to state taxation. For example, it does not include income produced in a state unless it is received as income by a state resident. Thus, profits retained by corporations for business investment, though potentially subject to state taxation, are not included in a state per-capita income measure because they do not represent income received by state residents. We have previously reported that Total Taxable Resources (TTR), a measure developed by the U. S. Department of the Treasury, is a better measure of state funding capacity in that it provides a more comprehensive measure of the resources that are potentially subject to state taxation.[16] For example, TTR includes much of the business income that does not become part of the income flow to state residents, undistributed corporate profits, and rents and interest payments made by businesses to out-of-state stock owners. This more comprehensive indicator of state funding capacity is currently used to target federal aid to low-capacity states under the Substance Abuse and Mental Health Service Administration's block grant programs.[17] In the case of FEMA's Public Assistance program, adjustments for TTR in setting the threshold for a disaster declaration would result in a more realistic estimate of a state's ability to respond to a disaster. If, instead of setting a uniform $1.00-per-capita threshold, FEMA had set the average threshold at $1.00 but allowed

[16]See, for example, *Federal Grants: Design Improvements Could Help Federal Resources Go Further* (GAO/AIMD-97-7, Dec. 18, 1996).

[17]42 U.S.C. 300x-33; 42 U.S.C. 300x-7. In its 1986 notice of proposed rulemaking, FEMA acknowledged that TTR "may well provide an improved method of determining State capability in the future," but was under review. Thus FEMA considered it too early to judge its appropriateness.

it to vary according to state TTR estimates, the Tennessee threshold, for example, would have been $0.88 in 1998,[18] while Washington State's would have been $1.05 per capita.

TTR also has the advantage of providing a more sensitive adjustment for growth over time in a state's fiscal capacity than does adjustment for inflation based on personal income. For example, TTR in the United States is estimated to have grown from $4.4 trillion in 1986 to $9.9 trillion in 1998. If the $1.00-per-capita threshold proposed in 1986 had been adjusted at this rate in 1998, the financial threshold would have been $2.24 per capita (rather than the $1.51 inflation-adjusted figure proposed by FEMA and the $1.04 threshold currently in effect). Furthermore, since TTR provides estimates of each state's fiscal capacity, adjustments for TTR growth would vary by state. For example, if adjusted for the TTR growth rates from 1986 to 1998, the financial threshold for disaster declarations in Tennessee would be $2.35 per capita, and in Washington State would be $2.65 per capita.

We believe that implementing TTR would not be a violation of the statutory prohibition against basing aid solely on an arithmetic formula or sliding scale based on income or population. Rather, TTR provides a more refined measure of a state's capacity to respond to a disaster than FEMA's existing $1.04-per-capita measure. It is our expectation that FEMA would continue to take into account several criteria in deciding, for any given incident, whether to recommend a disaster declaration to the President. When FEMA published its declaration criteria in 1999, it maintained that the $1.00-per-capita measure was not a violation of the statutory prohibition because the agency examines all the other listed criteria when it decides whether to recommend a disaster declaration. We agree and believe that the use of TTR or some other more sensitive measure in place of the per-capita measure, together with other criteria such as those identified in the regulations, would be consistent with the statute.

## Statewide Damage Criterion

In its 1999 regulations, FEMA established a second quantitative measure of a state's ability to respond to disasters. The agency set a $1 million statewide damage criterion as an indicator that disaster damages might require federal assistance. As a rationale for setting this threshold, FEMA cited its "belief that we can reasonably expect even the lowest population

[18] 1998 is the latest year for which TTR estimates are currently available.

states to cover this level of public assistance damage."[19] In effect, this criterion set the per-capita threshold at greater than $1.00 for those seven states with populations under 1 million. FEMA also made no provisions to adjust this threshold for future inflation.

## FEMA's Other Qualitative Criteria and Their Impact on Decisions

In its 1999 regulations, FEMA identified five other factors that it considers in evaluating a governor's request for a Public Assistance disaster declaration:

- ***Localized impacts***. FEMA considers the extent to which damages are concentrated heavily at the county or local government level even if the statewide per-capita criterion is not met. According to FEMA, this consideration is particularly relevant where critical facilities are involved or where localized per-capita damages might be "extremely high." FEMA offers no specific threshold for localized per-capita impact but remarks that the agency has seen damages "in the tens or even hundreds of dollars per capita" in situations where the statewide per-capita threshold was not met.
- ***Insurance coverage in force***. FEMA reduces the grant by the amount of insurance coverage that "is in force or should have been in force as required by law or regulation" when the disaster occurred. As discussed in appendix I, insurance coverage for Public Assistance grants is currently only a postdisaster condition of receiving a grant; that is, if grant recipients do not currently have insurance, they must agree to procure it as a condition of receiving federal assistance. FEMA is now attempting to define a minimum level of insurance coverage that would be reasonable to require public entities to maintain in order to be eligible for public assistance.[20] The issue is still under review.
- ***Hazard mitigation***. FEMA attempts to encourage mitigation efforts to avert or reduce damages from future disasters by explicitly considering previous mitigation efforts that may have reduced the damages from the current disaster. FEMA suggests that a state that has made such efforts in the past is more likely to receive disaster assistance when the estimated Public Assistance damages fall below the per-capita criterion.

[19] 44 C.F.R. 206.48.

[20] FEMA published an advanced notice of proposed rulemaking soliciting comments on options to address insurance issues in the Public Assistance program on February 23, 2000 (65 *Fed. Reg.* 36, 8927-8931). It published a summary of the comments it received on October 2, 2000 (65 *Fed. Reg.* 191, 58720-58721).

