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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 9, 2005

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

The House Committee on Government Reform has obtained from the Department of Homeland Security a document describing the "Scope of Work" of a contract issued by the Federal Emergency Management Agency for the development of a "Southeastern Louisiana Catastrophic Hurricane Plan." We are writing to request any plans and other documents that were developed under this contract.

FEMA's Scope of Work contemplated that a private contractor, Innovative Emergency Management, Inc. (IEM), would complete the work under the contract in three stages.[1] "Stage One" called for a simulation exercise involving FEMA and the state of Louisiana that would "feature a catastrophic hurricane striking southeastern Louisiana."[2] "Stage Two" called for "development of the full catastrophic hurricane disaster plan."[3] And "Stage Three" involved unrelated earthquake planning.

A task order issued under the contract called for IEM to execute "Stage One" between May 19 and September 30, 2004, at a cost of $518,284.[4] On June 3, 2004, IEM issued a press release announcing that it would "lead the development of a catastrophic hurricane disaster plan for Southeast Louisiana and the City of New Orleans under a more than half a million dollar contract with the U.S. Department of Homeland Security/Federal Emergency Management

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[1] Federal Emergency Management Agency, *Combined Catastrophic Plan for Southeast Louisiana and the New Madrid Seismic Zone: Scope of Work*, p.2.

[2] FEMA, *Scope of Work*, *supra* note 1 at p. 7.

[3] FEMA, *Scope of Work*, *supra* note 1 at p. 2.

[4] Contract Number GS10F0178L, BPA #HSFEHQ-04-A-0288, Task Order 1.

Agency (FEMA)."[5] A second task order issued on September 23, 2004, required IEM to "complete the development of the SE Louisiana Catastrophic Hurricane plan."[6] The cost of this task order was $199,969.[7]

The "Background" section of the Scope of Work stated that "the emergency management community has long feared the occurrence of a catastrophic disaster," which the document describes as "an event having unprecedented levels of damage, casualties, dislocation, and disruption that would have nationwide consequences and jeopardize national security."[8] According to the background discussion, the emergency management community was concerned that "existing plans, policies, procedures and resources" would not be adequate to address such a "mega-disaster."[9]

According to the Scope of Work, the contact "will assist FEMA, State, and local government to enhance response planning activities and operations by focusing on specific catastrophic disasters: those disasters that by definition will immediately overwhelm the existing disaster response capabilities of local, State, and Federal Governments."[10] With respect to southeastern Louisiana, the specific "catastrophic disaster" to be addressed was "a slow-moving Category 3, 4, or 5 hurricane that … crosses New Orleans and Lake Pontchartrain."[11] The Scope of Work explained:

> Various hurricane studies suggest that a slow-moving Category 3 or almost any Category 4 or 5 hurricane approaching Southeast Louisiana from the south could severely damage the heavily populated Southeast portion of the state creating a catastrophe with which the State would not be able to cope without massive help from neighboring states and the Federal Government.[12]

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[5] Press Release, *IEM Team to Develop Catastrophic Hurricane Disaster Plan for New Orleans & Southeast Louisiana* (June 3, 2004) (online at http://www.ieminc.com/Whats_New/Press_Releases/pressrelease060304_Catastrophic.htm).

[6] Contract Number GS10F0178L, BPA #HSFEHQ-04-A-0288, Task Order HSFEHQ-04-J-0002.

[7] *Id.*

[8] FEMA, *Scope of Work*, *supra* note 1 at p. 4.

[9] *Id.*

[10] FEMA, *Scope of Work*, *supra* note 1 at p. 1.

[11] FEMA, *Scope of Work*, *supra* note 1 at p. 5.

[12] *Id.*

The Scope of Work further stated: "The Federal Emergency Management Agency (FEMA) and the Louisiana Office of Emergency Preparedness (LOEP) believe that the gravity of the situation calls for an extraordinary level of advance planning to improve government readiness to respond effectively to such an event."[13]

The specific disaster scenario contemplated under the contract is strikingly similar to the actual disaster caused by Hurricane Katrina. The contract envisioned that "a catastrophic hurricane could result in significant numbers of deaths and injuries, trap hundreds of thousands of people in flooded areas, and leave up to one million people homeless."[14] The Scope of Work expressly directed the contractor to plan for the following specific conditions:

- "Over one million people would evacuate from New Orleans. Evacuees would crowd shelters throughout Louisiana and adjacent states."

- "Hurricane surge would block highways and trap 300,000 to 350,000 persons in flooded areas. Storm surge of over 18 feet would overflow flood-protection levees on the Lake Pontchartrain side of New Orleans. Storm surge combined with heavy rain could leave much of New Orleans under 14 to 17 feet of water. More than 200 square miles of urban areas would be flooded."

- "It could take weeks to 'de-water' (drain) New Orleans: Inundated pumping stations and damaged pump motors would be inoperable. Flood-protection levees would prevent drainage of floodwater. Breaching the levees would be a complicated and politically sensitive problem: The Corps of Engineers may have to use barges or helicopters to haul earthmoving equipment to open several hundred feet of levee."

- "Rescue operations would be difficult because much of the area would be reachable only by helicopters and boats."

- "Hospitals would be overcrowded with special-needs patients. Backup generators would run out of fuel or fail before patients could be moved elsewhere."

- "The New Orleans area would be without electric power, food, potable water, medicine, or transportation for an extended time period."

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[13] *Id.*

[14] *Id.*

- "Damaged chemical plants and industries could spill hazardous materials."
- "Standing water and disease could threaten public health."
- "There would be severe economic repercussions for the state and region."
- "Outside responders and resources, including the Federal response personnel and materials, would have difficulty entering and working in the affected area."[15]

It appears that IEM completed the task order for "Stage One," the hurricane simulation. An exercise know as "Hurricane Pam," was conducted by FEMA and IEM in July 2004, bringing together emergency officials from 50 parish, state, federal, and volunteer organizations to simulate the conditions described above and plan an emergency response.[16] As a result of the exercise, officials reportedly developed proposals for handling debris removal, sheltering, search and rescue, medical care, and schools.[17]

It is not clear, however, what plans or draft plans, if any, IEM prepared to complete "Stage Two," the development of the final catastrophic hurricane disaster plan. The task order for "Stage Two" provided that the "period of performance" was September 23, 2004, to September 30, 2005.[18]

The basis for the award of the planning work to IEM is also not indicated in the documents we received. The task orders were issued to IEM by FEMA under an "Indefinite Delivery Vehicle" (IDV) contract between IEM and the General Services Administration.[19] According to the Federal Procurement Data System, FEMA received only one bid (from IEM) for the task orders.[20]

The documents from the Department raise multiple questions about the contract with IEM and the planning for a catastrophic hurricane in southeastern Louisiana. To help us

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[15] FEMA, *Scope of Work, supra* note 1 at p. 6.

[16] FEMA, Press Release, *Hurricane Pam Exercise Concludes* (July 23, 2004).

[17] *Id.*

[18] Contract Number GS10F0178L, BPA #HSFEHQ-04-A-0288, Task Order HSFEHQ-04-J-0002.

[19] Federal Procurement Data System, *GSA Schedule GS10F0178L, February 15, 2001* (data obtained from FPDS on Sept. 8, 2005).

[20] Federal Procurement Data System, *FEMA Awards Referencing GSA Schedule GS10F0178L* (data obtained from FPDS on Sept. 8, 2005).

understand these issues, we request that the Department provide the following documents and information:

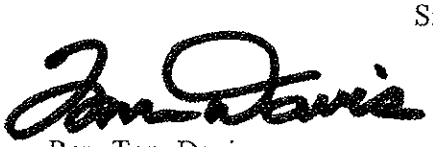
(1) Any documents relating to the "Stage One" simulation exercise, including documents prepared for exercise planners and participants, transcripts or minutes of exercise proceedings, participant evaluations, and after action reports;

(2) Any final or draft plans for a catastrophic hurricane in southeastern Louisiana prepared under "Stage Two" of the contract, including any final or draft Catastrophic Hurricane Disaster Plan, Basic Plan Framework, Emergency Support Function Annex, or Support Annex; and

(3) An explanation of the procurement procedures used in selecting IEM for the contract and task orders, as well as a description of IEM's qualifications and the justification for selecting IEM.

We recognize that Department officials are engaged in ongoing relief efforts, and we do not want to impair those efforts in any way. For this reason, we have tailored our request to the discrete set of documents and information set forth above. To expedite your response to this request, we have enclosed copies of the Scope of Work, task orders, and other documents cited in this letter.

Sincerely,



Rep. Tom Davis
Chairman

Rep. Henry A. Waxman
Ranking Minority Member

Enclosure

Congress of the United States
Washington, DC 20515

September 30, 2005

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

As part of the Select Bipartisan Committee's investigation into the preparation for and response to Hurricane Katrina, we are writing to request important documents from the Department of Homeland Security.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the Department of Homeland Security or any of its constituent agencies relating to the threat posed by a hurricane striking New Orleans or the Gulf Coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the Department of Homeland Security or any of its constituent agencies relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the Department of Homeland Security or any of its constituent agencies relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of the Secretary and the Office of the Under Secretary of Emergency Preparedness and Response. We are not requesting at this time documents or communications between officials of the Department of Homeland Security or any of its constituent agencies and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis
Chairman

Charles Melancon
Member of Congress

Congress of the United States
Washington, DC 20515

September 30, 2005

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Rumsfeld:

The Select Committee is examining the preparation for and response to Hurricane Katrina. We are writing to request documents from your office relating to this topic.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the Department of Defense or any of its constituent agencies relating to the threat posed by a hurricane striking New Orleans or the Gulf Coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the Department of Defense or any of its constituent agencies relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the Department of Defense or any of its constituent agencies relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of the Secretary and Joint Task Force Katrina. We are not requesting documents or communications received, prepared, or sent by the

U.S. Army Corps of Engineers as we have written separately to General Strock to request these items. We also are not requesting at this time documents or communications between officials of the Department of Defense or any of its constituent agencies and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis
Chairman

Charles Melancon
Member of Congress

Congress of the United States
Washington, DC 20515

September 30, 2005

Lt. General Carl A. Strock
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314

Dear General Strock:

The Select Committee is examining the preparation for and response to Hurricane Katrina. We are writing to request documents from the Army Corps of Engineers relating to this topic.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the Army Corps of Engineers relating to the threat posed by a hurricane striking New Orleans or the Gulf Coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the Army Corps of Engineers relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the Army Corps of Engineers relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

4. Documents or communications, including internal communications, received, prepared, or sent by officials of the Army Corps of Engineers relating to the construction, maintenance, or capacity to withstand a hurricane or flooding of the 17th Street, London Canal, or Industrial Canal levees and storm walls.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in your office. We are not requesting at this time documents or communications between officials of the Army Corps of Engineers and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis
Chairman

Charles Melancon
Member of Congress

Congress of the United States
Washington, DC 20515

September 30, 2005

The Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Leavitt:

The Select Committee is examining the preparation for and response to Hurricane Katrina. We are writing to request documents from your office relating to this topic.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the Department of Health and Human Services or any of its constituent agencies relating to the threat posed by a hurricane striking New Orleans or the Gulf Coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the Department of Health and Human Services or any of its constituent agencies relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the Department of Health and Human Services or any of its constituent agencies relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of the Secretary, Office of the Assistant Secretary for Public Health Emergency Preparedness, Office of the Surgeon General, and Office of the Director of the Centers for Disease Control and Prevention. We are not requesting at this time documents or communications between officials of the Department of Health and Human Services or any of its constituent agencies and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis
Chairman

Charles Melancon
Member of Congress

Congress of the United States
Washington, DC 20515

September 30, 2005

Andrew H. Card, Jr.
Chief of Staff
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Mr. Card:

The Select Committee is examining the preparation for and response to Hurricane Katrina. We are writing to request documents from your office relating to this topic.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the White House relating to the threat posed by a hurricane striking New Orleans or the Gulf Coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the White House relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the White House relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of the President, the Office of the Vice President, the Office of the White House Chief of Staff, and the Office of the Homeland Security Advisor. We are not requesting at this time documents or communications between officials of the White House and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis
Chairman

Charles Melacon
Member of Congress

Congress of the United States
Washington, DC 20515

September 30, 2005

The Honorable Kathleen Babineaux Blanco
Governor of Louisiana
Office of the Governor
900 3rd Street
Baton Rouge, LA 70804-9004

Dear Governor Blanco:

The Select Committee is examining the preparation for and response to Hurricane Katrina. We are writing to request documents from your office relating to this topic.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the Office of the Governor, Louisiana Office of Homeland Security and Emergency Preparedness, and Office of the Adjutant General relating to the threat posed by a hurricane striking New Orleans or the Louisiana coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the Office of the Governor, Louisiana Office of Homeland Security and Emergency Preparedness, and Office of the Adjutant General relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the Office of the Governor, Louisiana Office of Homeland Security and Emergency Preparedness, and Office of the Adjutant General relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of Governor, Office of the Directors of the

Louisiana Office of Homeland Security and Emergency Preparedness, and Office of the Adjutant General. We are not requesting at this time documents or communications between officials of the State of Louisiana and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis

Tom Davis
Chairman

Charles Melancon
Member of Congress

Congress of the United States
Washington, DC 20515

September 30, 2005

The Honorable Haley Barbour
Governor of Mississippi
Office of the Governor
501 N. West St, 15th Fl
Jackson, MS 39201

Dear Governor Barbour:

The Select Committee is examining the preparation for and response to Hurricane Katrina. We are writing to request documents from your office relating to this topic.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the Office of the Governor, Mississippi Emergency Management Agency, and Office of the Adjutant General relating to the threat posed by a hurricane striking the Mississippi Gulf coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the Office of the Governor, Mississippi Emergency Management Agency, and Office of the Adjutant General relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the Office of the Governor, Mississippi Emergency Management Agency, and Office of the Adjutant General relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of Governor, Office of the Director of the Mississippi Emergency Management Agency, and Office of the Adjutant General. We

are not requesting at this time documents or communications between officials of the State of Mississippi and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis
Chairman

Charles Melancon
Member of Congress

Congress of the United States
Washington, DC 20515

September 30, 2005

The Honorable Robert Riley
Governor of Alabama
Office of the Governor
600 Dexter Avenue
Montgomery, Alabama 36130

Dear Governor Riley:

The Select Committee is examining the preparation for and response to Hurricane Katrina. We are writing to request documents from your office relating to this topic.

Specifically, we request:

1. Documents or communications, including internal communications, received, prepared, or sent before August 23, 2005, by officials of the Office of the Governor, Alabama Office of Homeland Security and Emergency Preparedness, and Office of the Adjutant General relating to the threat posed by a hurricane striking the Alabama Golf coast, mitigation measures or projects, emergency preparations, or emergency responses;

2. Documents or communications, including internal communications, received, prepared, or sent between August 23 and August 29, 2005, by officials of the Office of the Governor, Alabama Office of Homeland Security and Emergency Preparedness, and Office of the Adjutant General relating to the threat posed by Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses;

3. Documents or communications, including internal communications, received, prepared, or sent between August 29 and September 15, 2005, by officials of the Office of the Governor, Alabama Office of Homeland Security and Emergency Preparedness, and Office of the Adjutant General relating to the impact of Hurricane Katrina, mitigation measures or projects, emergency preparations, or emergency responses.

In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of Governor, Office of the Directors of the Alabama Office of Homeland Security and Emergency Preparedness, and Office of the

Adjutant General. We are not requesting at this time documents or communications between officials of the State of Alabama and individual members of the general public.

Thank you for your assistance with this request. We are aware of the many demands on your time as you cope with the impacts of Hurricanes Katrina and Rita. The Select Committee, however, has been given a short deadline for its work. For this reason, we ask that you respond to this letter within two weeks if possible.

Sincerely,

Tom Davis

Tom Davis
Chairman

Charles Melancon
Member of Congress

TOM DAVIS, VIRGINIA,
CHAIRMAN

CHRISTOPHER SHAYS, CONNECTICUT
DAN BURTON, INDIANA
ILEANA ROS-LEHTINEN, FLORIDA
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VIRGINIA BROWN-WAITE, FLORIDA
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PATRICK T. McHENRY, NORTH CAROLINA
CHARLES W. DENT, PENNSYLVANIA
VIRGINIA FOXX, NORTH CAROLINA

ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
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EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
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ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
DANNY K. DAVIS, ILLINOIS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS
CHRIS VAN HOLLEN, MARYLAND
LINDA T. SANCHEZ, CALIFORNIA
C.A. DUTCH RUPPERSBERGER, MARYLAND
BRIAN HIGGINS, NEW YORK
ELEANOR HOLMES NORTON, DISTRICT OF COLUMBIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

October 20, 2005

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

I wrote to you on September 23 about my concerns about the $236 million contract between FEMA and Carnival Cruise Lines to provide housing for hurricane evacuees aboard three Carnival ships for six months.[1] Since then, I have obtained new information about the operating expenses of the three Carnival ships involved. A comparison of this information to the federal contract raises serious questions about whether the Carnival contract is a responsible use of taxpayer funds.

The information I have obtained comes from an internal "Financial Review" prepared by Carnival in January 2002 that discloses the revenue received and expenses incurred for Carnival Cruise Lines and the three Carnival ships now under federal contract: the Sensation, the Ecstasy, and the Holiday. This financial data reveals that the federal government appears to be paying Carnival significantly more under the federal contract than the ships earned on their own, while Carnival's expenses appear to be significantly less under the federal contract than the ships normally incur. The net result is a contract that looks lucrative for Carnival but exceptionally expensive for the taxpayer.

In the first two months of fiscal year 2002, the period covered by the financial review, the revenue for the three ships was approximately $25 million per month. Extrapolating to six months, the duration of the federal contract, the total revenue would be just $150 million, substantially less than the $236 million the company will receive under the federal contract, even after taking inflation into account. At the same time, there will be over 800 fewer Carnival employees working on the ships under the federal contract, further boosting Carnival profits. For example, Carnival's expenses in the internal financial review included salaries and accommodations for 175 bar staff, 110 entertainers, 99 casino staff, 31 "Camp Carnival" staff, 28

[1] Letter from Rep. Henry A. Waxman to Secretary of Homeland Security Michael Chertoff (Sept. 23, 2005).

employees in photo labs, and 25 shore excursion staff. None of these expenses is being incurred under the federal contract.

Even if the federal contract were more fairly priced, its merits would be dubious. Under the contract, the taxpayer is required to compensate Carnival for lost revenues from services that have nothing to do with the relief mission, such as millions of dollars in gambling proceeds and liquor sales. Moreover, it is not clear that Carnival would have been able to earn its usual revenues during the period covered by the federal contract. One of the ships (the Sensation) is based out of New Orleans, and a second ship (the Holiday) operates from Mobile, Alabama. Given the devastation wrought by Hurricanes Katrina and Rita, Carnival would certainly have needed to make costly schedule adjustments and may not have been able to maintain an ordinary cruise schedule.

Your Department does not have a good record on federal procurement contracts. As investigative reports and government audits have identified, the Department has squandered billions on poorly designed and ineptly managed homeland security contracts. The nation cannot afford to repeat such mistakes in the relief and recovery efforts following Hurricanes Katrina and Rita. I therefore urge you to release additional information about this contract and the basis on which it was negotiated.

The Carnival Contract

Under its contract with FEMA, as negotiated and managed by Military Sealift Command, Carnival Cruise Lines has docked three of its ships — the Sensation, the Ecstasy, and the Holiday — in the Gulf Coast for use as temporary living arrangements for evacuees, emergency workers, and others.

Carnival provides three meals per day to each person on the ship, as well as weekly laundry and cleaning service.[2] Many of the expenses ordinarily incurred by Carnival, however, are not being incurred under the federal contract. These include the costs of providing entertainment, gambling, and bar services, as well as the maintenance and wear and tear on ship engines experienced when the vessels are at sea.

The passenger capacity of the three ships is 7,116, and the contract cost is $236 million for six months, with one optional three month extension.[3] On a per-person basis, the cost to the federal taxpayer would be about $5,500 per month if the ship were kept at full capacity. To house a family of five for the full six months of the contract, the cost would be over $165,000.

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[2] Military Sealift Command, Contract No. N00033-05-C-5611 with Carnival Cruise Lines (awarded Sept. 2, 2005).

[3] *Id.*

At present, the ships are significantly below full occupancy. The Sensation and Ecstasy are currently docked in New Orleans. As of October 12, the Sensation had about 2,000 registered guests and the Ecstasy had about 2,100 guests. The Holiday is docked in Mobile and had about 1,400 registered guests on board.[4] If this level of occupancy were to continue for the next six months, the cost to the taxpayer to provide housing aboard the ships for a family of five would be $214,500. For this price, the taxpayer could purchase or build a permanent home for the family.

Carnival's Internal Financial Review

Carnival Cruise Line representatives have stated repeatedly that this contract will enable the company to earn as much profit as it would have earned had it operated normally, replacing lost revenues and covering increased expenses. A recent letter from Carnival Cruise Lines CEO Bob Dickinson to members of Congress states that the contract is "profit neutral" and based on "good faith estimates of vessel costs."[5]

I have obtained an internal "Financial Review" from Carnival that calls these assertions into serious doubt. This internal financial review reveals the revenues Carnival received from the Sensation, the Ecstasy, and the Holiday during a two-month period at the start of the 2002 fiscal year. This review shows that the ships earned $25 million in one month, which is equivalent to $150 million over a six-month period.[6] The $236 million being paid by the federal government is 57% higher than the revenue earned by the three ships four years ago.

Since 2002, inflation has increased by 2.6% annually, a cumulative increase in the cost of living of 8%.[7] Even taking this into account, the federal contract price is $74 million more than Carnival's revenues from four years ago.

Avoided Expenses

The 2002 financial review also provides a breakdown of Carnival's operating expenses for the three ships. It reveals that these expenses will be much lower under the federal contract

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[4] Email from Kenneth Allen, Military Sealift Command, to Government Reform Committee Minority Staff (Oct. 14, 2005).

[5] Letter from Bob Dickinson, President and CEO Carnival Cruise Lines, to Members of Congress, (Oct. 3, 2005).

[6] Carnival Cruise Lines Operating Company, Financial Review (Jan. 2002). Data for the Holiday and the Sensation are from January 2002. The Ecstasy was in operation for only one week in January 2002; data for this ship is from December 2001.

[7] Bureau of Labor Statistics, *Consumer Price Index, All Urban Consumers (Current Series)* (2005).

than they are when the ships are providing actual cruises. Yet it does not appear that these reduced expenses were taken into account when the federal contract was negotiated.

One significant reduced expense is the reduction in necessary staff. Under the federal contract, Carnival has no need for entertainment, bar, casino, and shore excursion staff and should not be incurring the expense of these employees' salaries, food, and lodging. Based on a comparison of the most recent crew counts on the three ships with January 2002 staff counts, it appears that the ships have reduced their crew by about 865 employees during the period of the federal contract.[8]

The 2002 data provides some insights into the specifics of these savings. In January 2002, there were 175 bar staff, 110 entertainers, 99 casino staff, 31 "Camp Carnival" staff, 28 employees in the photo labs, 25 shore excursion staff, and 25 cruise staff on the Sensation, the Ecstasy, and the Holiday.[9] Using Carnival data, it appears that these nearly 500 employees would have been paid more than $3 million over the course of six months.[10] Pay for entertainers alone on these three ships over six months is estimated to have been more than $1.5 million.[11] Moreover, Carnival does not need to provide food or lodging to these employees, further increasing its cost savings.

There are a number of other expenses relating to the operation of a cruise ship that Carnival will not be required to pay while the ships are under charter to the federal government. In its 2002 financial documents, Carnival lists entertainment expenses per operating day that averaged $989 for its "fantasy class" ships, including the Sensation and the Ecstasy, and $700 for the Holiday. These avoided entertainment expenses could equal almost $500,000 over six months for the three ships. In addition, the pools, bars, and casino areas do not require daily maintenance, the engines are not enduring the same wear and tear, and there are no navigational expenses. Yet none of these savings appear to be accounted for in the contract.

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[8] Carnival Cruise Lines Operating Company, *Financial Review*, p. 60 (Jan. 2002); Email from Kenneth Allen, Military Sealift Command, to Government Reform Committee Minority Staff (Oct. 14, 2005).

[9] Carnival Cruise Lines Operating Company, *Financial Review*, p. 60 (Jan. 2002).

[10] *See* Carnival Cruise Lines Operating Company, *Financial Review* (Jan. 2002). The payroll estimates are based on the actual payroll and head counts across the Carnival fleet. No information regarding pay rates was provided for casino or shore excursion staff. These pay rates were estimated to be the same as food service staff.

[11] *Id.*

Questionable Reimbursements

Even if the Carnival contract were more reasonably priced, its underlying premises would be questionable. The contract has been designed to require the taxpayer to compensate Carnival for both the revenues the company would have earned under normal operations and any additional expenses that Carnival incurs under the contract. This means that the taxpayer does not reimburse Carnival for just the services it actually provides. The taxpayer is also responsible for paying for revenues the company would have received from its casino operations, liquor and drink sales, and on-shore excursions, even those these costs have nothing to do with the primary relief mission.

The cumulative cost of these questionable reimbursements is significant. Extrapolations from the 2002 financial data show that Carnival could expect to receive approximately $12.5 million in casino revenue and $10.5 million in bar revenue from the three ships over six months.[12] When other extraneous revenue sources, such as on-shore excursions, are included, it appears that 20% of the cost of the contract can be attributable to reimbursements that have no connection to services actually provided by Carnival.[13]

Given our mounting federal debt and the devastation wrought by the hurricanes, few Americans would support compensating Carnival for lost gambling and liquor proceeds. Yet this appears to be exactly what the contract does.

The primary justification provided by Carnival executives for these reimbursements is that the company should recoup what the company would ordinarily earn from the three ships.[14] However, it is doubtful that Carnival would have earned normal revenues from these ships in the aftermath of the hurricanes. One of the ships under charter (the Sensation) was operating out of the New Orleans port. Another (the Holiday) was based in Mobile. Hurricanes Katrina and Rita would surely have disrupted Carnival's operations even if the ships were not chartered to the federal government.

Yet another questionable reimbursement under the contract is the provision that Carnival will be paid $35 million for reimbursement of federal taxes.[15] The rationale for this reimbursement appears to be that Carnival traditionally uses legal maneuvers (such as sailing its ships under foreign flags) to evade U.S. taxes. Rewarding Carnival for successfully avoiding federal taxes in the past hardly seems like sound public policy.

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[12] *Id.*

[13] *Id.* Total onboard revenues over six months are estimated to be $48 million.

[14] "Katrina Contracts will be Reopened," *The Washington Post* (Oct. 7, 2005).

[15] Military Sealift Command, Contract No. N00033-05-C-5611 with Carnival Cruise Lines (awarded Sept. 2, 2005).

Conclusion

A provision was recently added to the federal contract requiring Carnival Cruise Lines to return any contract payments that create a surplus profit over what the company would have earned in normal operations as "estimated in good faith" by Carnival.[16] The late insertion of the provision may be an admission of the flaws in the contract, but it does little to ameliorate my concerns. Under this provision, the responsibility for determining whether Carnival is overcharging the taxpayer has been turned over to the company itself, which offers the taxpayer scant hope of relief.

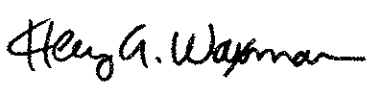
Instead of this meaningless provision, what we need to do is to restore transparency and accountability to federal contracting. Both Carnival and the Department need to justify to the Congress and the taxpayer why this contract is reasonable. And if an adjustment in the contract price is required, it should be made soon.

In order to assist in congressional oversight of this contract, I request that you provide the following additional information without delay:

- All documentation regarding the calculations of lost revenue provided by Carnival Corporation to the Military Sealift Command, FEMA, or other government agency to justify the cost of the contract;
- All documentation regarding the calculations of expenses incurred under normal operations and under the charter contract that were provided by Carnival Corporation to the Military Sealift Command, FEMA, or other government agency to justify the cost of the contract;
- All documentation regarding the decision to reimburse Carnival for federal taxes owed while under the charter contract; and
- Any documentation regarding the development of the provision calling for return of excessive profits by Carnival.

I would appreciate receiving these documents by November 3.

Sincerely,



Henry A. Waxman
Ranking Minority Member

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[16] Military Sealift Command, Contract No. N00033-05-C-5611 with Carnival Cruise Lines (awarded Sept. 2, 2005).

GENE TAYLOR
4TH DISTRICT, MISSISSIPPI

COMMITTEE ON ARMED SERVICES

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

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October 27, 2005

Congressman Tom Davis
Chairman
House Select Bipartisan Committee to Investigate the
Preparation for and response to Hurricane Katrina
2157 Rayburn House Office Building
Washington D.C. 20515

Dear Chairman Davis:

I am respectfully requesting that the Katrina Select Committee hold a hearing on the unmet need for housing of displaced persons along the Gulf Coast.

It is inconceivable that two months after Hurricane Katrina a backlog of over 14,000 applications for temporary housing in Mississippi is still unmet. In the past seven days FEMA placed 1575 travel trailers. At this rate the agency will not be able to place everyone in need of temporary housing by the end of the year. Many of my constituents are still living in tents, and thousands of others are forced to live with family members or are being housed at government expense in hotels across the nation. It is my understanding that our neighbors in Louisiana are also experiencing similar difficulties with respect to housing for displaced persons. This is simply unacceptable.

Since the hurricane hit, 11,838 FEMA travel trailers have been set up for families in Mississippi. This represents less than half of the total need. It is clear that FEMA is failing to meet the most basic needs for many of the victims of Katrina. It is my hope that by bringing this situation to the attention of our colleagues that we can find a solution to this problem that will result in a significant increase in the number of families that are moved into a safe and dry environment. Hopefully we can prevent similar problems in the future.

Thank you for your leadership of the Katrina Select Committee, and I look forward to working with you in the future.

Sincerely,

Gene

GENE TAYLOR
Member of Congress

GT:rj

Congress of the United States
Washington, DC 20515

November 1, 2005

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Mr. Secretary:

We are writing to express serious concern with the Department's failure to complete a confidential, operational annex to the National Response Plan before Hurricane Katrina struck the Gulf Coast on August 29.

The National Response Plan issued last January by Secretary Ridge established broad lines of authority for agencies responding to catastrophic events. It stated that a "more detailed and operationally specific" annex would set forth in detail the precise role of each agency involved in federal response efforts. Although the National Response Plan was issued over nine months ago, we have been informed that the operational annex remains incomplete to this day.

During your testimony on October 19, 2005 before the House of Representatives, you acknowledged that "there are a lot of things that didn't work well with the response" to Hurricane Katrina. You attributed these deficiencies overwhelmingly to the failure to properly plan for the federal response, stating, "I think 80 percent or more of the problem lies with the planning."

You illustrated this point by highlighting major coordination problems with the Defense Department. You testified that the absence of a plan "goes to how well we work with the military when the military has large numbers of assets they can bring to bear on a problem, how fluid we are with them. I think that's an area where had we had sufficient time ... that would have made the single biggest difference in terms of allowing us to respond hours and maybe even days earlier."

While your testimony appears to be an accurate reflection of the critical problems experienced on the ground, it does not explain why your Department has failed over the past nine months to complete this planning and issue the operational annex. Had you done so, perhaps the various federal agencies inside and outside your Department would have responded in a more coordinated and effective manner.

Background

In response to the terrorist attacks of September 11, 2001, Congress passed the Homeland Security Act of 2002. In addition to establishing a new Department of Homeland Security,

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Congress charged the new Secretary of the agency with "consolidating existing Federal Government emergency response plans into a single, coordinated national response plan."[1]

On January 6, 2005, your predecessor, Homeland Security Secretary Tom Ridge, unveiled the National Response Plan. It was the product of coordination among 32 federal agencies and departments. At the press conference introducing the new plan, Secretary Ridge said: "The National Response Plan embodies our nation's commitment to the concept of one team, one goal — a safer and more secure America."[2] He also said the plan was "one of my department's highest priorities" and called its issuance "a bold step forward in bringing unity in our response to disasters and terrorist threats and attacks."[3]

Although the National Response Plan established broad lines of authority for agencies responding to catastrophic events, it did not provide precise operational responsibilities for officials responding on the ground. Instead, the plan was intended to provide "a core operational plan for all national incident management."[4] The plan combined and superseded various existing plans, including the Federal Response Plan, the U.S. Government Interagency Domestic Terrorism Concept of Operations Plan, and the Federal Radiological Emergency Response Plan.[5]

In order to address this lack of operational specificity, the National Response Plan required the development of a much more detailed annex. As the National Response Plan states: "A more detailed and operationally specific NRP [National Response Plan] Catastrophic Incident Supplement (NRP-CIS) that is designated 'For Official Use Only' will be approved and published independently of the NRP Base Plan and annexes."[6]

Status of Detailed Operational Annex

We have been informed that your Department did not complete the detailed, operational annex prior to Hurricane Katrina striking the Gulf Coast. In fact, it is our understanding that the annex still has not been completed to this day, more than nine months after the National

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[1] Section 502(6), Homeland Security Act of 2002, Pub. L. 107-296.

[2] Office of the Press Secretary, U.S. Department of Homeland Security, *Department of Homeland Security Secretary Tom Ridge Announces Completion of the National Response Plan* (Jan. 6, 2005).

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] U.S. Department of Homeland Security, *National Response Plan, Catastrophic Incident Annex, p. CAT-1* (Dec. 2004).

Response Plan was issued. According to information provided to our staff, a draft annex was reportedly circulated in September, but concerns about an accompanying Memorandum of Agreement between the relevant agencies delayed its issuance.

This new information raises significant questions about your testimony on October 19, 2005, before the House Select Committee to Investigate the Preparation for and Response to Hurricane Katrina. During your testimony, you made clear that you believed there were major problems with the federal response. You also made clear that you believed the most significant cause of these deficiencies was a failure to properly plan.

For example, during your opening statement, you observed that "we did not have the kind of integrated planning capabilities that you need to deal with the kind of catastrophe we faced in Katrina."[7] You explained that you were referring to "not only our own planning but our ability to plan with others, including state and local government and including the military."[8]

When you were questioned by Rep. Melancon about this issue, you elaborated on your assessment. You stated: "you can't plan in a crisis environment. If we at DHS fell down, it was largely in the area of planning. I think that the challenge of dealing with this kind of ultra-catastrophe is one that requires a lot of work beforehand, months beforehand. It doesn't require work — 48 hours before the event, you're past planning. You've got to be executing."[9]

You made similar statements to other members. For example, in response to a question from Rep. Shuster, you stated: "To the extent I think there was a flaw in the execution, I think the flaw lay in planning what to do."[10] And in response to a question from Rep. Jefferson, you stated: "the largest problem here was attributable to planning .... If you start to plan in the emergency, you're not planning. You're improvising."[11]

Over and over again, you pointed to a lack of planning as the key to the federal government's response failures. As you stated to Rep. Thornberry: "I think 80% or more of the problem lies with the planning .... [I]t doesn't come naturally to civilian agencies for the most part to do the kind of disciplined planning for a complicated operation."[12]

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[7] FDCH Political Transcripts, *House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Holds a Hearing on Department of Homeland Security Relief Response* (Oct. 19, 2005).

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

Given your numerous statements about the importance of planning, it is unclear why your Department did not complete the detailed operational annex, which would have provided precisely the type of planning you believe was missing in your agency's response to Hurricane Katrina. As Secretary of Homeland Security, you are the federal official responsible for this planning function. Although Secretary Ridge completed the National Response Plan over nine months ago, it was your responsibility to complete the operational annex.

Lack of Coordination with the Defense Department

Without the detailed operational annex to guide federal response efforts, there was tremendous confusion and an utter lack of coordination among federal agencies involved in the response efforts. As you mentioned in your testimony on October 18, no example illustrated these problems more clearly that the failure of the Department of Homeland Security to coordinate and communicate at the most basic levels with the Department of Defense.

In your testimony, you explicitly recognized that the failure to properly plan related directly to "how well we work with the military when the military has large numbers of assets they can bring to bear on a problem, how fluid we are with them."[13] You testified, "I think that's an area where had we had sufficient time ... that would have been the single biggest difference in terms of allowing us to respond hours and maybe even days earlier to some of the issues that were addressed on a Thursday and a Friday that might have been addressed on a Tuesday or a Wednesday."[14]

Internal emails appear to support this aspect of your testimony. They document a complete breakdown in coordination between the top military official on the ground, Lieutenant General Russell Honore, and the head civilian official in the field, former FEMA Director Michael Brown. You testified that on the Wednesday two days after the hurricane, you instructed Mr. Brown to "[g]et hold of General Honore and make sure you two guys are lashed at the hip."[15] You explained the importance of this unified command: "What that means is everybody who has got command responsibility has to be in one place."[16]

However, an email sent the next day shows that General Honore and Michael Brown still had not connected. In the email, General Honore asks FEMA officials to get Michael Brown's satellite phone number. The officials wrote: "He wants to speak with Mike very badly."[17] Mr.

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[13] *Id.*

[14] *Id. (emphasis added).*

[15] *Id.*

[16] *Id.*

[17] Email from "Todd" at FEMA-R01-ROC-DIR to William Carwile *et al.* (Sept. 1, 2005).

Brown, however, was not even in the same state. The reply to the email explained that Mr. Brown was "[n]ot here in MS. Is in LA, as far as I know."[18] As a result, a full four days after the hurricane, the top civilian and military field commanders still had not spoken.

Another example of failures at the most basic levels between the Homeland Security and Defense Departments was the lack of coordination on the deployment of response assets. On September 6, General Richard Myers, Chairman of the Joint Chiefs, stated at a press conference that no federal civilian government officials had requested assistance from the military by Tuesday, August 30, the day after the hurricane struck. He said:

> [W]e started working issues before we were asked. And on Tuesday, at the direction of the secretary and the deputy secretary, we went to each of the services. I called each of the chiefs of the services, one by one, and said we don't know what we're going to be asked for yet.[19]

This situation apparently persisted for days. On Wednesday, August 31, Louisiana Governor Kathleen Blanco made a request for 40,000 troops.[20] But it was not until Friday, September 2, that FEMA officials finally sent an email requesting the Defense Department to "support the planning and execution of the full logistical support to the Katrina disaster."[21] Inexplicably, the Defense Department response rejected the request on the grounds that bureaucratic protocol had not be followed. According to the email message, the Pentagon rejected FEMA's request for assistance because it had not "come from Secretary to Secretary."[22]

This statement, which was attributed to Col. Chaves in the office of the Deputy Secretary of Defense, revealed an ignorance of the National Response Plan and the authority of the Principal Federal Official, who at the time was Mr. Brown. It elevated mindless protocol over urgently needed help for those in need. And it highlighted your own lack of involvement, which may have delayed unnecessarily the delivery of this critical assistance.

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[18] Email from William Carwile to Jesse Munoz and FEMA-R04-ROC-DIR (Sept. 1, 2005).

[19] U.S. Department of Defense, *Defense Department Operational Update Briefing* (Sept. 6, 2005).

[20] *Political Issues Snarled Plans For Troop Aid,* New York Times (Sept. 9, 2005).

[21] Email from Ken Burris to Mathew Broderick, Michael Brown, Patrick Rhode, Edward Buikema, Brooks Altshuler, Michael Heath, and David Trissell (Sept. 2, 2005).

[22] *Id.*

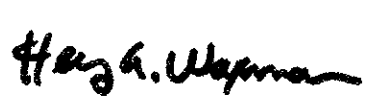
Conclusion

Throughout your testimony on October 19, you referred to former FEMA Director Michael Brown as your "battlefield commander on the ground."[23] You claimed that you had given him "all the legal authority to gather cooperation from other federal agencies in terms of supplies and manpower to be available to assist the state and local government dealing with the emergency."[24]

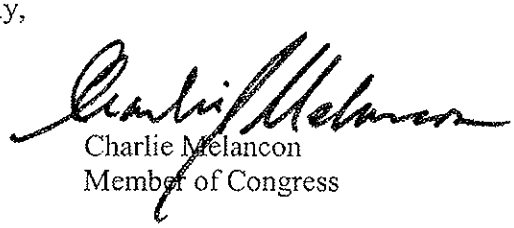
Your judgment in relying on Mr. Brown as your "battlefield commander" can be called into serious question. But putting that aside, it was your responsibility — not Mr. Brown's — to complete the detailed operational annex to the National Response Plan, which would have set forth in clear terms the precise responsibilities of each agency involved in the federal response to Hurricane Katrina. In effect, you sent an unqualified battlefield commander into the field without an adequate battle plan.

For these reasons, we request that you report on the current status of the detailed operational annex and explain how you intend to address the specific coordination problems between the Department of Homeland Security and the Department of Defense that occurred after Hurricane Katrina.

Sincerely,



Henry A. Waxman
Ranking Minority Member
Committee on Government Reform



Charlie Melancon
Member of Congress

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[23] FDCH Political Transcripts, *House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Holds a Hearing on Department of Homeland Security Relief Response* (Oct. 19, 2005).

[24] *Id.*

STAFF REPORT FOR
REP. CHARLES MELANCON
U.S. HOUSE OF REPRESENTATIVES
NOVEMBER 2, 2005

Hurricane Katrina Document Analysis: The E-Mails of Michael Brown

On September 30, 2005, Rep. Charles Melancon and Rep. Tom Davis, the chairman of the House select committee investigating Hurricane Katrina, wrote to Secretary of Homeland Security Michael Chertoff requesting documents and communications from the Department of Homeland Security and its components relating to the response to Hurricane Katrina. The request asked for a response within two weeks, by October 14, 2005.

To date, the Department of Homeland Security has provided few of the documents requested by Reps. Melancon and Davis. One exception, however, involves the e-mails of Michael Brown, the former director of the Federal Emergency Management Agency. Although it does not appear that the Department has provided a complete set of e-mails involving Mr. Brown, the Department has produced more than 1,000 pages of e-mail correspondence from Mr. Brown's office. About 100 pages of these e-mails were produced on October 14, 2005. The remainder, about 900 pages of e-mails, were produced on October 18, 2005.

At the request of Rep. Melancon, this staff analysis summarizes some of the key e-mails involving Mr. Brown. These e-mails paint a portrait of Mr. Brown that differs significantly from Mr. Brown's testimony before Congress about his actions. In his appearance before the House select committee, Mr. Brown described himself as an effective leader. He said, "I get it when it comes to emergency management. I know what it's all about."[1] The e-mails, however, reveal that Mr. Brown made few decisions and seemed out of touch. In the midst of the crisis, Mr. Brown found the time to exchange e-mails about his appearance, his reputation, and other nonessential matters. But few of his e-mails demonstrated leadership or a command of the challenges facing his agency.

Although the Brown e-mails provide a unique window into FEMA's decision-making process, they do not appear to be a complete set of Mr. Brown's e-mails. Mr. Brown testified before the select committee that he "exchanged e-mails" with White House officials, including White House chief of staff Andrew Card, yet none of these e-mails are included. There are also no e-mails between Mr. Brown and Secretary Chertoff. Moreover, despite the requests of Reps. Melancon and Davis, the select committee has not received any of the relevant e-mails and

[1] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Testimony of Michael D. Brown, *Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109th Cong. (Sept. 27, 2005).

communications involving Homeland Security Secretary Michael Chertoff, Defense Secretary Donald Rumsfeld, Army Corps of Engineers Commander Carl Strock, Health and Human Services Secretary Michael Leavitt, and White House chief of staff Andrew Card. The continued failure of Administration officials to comply with these document requests will impede congressional oversight of the federal response to Hurricane Katrina.

Mr. Brown's Testimony

On September 27, 2005, Michael Brown appeared before the House select committee to defend his response to Hurricane Katrina. At the hearing, Mr. Brown testified that "FEMA pushed forward with everything that it had, every team, every asset that we had, in order to help what we saw as being a potentially catastrophic disaster."[2]

He testified that he had made only two mistakes:

> First, I failed initially to set up a series of regular briefings to the media about what FEMA was doing throughout the Gulf Coast region. ... Second, I very strongly personally regret that I was unable to persuade Governor Blanco and Mayor Nagin to sit down, get over their differences and work together. I just couldn't pull that off.[3]

Mr. Brown also testified to his own leadership skills. Asked what credentials he brought to his job as FEMA Director, he said, "Management skills. ... Organizational skills. ... You need to be able to lead people, put the right people in place, put good people around you ... not yes people but people who are going to argue and give you the pros and cons of the decisions that you have to make, and then be willing to make those decisions and carry forward with it."[4]

Mr. Brown's E-Mails

The e-mails from Mr. Brown paint a different picture of Mr. Brown than Mr. Brown conveyed during the hearing. They reveal that Mr. Brown made few decisions and seemed out of touch. A number of the e-mails address nonessential matters such as what Mr. Brown should wear, how he could defend his reputation, and even who would care for his dog. Other e-mails are devoted to banter with Mr. Brown's staff. There are few e-mails that show Mr. Brown taking charge or issuing tasking orders.

1. Failure to Make Decisions

There are almost no e-mails from Mr. Brown in which he makes decisions and communicates them to his subordinates. In the e-mails, Mr. Brown receives incoming messages about specific problems, but rarely reacts.

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[2] *Id.*
[3] *Id.*
[4] *Id.*

On Wednesday, August 31, 2005, at 12:20 p.m., Marty Bahamonde, one of the only FEMA employees on the ground in New Orleans, sent a desperate message to Mr. Brown:

> Sir, I know that you know the situation is past critical. Here are some things you might not know.
>
> Hotels are kicking people out, thousands gathering in the streets with no food or water. Hundreds still being rescued from homes.
>
> The dying patients at the DMAT tent being medivac. Estimates are many will die within hours. Evacuation in process. Plans developing for dome evacuation but hotel situation adding to problem. We are out of food and running out of water at the dome, plans in works to address the critical need.
>
> FEMA staff is OK and holding own. DMAT staff working in deplorable conditions. The sooner we can get the medical patients out, the sooner wecan get them out.
>
> Phone connectivity impossible.[5]

Mr. Brown responded to Mr. Bahamonde at 12:24 p.m. This is Mr. Brown's full response:

> Thanks for the update. Anything specific I need to do or tweak?[6]

This indecisive response is not uncommon. Two days later, on Friday, September 2, 2005, Mr. Brown received a message with the subject "Medical help." At the time, thousands of patients were being transported to the New Orleans airport, which had been converted to a makeshift hospital.[7] Because of a lack of ventilators, medical personnel had to ventilate patients by hand for as long as 35 hours.[8] The text of the e-mail read:

> Mike, Mickey and other medical equipment people have a 42 ft trailer full of beds, wheelchairs, oxygen concentrators, etc. They are wanting to take them where they can be used but need direction. Mickey specializes in ventilator patients so can be very helpful with acute care patients. If you could have someone contact him and let him know if he can be of service, he would appreciate it. Know you are busy but they really want to help.[9]

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[5] E-mail from Marty Bahamonde to Michael D. Brown (Aug. 31, 2005).

[6] E-mail from Michael D. Brown to Marty Bahamonde (Aug. 31, 2005).

[7] *Morning Edition*, National Public Radio (Sept. 14, 2005).

[8] *Going Back For More*, Corvallis Gazette-Times (Sept. 17, 2005).

[9] E-mail from "Carolyn" to Michael D. Brown (Sept. 2, 2005).

Mr. Brown, however, did not respond to this message until four days later, when he finally forwarded it to FEMA Deputy chief of staff Brooks Altshuler and Deputy Director of Response Michael Lowder. The text of Mr. Brown's e-mail read: "Can we use these people?"[10]

On other occasions, Mr. Brown did not appear to respond at all to reports of problems he received from FEMA staff. For example, on Thursday, September 1, FEMA officials were exchanging reports of severe shortages of ice and water in Mississippi. The next day's delivery was reported as 60 trucks of ice and 26 of water, even though the requirements were for 450 trucks of each.[11] Robert Fenton, a FEMA regional response official, wrote: "We have not yet met any of our requirements even with two days' notice. If we get the quantities in your report tomorrow we will have serious riots."[12] William Carwile, FEMA's coordinator in Mississippi, confirmed this assessment: "Will need big time law enforcement reinforcements tomorrow. All our good will here in MS will be very seriously impacted by noon tomorrow. Have been holding it together as it is."[13] FEMA Deputy Director of Response Michael Lowder forwarded this chain of messages to Mr. Brown.[14] Yet there is no response from Mr. Brown in the e-mails produced by the Department.

In the 1,000 pages of e-mails, there are few e-mails from Mr. Brown that task FEMA officials to perform specific tasks or respond to pressing problems. One exception occurred on September 8, over a week after the hurricane. After receiving a message from a member of the public complaining about FEMA's policy of not allowing evacuees to bring pets with them,[15] Mr. Brown sent an immediate message to his staff:

> I want us to start planning for dealing with pets. If evacuees are refusing to leave because they can't take their pets with them, I understand that. So, we need to facilitate the evacuation of those people by figuring out a way to allow them to take their pets. Bill and Ron, this may not be an issue for you in AL and MS, but it is a huge issue in LA. Please get some sort of plan together to start handling the pets. Thanks. MB[16]

2. Misinformation about the Levee Break

A key question that has emerged is when federal officials learned that the levees in New Orleans actually breached and began flooding the city. In statements by senior Administration officials in the days after Hurricane Katrina, President Bush,[17] Secretary Chertoff,[18] and Chairman of the

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[10] E-mail from Michael D. Brown to Brooks Altshuler and Michael Lowder (Sept. 6, 2005).

[11] E-mail from Robert Fenton to William Carwile (Sept. 1, 2005).

[12] E-mail from Robert Fenton to "FEMA-LRC-Deputy-Chief" *et al.* (Sept. 1, 2005).

[13] E-mail from William Carwile to Michael Lowder *et al.* (Sept. 1, 2005).

[14] E-mail from Michael Lowder to William Carwile, Michael D. Brown, Patrick Rhode *et al.* (Sept. 2, 2005).

[15] E-mail from Carol Springman to Michael D. Brown *et al.* (Sept. 8, 2005).

[16] E-mail from Michael Brown to William Lokey *et al.* (Sept. 8, 2005).

[17] President George W. Bush, White House, *President Tours Biloxi, Mississippi Hurricane Damaged Neighborhoods* (Sept. 2, 2005).

Joint Chiefs of Staff Richard Meyers[19] stated that the 17th Street and London Canal levees, which flooded much of northern New Orleans, did not breach until Tuesday, August 30. In fact, the levees actually broke on Monday, August 29.[20] The delay by federal officials in understanding when the levees broke has been criticized as a major failing in the federal response.

The e-mails reveal that Mr. Brown was apprised early on Monday of the levee failure and the dire consequences for New Orleans. For example, Mr. Brown received the following stream of e-mails on Monday, August 29:

- At 9:39 a.m., Mr. Brown received a message stating: "Report that the levee in Arabi has failed next to the industrial canal."[21]

- At 9:53 a.m., Mr. Brown received a message stating: "A LEVEE BREACH OCCURRED ALONG THE INDUSTRIAL CANAL AT TENNESSE[E] STREET. 3 TO 8 FEET OF WATER IS EXPECTED DUE TO THE BREACH ... LOCATIONS IN THE WARNING INCLUDE BUT ARE NOT LIMITED TO ARABI AND 9TH WARD OF NEW ORLEANS"[22]

- At 10:20 a.m., Mr. Brown received a message stating:

  > From Marty Bahamonde in the New Orleans EOC (next to the superdome)
  > - Severe flooding on the St. Bernard/Orleans parish line. Police report water level up to second floor of two story houses. People are trapped in attics.
  > - Pumps starting to fail. The city has now confirmed four pumps are off line.
  > - Windows and parts of the east side of the Amaco building blown out.
  > - New Orleans shopping center (next to superdome) destroyed.
  > - Windows and parts of the East side of the Hyatt Hotel have been blown out. Furniture is blowing out of the hotel.
  > - Top floors of the Entergy building have been blown out
  > - Area around the Superdome is beginning to flood.
  > We should have pictures shortly.[23]

- At 11:57 a.m., Mr. Brown received a message stating: "New Orleans FD is reporting a 20 foot wide breach on the lake ponchatrian levy. The area is lakeshore Blvd and 17th street."[24]

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[18] *Meet the Press*, NBC News (Sept. 4, 2005).

[19] Gen. Myers, Department of Defense, *Defense Department Operational Update Briefing* (Sept. 6, 2005).

[20] *Katrina: Failure at Every Turn*, Knight-Ridder (Sept. 11, 2005) (citing U.S. Army Corps of Engineers reports).

[21] E-mail from Michael Lowder to Michael D. Brown *et al.* (Aug. 29, 2005).

[22] *Id.*

[23] E-mail from Michael Heath to Michael D. Brown (Aug. 29, 2005).

[24] E-mail from Michael Lowder, *supra* note 21.

The e-mails indicate that Mr. Brown responded to only one of these messages. At 12:09 p.m., Mr. Brown responded to the 11:57 a.m. report of the "20 foot wide breach on the lake ponchatrain levy" by dismissing the report. He wrote: "I'm being told here water over not a breach."[25] The e-mails do not indicate who told Mr. Brown this misinformation. There is also no indication in the e-mails that Mr. Brown recognized the seriousness of his mistake or took actions to correct it. There are no further e-mails from Mr. Brown that day about the levees.

3. E-Mails about Appearance, Reputation, and Dog-Sitting

Hurricane Katrina was one of the worst natural disasters to strike the United States. Mr. Brown emphasized the scope of the disaster in his testimony, saying that Katrina was far worse than any other disaster FEMA had handled during his tenure. He said, "the geographical size of it, the urban area nature of it, the extent of the devastation, the total destruction of the infrastructure. I mean, those are big, big items."[26]

Yet in the midst of the overwhelming damage caused by the hurricane and enormous problems faced by FEMA, Mr. Brown found time to exchange e-mails about superfluous topics such as his appearance, his reputation, and problems finding a dog-sitter.

On Friday, August 26, Mr. Brown e-mailed his press secretary, Sharon Worthy, about his attire, writing: "Tie or not for tonight? Button down blue shirt?"[27] On Monday, August 29, between 7:00 and 9:00 a.m. on the day the hurricane struck, Mr. Brown exchanged additional e-mails about his attire with Cindy Taylor, FEMA deputy director of public affairs. Ms. Taylor wrote Mr. Brown: "I know its early, but … My eyes must certainly be deceiving me. You look fabulous — and I'm not talking the makeup!"[28] Mr. Brown's reply was: "I got it at Nordstroms. … Are you proud of me?"[29] An hour later, Mr. Brown added: "If you'll look at my lovely FEMA attire you'll really vomit. I am a fashion god."[30]

Several days later, Mr. Brown received yet another e-mail about his attire. This time, Ms. Worthy instructed Mr. Brown: "Please roll up the sleeves of your shirt … all shirts. Even the President rolled his sleeves to just below the elbow. In this cris[is] and on TV you just need to look more hard-working … ROLL UP THE SLEEVES."[31]

Mr. Brown also found time to send multiple e-mails about his reputation. Alerted by a friend, Howard Pike, that the media was investigating his tenure at the International Arabian Horse

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[25] E-mail from Michael D. Brown to Michael Lowder (Aug. 29, 2005).

[26] Testimony of Michael D. Brown, *supra* note 1.

[27] E-mail from Michael D. Brown to Sharon Worthy (Aug. 26, 2005).

[28] E-mail from Cindy Taylor to Michael D. Brown (Aug. 29, 2005).

[29] E-mail from Michael D. Brown to Cindy Taylor (Aug. 29, 2005).

[30] E-mail from Michael D. Brown to Marty Bahamonde, Cindy Taylor, and Michael Widomski (Aug. 29, 2005).

[31] E-mail from Sharon Worthy to Michael D. Brown (Sept. 4, 2005).