- ***Recent multiple disasters***. In evaluating a governor's request for assistance, FEMA also considers the cumulative impact that disasters in the previous 12 months may have had on the state's or locality's ability to respond effectively. FEMA includes both Stafford Act and state-declared disasters and the extent to which the state has spent its own funds.
- ***Other federal assistance programs***. FEMA also considers other federal sources of disaster relief that might more appropriately meet the needs created by the disaster. Disaster relief in various forms is also available under the programs of a number of federal agencies, including the Federal Highway Administration, the Department of Agriculture, and the Small Business Administration.[21]

A disaster declaration can be recommended on the basis of any of these criteria, as well as of "other relevant," but unspecified, information.

We analyzed the 79 major presidential disaster declarations that were issued in the 2 years since FEMA published its revised regulations and in which Public Assistance grants were made available.[22] Sixty of those disaster declarations—about 76 percent—met the statewide per-capita dollar thresholds for a presidential disaster declaration; in all but four cases the damages were estimated to be greater than $1 million.[23] However, some disasters were declared when the per-capita damage was substantially less than $1. In one case, FEMA cited significant localized impact as the reason for recommending a disaster declaration when the preliminary estimates indicated a statewide per-capita cost of $0.17. In another case, the state had incurred damages amounting to $0.12 per capita, but the declaration was based on the occurrence of several earlier disasters. These declarations may well have been justified in the circumstances peculiar to these disasters and consistent with existing regulations. However, they illustrate the latitude afforded FEMA by its subjective and nonspecific criteria for determining whether an effective

[21]While FEMA may consider this factor in evaluating a request, it has not always adhered to it in funding individual projects. FEMA's Inspector General has found a number of instances in which assistance provided by FEMA would have been more appropriately provided by a different federal agency or the same assistance was provided by both. See *Review of Governors' Disaster Requests* (I-02-99, Mar. 22, 1999).

[22]There were 93 major presidential disaster declarations in fiscal years 1999 and 2000; of those, 14 declarations were for Individual Assistance only.

[23]Two of the cases with damages below $1 million met the per-capita threshold.

response to a disaster is beyond the capabilities of the state and the affected local governments.[24]

Our finding that 76 percent of disasters declared in 1999 and 2000 met the $1.00 per-capita criterion may reflect some improvement over the earlier findings of FEMA's Inspector General. (See app. I.) In 1999 the Inspector General reported that only 60 percent of disasters from 1988 through 1998 met this criterion. This change may be attributable to FEMA's 1999 publication of formal declaration criteria. However, because disasters are extremely variable in their occurrence and severity and our available sample was restricted to a 2-year period, such attribution may be premature.

## FEMA Has Developed Criteria to Better Ensure Project Eligibility, but Some Implementation Problems Remain

Our May 1996 report on FEMA's Public Assistance program identified many weaknesses and made several recommendations to strengthen the program, especially its processes for determining project eligibility.[25] In addition, FEMA's Office of Inspector General noted weaknesses in FEMA's ability to establish project eligibility. Those reports also noted that, in addition to having accurate, useful, and readily available policies and procedures, FEMA employees—especially temporary employees—should receive training in the appropriate application of the latest policies and information systems. To address these problems, FEMA redesigned the Public Assistance program and implemented the changes in October 1998. As part of this redesign, FEMA developed and disseminated numerous regulations, policies, procedures, user manuals, and guides. FEMA also developed a new training curriculum for its permanent and temporary staff.

While there is evidence that staff regularly use the new policies and procedures, some eligibility problems persist. These may in part be due to the lack of a formal credentialing mechanism to ensure that staff authorized to review and approve Public Assistance projects or obligate federal funds have received adequate training. The recent emphasis on devolving the management of small disasters from FEMA to the states increases the importance of FEMA's processes and controls over disaster

[24] 42 U.S.C. sec. 5170.

[25] *Disaster Assistance: Improvements Needed in Determining Eligibility for Public Assistance* (GAO/RCED-96-113, May 23, 1996).

projects to help ensure that they meet eligibility criteria and federal funds are spent efficiently and effectively.

## FEMA Has Developed Eligibility Policies and Disseminated Them to Field Staff

Our 1996 report noted the need for clearer eligibility criteria to improve the accuracy and consistency of eligibility determinations for individual projects once a disaster has been declared. It stated that “FEMA officials may have to make subjective judgments because the criteria lack specificity and/or concrete examples.” For example, officials at FEMA’s regional offices noted problems in “determining the standards (building codes) that are applicable to repair/restoration work,” a process that affects decisions on whether a facility should be repaired or replaced. Our report also stated that the criteria had not been systematically updated and disseminated and that some decisions were unofficial and unwritten. We concluded that clearer criteria were essential because FEMA relies on temporary personnel with limited training to prepare its project worksheets. Furthermore, as the magnitude of disaster damage increased, it was more likely that FEMA would have to call on additional, possibly less thoroughly trained, temporary employees, who were likely to be less familiar with the eligibility rules and regulations.