Association, Mr. Brown asked Mr. Pike to direct the media to people who would defend him: "Bazy and Sheila would be perfect. Can you make the connections?"[32] Mr. Brown then forwarded Mr. Pike's message to Natalie Rule, a DHS press contact, and Lea Ann McBride, Vice President Cheney's press secretary, saying: "Howard Pike is the former head of the Air Line Pilots Association and a good friend of mine. I'll get on my laptop and get his contact info shortly."[33] Mr. Brown also sent a message to Andrew Lester, an Oklahoma lawyer, asking him to call reporters about this issue.[34]

There are even e-mails about finding a sitter for Mr. Brown's dog, for whom Mr. Brown's wife was apparently having difficulties locating care. On Tuesday, August 30, the day after the hurricane struck, Mr. Brown sent this e-mail to his assistant, Tillie James: "Do you know of anyone who dog-sits? Bethany has backed out and Tamara is looking. If you know of any responsible kids, let me know. They can have the house to themselves Th-Su."[35]

Some of these e-mails from Mr. Brown convey the impression that he may have been overwhelmed by his responsibilities. In his e-mail to Ms. Taylor on the morning the hurricane struck, Mr. Brown wrote, "Can I quit now? Can I come home?"[36] A few days later, Mr. Brown wrote to an acquaintance, "I'm trapped now, please rescue me."[37]

The Need for Additional Documents

The e-mails received from Mr. Brown's office reveal valuable insights into what went wrong during the critical days following Hurricane Katrina. They also highlight the need to receive a complete set of e-mails from Mr. Brown and similar documents from other key officials. To date, however, Administration officials have failed to respond to the document requests from Rep. Melancon and Rep. Davis.

1. Gaps in the Brown E-Mails

On September 30, Rep. Melancon and Rep. Davis sent a letter to Secretary Chertoff asking for "documents or communications, including internal communications, received, prepared, or sent by officials in ... the Office of the Under Secretary of Emergency Preparedness and Response," which is the office held by Mr. Brown.[38] The letter requested that these documents be provided by October 14, 2005.

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[32] E-mail from Michael D. Brown to Howard Pike (Sept. 5, 2005).

[33] E-mail from Michael D. Brown to Natalie Rule and 'lmcbride@ovp.eop.gov' (Sept. 5, 2005).

[34] E-mail from Michael D. Brown to 'alester@lldlaw.com' (Sept. 5, 2005).

[35] E-mail from Michael D. Brown to Tillie James (Aug. 30, 2005).

[36] E-mail from Michael D. Brown, *supra* note 29.

[37] E-mail from Michael D. Brown to 'guhman@comcast.net' (Sept. 2, 2005).

[38] National Archives and Records Administration, *United States Government Manual 2004-2005*.

Although the Department has provided many e-mails from Mr. Brown, it does not appear that all of Mr. Brown's e-mails have been produced by the Department. In his congressional testimony, Mr. Brown referenced e-mails that he sent to the White House. Mr. Brown stated: "I exchanged e-mails and phone calls with Joe Hagin, Andy Card and the President."[39]

However, no e-mail messages between Mr. Brown and Joe Hagin, who is White House deputy chief of staff, or Andrew Card, who is White House chief of staff, have been provided by the Department. There have also been no e-mails produced between Mr. Brown and President Bush or other senior White House officials. Moreover, it does not appear that any e-mails between Mr. Brown and Secretary Chertoff have been produced. These are significant gaps in the Department's compliance with the congressional document request.

2. Failure of Secretary Chertoff to Provide Documents

Secretary Chertoff has also failed to provide e-mails and other communications involving the Secretary or other officials in the Secretary's office. These documents were requested in the same letter that requested Mr. Brown's e-mails.[40]

At an October 19, 2005, hearing with Secretary Chertoff, Rep. Melancon expressed his concern that the select committee had not received any documents or communications from Secretary Chertoff or his office. Rep. Melancon asked Secretary Chertoff directly for a commitment to providing the documents requested by October 27, 2005, and he agreed. The transcript reads:

> Mr. Melancon: My understanding is that Chairman Davis had given you until October 27 to respond to our request. Are you committed to making that deadline?
>
> Mr. Chertoff: Yes.[41]

The Department did produce additional documents on October 27, 2005, and still more documents on October 28, 2005. However, these documents do not appear to include e-mails or other communications involving Secretary Chertoff or his immediate office.

3. Failure of Other Administration Officials to Provide Documents

In addition to the letter sent to Secretary Chertoff on September 30, Reps. Melancon and Davis sent similar document request letters to Andrew Card, the White House chief of staff;[42] Donald

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[39] Testimony of Michael D. Brown, *supra* note 1.

[40] Letter from Rep. Tom Davis and Rep. Charles Melancon to Secretary of Homeland Security Michael Chertoff (Sept. 30, 2005).

[41] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

[42] Letter from Rep. Tom Davis and Rep. Charles Melancon to White House Chief of Staff Andrew Card (Sept. 30, 2005).

Rumsfeld, the Secretary of Defense;[43] Lt. Gen. Carl Strock, the Commander of the U.S. Army Corps of Engineers;[44] and Michael Leavitt, the Secretary of Health and Human Services.[45] Similar document requests were also sent to the governors of Louisiana, Mississippi, and Alabama. These letters requested an initial response within two weeks, a deadline of October 14, 2005. Rep. Davis extended the deadline to October 27, 2005.

Although the extended deadline has now passed, responsive documents have not been received from any of these officials.

Conclusion

The e-mails of former FEMA Director Michael Brown provide telling insights into the federal response to Hurricane Katrina. They depict a leader who seemed overwhelmed and rarely made key decisions. Many of the e-mails address superficial subjects — such as Mr. Brown's appearance or reputation — rather than the pressing response needs of Louisiana and Mississippi. Few of the e-mails show Mr. Brown taking command or directing the response.

The credibility and thoroughness of the congressional investigation into the response to Hurricane Katrina will hinge on access to key documents and communications. To date, there are significant gaps in the e-mails involving Mr. Brown that have been provided to Congress. Other key officials — including Secretary Chertoff, Secretary Rumsfeld, Secretary Leavitt, and White House chief of staff Andrew Card — have not provided any of their communications. The select committee will not be able to fulfill its objectives if these documents are not produced in a timely manner.

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[43] Letter from Rep. Tom Davis and Rep. Charles Melancon to Secretary of Defense Donald Rumsfeld (Sept. 30, 2005).

[44] Letter from Rep. Tom Davis and Rep. Charles Melancon to Lt. Gen. Carl Strock (Sept. 30, 2005).

[45] Letter from Rep. Tom Davis and Rep. Charles Melancon to Secretary of Health and Human Services Michael Leavitt (Sept. 30, 2005).

Congress of the United States
House of Representatives
Washington, DC 20515

November 9, 2005

The Honorable Tom Davis
Chairman
Select Bipartisan Committee to Investigate the
Preparation for and Response to Hurricane Katrina
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On November 2, 2005, the Select Committee held a hearing on "Hurricane Katrina: The Federal Government's Use of Contractors to Prepare for and Respond to Catastrophic Events." Unfortunately, the government and contractor witnesses who testified were unable to answer many basic questions about the scope, price, and terms of contracts awarded after Hurricane Katrina struck the Gulf Coast.

Over two dozen times, the witnesses stated that they would research the information and provide it to the Committee as soon as possible – in some cases by the end of the day. Recognizing that their lack of information was beginning to "frustrate this committee," one witness promised: "I will assure you that people are in this room taking notes on what is being asked." To date, however, we have not received any follow-up responses.

It is essential that we obtain the requested information in order to conduct a full and thorough investigation of the problems associated with the massive contracts that were awarded in Katrina's wake. For this reason, I request that the Committee send written Questions for the Record to each witness who committed to providing information. For your convenience, I am attaching a list of 27 specific requests and commitments made at the hearing, along with relevant excerpts from the hearing transcript.

I appreciate your cooperation on this matter.

Sincerely,

Charlie Melancon
Member of Congress

Attachment

Transcript Excerpts:
Select Committee Hearing on Katrina Contracting
November 2, 2005

WITNESS: COLONEL NORBERT DOYLE
ACTING PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING
U.S. ARMY CORPS OF ENGINEERS

1) CHAIRMAN DAVIS: [O]n Friday, September 2, former FEMA Director Brown received an e-mail that showed that Mississippi would be getting 60 trucks of ice and 26 trucks of water, but their requirements were for 450 trucks of ice and 450 trucks of water. Why wouldn't they be getting their requirement, because some of this was -- we had everything ready, we knew what the need was, and they just didn't get it. Do they not have contracts to get those kind of requirements? Could there have been operational difficulties? And are you aware of difficulties getting water and ice to Mississippi at that time, this is September 2, and the efforts that they had to overcome? ....

   DOYLE: Sir, I'm not familiar with this specific incident, but I know we ordered and delivered literally thousands of truckloads of ice and water.

   CHAIRMAN DAVIS: Well, this was on Friday. Let me just give it to you again. This is September 2, for the storm, that they'd need 60 trucks of ice and 26 trucks of water were coming, but the requirements were for 450 each. Why wouldn't they have been able to get those requirements there early? Do you know what logistically could have happened or anything? And who was the contractor we were using at that point to get the ice and the water?

   DOYLE: Sir, the contractor for the ice mission, I believe, was IAT (ph), but I would need to get back to the record to double check that.

   CHAIRMAN DAVIS: I'll let you get back to the record.

2) REP. ROGERS: I'm referring to an October 25 story in the New Orleans Times Picayune newspaper that relates to the local contractors being allowed to have contracts for the removal of debris. According to the story, there are several New Orleans parishes that made contracts with local contractors to remove debris, and they're paying, I think, around $14 or so a ton, and the Corps of Engineers, I'm told, is being paid roughly 30 or so dollars a ton to contractors for the Corps of Engineers, and now the Corps, according to the story, is going to the local parishes saying, "You need to go through us and void your contracts with the local contractors."

   Well, the difference between $14 and $30 a ton ain't chicken feed. Now, is this true or is it not true? Colonel?

   DOYLE: Sir, I'm not familiar with that article, but we'll take it and check it to see if it's true or not.

3) REP. ROGERS: I want to know, though, what is the difference between what you're paying contractors to remove debris compared to what the parishes are paying direct

contractors to remove debris?

DOYLE: Sir, it's hard to answer because I don't know what that story said, and I don't know if those quotes are accurate or not.

REP. ROGERS: No, no. Do you know what you're paying -- what are you paying...

DOYLE: Sir, what I know right now is we're paying our Mississippi debris contractors $17 a cubic yard. I don't know if that pertains to the debris contractors in Louisiana.

REP. ROGERS: Well, who does know?

DOYLE: I'll have to get back to our contracting officers in the field and get back to you, sir.

4) DOYLE: Sir, we are reimbursed for our labor to support our customers.

REP. MELANCON: Is it a percentage of the cost of the contract?

DOYLE: No, sir.

REP. MELANCON: How is that determined?

DOYLE: Through labor rates for our district offices, administrative expenses that support those personnel.

REP. MELANCON: And do you know what the average of that cost is per district office?

DOYLE: No, sir, but I can get it back to you with our resource management folks.

REP. MELANCON: If you could.

DOYLE: Yes, sir.

5) REP. BONILLA: According to one report, the government is paying an average of $2,480 for in many cases less than two hours of work, even though the government is providing the blue sheeting for free. The government pays by the square foot. The Shaw Group is getting paid the most to install the tarp at $1.75 per square foot. The other two contractors are Simon Roofing, getting $1.72 per square foot, and LJC, getting $1.49 per square foot. Shaw is also billing the government at $155 per hour for its operation manager while Simon bills at $150 and LJC at $65.

Is that what it costs? It seems, I would think, especially to the average person, that this is an incredibly large amount of money per roof, even, again, assuming or recognizing that the government is supplying the material.

DOYLE: Yes, sir. Our contracting officers in the field are under an obligation to get with those contractors, and they do have to verify their costs. As for those specifics, we would have to get back with the contracting officer to make sure those are the specifics that they have been told.

6) REP. MYRICK: [H]ow do you justify almost $2,500 for two hours of work to put a blue tarp on a roof when the government furnishes the blue tarp anyway? I don't know if that's the Corps, for FEMA or who this is. I mean, doesn't it just ring a bell with somebody that this is an excessive amount of money? Who in the world at home would pay that kind of money to have two hours of work done?

I mean, you know, putting on a tarp, yes, it's hard, but a lot of us have done it before and it isn't $2,500 hard. I mean, I'm just really -- the frustration, I guess, I'm expressing is, doesn't anybody look and say, "Hey, gee, this seems like it's a lot of money," other than the inspector general after the fact?

DOYLE: No, ma'am; you're absolutely correct. That does seem like a lot of money, and what I'm going to do is go back to our program people and our contracting people and have a paper put together to explain what we think the average cost per roof really is to verify that number that seems to be bantered about.

7) REP. MYRICK: The advanced contracting initiative for quicker response, what kind of time requirement do you set out in the beginning for people who are supposed to provide the ice or the water or the roofing or whatever it is? Do you have specific requirements that they have to follow, and if they don't follow them, are there any penalties for not following them?

DOYLE: Ma'am, are you referring to, like, delivery times and how fast they have to be mobilized and working or deliver a truckload of ice? Is that...

REP. MYRICK: Right, to finish, from start to finish.

DOYLE: Yes, ma'am. I'm sure there are delivery times in each of those aspects, in mobilization ramp-up times. What they are off the top, I don't know off the top of my head.

REP. MYRICK: Can you find that out, please...

DOYLE: Yes, ma'am.

REP. MYRICK: [A]nd let me know, as well as if there are any penalties if they don't do it?

8) REP. TAYLOR: I think what you're going to find based on experience is a couple things. In some instances, you're just putting a small blue tarp over a small patch that lost the shingles. There will be other instances that actually involve putting the plywood down over what's left of the frame, patching a hole. Remember, the reason a lot of these roofs are gone is that a tree fell into someone's house, so you've got the tree removal. It's certainly complicated whether a flat roof, got a slight pitch or a very steep pitch, which makes it a heck of a lot harder to stay on there.

So I would hope that the Corps has a sliding scale of pricing based on all these different possibilities, but I would hope the colonel would get back to us.

Again, we deserve to know. If it's just putting out an 8-by-12 tarp for $2,500, obviously, we, as a nation, have been taken advantage of, but if the incidents you make reference to

involves removing the tree, replacing the plywood, possibly even fixing the frame, then that might justify it. But I'm sure hopefully the colonel would get back to us with all that.

DOYLE: Sir, we will get back to you. I mean, that $2,500 could be an average figure they used for planning purposes.

9) REP. MCCAUL: One, I wanted to go back to the Operation Blue Roof issue. The news reports I've read suggest that the government was paying close to $3,000 for these plastic blue tarps, when the going rate, according to these news reports, was about $300. So that's about a tenth of what the government's paying. When you calculate that with 300,000 homes, you're looking at a cost differential of $900 million versus $90 million. That's extraordinary.

And what I'm looking for you to tell me is that that's not accurate. Can you answer that question?

DOYLE: Sir, I can't tell you whether that's accurate or not, but what I have committed to is we will do a paper that lays out how those costs were established and how we set that average cost or where that average cost number comes from.

10) REP. TAYLOR: Mr. Rothwell, one of the remaining unmet needs is both the Biloxi Bridge that links Biloxi and Ocean Springs and the bridge that links Bay St. Louis and Pass Christian along U.S. Route 90 that were destroyed in the storm. Under ideal circumstances, they'll be replaced in two years.

My question is, whose job is it to try to establish some sort of ferry service, either for automobiles or passengers between those two points for the two years? Does that fall under FEMA or does that fall under the United States Department of Transportation?

DOYLE: Sir, I don't know. I mean, you're really asking a question -- this is a great question.

REP. TAYLOR: Would you get back to me?

DOYLE: I will. I will try to find you an answer and get back to you, sir.

WITNESS: GREG ROTHWELL
CHIEF PROCUREMENT OFFICER
HOMELAND SECURITY DEPARTMENT

11) REP. TAYLOR: I see just the opposite with the sprouting of the travel trailers. It's like these guys are going to be paid by the career rather than by the task, and they have absolutely no urgency to get it done, and I've got 14,000 people begging for a place to stay. So what is going to happen hopefully in the near term to fix that?

Yes, we ought to be using every single manufacturer that's available in the states, even if means recontracting just on short order.

But I don't see that. And I see a lot of people who are willing to let this drag out past January. And, again, I really would invite you to come down and see the thousands of people who are still living in two-men igloo tents, and I think this nation ought to be able to do better than that for those folks. So if you're not in a position, I accept that. And Ms. English isn't in a position to fix that. Then who is?

ROTHWELL: Well, again, I'm going to ask Mrs. English to respond, but I will assure you that people are in this room taking notes on what is being asked. To the extent that we can get answers back to you on these questions, we absolutely will.

12) REP. ROGERS: Well, the question is, does it cost us more, us taxpayers more, for the Corps to insist that all removal contracts go through the Corps and be reimbursed at 100 percent or is it better that we let local parishes contract with local contractors who have their equipment on hand to remove this debris?

ENGLISH: I really don't know if it's costing us more, if we should use local contractors. I'm just not familiar with that.

REP. ROGERS: Is anybody at the table familiar with it?

DOYLE: Sir, may I add? As I said, the Corps is officially neutral. I mean, counties and parishes are allowed to do their own debris removal. As for the cost, I don't know...

REP. ROGERS: But they're only reimbursed at 75 percent after November 29, correct?

DOYLE: There is a sunset clause. I don't know if it's November 29.

REP. ROGERS: Yes. And the Corps is reimbursed at 100 percent. If you contract with the Corps, you're reimbursed at 100 percent. So if you're a contractor, local contractor, looking for a contract, are you wise to take a chance and contract directly with the parish and maybe only get 75 percent of your money or would you go through the Corps and be assured of 100 percent? ...

REP. ROGERS: Yes. My time has expired, but, Mr. Chairman, I want to ask the FEMA people to respond, and all of you to respond, the Corps as well, to respond to other questions raised in the news account that I just cited to you, and I'll be happy to give you a copy of the story [*See* quote 2].

CHAIRMAN DAVIS: Without objection. Is there any problem with getting that, Mr. Rothwell?

REP. ROGERS: And, finally, I want to ask the FEMA people as well, and I'll be talking to the director about it personally, I want to know if the policy is going to change, and if so, when? And why can't you change it for a disaster beyond anyone's expectations? This debris is going to take two or three years. Normally, you have a few days to clean out the debris with a regular storm. But this is extraordinary and we're talking about saving $4 or $5 billion by changing this crazy policy. Can you respond to that?

ROTHWELL: No, sir. I think we will agree to get back to you and try to figure out how to respond to it.

13) REP. MELANCON: Mr. Pickering, Mr. Taylor, Mr. Jindal and I wrote to FEMA -- and, of course, this will go to the FEMA people too -- on October 24 to ask for a clarification on the fact that the Corps or the FEMA people were coming in and saying, "If you don't task the Corps for the cleanup work, then you'll have to pay a 90-10 share of the cleanup after the date of the expiration of the extension that has just been done."

Is that in fact the case? Is that written somewhere that those parishes, those counties that task their own contractors have been -- and I can verify that they've been told -- that their contractors will have to be paid 90 percent by the feds, 10 percent by the parish or the county after the extension if they don't task the Corps' prime contractor or tier 1 contractor? ....

REP. ROGERS: I have a copy of the guidance number 4150-E of FEMA, issued September 26, 1995, which sets our this policy, which I am told was in the process of being changed as Katrina hit to correct the discrepancy that I've described so that local counties, local officials could contract directly for debris removal or other things and be reimbursed equally, as would the overall contractor of the Corps of Engineers.

And all it would require changing would be to add four words, which I can discuss with you, but those four words are worth $1 billion apiece. And I don't see why you can't change that now. In fact, this policy, in my judgment, is contrary to the Stafford Act itself and therefore null and void. So if you want to get into a discussion of that, step outside. ...

ROTHWELL: No, I will just have to get back. This is a very important issue. We're just not the right panelists to be responding to it, but we have written this down. I've got it written right here, 4150-E. We promise to get back to Chairman Rogers on it and to the rest of the committee.

14) REP. MELANCON: On another issue, in a similar situation where the parish officers or government officials were told if they didn't task the Corps, they would have to pay a percentage of cleanup, this particular parish, for fear that they didn't have the money, which they don't, tasked the Corps and has consequently since the beginning been asking them for an accounting of what it is costing to dispose of and do the cleanup, to which they have not gotten an answer.

To the extent that the parish president of one of my parishes had to, under the Freedom of Information Act, make a request to get that information and has still not received it, and that's several weeks old, why is it that we can't and they can't get simple information of how much it is costing? By now they know how many trailers are coming in, you know how many cubic yards of debris has gone out, you know how much you've expended on those items. Isn't it possible, even parish by parish, to get that information?

ROTHWELL: We will try to get you that information as quickly as possible.

15) REP. TAYLOR: How soon do you think you might be able to get us some information about these two... [percentage of workers from each state -- Louisiana, Mississippi and Alabama -- who are working on contracts down there now and the percentage of contractors from each state, from Mississippi, Alabama and Louisiana, working under the aegis of DHS]

ROTHWELL: I believe by the end of next week we could probably get you that

information.

REP. TAYLOR: That would be great.

ROTHWELL: I will tell you that we've actually started asking that information from our companies. So I'm sure we could get it to you by the end of next week.

16) REP. MCCAUL: One other criticism out there that I'd like for you to address, and I hope disprove, is with respect to the Carnival Cruise Line. The approximate cost is $120,000 for a family of four, for six months. It's reported that an average house in New Orleans has a value of about $87,000.

Also, it was reported that the profit under the government contract is higher than what they actually received per passenger on a regular cruise line.

And then, finally, it was reported the EU said that Greece had offered us, the United States, to donate two cruise ships to deal with this, but we turned that down.

Could you, perhaps, Colonel, of whoever is in the best position to answer that -- actually, Mr. Rothwell is probably in the best position to address those allegations.

ROTHWELL: I guess I'm in the best position to respond. This was a contract negotiated by NAVSEA. The Department of the Navy negotiated that. We, in our department, will commit to get you answers to that, but this was negotiated by NAVSEA, and you do have the company actually going to be here in the following panel. But we will get you an answer back.

WITNESS: PATRICIA ENGLISH
SENIOR PROCUREMENT EXECUTIVE
FEDERAL EMERGENCY MANAGEMENT AGENCY

17) ENGLISH: I can address your issue as it relates to, to some degree, setting up the trailers. Going forth, what we're going to do is when we do the recompete of these major contracts, the setup of the trailers, the maintenance of the trailers, the deactivation of trailers, everything, will be on a fixed unit price.

So we will negotiate a fixed price, and this is what you have to do, and it's going to be performance based where we will have also time standards in there, and there will be penalties for non- performance. In the current contracts, we don't have those.

But what we did do under the current contracts...

REP. TAYLOR: Ms. English?

ENGLISH: Yes.

REP. TAYLOR: Can we change the current contracts to require that? Because, again, I'm seeing too many folks who take a flushed toilet for granted, who take electricity for granted, who take a bed to sleep under and not getting rained on, not being cold at night.

I'm seeing a room full of people who take all those things for granted. Every weekend when I go home I'm seeing folks who would consider that a luxury and aren't being told that this is going to get fixed for over 60 days.

So how do we change that? I understand what you just said, but is there room in that contract for this to be changed so that somebody will fix that?

ENGLISH: Sir, there's room, and we'll look into seeing what we can do to change it. I will work with our housing folks to see how we can change this and make things happen a little faster.

REP. TAYLOR: OK. Can someone get back to me today?

ENGLISH: I will try.

18) ENGLISH: Those contracts are the ones that setting up the mobile homes, those contracts are the ones that are helping hopefully getting the victims back on their feet. We didn't have those contracts in place.

But for the most part, we had contracts in place. Did we have them to the magnitude that we could have adequately responded to this disaster? No.

REP. JEFFERSON: Because you didn't, a lot of these had to put in place in a hurry. Were a lot of these done by just oral orders over the telephone and that sort of thing?

ENGLISH: No, not really, sir. What happened is, we did put those contracts in place very quickly, but let me tell you how we did that. We were in the process of looking at putting individual technical assistance contracts in place. We were conducting market research. We were meeting with contractors, talking about the contracts, so we were well on the procurement process.

Then the hurricane hit, and we recognized immediately that we needed these type of contracts in place. What we did, the companies that we had conducted market research with we were familiar with, we knew that they could do the work, and we also knew that they could hit the ground running. So we did contact those companies, made arrangements for them to prepare themselves to hit the ground for us.

We did not actually verbally tell them to go immediately. We gave them what was called preauthorization notices. That way they had contract notices to proceed, go to the areas of devastation, work with our folks on the ground and define clearly what was needed to get the job done, to get it done immediately.

REP. JEFFERSON: OK. For the ones that had to put together in this way, how much of the work that was to be done was taken up by these sort of contracts? I mean, what percentage of the work had to be taken up on this emergency basis by contracts that weren't taken care of by the contingency contracts? More than half of the work or less than half of the work? What would you guess?

ENGLISH: I would say less than half, but to be sure, let me check into that and I'll get back to you.

19) CHAIRMAN DAVIS: [H]ow many of the travel trailers have been delivered to FEMA but are at a staging area and not delivered to the hurricane victims? Do you have any idea?

ENGLISH: No, sir, but I can get back to you on that.

20) REP. PICKERING: Should we expect, as we look at all of our numbers, that a government overhead is going to be somewhere between 20 and 25 percent?

ENGLISH: I really can't address that. When you asked me about the Corps, I only gave you that data because that was what we were getting from our financial folks, that it was around 21 percent, and I heard that just recently, just prior to coming to a meeting.

As far as our overhead is concerned, I really don't know, but I can certainly check into it and get back to you.

21) REP. PICKERING: Ms. English, you can renegotiate contracts. You currently do not have a time incentive or performance incentive with Bechtel on the housing. If you wanted to renegotiate that, how long would it take you to put an incentive?

And, Colonel Doyle, how long would it take you to make sure that all of the current contracts have incentives for local hires with specific benchmark targets and enforcement mechanisms in those contracts? How long does that take you to do?

ENGLISH: Right now, we're in the process of negotiating with Bechtel. That's something we could try to incorporate into our current negotiations.

REP. PICKERING: And so you would complete that negotiation, change that, and it could be done next week, two weeks, Christmas, January, February, perhaps winter, spring, when?

ENGLISH: No, I'll have to get back to you on that, and the reason is, right now we have several task orders outstanding with Bechtel that have to be negotiated. So I would have to go back and look at those task orders, look at the ones that directly impact the housing to see what we can do about those.

22) ENGLISH: Right after the disaster when we started to buy trailers very early in September, it was very difficult to get through to a lot of vendors and so forth in the disaster-proned area. So we did go outside of the area.

Right now, though, we are only buying trailers from the disaster- prone area. We are buying trailers in Mississippi and Louisiana and Texas. Just about a week ago, we had a requirement for over 3,000 units. We bought all of those units out of the state of Louisiana.

REP. MELANCON: If I could get a list of the dealers that you've dealt with.

ENGLISH: Yes.

23) REP. MELANCON: There were thousands of trailers bought, I believe, last year for Florida. Is it true that FEMA auctioned off a number of those trailers after they were

finished being used?

ENGLISH: Yes, sir; that is true.

REP. MELANCON: Is there some reason we don't -- I mean, as said earlier, this is not going to be disaster every five or 10 years. We've got them every year. Is there some reason we don't clean them up and stockpile them or hold them, as they did with ice at some of the military bases? We probably auctioned them off, and people would die for them right now.

ENGLISH: We do stockpile a certain number, sir. I don't know that exact number. And why we don't stock more, I really don't know, but I can try to find out for you.

REP. MELANCON: If we can look into policy and see that...

ENGLISH: Sure.