When FEMA redesigned its Public Assistance program, it addressed the identified shortcomings by revising or developing its program guidance, which included policies, standard operating procedures, handbooks, guides, digests, and fact sheets. FEMA has developed or revised Public Assistance policies in 35 areas or topics since the program’s redesign in 1998. The new and revised publications were distributed to FEMA’s regional offices to make them available to the personnel staffing disaster field offices. In addition, FEMA placed the documents on its Web site for easy access. These publications include (1) an easy-to-read summary of program policies; (2) a guide describing the provision and application of procedures for program grants and an index of relevant portions of pertinent regulations and legislation; (3) an applicant handbook containing questions and answers on how to apply for a program grant; and (4) a guide for planning, mobilizing, and controlling large-scale debris clearance and disposal operations.

To document its business processes and ensure that all personnel are familiar with its current doctrine, FEMA has continually reviewed and, as necessary, revised its standard operating procedures. FEMA’s Web site lists these procedures and, in some cases, provides details on them. For example, at the time of our review, the Web site contained procedures on (1) the roles and responsibilities of a Public Assistance Coordinator, (2) how to conduct a kickoff meeting, (3) the process for project formulation, (4) the procedures used to validate small projects, (5) immediate needs funding, and (6) how to use the cost-estimating format for large projects.

According to the FEMA staff we contacted, those tools are used and viewed as useful in every field office. Several regional managers said they had noticed an increased reliance on this guidance and a corresponding decrease in the tendency of employees to "shoot from the hip" when deciding on a project's eligibility under the Public Assistance program.

While FEMA has taken actions to address the issues identified in our 1996 report, FEMA officials believe that congressional direction would be needed for the agency to change two policies our 1996 report questioned. These include eliminating the eligibility for (1) revenue-generating nonprofit organizations, (2) facilities not actively used to deliver government services, (3) postdisaster beach renourishment, as well as increasing the damage threshold for replacing a facility.[26]

## Despite Improved Criteria, Project Eligibility Problems Still Exist

Despite the efforts that FEMA has made to improve its criteria, eligibility problems persist. FEMA's Office of Inspector General audits a sample of disaster assistance recipients each year. We reviewed the 281 audits conducted during fiscal years 1998 through 2000 that involved Public Assistance grants. These audits found 226 cases of ineligible or questionable claims. In nearly half of these cases, the Inspector General found that FEMA had paid duplicate claims for reimbursement for disaster projects or claims for reimbursement for projects that should have been funded by another agency.[27] For example, some of the costs for disaster projects were found to be already covered by a private or government insurance policy or the costs were covered under programs managed by other federal agencies, such as the Federal Highway Administration. The persistence of these problems may in part be due to uneven staff training, the use of a nonformal process to review proposed projects, the inadequate or untimely review of completed projects, and the use of a

[26]FEMA will now pay to replace rather than repair buildings if the repair costs would be more than 50 percent of the estimated replacement cost.

[27]FEMA requires grantees to maintain their records for 3 years following the closeout of a disaster in order to facilitate any audits or reviews of project files. Most of the financial audits we reviewed were of projects that were completed prior to the 1999 revisions to the Public Assistance program.

management information system that makes reviews of programwide effectiveness difficult.

## FEMA Staff May Not Receive Critical Training

FEMA recognizes the need to ensure that its employees, particularly the temporary reserve staff in its disaster field offices, receive training in the appropriate application of the latest policies and information systems. To meet this need, the agency designed a credentialing program with minimum standards for the disaster personnel who make program and cost eligibility decisions that obligate federal funds for disaster projects. However, it has not implemented the program. In addition, according to FEMA officials, the agency does not have a single system that maintains up-to-date information on the training and work experiences of its disaster staff.

In fiscal year 1999, FEMA developed a comprehensive credentialing plan that provided a framework for evaluating the knowledge, skills, and abilities of its staff—including its permanent full-time employees as well as its temporary Disaster Assistance Employees—who are deployed during a disaster. FEMA expected that this plan would ensure that its employees would have the basic qualifications to perform their jobs and would make Public Assistance managers, applicants, and the public more confident about their performance in the field. According to FEMA officials, although the credentialing program was formulated, it has not been implemented because of budget constraints and programmatic issues that need to be resolved, such as the number of job proficiency levels within job titles.

FEMA offers training for its Public Assistance staff at its Emergency Management Institute in Emmitsburg, Maryland. FEMA also offers to conduct training at a field office at the start of its disaster response effort. The Public Assistance budget for training has decreased from about $1.9 million for fiscal year 1999 to $725,000 for fiscal year 2001. In our review of several FEMA internal studies of the operations of individual disaster field offices during 1999 and 2000, we noted that field office training either was not timely or was not offered at all. Because the majority of disaster personnel are temporary reserve staff, providing training at a field office is the only viable means to train them.

According to FEMA officials, the agency currently does not have a single system that maintains up-to-date information on the training and work experiences of its disaster staff. For example, according to available data on formal training, only 20 percent of the staff have received training on

NEMIS—the management information system staff are expected to use to document disaster projects—and only one region had over half of its staff trained to use the system. Agency officials told us that this measure does not capture the informal training that disaster staff receive in briefings, refresher courses, and condensed courses while at the disaster field office. Nevertheless, without implementing a comprehensive credentialing plan that tracks the training and experience of its employees, FEMA cannot ensure that all of its disaster personnel are appropriately prepared to make project eligibility determinations.

## FEMA Lacks a Formal Process for Reviewing Project Worksheets

FEMA has not established a formal process for reviewing project worksheets to ensure that special considerations—such as environmental or historic issues, insurance coverage, or flood control—are addressed before the worksheets are approved. Although the agency has established procedures for applicants or FEMA staff to prepare the worksheets, it has left the review process up to the judgment of the FEMA staff in charge. According to a FEMA official, the agency has not formalized the review process because it wants to avoid a time-consuming sequence of reviews and fund projects as quickly as possible. We agree that eligible projects should be funded quickly, but some controls are necessary to ensure that proposed projects meet FEMA's eligibility criteria and their associated costs are reasonable. During our review of project worksheets for a disaster in Nevada, we found that most of those for flood control projects had not been reviewed by a specialist on contract from the Army Corps of Engineers for that purpose. As a result, FEMA had no assurance that the proposed projects should be funded by FEMA instead of being referred to the U.S. Army Corps of Engineers. FEMA's efforts to encourage more applicants to prepare their own project worksheets increase the importance of a systematic review process to ensure that proposed projects meet the agency's criteria for eligibility and cost reasonableness before federal funds are obligated.

## Validation and Certification of Public Assistance Projects Can Be Perfunctory or Untimely

We found that small disaster projects do not always receive appropriate and timely validation of their estimated costs and that large projects are frequently not certified upon completion. Over 83 percent of Public Assistance projects are considered to be small projects and have been funded solely on the basis of their initial cost estimates. That funding is fixed, regardless of the final cost the applicant actually incurs. FEMA reserves the right to validate 20 percent of an applicant's small projects to ensure that all costs are eligible and reasonable. In our file reviews, however, we found little evidence of small project validations by FEMA staff.

FEMA relies on the states to review completed large projects (those exceeding $50,600) to certify that the applicant has completed the proposed work. FEMA reviews the project after its completion and may adjust the dollar amount of the grant to reflect the actual cost of the eligible work. We found, however, that states, because of their limited staff, often have large backlogs of projects awaiting final review. According to staff at 9 of FEMA's 10 regional offices, about 50 percent of the state emergency management offices do not regularly submit their required quarterly reports on the certification of large projects. Most of them report that their heavy workload and/or lack of resources preclude them from certifying the completion of large projects promptly. As a result, FEMA's review is delayed and the agency cannot ensure that the funds already expended on uncertified projects were reasonable and in compliance with applicable regulations and policies.

## FEMA's Information System Provides Limited Management Information for the Public Assistance Program

While FEMA's primary information system—NEMIS—helps the agency manage projects during a disaster, opportunities exist to further develop the system as a management of the Public Assistance program. To help FEMA management achieve its program performance goals, NEMIS should have sound internal management controls. However, we found instances in which the system's activity, application and quality controls are limited. Although NEMIS collects and can provide information project by project, it provides only limited data for effective programwide analyses. In addition, the system does not automatically verify certain information that has been entered, and it can be unreliable, time-consuming, and difficult to use in a remote disaster environment, according to FEMA officials. Project data may be lost or not entered as a result. Finally, FEMA's reliance on temporary staff who may lack experience with the system or training in its use threatens the quality of the information it contains.

NEMIS is an agencywide system of hardware, software, telecommunications, and applications. It is designed to provide a new technology base to FEMA and its partners to carry out emergency management efforts. Its purpose is to support disaster staff in the field and to maximize the distribution of project worksheet information to Public Assistance grant applicants and regional office staff. According to FEMA officials, NEMIS allows concurrent and remote reviews of project worksheets that are developed in the field, thus improving their timeliness and quality. It also provides a single source of all project information that is useful for any necessary subsequent review.

However, while NEMIS can provide information on a project-by-project basis, it is severely limited in its ability to provide higher-level information that will help FEMA management to review the agency's performance against measures and indicators for the Public Assistance program. FEMA officials informed us that field staff must enter all modifications to project worksheets—including changes to project cost estimates—by entering them into a narrative field. As a result, it would be difficult for FEMA management to perform automated analyses of summary information in order to track the programwide costs of project modifications or assess the impact of revised Public Assistance policies.

In addition, while the Public Assistance function of NEMIS has been upgraded since the system was implemented in August 1998, system problems still cause delays and inaccuracies in entering project information. Our review of FEMA's internal evaluations of disaster field office operations found many complaints from federal and state disaster personnel that the system is difficult to use or often is not working at all. As a result, data are not entered promptly or may not be entered at all. The Public Assistance portion of NEMIS also lacks common verification processes. For example, dates of key activities and reviews can be entered incorrectly because the system lacks automated error-checking processes to validate entries. Finally, because many field office staff are not trained to use NEMIS, information for the same disaster could be inconsistently entered from site to site and person to person. The potential for inconsistency impedes FEMA's ability to have an accurate overview of its Public Assistance processes, performance, and field staff's efforts. Insufficient staff training could also lead staff to spend more time using the system than would otherwise be the case and thus decrease their productivity.

## Conclusions and Recommendations

The criteria FEMA uses for determining whether to recommend a presidential disaster declaration give the agency great flexibility to respond promptly to a wide variety of natural disasters. However, they are not necessarily indicative of state or local capability to respond effectively to a disaster without federal assistance. For this reason, we recommend that the Director of FEMA develop more objective and specific criteria to assess the capabilities of state and local governments to respond to a disaster. Specifically, the Director should consider replacing the per-capita measure of state capability with a more sensitive measure, such as a state's total taxable resources. The Director should further consider whether a more sensitive measure would eliminate the need for a statewide $1 million threshold. At a minimum, the Director should consider adjusting the threshold for inflation and providing a more detailed rationale for whatever threshold is chosen.