24) REP. TAYLOR: And folks are grateful for getting the trailers, believe me, but there have been, apparently, in the speed to build these there have been some quality problems. I'm hearing this quite often. Could you please get for me, for Congressman Melancon, Congressman Jefferson, all the other affected areas, a list of those manufacturers so that if someone calls up, and I won't name the name, but I'll just say Trailer X Company, that we can put the people in touch with them, because there are more complaints along that than I think any of us would like to hear.

ENGLISH: OK.

WITNESS: RICHARD SKINNER
INSPECTOR GENERAL
HOMELAND SECURITY DEPARTMENT

25) REP. MCCAUL: Mr. Skinner, do you have any information [with regard to quote 16]?

SKINNER: Congressman, we are in fact looking at that as well with the DOD IG. The DOD IG is looking at it from a compliance with federal acquisition regs perspective. We're looking at it from a program perspective. We anticipate having both reports out within the next 30 to 45 days as to whether, one, was it a wise decision, and, two, did we follow the proper procurement mechanisms to award that particular contract? And did we take into consideration such as the offer from the government of Greece to provide ships free of charge?

26) REP. TAYLOR: Mr. Skinner, my question to you is, I do appreciate that at least FEMA tried to be creative in getting a heck of a lot of people into housing in short order with the cruise contract. It was way too expensive, but what I'm told that is the most troubling to me is that the contracts were written in a way that automatically excluded American suppliers, like the Delta Queen, the Mississippi Queen, the American Queen, that the contracts were written to require that the ship had thousands of berths rather than hundreds of berths, and just that simple phrasing automatically excluded American flag,

American-owned, American crude vessels in favor of foreign flag, foreign-owned, foreign crude. Why is that?

SKINNER: We're looking at that.

REP. TAYLOR: OK. Again, this isn't the last storm we're every going to have.

SKINNER: Yes, and we're aware of that. And, yes, those terms were in those contracts, and those are the questions that we're asking as well.

WITNESS: TERRY THORNTON
VICE PRESIDENT, MARKETING-PLANNING
CARNIVAL CRUISE LINES

27) REP. BUYER: Mr. Thornton, there's a question with regard to whether or not, in negotiations on the contracts, whether Carnival Cruise Lines had requested from the government to waive 10 years of fines? Is that true or not true?

THORNTON: Early on in the negotiations, the very first day, Thursday before we got too far into this, and based really on our lack of knowledge about how this was going to work from a contracting standpoint, we sent general business terms of what we constructed as he deal to an official at FEMA -- without contract price at that point in time, just general business terms. And we did include in that a waiver of Jones Act fines. But as we went forward with the official contract with the MSC, that provision was never pursued.

REP. BUYER: What is your outstanding Jones Act fine?

THORNTON: I'm not aware of that number right off the top of my head, but I could get back to you with that.

REP. BUYER: Must be a pretty big number.

THORNTON: Well, we've had a couple of incidents, specifically in the New Orleans area, related to the river being closed, and having to terminate cruises in a different port that we've left from. They've all been because of catastrophic kind of events, where we had to move ships, and technically violate the Jones Act to accommodate really getting people on and off the ships.

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM — MINORITY STAFF
SPECIAL INVESTIGATIONS DIVISION
DECEMBER 2005

THE DECLINE OF THE NATIONAL DISASTER MEDICAL SYSTEM

PREPARED FOR

REP. HENRY A. WAXMAN
REP. BENNIE G. THOMPSON
REP. CHARLIE MELANCON

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EXECUTIVE SUMMARY

This report examines a crucial component of the nation's emergency response system: the National Disaster Medical System (NDMS). NDMS has the primary responsibility for providing emergency medical care after a national disaster. In recent years, however, a combination of poor management, bureaucratic reshuffling, and inadequate funding have crippled the capacity of NDMS to provide an effective medical response to disasters.

This examination of NDMS — and the Disaster Medical Assistance Teams (DMATs) that form its core — is based on internal reports prepared by the Department of Homeland Security and the Department of Health and Human Services, a review of "after-action" reports filed by DMATs, and interviews with current and former officials. These reports and sources depict an agency that was struggling in 2002, saw its effectiveness plummet after its transfer to the Department of Homeland Security in 2003, encountered troubles responding to the hurricanes in Florida in 2004, and experienced major lapses in its response to Hurricane Katrina in 2005.

As it is currently constituted, NDMS cannot respond rapidly or effectively to major disasters. This jeopardizes the nation's ability to provide timely emergency medical care in response to a major disaster like Hurricane Katrina. Although individual doctors and emergency response personnel serving on DMATs often work heroically under adverse conditions, their individual efforts cannot overcome the systemic problems undermining NDMS effectiveness.

Key findings of the report include the following:

- **Administration officials were warned about NDMS deficiencies as early as 2002.** An internal HHS report in 2002 identified major gaps in the medical readiness of NDMS, including poor management practices, inadequate funding, and a lack of relevant doctrine and standards.

- **The transfer of NDMS to the Department of Homeland Security in 2003 further undermined NDMS effectiveness.** Prior to 2003, NDMS was part of the Department of Health and Human Services, where it was headed by the Assistant Secretary for Public Health Emergency Preparedness who reported directly to the Secretary. After passage of the Homeland Security Act, NDMS was transferred to the Department of Homeland Security, where it is now run by an official four levels below the Secretary. According to one Homeland Security source, "Here in DHS almost everyone is in law enforcement, and as a result, the right thing to do for medical support and operations is not understood. It is just lost." Since its transfer to DHS in 2003, the budget of NDMS has been frozen, millions of dollars of NDMS funding have been

siphoned off to support "unidentified services," and NDMS has lost two-thirds of its staff.

- **"After-action" reports from the 2004 hurricane season documented serious breakdowns in planning, supply management, communications, and leadership.** Problems included deployment of teams with inadequate staff and supplies. Some response teams lacked essential drugs and equipment such as antibiotics, pain medications, and IV fluids. Others experienced communication failures.

- **Two internal reports in 2005 raised more alarms about the capabilities of NDMS.** A 2005 report prepared by the medical advisor to former DHS Secretary Tom Ridge concluded that "the nation's medical leadership works in isolation" and "its medical response capability is fragmented and ill-prepared to deal with a mass-casualty event." A 2005 report prepared by HHS concluded that NDMS suffered from poor coordination with other federal agencies and a lack of adequate tracking and communication systems.

- **When Hurricane Katrina struck the Gulf Coast, NDMS was unprepared to respond.** An after-action report from an Oregon-based disaster medical team revealed fractured oversight and constant breakdowns in communication between medical teams and FEMA officials. Among other problems, the report cited "considerable friction" and "lack of trust" between responders and federal managers at the New Orleans Airport, which "compromise[d] the efficiency of operations" and undermined patient care. Doctors who served in the response described inadequate supplies of essential medicines and equipment, as well as a lack of preparation for the shelter conditions resulting from the mass evacuation.

The findings in this report indicate that the United States does not have an effective national capacity to provide emergency medical services after a major disaster. Transforming the capability of NDMS to meet the demands of its mission will require fundamental reforms, including an increase in funding, establishment of strong medical leadership, and clear internal control over medical assets.

I. BACKGROUND

The National Disaster Medical System was formed in 1984 as part of the Public Health Service. Its original mission was to support state and local health agencies during natural disasters and to provide back-up support to Department of Defense and Veterans Administration medical systems during times of overseas conflict.[1] In recent years, its mission has expanded to include providing the national medical response to a terrorist attack and pre-staging for "National Security Special Events" such as political party conventions.[2]

The system is a partnership of federal, state, and local governments and health care providers. At the core of NDMS are the Disaster Medical Assistance Teams (DMATs), regional teams of doctors, nurses, and other health professionals.[3] DMATs are typically sponsored by local entities such as hospitals and universities. The personnel who serve on DMATs are paid by the federal government for the time that they are federally deployed. The teams must find other funding sources or ask their personnel to volunteer for the additional time necessary to train, prepare, and maintain readiness.[4]

DMATs deploy to disaster sites with equipment "caches." These caches are supposed to contain essential medical supplies, such as antibiotics, pain medications, IVs and ventilators. The supplies and equipment used by DMATs during federal deployments are supposed to be paid for by the federal government, but the system lacks clear written policies on this issue.[5]

The Homeland Security Act moved NDMS into the newly formed Department of Homeland Security (DHS).[6] Prior to that, the system was located in the Department of Health and Human Services (HHS), where it was headed by the Assistant Secretary for Public Health Emergency Preparedness.[7] This Assistant Secretary reported directly to the Secretary of HHS.

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[1] Congressional Research Service, *An Overview of the U.S. Public Health System in the Context of Emergency Preparedness*, 46 (Mar. 17, 2005); Dr. Edward Brandt et al., *Designing a National Disaster Medical System*, Public Health Reports (Sept.-Oct. 1985).
[2] National Disaster Medical System (online at http://www.oep-ndms.dhhs.gov/) (accessed Nov. 4, 2005).
[3] *Id.*
[4] *Id.*; *The Three Faces of NDMS*, Homeland Protection Professional, 31 (Aug. 2003).
[5] Stephen T. Orsino, NDMS Conference, AO Training, *General Law Topics* (April 30, 2005).
[6] Homeland Security Act of 2002, 6 U.S.C. §312 *et seq.*
[7] Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. No. 107-188 (2002).

II. PURPOSE AND METHODOLOGY

Since Hurricane Katrina struck New Orleans, national attention has focused on the inadequate response of the Federal Emergency Management Agency. Much less attention has been paid to another crucial component of the nation's emergency preparedness: the National Disaster Medical System.

This report, which was prepared by the Special Investigations Division at the request of Rep. Henry A. Waxman, Rep. Bennie G. Thompson, and Rep Charlie Melancon, examines the current capabilities of the National Disaster Medical System. In the course of the investigation, Special Investigations Division staff obtained access to a series of internal reports on NDMS, including: an internal HHS report issued in 2002 on gaps in NDMS capability; an internal DHS summary of "after-action reports" prepared by NDMS teams that responded to major hurricanes in 2004; an internal HHS report issued in 2005 on the medical response to two major 2004 hurricanes; and an internal DHS report on federal medical readiness prepared by a special medical advisor to the Secretary. With the exception of portions of the DHS report on medical readiness, none of these documents has been reported on previously.

The Special Investigations Division also interviewed current and former officials with knowledge of NDMS.

III. THE 2002 HHS REPORT

Three years ago, an internal report prepared for HHS discovered major gaps in the readiness of NDMS.[8] Although Department officials had estimated that 70 DMATs were ready and available, the report found only 29 were operational.[9] Among those 29 DMATs, only 16 could meet the staff and supply requirements to deploy a full team in response to a national disaster.[10] In addition, the report found that although the nature of DMAT deployments had changed, managers had developed no new standards to evaluate teams' readiness for these missions, making assessment impossible.[11]

Based on a review of administrative data and extensive team interviews, the report identified three major problem areas.[12] First, the review found that NDMS "lacks sufficient doctrine and policy guidance. The few standards and guidelines that do exist are often not relevant to the current missions that NDMS response

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[8] The CNA Corporation, *Assessing NDMS Response Team Readiness: Focusing on DMATs, NMRTs, and the MST* (Oct. 2002).
[9] *Id.* at 25.
[10] *Id.* at 1 – 3, 25.
[11] *Id.* at 1 – 5, 92.
[12] *Id.* at 8 – 9.

teams are asked to fulfill."[13] Second, the report faulted management practices, noting that the system "shows strong preferences for which teams it chooses to deploy" and that these preferences were based not on readiness, but on how "connected" the teams were to those making the deployment decisions.[14] Since the teams "need to feel that they are a part of the system and that they have an opportunity to use their skills," the report concluded that preferential deployment "chips away at readiness" and created problems with morale and recruitment.[15] Third, the report found that NDMS lacked the data and tracking systems necessary to evaluate its own readiness, which in turn prevented meaningful feedback and improvement within the system.[16]

The review identified further deficiencies in the areas of communications, training, and transport but could not fully assess readiness, since the system "does not have any documented standards for these resources and does not track or assess these capabilities."[17] The report also described "easily discernable tensions" between response teams and members of the Management Support Teams (MSTs), special teams charged with providing on-site direction and logistical support to medical teams during a deployment. These tensions were caused by a lack of training and relevant experience among MST personnel, as well as differences in the command and control structures used by the two groups.[18]

The report's conclusions raised concerns about the future effectiveness of NDMS. Although the report found "a very significant reservoir of capability that is available to respond in an emergency," it also found that severe deficiencies in the system were hindering that capability and compromising medical readiness.[19] To maintain current capabilities and counter deficiencies, the report recommended major changes to NDMS doctrine and standards, management practices, and performance assessment.[20]

IV. THE TRANSFER OF NDMS TO DHS

A major change involving NDMS occurred in 2003, when the agency was moved from the Department of Health and Human Services and placed in the Department of Homeland Security. This transfer was mandated by passage of the Homeland Security Act in November 2002.[21] The Bush Administration, which proposed the

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[13] *Id.* at 87.
[14] *Id.* at 50.
[15] *Id.* at 50 – 51, 91.
[16] *Id.* at 91.
[17] *Id.* at 33 – 34.
[18] *Id.* at 70 – 72.
[19] *Id.* at 1 – 5.
[20] *Id.* at 87 – 92.
[21] Homeland Security Act of 2002, 6 U.S.C. § 312 *et seq.*

transfer, argued that moving NDMS out of HHS would allow integration of federal emergency medical response assets with the preparedness and intelligence functions of the new Department of Homeland Security.[22]

At the time that the Homeland Security Act was under consideration by Congress, many experts expressed concern that moving NDMS would interfere with existing relationships between federal, state, and local personnel or would create problems of coordination among the federal agencies involved in providing emergency medical response. Edward Plaugher, Executive Agent of the Washington Area National Medical Response Team, warned that "long-range relationships have been developed [among federal, state and local authorities], and they are vital to the success of the program. ... Sacrificing any part of this long-term relationship building and seamless response" in the transfer to DHS would be a "giant step backward."[23] Similar warnings came from Janet Heinrich, then-Director of Health Care and Public Health Issues at the Government Accountability Office, who expressed concern that "the lines of authority of the different parties in the event of emergency still need to be clarified" beyond what the Administration had proposed.[24]

Senior Administration officials dismissed these concerns about inter-agency coordination and conflicting authority. Then-Deputy Secretary of Health and Human Services Claude Allen stated: "We don't anticipate it [the move] would create problems in terms of the ultimate function" of NDMS, medical readiness. [25]

As signed into law, the Homeland Security Act of 2002 removed NDMS from HHS.[26] Under the new organization, NDMS is now one section within the Federal Emergency Management Agency (FEMA), which is part of the Emergency Preparedness and Response Directorate of DHS.[27] NDMS is overseen by the NDMS Section Chief. The NDMS Section Chief reports to the Operations Branch Chief, who reports to the Response Division Director, who in turn reports to the Director of FEMA, who as Under Secretary for Emergency Preparedness

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[22] House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, Testimony of Deputy Secretary of Health and Human Services Claude Allen, *Creating the Department of Homeland Security: Consideration of the Administration's Proposal*, 107th Cong., 64 (June 25, 2002) (H. Rept. 107-113).

[23] House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, Testimony of Edward Plaugher, *Creating the Department of Homeland Security: Consideration of the Administration's Proposal*, 107th Cong., 102 (June 25, 2002) (H. Rept. 107-113).

[24] House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, Testimony of Janet Heinrich, *Creating the Department of Homeland Security: Consideration of the Administration's Proposal*, 107th Cong., 71-77 (June 25, 2002) (H. Rept. 107-113) (at the time of the hearing, the Government Accountability Office was known as the General Accounting Office).

[25] Testimony of Claude Allen, *supra* note 21 at 64.

[26] Homeland Security Act of 2002, 6 U.S.C. §312 *et seq.*

[27] National Disaster Medical System (online at http://www.oep-ndms.dhhs.gov/) (accessed Nov. 4, 2005).

and Response is one of five undersecretaries reporting to the Secretary of Homeland Security.[28] In effect, NDMS is separated from the Secretary of Homeland Security by four levels of bureaucratic review.

Since the transfer, the annual budget of NDMS has been frozen at $34 million. Of this amount, however, $20 million has been diverted to "unidentified services."[29] In the proposed fiscal year 2006 budget, the White House again requested flat funding for the system.[30]

DHS officials did not respond to requests for further information on the NDMS budget, but agency documents provide additional detail about the diversion of NDMS funds. In 2005, the $20 million diverted from the NDMS budget was allocated to "Enhancing Biodefense," specifically "planning and exercises associated with medical surge capacities."[31] Increasing "surge capacity" relates primarily to increasing hospital bed availability in a national emergency, not the provision of emergency medical care to victims at or near a disaster site.

The transfer of NDMS and the budget diversions have taken a significant toll on NDMS. In 2005, NDMS had only one third of its previous staff.[32] And other offices within DHS took much of the system's furniture and supplies.[33]

V. THE 2004 AFTER-ACTION REPORTS

In the 2004 hurricane season, NDMS faced its first major challenge since moving to DHS. During August and September 2004, the system sent 35 DMATs to respond to four major hurricanes in Florida, South Carolina, and other East Coast

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[28] DHS Department Organization Chart (online at http://www.dhs.gov/interweb/assetlibrary/DHS_Org_Chart_2005.pdf) (accessed Nov. 4, 2005); Congressional Research Service, *Organization and Mission of the Emergency Preparedness and Response Directorate: Issues and Options for the 109th Congress* (Sept. 7, 2005).

[29] Department of Homeland Security Emergency Preparedness and Response, *Justification of Estimates Fiscal Year 2006*, 65; *Biodefense Spending Misses the Mark, Says FP Expert*, FP Report (Mar. 2004) (online at http://www.aafp.org/fpr/20040300/6.html); *NDMS Suffers Culture Shock*, Homeland Protection Professional, 22 (Apr. 2005).

[30] Office of Management and Budget, *FEMA Funding, FY 2001 – FY 2006* (Oct. 4, 2005).

[31] Department of Homeland Security, *FY 2005 Budget in Brief* (Feb. 2, 2004) (available at http://www.dhs.gov/dhspublic/display?content=3133) (accessed on Nov. 1, 2005); House Committee on Appropriations, Homeland Security Subcommittee, Testimony of Michael D. Brown, Under Secretary, Emergency Preparedness and Response Directorate, FEMA, DHS, *Emergency Preparedness and Response* (Mar. 24, 2004).

[32] DHS, *Medical Readiness Responsibilities and Capabilities: A Strategy for Realigning and Strengthening the Federal Medical Response*, 6 (Jan. 3, 2005) (hereinafter "DHS Medical Readiness Report").

[33] *DHS Medical Readiness Report, id.*; *Biodefense Spending Misses the Mark, Says FP Expert, supra* note 27; *NDMS Suffers Culture Shock, supra* note 27 at 22; Interview of Dr. Jake Jacoby by Minority Staff, House Committee on Government Reform (Sept. 26, 2005); Interview of Dr. Jonathan Jui by Minority Staff, House Committee on Government Reform (Oct. 4, 2005).

and Gulf Coast states. These teams provided "after-action" reports that were summarized in a May 2005 document entitled *2004 Hurricane AARs*.[34] This summary of the after-action reports describes serious problems with planning and logistics, supplies, and communications.

A. Inadequate Planning and Logistical Support

According to the after-action reports, many teams experienced poor planning and inadequate logistical support that hindered their operations. Teams from Florida and Alabama reported that they needed more staff in order to cover 24-hour operations.[35] Michigan, Minnesota, and Ohio teams noted that they were unprepared to care for "special needs" patients during shelter operations. They called for better planning on how to treat elderly and chronically ill patients and how to co-mingle such patients with family members.[36] Those serving on a management support team in the response to Hurricane Charley, which struck Florida in August 2004, reported that NDMS officials had tasked some logistics personnel to work extended shifts, resulting in unsafe conditions.[37]

Deployment and travel plans were also a problem. FEMA ordered a team from New Mexico to deploy without its cache of medical supplies, causing difficulties when it arrived to join operations.[38] Poor planning delayed a California team when a rental company asked for a large personal deposit on transport vehicles and the team's flight had inadequate freight capacity to move the load, forcing them to leave members behind to escort the gear.[39]

B. Inadequate Supplies

The after-action reports also reveal that FEMA deployed many teams without adequate medical equipment and drugs. In the case of two teams from North Carolina and Ohio, FEMA had ignored earlier requests to restock supplies.[40] Nine separate teams complained of deficient or unavailable medical caches, while all caches that were delivered directly by FEMA were incomplete.[41] Pharmaceuticals were a major problem: Florida and New Mexico teams reported insufficient pain medication, antibiotics, tetanus, and IV fluids. Michigan and Minnesota teams emphasized that their caches lacked supplies necessary to conduct shelter operations, such as wheelchairs, oxygen machines, a safe power supply, and pads for elderly and bed-ridden patients using cots.[42]

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[34] William L. Devir, FEMA, NDMS Conference, *2004 Hurricane AARs* (May 3, 2005).
[35] *Id.*
[36] *Id.* at 24.
[37] *Id.* at 4.
[38] *Id.* at 21.
[39] *Id.* at 22.
[40] *Id.* at 14.
[41] *Id.* at 17-19.
[42] *Id.* at 24.

C. Inadequate Communications Systems

Teams also reported a host of communications problems. Teams from Massachusetts, Michigan, New Mexico, Ohio, and California stated that FEMA forced them to rely on failed and inadequate communications equipment, causing problems in coordinating among team members, other response personnel, and management officials.[43] Two of these teams were forced to use personal cell phones to accomplish their missions but then were refused reimbursement by FEMA.[44]

Many of these problems were conveyed directly to NDMS management. Yet team members reported that they saw little or no improvement in response.[45]

VI. THE 2005 DHS REPORT ON MEDICAL READINESS

Urgent warnings about weaknesses in NDMS were set forth in an internal January 2005 report on federal medical readiness. The report was written by Dr. Jeffrey Lowell, Senior Medical Advisor to Tom Ridge, who was then the Secretary of Homeland Security. Dr. Lowell's report evaluated medical preparedness within the Department of Homeland Security and focused extensively on NDMS.[46] The full 103-page report has not previously been disclosed.[47]

This report found that "the nation's medical leadership works in isolation, its medical response capability is fragmented and ill-prepared to deal with a mass-casualty event, and ... DHS lacks an adequate medical support capability for its field operating units."[48] Looking specifically at NDMS, Dr. Lowell found that the system:

- Lacked the medical leadership and oversight "required to effectively develop, prepare for, employ, and sustain deployable medical assets";[49]
- Lacked sufficient funding, staff, and control over medical assets to achieve its medical mission;[50]
- Relied on an overtaxed volunteer network to meet increasing demands outside the system's original purpose and experienced "critical shortfalls in doctrine,

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[43] *Id.* at 10.
[44] *Id.*
[45] *Id.*
[46] *DHS Medical Readiness Report*, *supra* note 31.
[47] On September 26, 2005, the Associated Press reported on Dr. Lowell's review and released a portion of report. *Review Warned of Medical Gaps Before Hurricanes*, Associated Press (Sept. 26, 2005).
[48] *DHS Medical Readiness Report*, *supra* note 31 at 2.
[49] *Id.* at 6, 6-3.
[50] *Id.* at 2, 3, 6.

training, logistics support, and coordination" with other emergency responders and federal agencies.[51]

Dr. Lowell found that "NDMS is losing functional effectiveness under FEMA's inflexible and inappropriate management for medical response circumstances."[52] As a result, he concluded that NDMS "is no longer capable of supporting the new demands being placed on the system" and warned that "immediate attention is required to revitalize a degrading system."[53]

As part of the investigation into NDMS, Dr. Lowell and his staff interviewed dozens of NDMS officials, including many members of medical response teams. He was told of serious problems inside the agency. For example:

- One official stated: "Here in DHS almost everyone is law enforcement, and as a result, the right thing to do for medical support and operations is not understood. It is lost."[54] Another reported: "We just put together a catastrophic incident plan. It's just a plan. But do we have the capability of carrying out the plan? No."[55]

- Others stated: "Right now, we're in a crisis. Some teams are being evicted (DMAT teams) from warehouses — where all their stuff is stored … because FEMA hasn't paid the bills. … In California, one team leader put the whole team's expenses on a personal credit card so they could get their mission done. It was $11,000 — so the team would have what they needed, and he couldn't get paid back."[56]

- Officials also stated: "There are no nationwide protocols on what to do or how to do it. … In FEMA, rules take priority over getting the job done. … We are the glue that is supposed to facilitate communication and coordination [but] there is no system in place at this point in time. … Morale is awful. We have lost about 10% more professionals than in any other time in history."[57]

Dr. Lowell called for a "radical transformation" of NDMS.[58] He recommended immediate appointment of strong medical leadership, development of clear mission objectives, and substantial investment in the medical resources, infrastructure, personnel and materials necessary to carry them out.[59] Without these changes, the report warned, "the nation's only federal emergency medical

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[51] *Id.* at 6, 6-2, 6-8.
[52] *Id.* at 5-9.
[53] *Id.* at 2, 6-9.
[54] *Id.* at 5-11.
[55] *Id.* at 5-2.
[56] *Id.* at 5-9, 5-10
[57] *Id.* at 5-5, 5-10, 5-17, 5-20.
[58] *Id.* at 6-8.
[59] *Id.* at 6-3 – 6-8.

response system will continue to degrade and will not achieve the response level required by the National Response Plan … and the National Incident Management System."[60]

Dr. Lowell emphasized that the system could not fulfill its mission without dramatically increased funding. Implementing the report's recommendations, he concluded, "will require a substantial resource investment, for both personnel and material," including funding for "the development, recruitment and support of both a full-time and reserve medical corps … [and for] fixed and portable facilities and medical equipment, and supplies."[61]

For fiscal year 2005, Dr. Lowell recommended immediate new funding in the amount of $4.11 million to establish a core of strong medical leadership at DHS, including high-level managers with medical expertise and a dedicated medical logistician for NDMS.[62] For fiscal year 2006, the report recommended $217.46 million in new funding, over and above the current NDMS budget.[63] The recommended 2006 budget included $22.5 million for 150 new staff positions at NDMS, $75 million for specialized mobile treatment facilities, and $100 million for NDMS supplies, equipment, and training.[64]

Before finalizing his findings, Dr. Lowell shared the draft report with Michael Brown, who was then the Director of FEMA. According to Dr. Lowell, Mr. Brown attacked the report and told Dr. Lowell that he should not present the report to Secretary Tom Ridge.[65] Dr. Lowell said that Mr. Brown angrily rejected the report's conclusions and recommendations.[66] According to Dr. Lowell, however, Secretary Ridge, who had hired Dr. Lowell to prepare the report, welcomed its findings and recommendations.[67]

Secretary Ridge left his post on February 1, 2005. Dr. Lowell resigned from his position as Senior Medical Advisor at the end of that month. As a result, the Department was without a chief medical officer until Dr. Jeff Runge took office in mid-September, after Hurricane Katrina struck.

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[60] *Id.* at 6-3.
[61] *Id.* at 6-4 – 6-5.
[62] *Id.* at 8-1 – 8-3.
[63] *Id.* at 8-1.
[64] *Id.*
[65] Interview of Dr. Jeffrey Lowell by Minority Staff, House Committee on Government Reform (Oct. 3, 2005); *Review Warned of Medical Gaps Before Hurricanes*, Associated Press (Sept. 26, 2005).
[66] *Id.*
[67] *Review Warned of Medical Gaps Before Hurricane*, *supra* note 65.