While FEMA has clarified its criteria for individual project eligibility, it still experiences problems with the application of the criteria. Given the magnitude of the funds involved, we recommend that the Director of FEMA do the following:

- Develop internal control processes for ensuring appropriate reviews of disaster project worksheets—especially when specialists' reviews are required—to ensure that proposed projects meet eligibility requirements before receiving final approval and funding.
- Reconsider budgetary priorities to determine if a higher priority should be assigned to implementing a credentialing and training program for federal disaster staff that focuses on the knowledge, skills, and abilities needed for each of the various roles involved in disaster management.
- Establish a plan to identify recurring problems identified by internal and external audits and take appropriate actions to minimize their recurrence.

## Agency Comments and Our Evaluation

We provided FEMA with a draft of this report for its review and comment. FEMA found our observations about the disaster declaration process timely and valuable for its review of disaster declaration criteria. FEMA also commented that its current procedures were designed to ensure that the eligibility of proposed projects is appropriately reviewed and validated. While we acknowledge that this is the intent of these procedures, our review found areas where the procedures did not always accomplish their intent.

In response to our concerns that all disaster staff may not receive appropriate preparation for making project eligibility determinations, FEMA stated that all disaster staff have attended its basic training class, which provides such instruction. We believe, however, that FEMA should consider giving higher priority to implementing a credentialing program such as the one the agency has designed. The program would establish both training and experience requirements appropriate for federal disaster staff in all job positions.

Finally, FEMA responded to our assessment of the availability of FEMA eligibility review processes and procedures, stating that formal approval procedures exist for projects with special considerations. Our analysis found, however, that the requirements for appropriate reviews by specialists are not always followed. In the flood control cases we referred to, we found no evidence of review by a flood control specialist, although the review queue called for such a review and the Public Assistance Coordinator approved the project. We have modified our original language to recommend that FEMA develop internal controls to ensure consistent compliance with its eligibility review processes.

FEMA suggested additional technical clarifications that we incorporated into the report, as appropriate. The full text of FEMA's comments can be found in appendix II.

## Scope and Methodology

To review the adequacy of the criteria FEMA uses to formulate a recommendation to the President on whether a presidential disaster declaration is warranted and is consistent with regulatory requirements, we reviewed (1) the applicable laws, regulations, and FEMA policies on conducting preliminary damage assessments; (2) FEMA's efforts to develop criteria for reviewing requests of presidential disaster declarations; and (3) relevant GAO and FEMA Office of Inspector General reports. In addition, we analyzed available data on damage estimates to identify any minimum criteria that might have been used to recommend a disaster declaration. We also analyzed available data on damage estimates to determine whether disasters met statewide financial criteria for recommending a disaster declaration. We did not, however, perform independent assessments of the degree to which individual disasters met other qualitative criteria, such as significant localized impact or a recent history of multiple disasters.

To determine whether FEMA ensures that proposed Public Assistance projects meet eligibility criteria, we (1) reviewed FEMA's Public Assistance program policies, procedures, and guidance; (2) assessed the extent to which the program's policies and procedures were disseminated and made available to staff that make eligibility determinations; (3) analyzed the availability of the training provided to staff; and (4) reviewed files on selected projects and interviewed managers and staff to assess how effectively the program's policies and procedures were used to determine eligibility. We also reviewed FEMA's internal controls and oversight processes to determine whether they provided adequate assurance that disaster funds were consistently used in an effective and efficient manner. For instance, we (1) looked for any oversight or reviews to verify that project worksheets prepared for proposed projects complied with policy; (2) reviewed the timeliness and adequacy of efforts to validate and certify completed projects and (3) assessed FEMA's efforts to identify recurring systemic problems and take corrective actions to minimize them in future disasters. In addition, we obtained access to the program's case management file to review the available documentation supporting project eligibility determinations.

In conducting our review, we interviewed officials in FEMA's Response and Recovery Directorate, Infrastructure Support Division in Washington, D.C., and the equivalent FEMA personnel in three regional offices – Atlanta, Georgia; Denton, Texas; and San Francisco, California. In addition, we conducted a structured telephone interview with the Infrastructure Branch chiefs in 9 of FEMA's 10 regional offices and its Caribbean office. We also interviewed officials from FEMA's Information Technology Services Directorate and auditors from its Office of Inspector General. We performed our work from August 2000 through August 2001 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the appropriate congressional committees; the Director of the Federal Emergency Management Agency; and the Director of the Office of Management and Budget. We will also make copies available to others upon request.

If you have any questions about this report, please contact Robert E. White or me at (202) 512-2834.

JayEtta Z. Hecker
Director, Physical Infrastructure Issues

# Appendix I: Efforts to Develop Criteria for Evaluating Governors' Requests for Presidential Disaster Declarations

Over the last several years, the Congress has tried several times to have FEMA establish clear criteria for evaluating a governor's request for a disaster declaration by better defining the state's capability to respond to a disaster. In 1993, the House Appropriations Committee noted "the tendency on the part of the Federal government to declare more and more disasters to be eligible for disaster assistance funds" and directed FEMA to provide a detailed cost/benefit analysis to the Committee by October 1, 1993.[1] FEMA responded, in September 1993, that a reliable cost/benefit analysis of the disaster declaration process would not be possible. In addition, the Vice President's National Performance Review noted that FEMA needed to develop objective indicators of what constituted a major disaster. The National Performance Review further noted that those indicators should account for both the costs of the disaster and a state's ability to meet those costs.

The Senate Bipartisan Task Force on Funding Disaster Relief, established by Public Law 103-211, noted in its report that one approach to modifying federal disaster assistance and possibly reducing federal disaster assistance costs would be to establish "more explicit and/or stringent criteria for providing Federal disaster assistance."[2] That report also cited a 1994 FEMA Office of Inspector General report stating that (1) neither a governor's findings nor FEMA's analysis of capability were supported by standard factual data or related to published criteria and (2) FEMA's process did not ensure equity in disaster decisions because the agency did not always review requests for declarations in the context of previous declarations.[3]

In September 1995,[4] we reported that although the Stafford Act did not specify criteria for evaluating a governor's request for a declaration, FEMA used an informal process that generally considered various factors in making a recommendation to the President. Some of the factors FEMA considered were

[1] House of Representatives Report 103-150 (1993), p. 66.

[2] *Federal Disaster Assistance: Information for the Bipartisan Task Force on Funding Disaster Relief*, U.S. Senate, Nov. 1994.

[3] *Disaster Declaration Decisions: Staff Support by FEMA*, Inspection Report I-02-93, May 17, 1994.

[4] *Disaster Assistance: Information on Declarations for Urban and Rural Areas* (GAO/RCED-95-242, Sept. 14, 1995).

- the number of homes that were destroyed or sustained major damage,
- the extent to which the damage was concentrated or dispersed,
- the total estimated cost to repair the damage,
- the extent to which the damage was covered by insurance,
- the level of assistance available from other federal agencies,
- the state and local governments' abilities to deal with disasters,
- the level of assistance available from voluntary organizations,
- the extent of health and safety problems, and
- the extent of damage to facilities providing essential services (e.g., medical and police services and utilities).

The Senate Appropriations Committee remarked on the lack of specific disaster declaration criteria in its report on FEMA's appropriations for fiscal year 1999.[5] In that report, the Committee directed FEMA to make several administrative changes to reduce disaster relief costs, including the development of specific disaster declaration criteria.

To develop specific declaration criteria, FEMA formed a working group with the National Emergency Management Association.[6] However, FEMA faced a legislative restriction precluding any geographic area from receiving assistance "solely by virtue of an arithmetic formula or sliding scale based on income or population."[7] This working group developed several indicators for evaluating governors' requests for disaster declarations and issued these indicators as a concept paper in September 1998. On January 26, 1999, FEMA published the proposed declaration criteria in the Federal Register. Those proposed rules were similar to the indicators FEMA had used informally.

At the request of the Senate Appropriations Subcommittee, FEMA's Office of Inspector General reviewed the proposed regulations and issued a report in March 1999.[8] The report questioned FEMA's use of a fixed per-capita figure as a means to determine a state's capability and noted that, without the means to measure this capability, FEMA's ability to determine whether disaster assistance was warranted was "hampered if not negated

[5] Senate Report 105-216 (1998), p. 87.

[6] The National Emergency Management Association is a professional association of emergency management directors from states and U.S. territories.

[7] 42 U.S.C, sec. 5163.

[8] *Review of Governors' Disaster Requests* (I-02-99, Mar. 22, 1999).

altogether." The report recommended that FEMA use total taxable resources[9] in place of its per-capita cost measure to better reflect the state's economic health and ability to raise public revenues to cover the costs of a disaster. Additionally, the report identified numerous ways to improve the proposed declaration regulations, including

- publishing a county-level per-capita measure that could be used as an indicator to better establish the disaster's localized impact;
- specifying how FEMA intended to determine the amount of insurance coverage and the source(s) of its information, as well as clarifying how insurance deductibles would be measured;
- citing the criteria that would be used when considering state and local mitigation measures to evaluate the need for assistance, including record-keeping requirements to support states' claims; and
- prescribing a limit on the impact of multiple past disasters, including further defining what other events and emergencies could be included or excluded from FEMA's declaration evaluation, as well as establishing state record-keeping requirements.

The Inspector General's report further noted that a significant number of disasters were declared, even though the estimated costs of disaster damage fell below the statewide financial thresholds historically used by FEMA. Specifically, the report stated it examined 192 declarations for the 10-year period from October 1988 through September 1998 and found that 40 percent were declared even though the state per-capita damage figure had not met FEMA's statewide financial threshold of $1 per capita of damages. The report also identified the following as most common factors for recommending a declaration when the disaster cost estimates were below the minimum financial criteria. These included

- Special populations (e.g., poor, elderly) lived in affected areas.
- Preliminary damage assessments were ongoing, and the cost estimates were not yet complete.
- The disaster had a heavy localized impact.

[9]Total Taxable Resources (TTR) is a measure defined by the Department of the Treasury that takes into account all income either received by state residents or produced in a state. We have suggested applying this method to federal grant formulas in other areas, such as education or health, to better reflect a state's economic health and the ability to raise revenues. See, for example, *School Finance: Trends in U.S. Education Spending* (GAO/HEHS-95-235, Sept. 15, 1995) and *Budget Issues: Budgetary Implications of Selected GAO Work for Fiscal Year 2001* (GAO/OCG-00-8, Mar. 31, 2000).

- The state had no assistance program.

Despite the Inspector General's report and other criticisms, FEMA published its final rule on September 1, 1999. The criteria for disaster declarations remained substantially unchanged from those the agency proposed in January.