VII. THE HHS REPORT ON HURRICANES FRANCES AND IVAN

An internal HHS report issued in February 2005 also warned of gaps in NDMS capability.[68] That report examined the federal health and medical response to two major hurricanes in early September 2004, in which NDMS had deployed four DMATs and several specifically needed personnel.[69] The report was commissioned by the Office of the Assistant Secretary of Public Health Emergency Preparedness within HHS and therefore focused primarily on the performance of HHS personnel and resources.[70] As a review of the overall federal medical response, however, the report also examined actions by HHS partners, including NDMS, to the extent that they interacted with HHS.[71]

The report identified several weaknesses in the response that involved NDMS. One major problem stemmed from the relationship between NDMS and HHS: "The response to these hurricanes shows that the separation of NDMS from HHS has adversely impacted the coordination of ESF#8."[72] "ESF#8" stands for "Emergency Support Function #8 — Public Health and Medical Services" and refers to the health and medical component of federal disaster response.[73] The report stated that the necessary transfer of responsibilities from NDMS to HHS during the response "was a difficult process that was complicated by a poor working relationship between HHS and NDMS."[74]

In addition, DMAT members interacted very little with other personnel: "NDMS teams usually planned and executed activities on their own and were not well integrated into the overall ESF#8 response."[75] The report concluded that "[b]ecause it is a critical health and medical resource, NDMS should become a part of HHS again."[76] At a minimum, the report recommended, "HHS should work with NDMS to unify the management of ESF#8."[77]

The report emphasized that another major gap in NDMS readiness was the lack of team experience and training in providing care to special needs patients in a shelter operation. Noting that teams had no experience in setting up and operating a shelter, the report further observed that "DMATs are designed to respond to mass casualty incidents by providing emergency care under austere conditions.

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[68] The CNA Corporation, *Hurricanes Frances and Ivan: Improving the Delivery of HHS and ESF#8 Support* (Feb. 2005).
[69] *Id.* at 8, 11.
[70] *Id.* at 10.
[71] *Id.*
[72] *Id.* at 25.
[73] DHS, *National Response Plan, Public Health and Medical Services Annex* (Dec. 2004).
[74] *Id.* at 54.
[75] *Id.* at 48.
[76] *Id.*
[77] *Id.*

Caring for special needs patients is a much different scenario."[78] In its recommendations, the report stated that federal responders were "likely to see future requests to operate special needs shelters" and concluded that "HHS and its ESF#8 partners need to address how to handle similar requests in the future."[79]

VIII. THE FLAWED NDMS RESPONSE TO HURRICANE KATRINA

Against this backdrop, Hurricane Katrina struck the Gulf Coast in August 2005. As described in an after-action report, interviews with DMAT physicians, and other accounts, NDMS had been severely degraded and was unprepared for this devastating national disaster. Despite the often-heroic efforts of team personnel, the medical response was hindered by poor planning, inept logistics oversight, deficient and delayed supplies, and failed or inadequate communications systems.

A. Oregon DMAT After-Action Report

The Special Investigations Division requested and obtained a copy of an after-action report from a DMAT team from Oregon.[80] The report was prepared by the Oregon-2 DMAT, which was formed in 1999 and has participated in five major NDMS deployments.[81] On August 30, 2005, the team was activated to respond to Hurricane Katrina. On August 31, its team of 33 professionals, including doctors, nurses, pharmacists, emergency medical technicians, and logistics and communications personnel deployed to the region.[82] On Thursday, September 1, the full team arrived at the New Orleans International Airport for a mission that lasted through September 10.[83]

In its after-action report, the team described the scene at the New Orleans Airport as "extremely chaotic" and reported that the unstructured medical operation there was severely hindered by poor planning, ineffective management, and regular breakdowns in communication.[84] The report found that NDMS was not adequately prepared to serve in the "first response role" that it was asked to fill in New Orleans.[85] Because the system "is built upon an older model of responding

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[78] *Id.* at 53, 55.
[79] *Id.* at 59.
[80] Oregon-2 DMAT, *Hurricane Katrina — After Action Report, OR-2 DMAT: New Orleans Airport August 31 to September 10, 2005* (Sept. 25, 2005) ("Oregon AAR").
[81] Oregon Disaster Medical Team (online at http://www.odmt.org/index.html) (accessed Oct. 14, 2005).
[82] The team initially deployed with 35 members, but two team members were forced to stay behind to escort the team's supply cache when FEMA denied air transport.
[83] Oregon AAR, *supra* note 80.
[84] *Id.*
[85] *Id.*

to an incident 48 to 72 hours post-event," the team lacked adequate communications systems, supplies, and staff.[86]

According to the after-action report, NDMS did not adequately assess the facility and the situation before deploying teams.[87] Managers failed to establish any organized internal command and control structure once teams were at the airport.[88] The overwhelming demand for patient care and extreme lack of resources were compounded by the mistakes of area FEMA/NDMS managers who had no training in logistics oversight or emergency medical response. Ultimately, the report concluded, "management decisions were being made that were not based on the best interests of the patients."[89]

NDMS management officials forced team members to make individual travel arrangements to Houston, which was the initial reporting location. Because of this requirement, team members arrived in Houston over an 18-hour period, which delayed the entire team's departure for New Orleans.[90] During travel to New Orleans, team members communicated with other teams at the airport who stated that the Oregon-2 DMAT was urgently needed due to the overwhelming number of patients. Yet managers insisted that the team report to Baton Rouge first. Once there, the team was held up by a management official for nearly two hours. At one point, this official threatened to take the team off of the mission and order them not to go.[91]

Throughout the deployment, the team reported "considerable friction" with NDMS management officials. The after-action report stated that "an 'us and them' attitude was prevalent. ... The friction ... has been ongoing for quite some time. This continues to compromise the efficiency of operations due to a lack of trust between both parties."[92]

At the airport, there was little or no communication between on-site management officials and those in Baton Rouge, which left team members unaware of the status and timing of patient arrivals and unable to communicate urgent needs.[93] The operation also lacked the infrastructure to track patients and resources.[94]

Supplies were a major problem. When the team deployed, NDMS managers refused to transport the team's cache by air, which caused a five-day delay in the

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[86] *Id.*
[87] *Id.*
[88] *Id.*
[89] *Id.*
[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] *Morning Edition*, National Public Radio (Sept. 14, 2005).
[94] AAR, *supra* note 80.

cache's arrival.[95] Without its own cache, the team relied on outdated and deficient caches that lacked critical medical equipment, such as ventilators.[96] NDMS managers failed to fill orders for essential drugs through four days of urgent requests, insisting on faxed supply forms when the teams had no fax machines.[97] Ultimately, the critical drugs and medical supplies arrived only when the U.S. Air Force and a private organization stepped in to help.[98]

B. Interviews with DMAT Commanders and Physicians

The problems described in the Oregon after-action report were confirmed in interviews with three team leaders and doctors who were deployed to the airport and the Superdome: Dr. Jake Jacoby, Emergency Physician and Team Commander of California-4 DMAT;[99] Dr. Jonathan Jui, Medical Director of Emergency Medical Services in Multnomah County, Oregon and Deputy Team Leader of Oregon-2 DMAT;[100] and Bill Engler, Team Commander of Washington-1 DMAT.[101]

Dr. Jacoby and Dr. Jui reported that teams at the airport lacked basic supplies to treat predictable post-disaster medical conditions. They also stated that prior requests for restocking of team caches had been ignored or denied by NDMS managers and that their teams "almost always deploy with an insufficient cache."[102] All team members reported making urgent requests for food, water, and medical supplies in the first days of the operation, without success. By the time sufficient quantities of food and supplies were delivered by the U.S. Air Force and Forest Service, team members had begun to give away their own rations to patients and evacuees. According to team commander Bill Engler, "we were down to one meal a day." "If not for the military and the Forest Service," he stated, "I don't know how many people would have died."[103]

These team members also reported failures in communication systems that left them isolated. Cell phones supplied by NDMS failed because they depended on local infrastructure and the agency had not provided adequate satellite phones or other back-up means of communication.[104] In one case, team members tried for days to reach a logistics official through official channels, with no success.

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[95] *Id.*
[96] *Id.*
[97] *Morning Edition*, National Public Radio (Sept. 14, 2005).
[98] *Id.*
[99] Interview of Dr. Jake Jacoby by Minority Staff, House Committee on Government Reform (Sept. 26, 2005).
[100] Interview of Dr. Jonathan Jui by Minority Staff, House Committee on Government Reform (Oct. 4, 2005).
[101] Interview of Bill Engler by Minority Staff, House Committee on Government Reform (Oct. 25, 2005)
[102] Interviews of Dr. Jake Jacoby, Dr. Jonathan Jui, *supra* notes 99 and 100.
[103] Interview of Bill Engler, *supra* note 101.
[104] Interview of Dr. Jonathan Jui, *supra* note 100.

Agency radios were not interoperable with state and local authorities or local emergency services. Until the Forest Service supplied interoperable radios, teams were completely unable to reach their own members, other agencies, and on-site security personnel.[105]

At the airport, Commander Bill Engler was pulled away from his own team to serve as one of two staff on the Management Support Team. He stated that during a normal deployment, the MST consists of at least 24 people. With so few staff, he reported, the MST was unable to keep track of team members or rotate teams out for critical rest periods.[106]

Many team members reported that NDMS managers handle these problems by forbidding team personnel to talk to anyone outside the system without going through the agency bureaucracy. Dr. Jui stated: "There is a real gag mentality imposed by FEMA about talking to the press or to Congress. To be honest, I saw people die, and I don't really care if my comments are made public."[107] Another doctor who deployed after Hurricane Katrina asked not to be identified for this report, fearing retaliation by management officials. "If I say too much," the doctor stated, "my team will never get deployed again."

C. Other Accounts

The problems described in the Oregon after-action report and the interviews with the Oregon physicians appear to have hindered the operations of many other DMATs. According to other accounts:

- A DMAT from Rhode Island was ordered to drive from city to city without a mission, while makeshift hospitals treating thousands of patients struggled to operate with inadequate staff.

- Medical teams sent to the Superdome had no communications, inadequate supplies, and minimal security. In the first few days after the storm, a single New Mexico team and then a replacement team from California tended to the medical needs of tens of thousands of evacuees, fearing for their own safety and struggling to provide care with inadequate resources.[108] One doctor recalled: "People literally were dying all around us, but we couldn't do anything about it."[109] On September 1, after a National Guard officer was

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[105] Interviews of Bill Engler, Dr. Jake Jacoby, Dr. Jonathan Jui, *supra* notes 99, 100, 101.
[106] Interview of Bill Engler, *supra* note 101.
[107] Interview of Dr. Jonathan Jui, *supra* note 100.
[108] *Aggie Update: A Publication from the University Alumni Office*, New Mexico State University (Oct. 2005); *Marin Doctor Tells of Chaos*, Marin Independent Journal (posted online Sept. 16, 2005), (online at http://forums.sccm.org/shwmessage.aspx?ForumID=24&MessageID=644) (accessed Oct. 21, 2005).
[109] *Nurse Relives Terrors of New Orleans*, Argus Courier Online (Sept. 14, 2005) (online at http://www.arguscourier.com/news/news/markweston050914.html).

shot and a California doctor was robbed, federal officials ordered the team to get out "quickly and quietly."[110] The team abandoned nearly half a million dollars in equipment and left the building in small groups, with no protection from the National Guard or other security officers.[111] Yet a Rhode Island DMAT was deployed to the Superdome the very next day. With only one team providing essential care from that point on, one Rhode Island doctor reported that he worked for over 70 hours without sleep, stepping through garbage and human waste to treat patients.[112]

- During the disaster, urgent requests for pain medication, IV lines, catheters, and other equipment were held up for days.[113] Without ventilators, patients who needed help breathing were "hand bagged" by team members using manual resuscitation masks, in one case for 35 hours.[114] A Texas doctor stated, "We were so short on wheelchairs and litters we had to stack patients in airport chairs and lay them on the floor."[115] The Strategic National Stockpile contains large quantities of medicine and medical supplies to be used during a public health emergency in which local supplies are exhausted.[116] The stockpile is designed so that supplies can reach any state within 12 hours, yet supplies from the stockpile did not begin arriving until three days after the hurricane struck, and even then were insufficient.[117] At the same time, some officials turned away donated supplies, citing FEMA policies against the use of non-FEMA materials.[118]

IX. TRANSFORMING NDMS

Earlier this year, Homeland Security Secretary Chertoff conducted a review of the Department's structure and operations and proposed significant changes to its organization.[119] Under the Department's new "Six-Point Agenda," Secretary Chertoff plans to create an Undersecretary for Preparedness, which will include

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[110] *Marin Doctor Tells of Chaos*, *supra* note 107.
[111] *Id.*
[112] *Barrington Resident Shares New Orleans Experience*, East Bay Newspapers, (Sept. 30, 2005).
[113] *Morning Edition*, National Public Radio (Sept. 14, 2005).
[114] *Going Back for More*, *supra* note 57.
[115] *Physicians' E-mails Document Post-Katrina Horrors*, Government Health IT (Sept. 12, 2005).
[116] Centers for Disease Control and Prevention, Department of Health and Human Services, *The Strategic National Stockpile — What It Means to You* (http://www.bt.cdc.gov/stockpile/) (accessed Nov. 1, 2005).
[117] *Id.*; *HHS Ships Medical Supplies, Opens 'Medical Shelters' at Military Bases*, Associate Press (Sept. 1, 2005); Interview of Dr. Jonathan Jui, *supra* note 100
[118] *In the wake of Katrina: A surgeon's first-hand report of the New Orleans Tragedy*, Medscape General Medicine 7(3) (Sept. 19, 2005).
[119] DHS, *Department Subcomponents and Agencies*, (online at http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0515.xml) (accessed on Oct. 14, 2005).

the Chief Medical Officer (CMO).[120] Under the reorganization, however, NDMS will remain within FEMA. It will not be overseen by the Chief Medical Officer.[121]

The Secretary's proposed changes do not appear likely to improve the capabilities of NDMS. Contrary to the recommendations of Dr. Lowell, the Chief Medical Officer would not provide medical leadership within NDMS or give teams control over their medical assets. Instead, the CMO will reside in a separate preparedness division and NDMS will continue to lack integrated medical oversight.

Recent statements by the new CMO, Dr. Jeff Runge, also suggest that the Administration does not plan to provide NDMS with the increased funding and support necessary to fulfill its mission. The 2005 DHS report on medical readiness recommended large increases in NDMS funding. But in a September interview with the Associated Press, Dr. Runge said that he would like to improve the federal medical response by "creating a network of trained volunteers" and will seek an "economical way to harness the enormous volunteerism among medical professionals."[122] He added: "The taxpayers already have a burden to supply a lot of these assets and we need to make sure that we don't overtax them for that purpose and yet have access to people who could actually kick in in times of need."[123] It is unclear how such a network would resolve the problems faced by NDMS.

As part of this report, the Special Investigations Division interviewed independent experts about ways to improve the medical capabilities of NDMS. Three measures were most frequently recommended: establish strong medical leadership, restore command and control over medical assets, and provide adequate and stable funding. None of these three appears to be currently contemplated by the Administration.

A. Strong Medical Leadership

According to independent experts, the nation's disaster medical system must be run by a medical official qualified in disaster medical response. In an interview, Jerry Hauer, former Acting Assistant Secretary of Public Health Emergency Preparedness at HHS, stated that one expeditious way of ensuring such leadership would be to transfer NDMS back to HHS where it could be overseen by a new Deputy Surgeon General. Such a move would ensure that the medical mission of

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[120] DHS, *Department Six-Point Agenda*, (online at http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0646.xml) (accessed on Oct. 14, 2005).
[121] *Id.*
[122] *New DHS Medical Chief Seeking Volunteers*, Associated Press (Sept. 24, 2005).
[123] *Id.*

NDMS is integrated within the agency that oversees all other medical preparedness and response activities at the federal level.[124]

Dr. Lowell, the former Senior Medical Advisor to the Secretary of Homeland Security, described an alternative structure for achieving the same goal: retain NDMS within the Department of Homeland Security under the direction of a newly established Assistant Secretary for Medical Readiness. As the Lowell report recommended, this Assistant Secretary could oversee NDMS with a singular focus on medical response capability.[125]

B. Command and Control over Medical Assets

Another key reform is to ensure that the medical leadership of NDMS has control over the system's medical assets and operations. In recent years, the separation of medical expertise from command authority has meant that the mission critical needs of medical teams were delayed or denied by bureaucratic interference. The effects were evident in the response to Hurricane Katrina: medical teams were deployed with inadequate personnel and supplies, sent to the wrong locations, separated from their equipment, and refused additional supplies. According to experts in providing emergency medical care, NDMS leadership must be given control over medical assets and operations to ensure that decisions are made in the best interests of patients and with the urgency that an emergency medical response requires.[126]

C. Adequate and Stable Funding

The third critical component of restoring our nation's disaster medical system to full capability is to ensure adequate and stable funding. Dr. Lowell's report estimated the costs of establishing an Office of Medical Readiness to be $221.57 million over two years. These estimates were in addition to the existing NDMS budget, which has remained flat at $34 million since the transfer to DHS.[127] The report noted that these additional costs "would be off-set with a much higher level of readiness and subsequent ability to meet health care needs" in a national crisis.[128]

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[124] Interview of Jerry Hauer by Minority Staff, House Committee on Government Reform (Sept. 23, 2005).

[125] *Medical Readiness Responsibilities and Capabilities: A Strategy for Realigning and Strengthening the Federal Medical Response*, *supra* note 32 at 3.

[126] Interviews of Dr. Jeffrey Lowell, Dr. Jonathan Jui, Dr. Jake Jacoby, and Jerry Hauer, *supra* notes 64, 99, 100, 124.

[127] *Medical Readiness Responsibilities and Capabilities: A Strategy for Realigning and Strengthening the Federal Medical Response*, *supra* note 32 at Appendix 8.

[128] *Id.* at 6-4.

On September 8, Congress approved emergency funding to support hurricane response efforts, including $100 million for NDMS.[129] Yet it does not appear that this money will be used to strengthen the capacity of NDMS. Administration officials have indicated that the additional NDMS funds will be used to cover continuing health care costs incurred by storm evacuees.[130]

VI. CONCLUSION

The National Disaster Medical System is an essential component of the nation's emergency preparedness. It bears the primary responsibility for emergency medical response in a national disaster. But as documented in a series of internal reports since 2002, the system's effectiveness has been eroded by mismanagement, bureaucratic reshuffling, and inadequate funding. Restoring the effectiveness of NDMS will require major reforms, including strong medical leadership, internal control over resources, and greatly increased funding.

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[129] Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005, Pub. L. No. 109-62.
[130] Centers for Medicare and Medicaid Services, *Summary of Federal Payments Available for Evacuee Care*, Nov. 29, 2005.

Congress of the United States
Washington, DC 20515

December 1, 2005

Andrew H. Card, Jr.
Chief of Staff
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Mr. Card:

On September 30, 2005, we wrote to you requesting documents from the White House relating to Hurricane Katrina. We asked that in responding to the request, you give priority to providing communications involving officials in the offices of the President, the Vice President, the Homeland Security Advisor, and yourself. We asked for your initial response within two weeks.

Today, our staffs met with representatives from the White House Counsel's office to discuss the White House response to our request. White House officials informed us that providing the documents identified in the September 30 letter would take more than a year and involve reviewing more than 71 million email messages sent or received by White House staff. We were also informed that providing the priority communications imposed a lesser, but still very substantial, burden and raised other concerns as well.

Although we disagree with your interpretation regarding the burden of responding to our priority request, we are writing to further specify the timeframe, the individuals, and the topics covered by that request. Specifically, we request that you produce all documents or communications, including internal communications, relating to certain subjects, received, sent, or reviewed between August 23, 2005, and September 15, 2005, by Chief of Staff Andrew Card, Deputy Chief of Staff Joe Hagin, Homeland Security Adviser Frances Townsend and her deputy, Ken Rapuano, and two senior staff in each of their immediate offices who were involved with the Administration's efforts relating to Hurricane Katrina during that time period.

We ask that these documents and communications refer or relate to the preparations for, impacts of, or response to Hurricane Katrina, including the Administration's efforts to provide food, water, and shelter to victims of Hurricane Katrina, to provide public safety and law enforcement resources to the areas affected by Hurricane Katrina, to provide relief, including evacuation, to victims at the Superdome, the Convention Center, and the area known as the cloverleaf, to mobilize active duty and reserve forces to support relief efforts, and to provide medical assistance in the affected areas.

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As you know, the Select Committee has a very short deadline for completing its work, and we would like to avoid the issuance of subpoenas. We therefore ask that you produce these priority documents by the close of business on Tuesday, December 6, which is over two months after our initial request was sent.

After the production of these priority documents, we would like to have further discussions with you or your representative about how to prioritize a complete response to our September 30 request.

Sincerely,

Tom Davis
Chairman
Select Bipartisan Committee to
Investigate the Preparation for
and Response to Hurricane Katrina

Charles Melancon
Member of Congress

THE WHITE HOUSE

WASHINGTON

December 6, 2005

Dear Chairman Davis and Representative Melancon:

I am writing in response to your letter to Andrew Card dated December 1, 2005, concerning requests by the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina (the "Committee") for documents from the Executive Office of the President ("EOP").

As you know, the Administration has already provided substantial information in response to the Committee's requests. That effort, which is still ongoing, has encompassed the production of approximately 250,000 pages of documents from the departments and agencies charged with the operational response to Hurricane Katrina, which you identified as the Committee's principal substantive concern. The Administration has also made numerous witnesses available for testimony or interviews before the Committee. By any measure, the Administration's ongoing response has been substantial and rapid.

As part of this administration-wide response, the EOP also has provided significant information to the Committee, and is prepared to continue its accommodation of your request by producing additional documents and making individuals available to provide the background you have requested. As we have communicated to your staff, it was not practical for the EOP to respond to the Committee's September 30, 2005 request, which would have involved searching over 71 million electronic records and thousands of boxes of hard copy records dating back to January 2001. Accordingly, in response to the Committee's original requests we began our production by providing you with, among other things, a compilation of various operational and situational reports, updates, and assessments addressing the issues of priority identified by your letter and used to inform the officials identified in your letter. These documents are significant materials, and encompass many of the principal sources of information received by the White House concerning the areas of the Committee's focus.

In connection with the EOP's November 3, 2005 production, we asked the Committee to provide us with a narrower and prioritized set of requests for information that would enable us to provide information in ways that would not be overly burdensome or unduly impinge on the separation of powers of the Legislative and Executive Branches. Your response of December 1, 2005 was very helpful with respect to these issues because, among other things, it identified your

principal areas of concern. In an effort to avoid an unnecessary inter-branch confrontation, we are prepared to continue to accommodate the Committee by providing additional information responsive to those priorities, as outlined below.

First, we are prepared to offer a background briefing by one or more senior Administration officials, to be conducted as early as next week. The briefing would encompass the areas of priority identified in your December 1 letter, including the structure of the EOP and identification of components within it that have responsibilities relating to the federal response to a disaster such as Hurricane Katrina and the roles played by those components in the immediate preparations for and response to Hurricane Katrina. While the briefing is intended to address the overall role of the EOP in the response to Hurricane Katrina, we expect it to encompass prioritized areas of inquiry such as EOP involvement in the Administration's efforts to provide food, water and shelter to victims; to provide public safety and law enforcement resources to affected areas; to provide relief and evacuation to victims at the Superdome, Convention Center and cloverleaf; to mobilize active duty and reserve forces; and to provide medical assistance in affected areas. We believe that such a briefing is the best way to quickly provide the Committee with the most relevant information relating to the areas you have prioritized. We will be in contact with your staff to pursue providing this additional information and to work through any practical details and conditions for such a briefing.

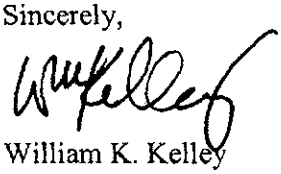
Second, in an effort to be responsive to the Committee's interests and priorities, we have identified officials from the Homeland Security Council staff who were centrally involved in the EOP's activities during the core period of preparation and response (August 26 through September 2). These officials, who are appropriately situated to provide the information you have requested, were central to the Administration's response to the events surrounding Hurricane Katrina. We are currently in the process of reviewing documents (including e-mails) from the files of these officials with the objective of making an additional production of documents next week. We believe that providing information of this nature and source is consistent with prior accommodations we have made.

Finally, we have identified additional materials from the White House Situation Room that reflect reports concerning situational and operational information in the aftermath of the Hurricane landfall, including reports addressing the topics identified in your letters. These additional materials are being produced today under separate cover.

We believe the ongoing response of the Administration – including the substantial productions of documents and other information by the departments and agencies and the initial production by the EOP – will be helpful in addressing the Committee's request for information

from the Executive Branch. We are seeking to address remaining areas of concern through the briefing and production processes outlined above, and stand prepared to work with the Committee to provide additional information as appropriate that the Committee may determine is required after reviewing the ongoing White House and agency productions of information. We look forward to working with you towards the common goal of ensuring that our Nation's response to future disasters is as effective as is possible.

Sincerely,



William K. Kelley
Deputy Counsel to the President

The Honorable Tom Davis
Chairman
Select Bipartisan Committee to
Investigate the Preparation for
and Response to Hurricane Katrina
United States House of Representatives
Washington, D.C. 20515

The Honorable Charles Melancon
Ranking Member
Select Bipartisan Committee to
Investigate the Preparation for
and Response to Hurricane Katrina
United States House of Representatives
Washington, D.C. 20515

Congress of the United States
Washington, DC 20515

December 7, 2005

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Rumsfeld:

On September 30, 2005, we wrote to you requesting documents from the Department of Defense relating to Hurricane Katrina. We asked that in responding to the request, you give priority to providing communications involving officials in the Office of the Secretary and Task Force Katrina. We asked for your initial response within two weeks.

This week, our staffs met with representatives from the Department to discuss the response to our request. Department officials informed us that the Assistant Secretary McHale had requested all relevant documents and emails from staff in mid-November, and that the Committee would begin to receive the first set of priority documents next week.

We are writing to further specify the timeframe, the individuals, and the topics to be considered as priority requests. Specifically, we request that you produce all documents or communications, including internal communications, relating to certain subjects, received, sent, or reviewed between August 23, 2005, and September 15, 2005, by:

- Donald Rumsfeld, Secretary of Defense
- Paul McHale, Assistant Secretary of Defense for Homeland Defense
- Gordon England, Acting Deputy Secretary of Defense,
- Peter Verga, Principal Deputy Assistant Secretary for Homeland Defense,
- Admiral Timothy Keating, Commander, North American Aerospace Defense Command and United States Northern Command,
- General Russell Honore, Commander of Joint Task Force Katrina,
- Lieutenant General Steven Blum, Chief, National Guard Bureau,
- Col. John J. Jordan, military assistant to former Federal Emergency Management Agency Director Michael Brown, and
- Col. Anthony Daskevich, Defense Coordinating Officer in Louisiana.

We ask that these documents and communications refer or relate to the preparations for, impacts of, or response to Hurricane Katrina, including the Department's efforts to provide food, water, and shelter to victims of Hurricane Katrina, to provide public safety and law enforcement

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resources to the areas affected by Hurricane Katrina, to provide relief, including evacuation, to victims at the Superdome, the Convention Center, and the area known as the cloverleaf, to mobilize active duty and reserve forces to support relief efforts, and to provide medical assistance in the affected areas.

As you know, the Select Committee has a very short deadline for completing its work, and we would like to avoid the issuance of subpoenas. We therefore ask that you produce these priority documents by the close of business on Monday, December 12, 2005, which is more than ten weeks after our initial request was sent.

After the production of these priority documents, we would like to have further discussions with you or your representatives about how to prioritize a complete response to our September 30 request.

Sincerely,

Tom Davis
Chairman
Select Bipartisan Committee to
Investigate the Preparation for
and Response to Hurricane Katrina

Charles Melancon
Member of Congress

Congress of the United States
Washington, DC 20515

December 7, 2005

Mr. David Addington
Chief of Staff
Office of the Vice President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Addington:

On September 30, 2005, we wrote to White House Chief of Staff Andrew Card requesting documents from the White House relating to Hurricane Katrina. Our request to Mr. Card included a request for documents from the Office of the Vice President. At your request, Chairman Davis subsequently wrote directly to you to request documents from the Office of the Vice President.

As you know, more than two months have passed since that initial request, and the production of priority documents from the Office of the Vice President remains incomplete. We are writing to request immediate production of certain essential documents.

Specifically, we request that you produce all documents or communications, including internal communications, relating to certain subjects, received, sent, or reviewed between August 23, 2005, and September 15, 2005, by, Chief of Staff I. Lewis "Scooter" Libby, you, Carol Kuntz, Bruce Miller, Neil Patel, and Ramsen Betfarhad who, you have informed us, were involved with the Administration's efforts relating to Hurricane Katrina during that time period.

We ask that these documents and communications refer or relate to the preparations for, impacts of, or response to Hurricane Katrina, including the Administration's efforts to provide food, water, and shelter to victims of Hurricane Katrina, to provide public safety and law enforcement resources to the areas affected by Hurricane Katrina, to provide relief, including evacuation, to victims at the Superdome, the Convention Center, and the area known as the cloverleaf, to mobilize active duty and reserve forces to support relief efforts, and to provide medical assistance in the affected areas.

As you know, the Select Committee has a very short deadline for completing its work, and we would like to avoid the issuance of subpoenas. We therefore ask that you produce these priority documents by the close of business on Monday, December 12, 2005, which is more than ten weeks after our initial request was sent.

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After the production of these priority documents, we would like to have further discussions with you or your representative about how to prioritize a complete response to our request.

Sincerely,

Tom Davis
Chairman
Select Bipartisan Committee to
Investigate the Preparation for
and Response to Hurricane Katrina

Charles Melancon
Member of Congress

MEMORANDUM

December 13, 2005

To: **Members of the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina**

Fr: **Rep. Charlie Melancon**

Re: **Motion to Subpoena White House and Other Agencies**

On **Wednesday, December 14, 2005, at 10 a.m. in 2154 Rayburn,** the Select Committee will hold its final hearing of the year on Hurricane Katrina. At last week's hearing, I served notice that I will offer a motion at the hearing to subpoena the White House and other agencies that have not produced requested documents. This memo explains why I believe a subpoena is necessary to fulfill the Select Committee's mandate.

EXECUTIVE SUMMARY

On September 30, 2005, Chairman Davis and I sent document requests to the White House, FEMA, the Department of Homeland Security, the Defense Department, the Army Corps of Engineers, the Department of Health and Human Services, and the three states affected by the storm, Louisiana, Mississippi, and Alabama. These requests were broad, but we identified priority documents, including emails, internal memos, and other communications from top decision-makers in each office. We asked for an initial response within two weeks.

In the two and half months since we sent these document requests, we have received many boxes of documents from these agencies and the states. The staff is in the process of reviewing these responses and determining where additional documents should be provided. Already, however, it is clear that there are at least three major gaps in the document production. We have not received key documents and communications from (1) the White House, (2) the Secretary of Defense, (3) the Governors of Mississippi and Alabama. With the February 15, 2006, deadline for the completion of the Committee's work fast approaching, we should not delay any longer in issuing subpoenas for these documents.

The White House Subpoena

The first subpoena I request will seek the documents and communications related to Hurricane Katrina received, sent, or reviewed between August 23, 2005, and September 15, 2005, by four key individuals in the White House: Chief of Staff Andrew Card, his deputy Joe Hagin, Homeland Security Advisor Francis Townsend, and her deputy Ken Rapuano. These documents and communications are essential to the Committee's investigation.

The testimony of Michael Brown, the former FEMA Director, establishes that Mr. Card and his deputy, Mr. Hagin, played a crucial role in shaping the federal response to Hurricane Katrina. Mr. Brown told the Committee on September 27, 2005, that "the White House was fully engaged" and "working behind the scenes ... to make things happen." Mr. Brown testified that he "exchanged emails and phone calls with Joe Hagin, Andy Card, and the president"; that he may have spoken with or emailed these White House officials as many as 30 times during the key days before and after the hurricane struck; and that he informed Mr. Card that "we needed help." In an interview with the *New York Times*, Mr. Brown further stated that he "ask[ed] the White House explicitly to take over the response." These urgent communications — and how Mr. Card, Mr. Hagin, and other White House officials responded — are one of the keys to understanding what went wrong in the immediate federal response.

Equally important, documents that the Committee has recently obtained reveal striking discrepancies between what the White House knew about conditions in New Orleans and what the President and other senior Administration officials communicated to the public and members of Congress. The Committee needs to review the flow of White House communications to assess whether these disparities reflect a lack of competence at the highest levels of the Administration or, even worse, a lack of candor.

In the days after Hurricane Katrina struck, the President, Homeland Security Secretary Chertoff, and other senior Administration officials repeatedly explained the slow federal response by stating that they believed New Orleans had "dodged a bullet" on Monday, August 29, the day hurricane struck. They also said they were surprised when "the levees broke on Tuesday." As Secretary Chertoff characterized it, "that second catastrophe really caught everybody by surprise." Speaking at a press conference in New Orleans on September 12 — two weeks after the hurricane — President Bush stated: "When that storm came through at first, people said, whew. There was a sense of relaxation. ... And I, myself, thought we had dodged a bullet. You know why? Because I was listening to people, probably over the airways, say, the bullet has been dodged. ... There was a sense of relaxation in the moment, a critical moment."

Yet documents the Committee has recently obtained contradict these assertions. They show that the gravity of the situation in New Orleans was promptly communicated to both Secretary Chertoff and the White House. According to these documents:

(1) Secretary Chertoff's chief of staff received an email at 9:27 p.m. on Monday, August 29, the day the hurricane struck, stating that the conditions in New Orleans were much worse than being reported. The email stated: "the first (unconfirmed) reports they are getting from aerial surveys in New Orleans are far more serious than media reports are currently reflecting. Finding extensive flooding and more stranded people than they had originally thought."

(2) Within an hour, at 10:30 p.m. on Monday, a "spot report" was sent to the White House Situation Room from the Department of Homeland Security, stating unequivocally that there was a large break in the 17th Street levee that was flooding New Orleans. This spot report stated that "Marty Bahamonte [sic] of FEMA Public Affairs made two aerial over flights of the New Orleans area the afternoon of Monday, August 29, 2005," during

which he observed "a quarter-mile breach in the levee near the 17th Street Canal about 200 yards from Lake Pontchartrain allowing water to flow into the City."

It is possible that the decision-makers in the White House and the Department of Homeland Security ignored or did not appreciate the significance of these Monday warnings, thereby delaying the urgently needed federal response. It is also possible that top Administration officials publicly contradicted these internal reports to justify the slow federal response. Either way, the implications are serious and need to be examined by the Committee.

I have tried — without success — to avoid the need for the issuance of a subpoena to the White House. I raised my concerns about the failure of the White House to comply with the document request at Committee hearings on October 19, November 2, and November 8, 2005. At the hearing on November 8, Chairman Davis stated that he would set a "firm deadline" of November 18. He also promised that "if the documents aren't produced by that date, I'm ready to proceed with subpoenas. The clock is ticking."

It is now apparent, however, that the White House will not comply voluntarily with the Committee's request. Many of the documents that the White House has provided to the Committee are virtually useless, such as over 1,000 pages already available on the Internet, including press briefings, press releases, and transcripts of "Ask the White House" sessions printed directly from the White House website. When our staffs finally met with White House officials on December 1, 2005, these officials made the ludicrous argument that complying with our request would take over a year and require the review of 71 million emails. The officials also asserted a vague "separation of powers" claim, and one stated bluntly: "You're not getting Andrew Card's emails."

We are thus left with no alternative but to proceed with the issuance of the subpoena.

The Defense Department Subpoena

The second subpoena I request will seek documents and communications related to Hurricane Katrina received, sent, or reviewed between August 23, 2005, and September 15, 2005, by nine key individuals in the Department of Defense: Secretary Donald Rumsfeld, Assistant Secretary of Defense for Homeland Defense Paul McHale, Acting Deputy Secretary of Defense Gordon England, Principal Deputy Assistant Secretary for Homeland Defense Peter Verga, U.S. Northern Command Commander Admiral Timothy Keating, Joint Task Force Katrina Commander General Russell Honore, National Guard Bureau Chief Lt. General Steven Blum, military assistant to the FEMA Director Col. John J. Jordan, and the Defense Coordinating Officer in Louisiana Col. Anthony Daskevich.

These documents and communications are also essential to the Committee's investigation. Just two weeks ago, Bill Lokey, the FEMA official who was the designated "Federal Coordinating Officer" for Louisiana, told the Committee staff that he proposed requesting immediate assistance from the military on Tuesday, August 30. Yet significant military forces did not arrive until Monday, September 5, nearly a week later.

A key question the Committee must investigate is why the military response was delayed so long. And this question cannot be answered until we receive the documents and communications from the nine officials at the center of the Defense Department's response.

The Subpoenas to the Mississippi and Alabama Governors

The third and fourth subpoenas I request will seek documents and communications related to Hurricane Katrina received, sent, or reviewed between August 23, 2005, and September 15, 2005, by individuals in the offices of the Governors of Mississippi and Alabama. As we did with the federal agencies that responded to Hurricane Katrina, Chairman Davis and I sent document requests on September 30, 2005, to the states of Louisiana, Mississippi, and Alabama. Although Louisiana provided more than 100,000 pages of documents, including emails, internal memos, and other communications from top officials in Governor Blanco's office, we received no internal communications from the offices of Governor Barbour or Governor Riley.

When asked about this at the hearing on December 7, Governor Barbour testified that officials in his office did not send or receive any emails during this timeframe because there was no electricity. This does not appear credible. The request covers a time period prior to the storm — and well afterwards — when email communication was presumably working. It also covers other forms of communication that might have been used instead of email. Although Governor Barbour said he would revisit this issue with his staff and report back to the Committee, we have received no further documents from his office. Although officials from Governor Riley's office have not claimed that they did not use email during this time, we have not received these communications.

The Congressional Precedent

There is abundant congressional precedent for my subpoena requests. During the Clinton Administration, the House Government Reform Committee, which Chairman Davis now chairs, issued over 1,000 subpoenas to investigate the White House and the Democratic National Committee. Multiple White House Chiefs of Staff were called before the Committee for staff-level depositions and to provide sworn testimony in open hearings. The Committee obtained literally millions of pages of documents, including communications involving the President, the Vice President, and White House Chiefs of Staff. There should not be different standards for different presidents.

The 9-11 Commission also provides guidance for the Committee. I and other Democrats have been calling for an independent commission to investigate Hurricane Katrina modeled on the 9-11 Commission. The Republican response has been that the Select Committee will be able to conduct as thorough an investigation as an independent commission could. The 9-11 Commission, however, obtained access to many internal White House documents, including copies of classified Presidential Daily Briefs. If the Select Committee intends to be as thorough as the 9-11 Commission was, it will also need to obtain the relevant internal White House documents and communications that my subpoenas seek.

I. SELECT COMMITTEE MANDATE TO "CONDUCT A FULL AND COMPLETE INVESTIGATION"

In the wake of Hurricane Katrina, widespread criticism was leveled at local, state, and federal officials for their inability to respond adequately to the urgent needs of Gulf Coast residents. Images of agony and ruin were carried live for weeks on national television, making clear to the entire world that U.S. preparation and response efforts since the attacks of September 11, 2001, were severely deficient.

Recognizing this fact, President Bush traveled to the French Quarter of New Orleans to deliver a prime-time speech on September 15, 2005. Standing before Andrew Jackson's statue at the foot of historic St. Louis Cathedral, he stated:

> Four years after the frightening experience of September 11th, Americans have every right to expect a more effective response in a time of emergency. When the federal government fails to meet such an obligation, I, as President, am responsible for the problem, and for the solution.[1]

In accepting responsibility, the President pledged to work with Congress to investigate the reasons behind this fundamental failure. As he stated:

> The United States Congress also has an important oversight function to perform. Congress is preparing an investigation, and I will work with members of both parties to make sure this effort is thorough.[2]

On the same day, the House of Representatives passed Resolution 437 establishing a new Select Committee to investigate "the local, state, and Federal government response to Hurricane Katrina."[3] The resolution directed the Select Committee to "conduct a full and complete investigation" and "report its findings to the House not later than February 15, 2006."[4] Rep. Tom Davis was appointed chair of the Committee.

The House minority leadership and virtually all Democrats voted against the resolution, favoring instead the creation of "an independent commission, based on the rigorous and effective example of the bipartisan 9/11 Commission," with an equal number of Democrats and

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[1] White House, *President Discusses Hurricane Relief in Address to the Nation* (Sept. 15, 2005) (online at http://www.whitehouse.gov/news/releases/2005/09/20050915-8.html).

[2] *Id.*

[3] H.Res. 437, at sec. 3 (Sept. 15, 2005).

[4] *Id.*

Republicans.[5] For this reason, no Democratic members were officially appointed to the Select Committee.

Nevertheless, Chairman Davis sent invitation letters to several Democratic members from the Gulf Coast region, including myself, asking us to join the Committee's investigation. He wrote in those letters: "I believe we must now move forward, together, to undertake this important task."[6] At the Committee's first hearing on September 22, 2005, Chairman Davis assured us that the investigation would be even-handed and inclusive:

> The American people want the facts, and they're watching. They alone will judge whether the review we begin today is thorough and fair. Our final exam will be the report we are tasked with completing. We want both Republicans and Democrats at the table to do this job right. The more voices asking tough questions, the better.[7]

Chairman Davis stated that we would "investigate aggressively what went wrong and what went right," that we would "do it by the book," and that we would "let the chips fall where they may."[8] Based on these assurances, and recognizing the grave concerns of my own constituents, I agreed to participate.

Since that time, I have attended six hearings, been formally recognized to make opening statements and question witnesses, made motions that have been adopted by the Committee, and sent 13 letters requesting information or documents. By any definition, I have been an active participant in the Committee's work.

II. CURRENT STATUS OF FEDERAL AND STATE DOCUMENT PRODUCTION

One of my first actions in the Select Committee was to join Chairman Davis in sending document request letters to the federal and state agencies involved in responding to Hurricane Katrina. On September 30, 2005, the Chairman and I sent letters to the White House, FEMA, the Department of Homeland Security, the Defense Department, the Army Corps of Engineers, the Department of Health and Human Services, and the three states affected by the storm — Louisiana, Mississippi, and Alabama.

Our requests were broad, encompassing the full range of documents relevant to the Committee's inquiry. However, we identified a narrow subclass of documents in which we had a special interest. These high priority documents included emails, internal memos, and other

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[5] Office of the House Democratic Leader, *Pelosi Statement on Partisan Select Committee on Katrina Response* (Sept. 21, 2005). *See also* H.R. 3764 (creating an independent commission).

[6] Letter from Chairman Tom Davis to Rep. Charlie Melancon (Sept. 21, 2005).

[7] House Select Bipartisan Committee to Investigate the Preparation For and Response to Hurricane on Katrina, Statement of Chairman Tom Davis, *Hearings on Investigating Forecasts of Katrina,* 109th Cong. (Sept. 22, 2005).

[8] *Id.*

communications to and from top decision-makers in each office. For example, our letter to White House Chief of Staff Andrew Card stated:

> In responding to this request, we ask that you give first priority to providing responsive documents or communications, including internal communications, received, prepared, or sent by officials in the Office of the President, the Office of the Vice President, the Office of the White House Chief of Staff, and the Office of the Homeland Security Advisor.[9]

We asked for an initial response within two weeks of sending our letters.

Responses to the September 30 document requests were mixed. While very few priority communications were produced initially, persistence by myself and Chairman Davis paid off in some circumstances. For example, in October, FEMA delivered to the Committee more than 1,000 pages of communications from the office of its former director, Michael Brown. These communications were extremely valuable to the Committee's work. They showed that Mr. Brown's actions in the aftermath of the hurricane differed significantly from the way he described them in his testimony to the Committee. In the midst of the crisis, Mr. Brown found time to exchange emails about his appearance, his reputation, and other extraneous matters, but few of his emails demonstrated leadership or a command of the challenges he faced.[10]

Several other agencies have provided at least some priority communications. On November 7, the Army Corps of Engineers provided several DVDs containing priority communications from top commanders, including Lt. Gen. Carl Strock, commander of the Army Corps of Engineers, and Col. Richard Wagenaar, commander of the New Orleans district. On December 6, the Department of Homeland Security provided two boxes of communications from several top officials in the office of Secretary Michael Chertoff, including Chief of Staff John Wood, Deputy Secretary Michael Jackson, Senior Counselor to the Secretary Scott Weber, and Counselor to the Secretary Adam Isles. On December 7, 2005, the Department of Health and Human Services provided two CDs containing communications from Secretary Leavitt's office.

The most thorough response to date has been from the office of Louisiana Governor Kathleen Blanco. On December 2, 2005, the Governor provided to the Committee over 100,000 pages of documents, including emails, internal memos, and handwritten notes from herself and top officials on her staff. Although she is a state chief executive, Governor Blanco did not assert any legal privilege or separation of powers claim to withhold documents. She also produced documents from her counsel that might otherwise be considered attorney-client work product. In addition to providing these documents to the Committee, the Governor's office posted them on an Internet website, and they have been made available to the public.[11]

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[9] Letter from Reps. Tom Davis and Charlie Melancon to White House Chief of Staff Andrew H. Card, Jr. (Sept. 30, 2005).

[10] Staff Report for Rep. Charles Melancon, *Hurricane Katrina Document Analysis: The E-Mails of Michael Brown* (Nov. 2, 2005) (online at http://melancon.house.gov/news.asp?ARTICLE3337=4608).

[11] *See, e.g., The Katrina Files: Governor Blanco's Katrina Documents,* New Orleans Times-Picayune (online at www.nola.com/katrina/view.ssf).

Committee staff are in the process of reviewing these submissions to determine whether they are complete or whether the Committee should insist on additional productions. Already, however, it is apparent that the Committee has not received key documents from (1) the White House, (2) the Secretary of Defense, and (3) the Governors of Mississippi and Alabama.

III. THE NEED TO SUBPOENA WHITE HOUSE DOCUMENTS

A. What the White House Has Produced

In two productions, on November 3 and December 7, 2005, the White House provided a total of 4,720 pages of documents to the Committee. Some of these documents are relevant to the Committee's investigation. For example, the White House provided 188 pages of reports by the White House Task Force on Hurricane Katrina Response from September 1 through 14, which include agency reports on Katrina-related work. The White House also provided 754 pages of materials from the White House Situation Room, including reports from the Homeland Security Operations Center, FEMA Region VI, and the State of Louisiana, and other agencies from August 25 to September 4, 2005. These documents begin to provide the Committee with a rudimentary understanding of what information the White House received during this time.

However, many of the documents produced by the White House were already publicly available and added little value to the investigation. For example, the White House provided 1,051 pages of materials that were available on the Internet. Approximately 470 pages were transcripts of formal press briefings and informal press "gaggles" available on the White House website. Approximately 205 pages were printouts of White House press releases from August 28 to October 28. And 40 pages were photocopies of official proclamations and other documents signed by the President following Katrina.

There are also 63 pages of transcripts of "Ask the White House" sessions printed directly from the White House website. These include a September 1 session hosted by Secretary Chertoff; a September 6 session with Education Secretary Margaret Spellings; a September 8 session with USA Freedom Corps Director Desiree Sayle; a September 9 session with Surgeon General Richard Carmona; and a September 19 session hosted by Lynne Cheney.

The Committee also received 469 pages of emails from the White House and DHS communications offices to broad lists of recipients. More than half of these, 273 pages, forward information that is publicly available on the Internet, including press releases, transcripts of press briefings and speeches, fact sheets, and excerpts from press reports favorable to the President.

The bulk of the remaining documents provided by the White House were reports from federal agencies involved in the response efforts. They include: 766 pages of FEMA Situation Report slides from September 1 to 15; 80 pages of FEMA Housing Area Command Report slides from September 8 to 15; 300 pages of National Guard briefing slides from August 23 to September 14; 193 pages of Department of Energy updates from August 26 to September 14; 706 pages of DHS Situation Reports from August 26 to September 15; 178 pages of HHS Flash Reports from August 31 to September 12; and 147 pages of Red Cross Disaster Operations

Summary Reports from August 25 to September 15. It is unclear who in the White House reviewed these documents or when they received them.

B. What the White House Has Not Produced

What the White House has not produced, however, are the most important documents: communications involving the key White House decision-makers. In particular, we have not received the communications received, sent, or reviewed by four key individuals: White House Chief of Staff Andrew Card, his deputy Joe Hagin, Homeland Security Advisor Francis Townsend, and her deputy Ken Rapuano.

These documents are needed to answer two fundamental questions that have been raised by the Committee's investigation: (1) What were the communications between former FEMA Director Michael Brown and White House officials and how did the White House respond? And (2) what accounts for the significant discrepancies between the reports the White House was receiving from New Orleans and the public statements of the President and senior Administration officials?

1. The White House Communications with Michael Brown

A key gap in the record before the Committee is how White House officials responded to multiple communications from former FEMA Director Michael Brown. During his testimony before the Committee on September 27, 2005, Mr. Brown stated that the White House played a central role in the response to Hurricane Katrina. Specifically, he testified:

> I think this committee really needs to understand that the White House was fully engaged. The White House was working behind the scenes ... to make things happen. And in this case they were working to make certain that DOD was providing what was needed.[12]

Mr. Brown also testified that he had multiple communications with White House officials regarding the hurricane. When asked when he first contacted the President, Mr. Brown replied: "On Saturday and Sunday, I started talking to the White House."[13] When asked who else he spoke with, he replied that he "exchanged e-mails and phone calls with Joe Hagin, Andy Card, and the president."[14] When asked how many times he spoke with the White House during this period, Mr. Brown replied: "I mean, 30 times, I mean, I don't know."[15] And when asked how many times he talked to the president personally, he said: "The president was on one of the

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[12] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Testimony of Michael D. Brown, *Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109th Cong. (Sept. 27, 2005).

[13] *Id.*

[14] *Id.*

[15] *Id.*

conference calls, talked to the president personally numerous times, several times. A couple of phone calls from the president, a phone call to the president."[16]

According to Mr. Brown, he had extensive access to the highest officials in the White House. For instance, he testified at the hearing, "I mean, you know — look, I have no problem picking up the phone and getting a hold of Chertoff or Andy Card or Joe Hagin or the President. I don't have those problems."[17] He elaborated: "I mean, look, the way it works: If I need to speak to the chief of staff or the President, I make the phone call."[18]

In testimony before the Committee, Mr. Brown testified that he told Mr. Card and others that "we needed help."[19] In an interview with the *New York Times,* Mr. Brown claimed that he made a "blur of calls" warning Mr. Card that "I can't get a unified command and control established" and that "things were going to hell in a handbasket."[20] He also stated that on August 30, he "ask[ed] the White House explicitly to take over the response from FEMA and state officials."[21]

This testimony from Mr. Brown raises obvious questions that the Committee needs to investigate. Mr. Brown was the federal official whom President Bush and Homeland Security Secretary Chertoff placed in charge of the federal response to Hurricane Katrina.[22] His testimony is that he communicated frequently and extensively with the White House and that the White House was "fully engaged" and "working behind the scenes" to coordinate the federal response. Without access to the documents and communications of the key White House officials with whom Mr. Brown communicated, including Mr. Card and Mr. Hagin, the Committee will never know exactly what Mr. Brown told the White House or how the White House responded.

In addition to Mr. Card, who we know played a significant role, the Committee also needs to obtain communications from the President's homeland security adviser, Frances Fragos Townsend, who should have played a significant role given her position. Ms. Townsend was reportedly vacationing when the hurricane struck, but returned to the White House by Wednesday.[23] According to press accounts:

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[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Ex-FEMA Chief Tells of Frustration and Chaos,* New York Times (Sept. 15, 2005).

[21] *Id.*

[22] Michael Chertoff, *Memorandum for Distribution: Designation of Principal Federal Official for Hurricane Katrina* (Aug. 30, 2005) (available online at http://www.realcities.com/multimedia/nationalchannel/news/KRT_Packages/archive/krwashington/CHERTOFF.pdf).

[23] *Put to Katrina's Test,* Los Angeles Times (Sept. 11, 2005).

> Early Wednesday morning, Blanco tried to call Bush. She was transferred around the White House for a while until she ended up on the phone with Fran Townsend, the president's Homeland Security Adviser, who tried to assure her but did not have many specifics.[24]

Strangely, Ms. Townsend then left the country on "a previously scheduled trip for Saudi Arabia."[25] According to one press report, the President "urged Townsend to make the trip despite the crisis at home as a 'signal to ... the enemy'" that the hurricane had not distracted his attention from terrorists, one aide said."[26]

2. Discrepancies Between the Information Flow Into and Out of the White House

The documents and communications of Mr. Card, Mr. Hagin, Ms. Townsend, and Mr. Rapuano are also needed to address a key question raised by the documents that the Committee has recently received: the discrepancy between the information sent to the White House and other senior Administration officials about the grave conditions in New Orleans on Monday, August 29, the day the hurricane struck, and the repeated insistence by President Bush, Homeland Security Secretary Chertoff, and other senior officials that they thought New Orleans had "dodged a bullet."

On September 2, 2005, after touring Biloxi, Mississippi, in his first visit to the Gulf Coast, President Bush tried to justify why the federal government was so slow to respond after Hurricane Katrina. According to the President, "New Orleans got hit by two storms, one the hurricane, and then the flood."[27] He said that although the hurricane struck on Monday, August 29, "[t]he levees broke on Tuesday in New Orleans."[28] He then said: "On Wednesday ... and Thursday we started evacuating people."[29]

On September 12, 2005, during a press conference in New Orleans, President Bush was asked whether staff had misinformed him about the levees. He responded as follows:

> When that storm came by, a lot of people said we dodged a bullet. When that storm came through at first, people said, whew. There was a sense of relaxation, and that's what I

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[24] *How Bush Blew It,* Newsweek (Sept. 19, 2005).

[25] *Put to Katrina's Test,* Los Angeles Times (Sept. 11, 2005) (noting that Ms. Townsend was vacationing when Katrina struck, but that she later "attended several meetings in Washington, then left on a previously scheduled trip for Saudi Arabia").

[26] *Id.*

[27] *Id.*

[28] White House, *President Tours Biloxi, Mississippi Hurricane Damaged Neighborhoods* (Sept. 2, 2005) (online at http://www.whitehouse.gov/news/releases/2005/09/20050902-6.html).

[29] *Id.*

> was referring to. And I, myself, thought we had dodged a bullet. You know why? Because I was listening to people, probably over the airways, say, the bullet has been dodged. And that was what I was referring to. Of course, there were plans in case the levee had been breached. There was a sense of relaxation in the moment, a critical moment.[30]

Secretary Chertoff provided essentially the same account on *Meet the Press,* where he stated: "what happened is the storm passed and passed without the levees breaking on Monday."[31] He asserted that on "Tuesday morning, I opened newspapers and saw headlines that said 'New Orleans Dodged The Bullet,' which surprised people."[32] He also made the "second catastrophe" argument, stating: "I think that second catastrophe really caught everybody by surprise."[33]

General Richard Myers, Chairman of the Joint Chief of Staff, provided a similar justification for the delayed federal response. At a September 6 briefing, he stated:

> The headline, of course, in most of the country's papers on Tuesday were "New Orleans dodged a bullet," or words to that effect. At that time, when those words were in our minds, we started working issues before we were asked. And on Tuesday, at the direction of the secretary and the deputy secretary, we went to each of the services. I called each of the chiefs of the services, one by one, and said we don't know what we're going to be asked for yet. The levees and the flood walls had just broken.[34]

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[30] White House, *President, Lieutenant General Honore Discuss Hurricane Relief in Louisiana* (Sept. 12, 2005) (online at www.whitehouse.gov/news/releases/2005/09/20050912.html).

[31] *Meet the Press,* NBC News (Sept. 4, 2005).

[32] *Id.*

[33] *Id. See also* Department of Homeland Security, *Press Conference with Officials from the Department of Homeland Security, Justice Department, Defense Department, the National Guard Bureau, U.S. Coast Guard and FEMA* (Sept. 1, 2005) ("[T]his has been a unique disaster in that we really had two disasters one after the other. We had the storm, but then before we could come in and begin the rescue effort and the evacuation effort and the effort to address people's needs, we had a second catastrophe. That was the levee breaking and the flood coming in").