FEMA has also begun to address the issue of insurance requirements for public buildings. In July 1999, FEMA submitted draft regulations to the Office of Management and Budget proposing that, under the Public Assistance program, grant funding for buildings damaged in a disaster be made available only to state and local agencies and other public entities that maintain specified minimum levels of insurance coverage. Currently, the Public Assistance program requires insurance coverage only as a postdisaster condition. If a public facility is not insured when a disaster strikes, the responsible agency must agree to procure insurance against future disasters as a condition for receiving FEMA assistance. After receiving comments from us and others, FEMA decided to wait for the completion of a comprehensive study of what insurance requirements are reasonable before proceeding further.[10]

In its report on FEMA's fiscal year 2000 appropriations, the Senate Appropriations Committee also expressed concern that the indicators the agency proposed to guide declaration recommendations were "no more stringent than those used in the past."[11] The Committee further noted that it expected FEMA to apply the criteria it had published in a consistent manner and to strengthen the criteria over time, while recognizing the need to maintain some flexibility for unique circumstances.

[10]We addressed some concerns about FEMA's rulemaking procedures in developing this proposal in *Disaster Assistance: Issues Related to the Development of FEMA's Insurance Requirements* (GAO/GGD/OGC-00-62, Feb. 25, 2000).

[11]Senate Report 106-161 (1999), p. 99.

# Appendix II: Comments From the Federal Emergency Management Agency

Federal Emergency Management Agency
Washington, D.C. 20472

AUG 17 2001

Ms. JayEtta Z. Hecker
Director
Physical Infrastructure Issues
United States General Accounting Office
Washington, DC 20548

Dear Ms. Hecker:

Thank you for requesting comments of the Federal Emergency Management Agency (FEMA) on the General Accounting Office (GAO) draft report entitled "Disaster Assistance: Criteria for Recommending Disaster Declarations and Assuring Project Eligibility for Public Assistance Needs Further Improvements," dated August 2001. On behalf of Director Allbaugh, I am pleased to forward FEMA's comments as follows:

See comment 1.
Now on pages 3 and 4.

1. **Page 4. Background:** "Over the last several years, the Congress has expressed concern over the number and the costs of disaster declarations. GAO has also identified the cost of disaster assistance as one of FEMA's major management challenges."

   **Comment:** As illustrated in Figure 1, with the exception of FY 1998, the number of disaster declarations and the costs of those declarations have generally declined since FY 1996.

See comment 2.
Now on page 5.

2. **Page 6, Last paragraph states:** "The declaration activates numerous assistance programs from FEMA and other federal agencies, such as the Departments of Agriculture and Labor, the Federal Highway Administration..."

   **Comment:** Other Federal agencies may not activate their programs with a declaration. This can vary by disaster.

See comment 3.
Now on page 6.

3. **Page 7, First bullet, last sentence states:** "...and water control facilities (e.g. dikes, irrigation works, levees, and drainage systems)."

   **Comment:** We suggest deleting the reference to irrigation works and drainage systems as examples because they are eligible if they are publicly owned. They may not necessarily be eligible for assistance if they are owned by a private nonprofit organization.

See comment 4.
Now on page 12.

4. **Page 14, First full paragraph, 2nd sentence states:** "We do not believe that implementing TTR would not be a violation of the prohibition [against basing aid solely on an arithmetical formula]."

   **Comment:** Clarification is needed. Does GAO believe the implementation of TTR is or is not a violation of the prohibition?

See comment 5.
Now on page 13.

5. **Page 14, First full paragraph, 5th sentence states:** "When FEMA published its declaration criteria in 1999 it maintained...because it examines all the other [factors] listed in deciding whether to recommend a disaster declaration."

   **Comment:** Insert the word "factors" in the sentence where indicated.

See comment 6.
Now on page 17.

6. **Page 20, 1st partial paragraph, last sentence states:** "These include eliminating the eligibility for post-disaster beach re-nourishment and increasing the damage threshold for replacing a facility."

   **Comment:** We suggest adding two more relevant examples: "eliminating eligibility for revenue generating private nonprofit organizations, and eliminating eligibility for facilities not actively used to deliver government services (e.g., publicly-owned buildings rented to the private sector for use as restaurants, stadiums, port and airport facilities, warehouses, etc.)"

See comment 8.
Now on page 17.

7. **Page 21, 1st partial paragraph, last sentence states** "In addition, according to FEMA officials, FEMA does not have a single system that maintains up-to-date information on the training and work experiences of its disaster staff."

   **Comment**: While there is no agency-wide data base that reflects training received by FEMA personnel, the Public Assistance (PA) program staff does maintain a training data base on the PA field staff.

See comment 8.
Now on page 18.

8. **Page 22, 1st partial paragraph, last sentence states:** "… FEMA cannot ensure that all its disaster personnel are appropriately prepared to make project eligibility determinations.....

   **Comment:** All PA field staff have attended our basic Public Assistance Operations course. This course provides training in making eligibility determinations. The course is currently given to new field personnel generally at the Disaster Field Offices.

See comment 9.
Now on page 19.

9. **Page 22 1st full paragraph, first sentence states:** "FEMA has not established a formal process for reviewing project worksheets to ensure that special considerations---such as environmental or historic issues,…"

   **Comment:** There is in fact a formal approval procedure that is clearly articulated in program doctrine and is documented in NEMIS. Project worksheets with historical, environmental, floodplain management, mitigation or insurance issues are sent to a queue for review in the appropriate areas. Projects are reviewed by a Public Assistance Coordinator, and a Public Assistance Officer before being signed by the Disaster Recovery Manager. The process is designed to be simultaneous for special considerations reviews, but no project is approved without a final action by a Public Assistance officer—who is responsible to insure that all issues have been addressed.