[34] Department of Defense, *Defense Department Operational Update Briefing* (Sept. 6, 2005). *See also* Department of Defense, *New Orleans "Unwatering" Task Force Speeds Progress* (Sept. 15, 2005) ("Since Hurricane Katrina flooded the city [on Tuesday] Aug. 30, engineers and workers have been feverishly damming up breached levees, strengthening canal walls and getting huge pumps on line"); Department of Defense, *82nd Airborne Division Becomes "Waterborne" in New Orleans* (Sept. 21, 2005) ("About 80 percent of the Crescent City was flooded after levees broke [on Tuesday] Aug. 30"); *New Orleans Is Dry, Says Corps of Engineers,* American Forces Press Service (Oct. 11, 2005) ("About 80 percent of New Orleans became flooded after the levees gave way [on Tuesday] Aug. 30, a day after Category 4 Hurricane Katrina hit the Gulf Coast").

Administration officials also made these claims directly to members of the Select Committee. Chairman Davis led a congressional delegation to the Gulf Coast on September 18, 2005, during which Coast Guard Vice Admiral Thad Allen briefed the delegation. He claimed that the levees were not breached until Tuesday. He stated that when Hurricane Katrina first passed through New Orleans, the winds pushed the water in Lake Ponchartrain north, away from the city. According to Admiral Allen, it was not until later that the winds reversed and pushed the water south, breaching the levee that usually drains into Lake Ponchartrain and flooding the city. Admiral Allen also claimed that he believed on Tuesday morning that New Orleans had "dodged the bullet."

Contrary to these statements by the President and other top Administration officials, however, it now appears that both the White House and the Department of Homeland Security received warnings on Monday, August 29, the day the storm struck, reporting major breaches in the levees and providing dire assessments of the massive flooding.

A new document obtained by the Committee shows that on 9:27 p.m. on Monday, Secretary Chertoff's chief of staff, John Wood, and others in the Secretary's office at the Department of Homeland Security, received an email from Brian Besanceney, the Assistant Secretary for Public Affairs. This email warned the officials that conditions in New Orleans were significantly worse than being reported. According to the email:

> [T]he first (unconfirmed) reports they are getting from aerial surveys in New Orleans are far more serious than media reports are currently reflecting. Finding extensive flooding and more stranded people than they had originally thought — also a number of fires. FYI in case tomorrow's sit reps seem more "severe."[35]

A second document shows that within an hour, at 10:30 p.m. on Monday, a "spot report" was sent to the White House Situation Room from the Department of Homeland Security. This spot report stated unequivocally that there was a large break in the 17th Street levee that was flooding New Orleans. According to the spot report:

> Marty Bahamonte [sic] of FEMA Public Affairs made two aerial over flights of the New Orleans area the afternoon of Monday, August 29, 2005. ... His observations include the following. ... There is a quarter-mile breach in the levee near the 17th Street Canal about 200 yards from Lake Pontchartrain allowing water to flow into the City."[36]

About a half-hour later, FEMA Deputy Director Patrick Rhode also sent an email to DHS Deputy Secretary Michael Jackson. At 11:05 p.m. on Monday night, he wrote: "We just spoke with our first rep on the ground in New Orleans who did a helo tour and describes a 200 yard

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[35] Email from DHS Assitant Secretary for Public Affairs Brian Besanceney to DHS Chief of Staff John Wood et al. (Aug. 29, 2005) (DHS-FRNT-0006-0000023).

[36] Homeland Security Operations Security, *Spot Report #13* (Aug. 29, 2005) (WHK-4055) (DHS-FRNT-0001-0000002).

collapse of the levy on the south side of the lake which is accounting for much of the additional flooding."[37]

In addition to these reports to top officials at the White House and the Department of Homeland Security, other documents reported levee breaches and massive flooding much earlier in the day on Monday. For example, at 8:14 a.m. on Monday morning, the New Orleans office of the National Weather Service issued a bulletin warning: "a levee breach occurred along the Industrial Canal at Tennessee Street."[38] In addition, at 9:54 a.m., Edward Buikema, acting Director of Response at FEMA emailed Michael Brown and other top FEMA officials with the news that WWL TV was reporting that "a levee breach occurred along the industrial canal at Tennessee Street. 3 to 8 feet of water is expected due to the breach."[39] There were also other contemporaneous state, local, and media accounts of severe breaches and massive flooding.[40]

The discrepancies between the information flowing into the White House and Department of Homeland Security and the Administration's public statements are striking and hard to comprehend. One explanation could be incompetence: the senior leadership at the Department of Homeland Security and the White House may have failed to grasp the significance of these dire warnings. Another explanation could be that the top Administration officials made public statements that contradicted these internal reports to help explain the botched federal response. In either case, the implications are serious and require rigorous scrutiny by the Committee.

C. The Need for a Subpoena

The record demonstrates that the Select Committee has made extraordinary efforts to accommodate the interests of the White House, that we have provided more than fair warning of our requirements and intentions, and that we have exhausted all voluntary methods of obtaining the priority communications requested on September 30. A compulsory subpoena remains the only appropriate course of action left for the Committee to fulfill its oversight role.

I first expressed concern with the failure of various agencies to provide documents at the Select Committee's hearing with Secretary Chertoff on October 19, 2005. Because priority

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[37] Email from FEMA Deputy Director Patrick Rhode to Deputy Secretary of Homeland Security Michael Jackson (Aug. 29, 2005).

[38] *Primetime Moment of Crisis: System Failure,* Primetime Live, ABC News (Sept. 15, 2005) (adding that "Washington seemed totally oblivious to the bulletin").

[39] Email from, FEMA Acting Director of Response Edward Buikema to FEMA Director Michael Brown, et al. (Aug. 29, 2005).

[40] *See, e.g., Louisiana Governor Kathleen Babineaux Blanco Discusses Steps Being Taken to Prepare for the Aftermath of Hurricane Katrina,* The Today Show, NBC News (Aug. 29, 2005) (quoting Governor Blanco as stating at 7:33 a.m. on Monday: "I believe the water has breached the levee system, and is – is coming in"); *Rescuers Can't Get to Those Who Are Stranded,* New Orleans Times-Picayune (2 p.m., August 29, 2005) (reporting that "City Hall confirmed a breach of the levee along the 17th Street Canal" at 2 p.m.).

communications had not been provided, the Committee was not able to review emails and memos from Secretary Chertoff's office prior to questioning him about what information he received about the hurricane and what actions he took. As I stated:

> Reviewing emails and other communications would have shed a lot of light on these issues and enabled us to prepare for the hearing, but instead we have no documents from [Secretary Chertoff's] office. ... I want to trust that when we ask for all the documents we'll get them all. I would hope that we would not have to go to subpoenas to get those documents.[41]

I next raised concern with the lack of compliance with priority document requests at the hearing on November 2, 2005, and I asked about the possibility of subpoenas:

> Key administration officials have failed to comply with document requests that we sent over a month ago. ... We also have no communications from the White House, even though Mr. Brown testified that he exchanged multiple e-mails with White House officials, including Chief of Staff Andrew Card. We have nothing from HHS, we have nothing from the Pentagon, we have nothing from the Army Corps. Lack of compliance with congressional requests is always a problem, but it is especially egregious when a committee goes out of business in just a few months like this one will. Do you think we should issue subpoenas to the agencies that have not complied with the document request?[42]

In response, Chairman Davis said that he shared my concern:

> It's my understanding that we'll be receiving on Thursday a substantial production from the White House, responsive to that prioritized request. ... I just want to commit to you and the other members of the committee, I'm going to seek a firm final deadline on all the prioritized requests. We need to get those documents to continue our work, and if they're not met — and I'll work on those deadlines with all of you. If we don't get them, I'm not hesitant to issue subpoenas; we have that power.[43]

I raised the failure to comply with the priority requests for a third time at the hearing on November 9, 2005:

> We ... have no communications from top White House officials, even though Mr. Brown testified that he exchanged multiple emails with White House officials, including chief of

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[41] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Statement of Rep. Charles Melancon, *Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

[42] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Statement of Rep. Charles Melancon, *Hurricane Katrina: The Federal Government's Use of Contractors to Prepare and Respond*, 109th Cong. (Nov. 2, 2005).

[43] *Id.*

staff Andy Card. And we have received no documents from Secretary Rumsfeld's office at DOD or Secretary Leavitt's office at HHS.[44]

At this hearing, I asked that draft subpoenas be placed into the hearing record, and this motion was adopted. I also asked for a firm date by which the Committee would issue subpoenas if we still had not received the priority communications. Chairman Davis responded as follows:

> I'm comfortable setting a firm deadline for the prioritized documents we outlined on September 30th. I would think Friday, November 18th, the final day before we recess, is a reasonable date, and if the gentleman would agree, if the documents aren't produced by that date, I'm ready to proceed with subpoenas. The clock is ticking.[45]

Having not received these priority communications from the White House more than two months after the initial request, our staff met with representatives from the White House Counsel's office on December 1, 2005.[46] Although other agencies had managed to comply with our request for priority communications, the White House Counsel's office asserted that their compliance would be impossible. They said it would require the review of 71 million email messages and take over one year. They could not explain, however, why they had not begun producing the priority communications of at least the key individuals identified in the September 30 request letter.

During the meeting, officials from the White House Counsel's office also raised vague concerns about "separation of powers," claiming that it would be inappropriate and unprecedented for Congress to obtain the documents the Committee was seeking. When asked whether they were asserting a legal claim of executive privilege, they said they were not. But when staff provided multiple examples of past precedents for this type of request — particularly from sitting White House Chiefs of Staff during the Clinton Administration — an official from the White House responded bluntly: "You're not getting Andrew Card's emails."[47]

Later that day, I joined Chairman Davis in writing to the White House objecting to these arguments.[48] To further limit our request, we identified an even smaller set of documents the

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[44] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Statement of Rep. Charles Melancon, *Hurricane Katrina: Preparedness and Response by the State of Alabama*, 109th Cong. (Nov. 9, 2005).

[45] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hurricane Katrina: Preparedness and Response by the State of Alabama*, 109th Cong. (Nov. 9, 2005).

[46] Staff Meeting with Richard Klinger, Associate Counsel to the President, Robert F. Hoyt, Associate Counsel to the President, and Alex M. Mistri, Special Assistant to the President for Legislative Affairs (Dec. 1, 2005).

[47] *Id.*

[48] Letter from Chairman Tom Davis and Rep. Charlie Melancon to White House Chief of Staff Andrew Card (Dec. 1, 2005).

White House should produce immediately. The letter requested communications from just a handful of individuals: Chief of Staff Andrew Card and his deputy Joe Hagin, Homeland Security Adviser Frances Townsend and her deputy Ken Rapuano, and two senior staff in each of their immediate offices. The request was further limited to communications from August 23 to September 15, 2005. The letter asked for these documents by December 6, 2005.

On December 6, the White House wrote back refusing to provide the requested documents.[49] Instead, the White House offered to arrange a "background briefing" by an unnamed Administration official subject to unspecified "conditions." Although the White House said it would produce some emails from unspecified Homeland Security Council staff, there was no mention of the specific individuals identified in the December 1 request letter. To date, even the promised briefing and emails have not been provided.

There is only one conclusion that can be drawn from this drawn-out chronology: the White House has persistently refused to provide the key documents that the Committee needs to complete its investigation. A subpoena is now our only option.

IV. THE NEED TO SUBPOENA DEFENSE DEPARTMENT DOCUMENTS

Another major gap in the documents and communications produced to the Committee involves the actions of key decision-makers at the Defense Department. Information provided to the Committee to date raises serious questions about whether the Pentagon's response to Hurricane Katrina was timely and effective.

According to the National Response Plan, the federal government's overall plan for responding to natural disasters and terrorist attacks, the Defense Department is charged with providing support "to Civil Authorities in response to requests for assistance during domestic incidents to include terrorist attacks, major disasters, and other emergencies."[50] As the Plan states: "Federal support must be provided in a timely manner to save lives, prevent human suffering, and mitigate severe damage."[51] But this did not happen after Hurricane Katrina.

In an interview with Committee staff on December 2, 2005, Bill Lokey, the FEMA official who was acting as the Federal Coordinating Officer for Louisiana, reported that he asked Michael Brown to seek immediate assistance from the military on Tuesday, August 31. He stated, "On Tuesday, I went to Brown and said something to the effect of 'this is beyond the state, this is beyond us, we need the military.'"[52] His plea followed a similar request from Maj.

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[49] Letter from William K. Kelly, Deputy Counsel to the President, to Chairman Tom Davis and Rep. Charlie Melancon (Dec. 6, 2005).

[50] U.S. Department of Homeland Security, *National Response Plan* (December 2004), at 41.

[51] *Id.* at Catastrophic Incident Annex p.3.

[52] Committee Staff Interview with William Lokey (Dec. 12, 2005).

Gen. Bennett Landreneau, the head of the Louisiana Guard, who "specifically requested a division of federal ground forces, in particular to evacuate stranded people from the city."[53]

Mr. Lokey also expressed particular concern that FEMA's already weakened logistical supply system would crumble without the involvement of the Defense Department. He told the Committee staff that Michael Brown had downsized FEMA's regional response teams as an "economy measure" and that the hurricane had caused such devastation that FEMA officials were now "working on a multi-billion dollar tasking to mission assign logistics delivery to DOD."[54]

Yet despite Mr. Lokey's urgent request for Defense Department assistance, active-duty forces from the Army's 82nd Airborne and 1st Cavalry Divisions did not arrive in significant numbers until Monday, September 5, a week after the hurricane struck.[55] Moreover, their deployment seemed to require a formal order from the President, which he signed in a "rare Saturday appearance in the Rose Garden before live television cameras."[56]

Other evidence before the Committee raises similar concerns about the delayed the Defense Department response. Michael Brown testified that on Tuesday, August 30, "Secretary Chertoff had conversations with Secretary Rumsfeld and we agreed that we were going to do a blanket mission assignment to the Army ... because we knew that we could not do it."[57] Yet an email provided to the Committee shows that on Friday, September 2, the Defense Department objected to a request from FEMA for "support [for] the planning and execution of the full logistical support to the Katrina disaster" because the request did not "come from Secretary to Secretary."[58]

The Committee has been trying to obtain relevant documents about the military response since September 30, when Chairman Davis and I requested a wide range of documents from the Department of Defense. At that time, we asked that first priority be given "to providing responsive documents or communications, including internal communications, received,

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[53] *Politics Delayed Troops Dispatch to N.O.,* New Orleans Times-Picayune (Dec. 11, 2005).

[54] Committee Staff Interview with William Lokey (Dec. 12, 2005).

[55] *Id. See also Political Breach Creates Parallel Recovery Operations,* Newhouse News Service (Sept. 5, 2005) (reporting that "7,000 active-duty troops ... began arriving Monday under the command of the regular Army and the president").

[56] *As Anxiety Over Storm Increases, Bush Tries to Quell Political Crisis,* New York Times (Sept. 4, 2005).

[57] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Testimony of Michael D. Brown, *Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109th Cong. (Sept. 27, 2005).

[58] E-mail from FEMA Deputy Director of Operations Ken Burris to DHS Director of Operations Mathew Broderick, et al. (Sept. 2, 2005).

prepared, or sent by officials in the Office of the Secretary."[59] These priority communications were not provided, however.

On December 5, staff met with Defense Department personnel regarding the Department's failure to produce the requested documents. They informed us that Paul McHale, the Assistant Secretary of Defense for Homeland Security, had personally requested from Pentagon staff all relevant documents and emails and that the Committee would begin to receive the first set of priority documents in the next week.[60]

On December 7, 2005, Chairman Davis and I wrote a second letter to Secretary Rumsfeld, narrowing our request to communications between August 23 and September 15, 2005, involving nine specified officials: Secretary Donald Rumsfeld, Assistant Secretary of Defense for Homeland Defense Paul McHale, Acting Deputy Secretary of Defense Gordon England, Principal Deputy Assistant Secretary for Homeland Defense Peter Verga, U.S. Northern Command Commander Admiral Timothy Keating, Joint Task Force Katrina Commander General Russell Honore, National Guard Bureau Chief Lt. General Steven Blum, military assistant to the FEMA Director Col. John J. Jordan, and the Defense Coordinating Officer in Louisiana Col. Anthony Daskevich.[61]

The letter asked for these documents by December 12, 2005. To date, we have not received the requested documents. Given the Committee's short remaining time, and the Department's failure to act in a responsive manner, we must issue a subpoena to compel compliance with out requests.

V. THE NEED TO SUBPOENA DOCUMENTS FROM MISSISSIPPI AND ALABAMA

The experiences and communications of officials in Louisiana, Mississippi, and Alabama are critical to understanding how well the federal, state, and local governments worked together in responding to Hurricane Katrina. The three states were affected differently. Louisiana suffered widespread and persistent flooding after a breach of the levees, while destructive winds and a powerful storm surge caused catastrophic damage in Mississippi. Alabama also suffered significant hurricane damage, but due to the relatively devastating impact of the hurricane on neighboring states, it quickly became an aid donor, as well as a recipient.

Although each state experienced different effects from the hurricane, they appear to have experienced similar challenges in responding to the urgent needs of their citizens and in dealing

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[59] Letter from Chairman Tom Davis and Rep. Charlie Melancon to Defense Secretary Donald H. Rumsfeld (Sept. 30, 2005).

[60] Meeting of Committee Staff with Col. David Rhodes, Staff Director, Hurricane Katrina Comprehensive Review Task Force, and Army Legislative Liaison Lt. Col. Roger Carstens (Sept. 5, 2005).

[61] Letter from Chairman Tom Davis and Rep. Charlie Melancon to Secretary Donald H. Rumsfeld (Sept. 7, 2005).

with the federal government. The Committee has received documents and testimony from FEMA's top official in Mississippi, William Carwile, who wrote in the days after the hurricane that the "system appears broken."[62] He described the same problems as officials in Louisiana, including a dysfunctional distribution system and inadequate supplies: "We were ordering 425 trucks of ice and 425 trucks of water a day and you're giving us 40."[63]

In order to fully and fairly evaluate these similarities and differences among each state's response efforts, our document requests to the three states were identical. Our priority requests were for documents and communications from each state's governor's office, emergency management agency, and adjutant general's office. All three states have provided a significant number of documents from their emergency management officials, including detailed emergency and evacuation plans, situation reports about Hurricane Katrina, and deployment orders for state National Guard troops.

However, there are significant disparities in the documents produced by the three governors. Louisiana has been the most responsive, providing over 100,000 pages of documents, including extensive emails, internal memos, and handwritten notes. These documents have provided valuable insights into the timing and substance of critical decisions. For example, Governor Blanco's documents show concern over an attempt by the White House to federalize state National Guard troops. They also reveal shortcomings in FEMA's ability to secure mass transportation and distribute commodities in a timely manner. In contrast, Mississippi and Alabama have provided no communications from either governor's office.

I first raised concern with the failure of Governor Riley and Governor Barbour to produce internal communications from their offices at the Committee's hearing on November 2, 2005, stating: "we have not received any response from Mississippi, Alabama thus far."[64]

During the Committee's hearing on Mississippi's response to Hurricane Katrina on December 7, 2005, Governor Barbour was specifically asked why he had not produced any internal communications from his office. In response, he testified that officials in his office sent and received no emails during this timeframe because there was no electricity. As he stated:

> We were out of our offices. The state office building where my office is didn't have electricity. ... I don't carry a blackberry, I really am a low-tech kind of governor ... so

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[62] Email from FEMA Coordinating Officer William Carwile to FEMA Deputy Director of Response Michael Lowder, et al. (Sept. 2, 2005).

[63] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Testimony of William Carwile, *Hurricane Katrina: Preparedness and Response by the State of Mississippi*, 109th Cong. (Dec. 7, 2005) (as cited in *Barbour Beseeches Congress,* Biloxi Sun Herald (Dec. 8, 2005).

[64] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Statement of Rep. Charles Melancon, *Hurricane Katrina: Preparedness and Response by the State of Alabama*, 109th Cong. (Nov. 9, 2005).

there are not, I don't have any emails from me, I don't do a lot of email. I do some, but only when I'm in the office.[65]

This answer was puzzling since our request covered a time period prior to the storm, and well afterwards, when email communication was surely working. It also covered staff in the governor's office, and other forms of communication that might have been used instead of email. Although Governor Barbour testified that he would revisit this issue with his staff and report back to the Committee, we have received no further response from his office.

Unlike Governor Barbour, Governor Riley has not claimed that his office generated no emails or other internal communications during the timeframe covered by our document request. To the contrary, the Chairman's staff reports that they may have obtained some emails from officials in Governor Riley's office. My staff has asked to see copies of these documents and attempted unsuccessfully to contact Governor Riley's office.

Because we have not received significant internal communications from Mississippi or Alabama, it is more difficult for the Committee to assess whether the problems experienced in those states were similar to those in Louisiana. If we are to conduct a credible investigation, we must obtain essential documents from the governors of all three states. If Governor Blanco was able to fully comply with our requests, despite the massive problems confronting Louisiana, certainly Governor Barbour and Governor Riley can comply without facing an undue burden. Since they have not done so to date, however, a compulsory subpoena is necessary to obtain this information.

VI. THE PRECEDENT FOR THE SUBPOENAS

There is ample precedent for these subpoena requests from congressional oversight of the Clinton Administration.

During the Clinton Administration, the House Committee on Government Reform launched numerous investigations of the White House, from campaign finance probes to an examination of the White House Christmas card list. The Government Reform Committee issued over 1,000 subpoenas during the course of these investigations, including 46 subpoenas to White House officials or former officials. In response, the Clinton Administration produced internal White House communications involving the President, Vice President, and various White House Chiefs of Staff and Deputy Chiefs of Staff. The Government Reform Committee received millions of pages of documents, including internal memoranda and emails sent to four of President Clinton's chiefs of staff: Thomas "Mack" McLarty, Leon Panetta, Erskine Bowles, and John Podesta. The Committee also received communications between President Clinton and his advisors, as well as between Vice President Gore and his staff.

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[65] House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Testimony of Gov. Haley Barbour, *Hurricane Katrina: Preparedness and Response by the State of Mississippi*, 109th Cong. (Dec. 7, 2005).

Indeed, the Committee even required three White House Chiefs of Staff to testify before the Committee or appear for staff-level depositions. On July 12, 1996, White House Chief of Staff Mack McLarty came before the Committee for 5 hours and 15 minutes in a deposition conducted by staff.[66] On September 5, 1997, Mr. McLarty came before the Committee for 5 ½ hours in a second deposition conducted by staff.[67] On May 5, 1998, White House Chief of Staff Erskine Bowles came before the Committee for 2 hours and 20 minutes in a deposition conducted by staff.[68] And on March 1, 2001, White House Chief of Staff John Podesta testified before the Committee in open session. During this testimony, he described his personal communications with President Clinton.[69]

The example of the 9-11 Commission is also relevant precedent. The Commission had access to the key decision-makers in the Administration. On April 29, 2004, President Bush and Vice President Cheney answered questions from Commission members in the Oval Office for over three hours.[70] National Security Advisor Condoleezza Rice and former National Coordinator for Counterterrorism Richard Clarke testified before the 9-11 Commission in public hearings.[71] The 9-11 Commission also obtained access to relevant internal White House documents, including copies of classified Presidential Daily Briefs[72] and internal memos from Richard Clarke to National Security Advisor Condoleezza Rice.[73] If the Select Committee intends to be as thorough as the 9-11 Commission was, the Committee will need to obtain the relevant White House documents as the 9-11 Commission did.

Against this backdrop, any claim by the Administration that it would be unprecedented for Congress to obtain the communications of senior White House officials is inaccurate.

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[66] House Committee on Government Reform and Oversight, *Deposition of Thomas Franklin McLarty* (July 12, 1996).

[67] House Committee on Government Reform and Oversight, *Deposition of Thomas Franklin McLarty* (Sept. 7, 1997).

[68] House Committee on Government Reform and Oversight, *Deposition of Erskine Bowles* (May 5, 1998).

[69] House Committee on Government Reform, *Hearings on the Controversial Pardon of International Fugitive Marc Rich*, 107th Cong., 1st Sess., 309-437 (Feb. 8 and Mar. 1, 2001) (H. Rept. 107-11).

[70] White House, *Press Release: President Bush Meets with the 9/11 Commission on Thursday* (Apr. 29, 2004).

[71] National Commission on Terrorist Attacks Upon the United States, *Hearings on Counterterrorism Policy* (Mar. 24, 2004); National Commission on Terrorist Attacks Upon the United States, *Hearing with Testimony from Condoleezza Rice* (Apr. 8, 2004).

[72] National Commission on Terrorist Attacks Upon the United States, *Frequently Asked Questions About the 9-11 Commission* (Dec. 12, 2005) (online at http://www.9-11commission.gov/about/faq.htm#q9).

[73] *See, e.g.*, Memorandum for Condoleezza Rice from Richard A. Clarke (Jan. 25, 2001)

VII. CONCLUSION

The House resolution creating the Select Committee has established a short deadline of February 15, 2006, for completion of the Committee's work. Even with full cooperation, this deadline would be difficult to meet. It becomes impossible for the Committee to fulfill its mandate responsibly if the White House and other agencies are permitted to withhold key documents and run out the clock on the investigation.

On multiple occasions, I have raised my concerns with the Committee that the White House and other agencies appear to be stonewalling the investigation. The Committee should not permit this to continue. I urge all members of the Committee to support my subpoena requests tomorrow.

Congress of the United States
Washington, DC 20515

December 15, 2005

The Honorable Tom Davis
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are writing to renew my request for a White House subpoena and to urge you to schedule a hearing at which we can hear from White House officials in public session.

A briefing was held today from 11:00 a.m. until 1:00 p.m. with Ken Rapuano, the Deputy Homeland Security Advisor. The briefing was cut short, and we did not learn about White House actions after August 29, the day Hurricane Katrina struck. But what we did learn was (1) that there was a massive failure in virtually all aspects of the federal response and (2) that Congress will never understand why the federal response failed unless we obtain access to the emails and communications of Andrew Card and other senior White House officials.

The Preliminary White House Findings

During the briefing, Mr. Rapuano described the preliminary findings from the White House review of Hurricane Katrina. His presentation, which was accompanied by a series of slides, was stunning in that it showed that virtually every aspect of the federal response had deep flaws.

The preliminary findings in the slides identified an enormous number of failures and deficiencies in the federal response. Mr. Rapuano would not leave a copy of the slides with the members, but staff transcribed over 60 of the specific findings. They are included in an appendix to this letter.

The preliminary White House findings found problems with planning, military response, emergency communications, logistics, coordination with the private sector, training, public communications, environmental issues, shelter and housing, public health, and law enforcement. Key findings included the following:

- "National Response Plan command and coordination were slow and incomplete."
- "The National Response Plan did not function as planned."
- "The bureaucratic process delayed the Federal response."
- "A unified national homeland security planning structure does not exist."
- "Lack of comprehensive communications strategy and plans impeded response."

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- "Federal departments and agencies did not effectively talk to command and control structure."
- "Lack of comprehensive national strategy and plans to unite communications plans, architectures, and standards."
- "Priority needs were not met expeditiously."
- "Federal response did not inform nongovernmental organizations what resources were required and how to connect local, State, and Federal emergency managers."
- "Insufficient cooperation, coordination, and planning between nongovernmental and governmental entities."
- "Focus on terrorism rather than all hazards."
- "TOPOFF schedule will take half a century to exercise the remaining 50 States."
- "Federal agencies hampered the restoration of goods and services by taking uncoordinated actions without understanding their national impact."
- "Plans and policies for relocating evacuees did not adequately provide for their shelter or housing."
- "Inadequate coordination of Federal health assets."

Need for White House Documents and Testimony

What the briefing did not answer is how these enormous failings could have occurred. We will not know the answer to these questions unless we subpoena the documents and emails that the White House is refusing to supply.

Mr. Rapuano emphasized that a major cause of the problems was that the federal response plan relied on state and local officials to take the lead in organizing and coordinating the response. In response to one question, he indicated that if federal officials did not hear from a local county in Mississippi, the federal agencies assumed that this meant that everything was under control, even if the county was so devastated that communications were impossible.