See comment 10.
Now on page 19.

10. **Page 22, last paragraph, 5th sentence states:** "During our review of project worksheets for a disaster in Nevada, we found that most of those for flood control projects had not been reviewed by a specialist on contract from the Army Corps of Engineers for that purpose. As a result, FEMA had no assurance that the proposed projects were designed to control flooding effectively."

    **Comment:** The U.S. Army Corps of Engineers (USACE) has statutory authority to repair flood control works which are eligible for repair under the USACE program. Any coordination with USACE is not to determine if a facility is effective in controlling flooding.

See comment 11.
Now on page 19.

11. **Page 23, 1st partial paragraph, last 2 sentences:** "FEMA reserves the right to validate 20 percent of an applicant's small projects to ensure that all costs are eligible and reasonable. In our file reviews, however, we found little evidence of small project validations by FEMA staff."

**Comment:** In an effort to streamline the processing of small projects, FEMA allows capable applicants to prepare their own small project worksheets. When applicants prepare their small project worksheets, FEMA reviews (validates) a 20 percent sample of the project worksheets for eligibility and reasonable cost. If the sample meets the validation criteria, FEMA obligates the remaining 80 percent of the applicant's small projects. If the first sample does not meet the validation criteria, FEMA reviews another 20 percent sample. If the second sample fails, FEMA reviews all of the applicant's small project worksheets. The Public Assistance Coordinator reviews all project worksheets for small projects that are prepared by FEMA staff.

See comment 12.
Now on page 21.

12. **Page 25, 1st full paragraph, 1st sentence states:** "The criteria FEMA uses criteria for determining whether to recommend:..."

    **Comment:** Delete second "criteria" in the sentence.

See comment 9.
Now on page 22.

13. **Page 26, first recommendation states:** "Develop a more formal process for reviewing disaster project worksheets including criteria for determining when to require specialists' review to ensure the proposed projects meet eligibility requirements before being approved and funded."

    **Comments:** FEMA's Public Assistance program guidance clearly requires that the preparer of a project worksheet complete the "Special Consideration Questions" form. The answers to the questions on the form determine to which additional review queues the project worksheet will be assigned. The Public Assistance Coordinator also uses the "Special Assistance Questions" form as part of the normal review process.

We appreciate the opportunity to review and comment before the report is issued in final form. Your observations and insights are extremely timely and provide valuable input to the multi-directorate team within FEMA that is, at this present time, reviewing the current disaster declaration process. This team is focusing on the factors and supporting criteria that the agency uses in evaluating Governors' requests for federal disaster assistance. The team is working to develop refined factors that are based on uniform and objective criteria, thus providing a clearer definition of eligibility for federal disaster assistance. FEMA will consult with interest stakeholders as part of this effort. If you have any questions, please feel free to contact me or E. G. Miederhoff of my staff at 202-646-3683.

Sincerely,

Lacy Suiter

Lacy E. Suiter
Assistant Director
Readiness, Response and Recovery Directorate

c.c.: Office of the Inspector General

The following are GAO's comments on the Federal Emergency Management Agency's letter dated August 17, 2001.

## GAO Comments

1. While figure 1 indicates that the number and estimated cost of disasters involving Public Assistance funding have both declined recently, we note that, because disasters are extremely variable in their frequency and severity, it is premature to suggest that the recent decline in their number and cost constitutes a downward trend that could be expected to continue. Furthermore, our intent is to ensure that the criteria for both disaster declarations and eligibility determinations are appropriate to each case, independent of any trends in the aggregate cost of disasters.

2. The draft has been modified to clarify the relationship between a disaster declaration and other federal assistance programs.

3. Suggested deletion accepted.

4. Sentence has been clarified.

5. Word inserted.

6. Suggested examples included.

7. See response to comment 8.

8. As our report recommended, we believe that FEMA should consider giving higher priority to implementing a credentialing program such as the one the agency has designed. The program would establish both training and experience requirements appropriate to each level of federal disaster staff. Such a program would also include a comprehensive recordkeeping system that would ensure that all staff meet these requirements.

9. The requirement that all projects with special considerations receive appropriate reviews by specialists is apparently not always followed. For example, in a major disaster we refer to, we found no evidence of review by a flood control specialist, although the review queue called for such a review and the Public Assistance Coordinator approved the projects.

10. See response to comment 9. The final sentence has been modified to clarify the respective roles of FEMA and the U.S. Army Corps of Engineers.

11. Under FEMA procedures, the reviewer is required to complete a validation worksheet identifying the projects reviewed and any associated eligibility and cost variances. Our case review of both paper files and NEMIS records found very few validation worksheets. FEMA field personnel also acknowledged that the validation process is not always conducted as required.

12. Word deleted.

13. See response to comment 9. We have modified the recommendation to focus on compliance with, rather than the development of, a policy that ensures appropriate specialist reviews.

# Appendix III: GAO Contacts and Staff Acknowledgments

## GAO Contacts

Robert E. White, (202) 512-5463
Jerry Fastrup, (202) 512-7211

## Acknowledgments

In addition to those named above, Patricia Moore, Richard B. Smith, Thomas Barger, Jr., Curtis L. Groves, and John Vocino made key contributions to this report.

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## To Report Fraud, Waste, and Abuse in Federal Programs

***Contact one:***

- Web site: http://www.gao.gov/fraudnet/fraudnet.htm
- E-mail: fraudnet@gao.gov
- 1-800-424-5454 (automated answering system)

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