What Mr. Rapuano could not explain is why the White House and the Department of Homeland Security did not anticipate that state and local officials would be overwhelmed by the hurricane. The Committee has obtained documents from the Department of Homeland Security that indicate that federal officials had predicted before Hurricane Katrina that the state and local authorities would be overwhelmed. For example, one 2004 document states a major hurricane hitting New Orleans would "quickly overwhelm the State's resources" and "creat[e] a catastrophe with which the State would not be able to cope without massive help from

neighboring states and the Federal Government."[1] The Hurricane Pam exercise reached the same conclusions. But Mr. Rapuano could not explain why White House officials were unaware of these reports and their significance.

The presentation included several caveats that it was not comprehensive, and Mr. Rapuano emphasized that it was "not an attempt at a full accounting." For example, Mr. Rapuano said that he compiled the "key events" timeline by sitting down and asking people what they remembered, which he acknowledged was not a scientific process.

One problem with Mr. Rapuano's presentation was that it omitted key facts and appeared misleading on key points. The timeline for Monday, August 29, the day the hurricane hit, stated that news media were reporting that New Orleans had "dodged a bullet." It also included a situation report from 7:04 p.m. that stated: "reported levees have NOT been breached."

But the chronology inexplicably omitted a situation report sent to the White House at 10:30 p.m. that summarized the observations of a FEMA official, Marty Bahamonde, who flew over New Orleans on the afternoon of August 29. This document reported:

- "There is a quarter-mile breech in the levee near the 17th Street Canal about 200 yards from Lake Pontchartrain allowing water to flow into the City."
- "[A]n estimated 2/3 to 75% of the city is under water."
- "Some homes were seen with water to the first floor and others completely underwater."
- "The Coast Guard is flying rescue missions for people stuck on roofs. They reported seeing about 150 people but said that as they lifted people out, they saw others breaking through the roofs of adjacent homes."
- "A few bodies were seen floating in the water."

When Mr. Rapuano was asked why this critical situation report was omitted from the briefing, he said he was not sure if he saw the situation report or appreciated its significance. Multiple members expressed concern with this omission.

Another major problem with Mr. Rapuano's briefing is that he consistently refused to provide any specifics about conversations that he and others had with top officials, such as Chief of Staff Andrew Card, Homeland Security Advisor Frances Townsend, and Secretary of Homeland Security Michael Chertoff. When asked whether the President had been aware before landfall of the magnitude of the threat facing New Orleans, he said, "I'm really not here to discuss specific information that was passed to the President." Mr. Rapuano did say that he had been in constant contact with Deputy Homeland Security Secretary Michael Jackson during the

[1] Federal Emergency Management Agency, Combined Catastrophic Plan for Southeast Louisiana (2004).

critical two days before landfall, but declined, on advice of counsel, to say whether Secretary Chertoff had been in the loop during those critical days. White House officials explained that the "rules of the road" that the majority had negotiated for the briefing were that such questions need not be answered.

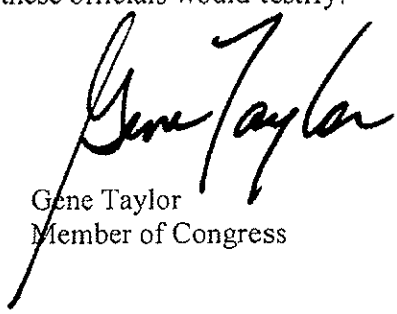
Conclusion

The White House briefing made it clear that there were major flaws in the federal response. But the briefing did not explain why these failures occurred and who should be held accountable. Every time specific questions were asked about the role of key White House officials, Mr. Rapuano either declined to answer or gave only a general answer that provided no details.

We therefore renew our request for a subpoena for the emails and communications of four key White House officials: White House Chief of Staff Andrew Card, his deputy Joe Hagin, Homeland Security Advisor Francis Townsend, and her deputy, Mr. Rapuano. We also believe the Committee should schedule another hearing at which these officials would testify.

Sincerely,

Charlie Melancon
Member of Congress



Gene Taylor
Member of Congress

APPENDIX:
PRELIMINARY WHITE HOUSE FINDINGS ON HURRICANE KATRINA RESPONSE
(Pursuant to White House Briefing on December 15, 2005)

Problems with Planning

- "National Response Plan command and coordination were slow and incomplete."
- "The Joint Field Office led a disjointed federal response."
- "The Joint Field Office Coordinating Group never established."
- "The Principal Federal Officer did not have enough authority over Federal resources."
- "Time and resources were lost to 'on-the-job' Incident Command Structure training."
- "The Joint Field Office was established late and lacked adequate staffing and operational procedures."
- "The National Response Plan did not function as planned."
- "The bureaucratic process delayed the Federal response."
- "Interagency Centers did not provide adequate situational awareness or coordination, nor allocate resources in a timely manner."
- "Federal agencies did not effectively synchronize."
- "Interagency Incident Management Group was not staffed with trained, senior agency personnel and was not focused on appropriate missions."
- "A unified national homeland security planning structure does not exist."

Problems with Military

- "NORTHCOM was not fully aware of its deployed assets for the first 48 hours after landfall."
- "The National Response Plan's structure prevented best use of Title 10 Department of Defense assets."
- "This structure is not sufficient for a catastrophic event."

Problems with Emergency Communications

- "Lack of comprehensive communications strategy and plans impeded response."
- "Federal departments and agencies did not effectively talk to command and control structure."

- "Lack of comprehensive national strategy and plans to unite communications plans, architectures, and standards."
- "No guidance for worst case effects to the communications infrastructure."

Problems with Logistics

- "The Federal logistics system failed to provide certain resources in an efficient and timely manner in order to meet the needs of victims and response personnel."
- "Priority needs were not met expeditiously."
- "Lack of integrated procurement, supply, and distribution system."
- "Poor coordination and planning between Federal, State, local, private sector, and nongovernmental resource managers."
- "Lack of real-time asset tracking system."
- "Inadequate planning for evacuations."

Problems with NGO/Private Sector

- "Resources from nongovernmental organizations were underutilized."
- "The lack of planning and coordination prevented the efficient use of nongovernmental assistance."
- "Federal support to the private sector for protection and restoration of critical infrastructure must be prioritized."
- "Federal response did not inform nongovernmental organizations what resources were required and how to connect local, State, and Federal emergency managers."
- "Insufficient cooperation, coordination, and planning between nongovernmental and governmental entities."

Problems with Foreign Assistance

- "Lack of coordination and integrated planning resulted in inefficient management and use of foreign assistance."
- "Fundamental disconnect exists between planning and actual practice."
- "National Response Plan based on the assumption that the U.S. would request assistance from foreign governments/international organizations only after domestic resources exhausted."
- "Disparity between actual and perceived needs for assistance."

Problems with Training and Exercises

- "Training and exercise programs did not prepare all levels of government."
- "Federal, State, and local entities were neither properly trained nor exercised."
- "Training was designed to respond to WMD incidents."
- "Focus on terrorism rather than all hazards."
- "No true National Exercise Program."
- "TOPOFF schedule will take half a century to exercise the remaining 50 States."
- "Limited State and local senior officials participate in training and exercises."
- "No national exercise methodology."
- "Fragmented training programs."
- "No Agency Remedial Action Management Program."

Problems with Public Communications

- "The public communications plan … was unable to inform, guide, and reassure the American public during the immediate aftermath."

Problems with Environmental Issues

- "Responders and victims entered potentially hazardous areas without proper protective equipment."
- "There was a lack of standards … to identify and communicate environmental risk to responders and general populations."
- "Environmental assessment teams were not prepositioned to respond."
- "Incompatible data formats used by the laboratory network delayed evaluation."
- "Local officials misunderstood the debris removal process, especially the process to remove debris from private property."

Problems with Critical Infrastructure

- "Federal agencies hampered the restoration of goods and services by taking uncoordinated actions without understanding their national impact."
- "There was no Federal coordinating entity with a complete understanding of the interdependency of critical infrastructure sectors."
- "There was no mechanism to coordinate the conflicting needs of various sectors for both protection and restoration."
- "There are no protocols to address the relationship between protection and restoration of the infrastructure. Protection efforts were not coordinated with restoration efforts."

Problems with Shelter and Housing

- "Plans and policies for relocating evacuees did not adequately provide for their shelter or housing."
- "Relocation and sheltering of evacuees was haphazard and inadequate."
- "No comprehensive database to identify suitable and available shelters."
- "Failure of coordination across the interagency."
- "Cumbersome restrictions prevented maximum use of available housing."
- "Failure to involve Department of Housing and Urban Development early enough in the process."

Problems with Public Health

- "Public health and medical support services were effectively but inefficiently delivered to the region."
- "Healthcare and mortuary services were substantially delayed and poorly coordinated."
- "Inadequate pre-storm risk communications regarding public health and medical emergencies."
- "Inadequate pre-storm planning for the utilization of private sector volunteers."
- "Inadequate coordination of Federal health assets."

Problems with Law Enforcement

- "Federal law enforcement assets from certain agencies were underutilized."
- "National Guard was not deployed as effectively as it could be."
- "Incomplete evacuation left large population in New Orleans."
- "Apparent absence of law enforcement emboldened criminal behavior."
- "National Guard did not deploy to effectively respond to lawlessness."

CHARLIE MELANCON
3RD DISTRICT, LOUISIANA

COMMITTEE ON AGRICULTURE
COMMITTEE ON RESOURCES
COMMITTEE ON SCIENCE

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January 10, 2006

The Honorable Tom Davis
Chairman
Select Bipartisan Committee to Investigate the
Preparation for and Response to Hurricane Katrina
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing to request that the Select Committee obtain from the Department of Homeland Security the operational annex to the National Response Plan, which we requested on September 30, 2005, but which the Department still has not provided. This is one of the core documents the Select Committee should have for its investigation.

On November 1, 2005, I joined Rep. Henry A. Waxman in sending a letter to Homeland Security Secretary Michael Chertoff asking why the Department had not yet completed an operational annex to the federal government's National Response Plan for natural disasters and terrorist attacks.[1] As we stated in our letter, Secretary Ridge issued the National Response Plan last January to establish broad lines of authority for agencies responding to catastrophic events. But the Plan stated that a "more detailed and operationally specific" annex would set forth in detail the precise role of each agency involved in federal response efforts.[2]

When Hurricane Katrina struck, this operational annex — which is called the Catastrophic Incident Supplement (CIS) — still had not been completed. In our letter to Secretary Chertoff, we asked for an explanation, especially given the Secretary's repeated statements that, in his opinion, the government's failure to properly plan was the primary flaw in the federal response to Hurricane Katrina. For example, on October 19, 2005, Secretary Chertoff

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[1] Letter from Rep. Henry A. Waxman and Rep. Charlie Melancon to Homeland Security Secretary Michael Chertoff (Nov. 1, 2005).

[2] U.S. Department of Homeland Security, *National Response Plan, Catastrophic Incident Annex* (December 2004), at p. CAT-1 (issued on Jan. 6, 2005).

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testified before the Select Committee that "80 percent or more of the problem lies with the planning."[3]

On December 20, 2005, the Department sent a response to our letter.[4] This response revealed that the CIS was completed on September 6, 2005 — just seven days after Hurricane Katrina struck. However, the Department's response did not explain why this operational annex was delayed for over seven months, or why it was not completed prior to Hurricane Katrina.

The Department's letter did suggest that at least part of the reason for the delay involved unspecified objections by the Defense Department. The letter stated that the CIS was not completed until the Defense Department agreed to a Memorandum of Agreement, which was not signed until September 6, 2005. According to the response, this MOA "was essential to obtaining DOD approval of the CIS."[5] In testimony before the Committee, Secretary Chertoff also highlighted coordination problems with the Department of Defense, stating that the absence of adequate planning "goes to how well we work with the military when the military has large numbers of assets they can bring to bear on a problem, how fluid we are with them."[6]

According to the National Response Plan, "[a] more detailed and operationally specific NRP Catastrophic Incident Supplement (NRP-CIS) that is designated 'For Official Use Only' will be approved and published independently of the NRP."[7] Yet the Department's letter claims that the federal response to Hurricane Katrina "would not have been improved by the use of the CIS."[8] The Department explains that the CIS is now limited only to a "no-notice event, such as a terrorist attack or earthquake," although no such limitation is mentioned in the National Response Plan itself.[9]

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[3] FDCH Political Transcripts, *House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Holds a Hearing on Department of Homeland Security Relief Response* (Oct. 19, 2005).

[4] Letter from Pamela J. Turner, Assistant Secretary for Legislative Affairs, Department of Homeland Security, to Rep. Charles Melancon (Dec. 20, 2005).

[5] *Id.*

[6] FDCH Political Transcripts, *House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Holds a Hearing on Department of Homeland Security Relief Response* (Oct. 19, 2005).

[7] U.S. Department of Homeland Security, *National Response Plan, Catastrophic Incident Annex* (December 2004), at p. CAT-1 (issued on Jan. 6, 2005).

[8] Letter from Pamela J. Turner, Assistant Secretary for Legislative Affairs, Department of Homeland Security, to Rep. Charles Melancon (Dec. 20, 2005).

[9] *Id.*

These conflicting statements are hard to understand. On one hand, the Department says it now has a plan to deploy federal assets in a more timely manner, but on the other hand, it says this plan would have made no difference for Hurricane Katrina. Without additional information, members of the Committee cannot gauge whether there has been any real improvement in federal planning for disasters like Hurricane Katrina.

Unfortunately, the Department has failed to produce a copy of the operational annex to inform this assessment. You and I requested the CIS on September 30, 2005, when we sent a document request to Secretary Chertoff seeking "documents ... prepared, or sent between August 29 and September 15, 2005, by officials of the Department of Homeland Security or any of its constituent agencies relating to ... emergency preparations, or emergency responses."[10] Since the CIS was apparently completed on September 6, 2005, it should have been provided to the Committee.

For these reasons, I ask that the Committee now obtain from the Department of Homeland Security the following documents:

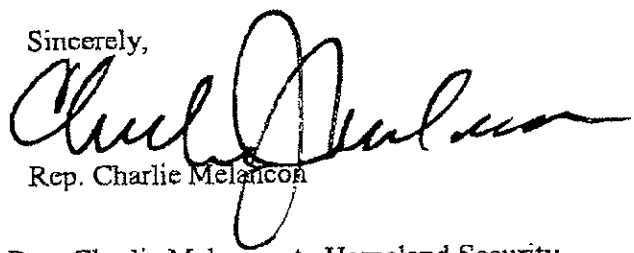
(1) All draft and final versions of the Catastrophic Incident Supplement prepared between January 1, 2005, and December 31, 2005;

(2) All draft and final versions of the Memorandum of Agreement relating or referring to the Catastrophic Incident Supplement; and

(2) All documents or communications, including internal communications, received, prepared, or sent by officials of the Department of Homeland Security or any of its constituent agencies relating to any draft of the Catastrophic Incident Supplement or Memorandum of Agreement, including edits, additions, deletions, or other comments by any agency or office.

Because these documents were requested more than three months ago, and given the little time the Select Committee has remaining for its work, I request that the Department provide these documents by January 17, 2005. I look forward to discussing this issue further with you.

Sincerely,



Rep. Charlie Melancon

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[10] Letter from Rep. Tom Davis and Rep. Charlie Melancon to Homeland Security Secretary Michael Chertoff (Sept. 30, 2005).

CHARLIE MELANCON
3RD DISTRICT, LOUISIANA

COMMITTEE ON AGRICULTURE
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January 23, 2006

The Honorable Tom Davis
Chairman
Select Bipartisan Committee to Investigate the Preparation
for and Response to Hurricane Katrina
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In recent interviews, top FEMA officials informed the Select Committee that the Defense Department refused on multiple occasions to comply with civilian requests for assistance in the critical days after Hurricane Katrina struck the Gulf Coast. The FEMA officials also told us that Defense Secretary Donald Rumsfeld, who is currently defying the Committee's subpoena to produce documents, insisted on personally reviewing these urgent FEMA requests.

These new accounts contradict the testimony of Defense Department officials that all civilian requests were approved. And they underscore why it is essential for the Committee to enforce its subpoena against Secretary Rumsfeld.

On January 5 and 6, 2006, Committee staff interviewed Ed Buikema, Acting Director of FEMA's Response Division, and Michael Lowder, FEMA Deputy Director of Response. Mr. Buikema and Mr. Lowder were the senior FEMA officials responsible for coordinating logistics in response to Hurricane Katrina.

Both FEMA officials stated that on Thursday, September 1, 2005, three days after Hurricane Katrina made landfall, FEMA requested emergency assistance from the Defense Department pursuant to the National Response Plan. In particular, they stated that FEMA issued a massive "billion-dollar mission assignment" to the Defense Department to deliver food, water, ice, and other essential commodities and logistical support to all three states affected by the hurricane. The FEMA officials said that this urgent request included "logistical support," "airlift" assistance, and "commodity distribution." They characterized the request as a "blanket mission assignment" that was critical to a timely and effective emergency response.

Both FEMA officials stated that the Defense Department frustrated FEMA's attempts to get this aid delivered to the stricken region. The FEMA officials relayed the request to the

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Defense Department's Joint Director of Military Support. This office told them that the Defense Department would not accept the mission assignment and that all requests for assistance by FEMA had to be personally approved by Secretary Rumsfeld. According to the FEMA officials, the Defense officials expressed concerns that the involvement of active duty troops in providing emergency supplies raised legal issues that the Department had not resolved.

The FEMA officials recounted that this unexpected rejection of their emergency request delayed critical assistance for days. They reported that the Defense Department's rejection forced them to leave their command post at FEMA headquarters in order to negotiate with Pentagon attorneys about what assignments the Defense Department would and would not accept. These bureaucratic interagency negotiations continued throughout the weekend.

The FEMA officials did not personally communicate with Defense Secretary Rumsfeld during this period. But they told us that they were informed that during these protracted negotiations, Secretary Rumsfeld had to personally sign off on every mission assignment. This added an extra layer of bureaucracy and review. According to one of the FEMA officials, "all FEMA mission assignments to DOD had to go to the Secretary of Defense." This official also said that "had DOD fully engaged earlier, that would have helped."

According to the FEMA officials, a final agreement on the Defense Department's mission assignment was not worked out until Monday, September 5 — one week after Hurricane Katrina struck. But even after a final agreement was reached, problems in the delivery of the emergency aid continued. Emails on Tuesday, September 6, show continuing problems with the delivery of Meals Ready to Eat (MREs). Mr. Buikema wrote to FEMA Deputy Director Patrick Rhode that the Defense Department claimed "we were cutting into their supply of MRE's for their war fighting effort and that they would not supply the Red Cross. ... So much for mission assigning DOD the logistics support mission."[1] On the same day, Secretary Rumsfeld was asserting publicly that "[w]e have the forces, the capabilities and the intention to fully prosecute the global war on terror while responding to this unprecedented humanitarian crisis here at home. We can and will do both."[2]

These new accounts by top FEMA officials raise serious questions about the sworn testimony of Defense Department officials before the Committee. At the Committee hearing on October 27, 2005, top Pentagon officials testified under oath that they approved every request made by civilian authorities. For example, Admiral Timothy Keating, the Commander of Northern Command, stated: "The United States Northern Command met every request for

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[1] E-mail from Ed Buikema to Patrick Rhode et al. (Sept. 6, 2005).

[2] *DOD Response Began Before Katrina Made Landfall*, American Forces Press Service (Sept. 6, 2005).

support received by FEMA."[3] Assistant Secretary of Defense for Homeland Defense Paul McHale testified: "The Department of Defense received 93 mission assignments from FEMA and approved all of them."[4] Mr. McHale further testified that the Defense Department moved quickly to accept the mission assignment from FEMA to take over logistics. When asked whether any time was lost waiting for approval of civilian mission assignments by Secretary Rumsfeld, Mr. McHale said, "I don't believe so. I think the time that elapsed was commensurate with the magnitude of taking on full logistical support throughout a three- or four-state area."[5]

The accounts also make it imperative that the Committee obtain the complete correspondence and other records of Defense Secretary Rumsfeld. Unfortunately, we have been trying — without success — to obtain Secretary Rumsfeld's cooperation for months. On September 30, 2005, you and I sent a document request letter to Secretary Rumsfeld asking that he provide all documents and communications "received, prepared, or sent between August 29 and September 15, 2005" relating to "emergency preparations" and "emergency responses" to Hurricane Katrina.[6] We asked that Secretary Rumsfeld "give first priority" to providing documents from his office.[7] When Secretary Rumsfeld failed to comply, we sent another letter on December 7, 2005, reiterating our request for all Katrina-related documents or communications from August 23 to September 15, 2005, that were received, sent, or reviewed by Secretary Rumsfeld.[8] We noted that "we would like to avoid the issuance of a subpoena," and we asked for the documents by December 12, 2005.[9]

After Secretary Rumsfeld again failed to provide the requested documents, I made a motion to subpoena these documents at the Committee's hearing on December 14, 2005. The Committee adopted my motion and issued a subpoena compelling Secretary Rumsfeld to produce "all records and communications, including internal communications, referring or

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[3] Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: Preparedness and Response by the Department of Defense, the Coast Guard, and the National Guard of Louisiana, Mississippi, and Alabama* (Oct. 27, 2005).

[4] *Id.*

[5] *Id.*

[6] Letter from Chairman Tom Davis and Rep. Charles Melancon to Defense Secretary Donald H. Rumsfeld (Sept. 30, 2005).

[7] *Id.*

[8] Letter from Chairman Tom Davis and Rep. Charles Melancon to Defense Secretary Donald H. Rumsfeld (Dec. 7, 2005).

[9] *Id.*

relating to the Department of Defense's efforts to prepare for and respond to Hurricane Katrina."[10]

Although the subpoena directed Secretary Rumsfeld to produce these documents by December 30, 2005, he again failed to comply. According to press accounts, Secretary Rumsfeld is refusing to provide these documents based on a claim of executive privilege.[11] However, neither Secretary Rumsfeld nor any other Administration official has asserted this privilege to the Committee. Moreover, the Defense Department has not produced any kind of privilege log, which normally accompanies this legal claim.

This situation is not acceptable. The statements of the FEMA officials have serious implications that need to be fully explored. Secretary Rumsfeld's failure to cooperate thwarts the legitimate work of the Committee in examining the military's role in responding to Hurricane Katrina, and it shows contempt for Congress' oversight role.

For these reasons, I ask that you initiate steps to enforce the subpoena issued to Secretary Rumsfeld on December 14, 2005. Only in this way will the Committee obtain a complete record of the Defense Department's compliance with mission assignments issued by civilian authorities.

Sincerely,

Charlie Melancon
Member of Congress

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[10] Subpoena from the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, to the Honorable Donald H. Rumsfeld, Secretary of Defense (Dec. 14, 2005).

[11] *See, e.g., Pentagon May Not Hand Over Rumsfeld Papers,* Associated Press (Dec. 16, 2005) (quoting Assistant Secretary McHale as stating that the document production remains "subject to a continuing review of the communication for legitimate issues of legal privilege").

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To The Honorable Harriet Miers, Counsel to the President

You are hereby commanded to be and appear before the Select Bipartisan Committee on the Preparation and Response to Hurricane Katrina of the House of Representatives of the United States at the place, date and time specified below.

☐ **to testify** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn HOB, US House of Representatives, Washington, DC 20515

Date: December 21, 2005 Time: 5:00 p.m.

To _____

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 14 day of December, 2005.

Rep. Tom Davis
Chairman or Authorized Member

Attest:

_____
Clerk

PROOF OF SERVICE

Subpoena for The Honorable Harriet Miers, Counsel to the President

Address The White House

Washington, DC 20500

before the Select Bipartisan Committee on the Preparation and Response to Hurricane Katrina

U.S. House of Representatives
109th Congress

Served by (print name) _____

Title _____

Manner of service _____

_____

Date _____

Signature of Server _____

Address _____

_____

SCHEDULE

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Serve: The Honorable Harriet Miers
Counsel to the President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Committee hereby subpoenas Counsel to the President Harriet Miers, to produce certain records relating to the preparation for and response to Hurricane Katrina. If you have any questions, please contact chief counsel J. Keith Ausbrook at (202) 225-5074.

Instructions

1. In complying with this subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.

3. Each document produced shall be produced in a form that renders the document capable of being copied.

4. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was served. Also identify to which paragraph from the subpoena such documents are responsive.

5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same document.

6. If any of the subpoenaed information is available in machine-readable form (such as punch cards, paper or magnetic tapes, drums, disks, or core storage), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.

7. If compliance with the subpoena cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.

8. In the event that a document is withheld on the basis of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

9. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

10. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

11. The time period covered by this subpoena is included in the attached schedule.

12. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

13. All documents shall be bates-stamped sequentially and produced sequentially.

14. Two copies of the documents, one set for the majority and one set for the minority, shall be delivered to the Committee at Room 2157, Rayburn House Office Building.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes,

letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

5. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.

Subpoenaed Items

Please provide the Committee with all documents received, sent, or reviewed between August 23, 2005, and September 15, 2005, by Chief of Staff Andrew Card, Deputy Chief of Staff Joe Hagin, Homeland Security Advisor Frances Townsend, or her deputy, Ken Rapuano, referring or relating to the preparations for, impacts of, or response to Hurricane Katrina, including but not limited to documents referring or relating to the Administration's efforts:

(a) to provide food, water, and shelter to victims of Hurricane Katrina;
(b) to provide public safety and law enforcement resources to the areas affected by Hurricane Katrina;
(c) to provide relief, including evacuation, to victims at the Superdome, the Convention Center, and the area known as the cloverleaf;
(d) to mobilize active duty and reserve forces to support relief efforts; and
(e) to provide medical assistance in the affected areas.

House of Representatives
Washington, D.C. 20515

MEMORANDUM

Substitute

Move to accept the briefing from the White House and reserve the right to subpoena Defense Department Documents requested in the Committee's December 7 letter.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To the Honorable Donald H. Rumsfeld, Secrtary of Defense Serve: William J. Haynes II, General Counsel

You are hereby commanded to be and appear before the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina of the House of Representatives of the United States at the place, date and time specified below.

☐ **to testify** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn House Office Building

Date: December 30, 2005 Time: Noon

To J. Keith Ausbrook or any staff member

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 14th day of December, 2005.

Tom Davis

Chairman or Authorized Member

Attest: Karen L. Haas

Clerk

PROOF OF SERVICE

Subpoena for the Honorable Donald H. Rumsfeld, Secrtary of Defense Serve: William J. Haynes II

Address 1000 Defense Pentagon, Washington, DC 20301

before the Select Bipartisan Committee to Investigate the Preparation for and and Response to Hurricane Katrina

U.S. House of Representatives
109th Congress

Served by (print name) J. Keith Ausbrook

Title Special Counsel

Manner of service facsimile by agreement to (703) 697- 8299

Date December 14, 2005

Signature of Server J. Keith Ausbrook

Address 2157 Rayburn House Office Building
Washington, DC 20515

Schedule Instructions

1. In complying with this Subpoena, you are required to produce all responsive records that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You are also required to produce records that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as records that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data, or information called for by this request shall be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.

3. Each record produced shall be produced in a form that renders the record capable of being copied.

4. Record produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was served.

5. It shall not be a basis for refusal to produce records that any other person or entity also possesses non-identical or identical copies of the same record.

6. If any of the subpoenaed information is available in machine-readable form (such as punch cards, paper or magnetic tapes, drums, disks, or core storage), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.

7. If compliance with the subpoena cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.

8. In the event that a record is withheld on the basis of privilege, provide the following information concerning any such record: (a) the privilege asserted; (b) the type of record; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.

9. If any record responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the record (stating its date, author, subject

and recipients) and explain the circumstances by which the record ceased to be in your possession, custody, or control.

10. If a date or other descriptive detail set forth in this subpoena referring to a record is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all records which would be responsive as if the date or other descriptive detail were correct.

11. The time period covered by this subpoena is included in the attached schedule(s).

12. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

13. All records shall be bates-stamped sequentially and produced sequentially.

14. Two sets of records shall be delivered, both sets to the Majority Staff. When records are produced to the Select Committee, production sets shall be delivered to the Majority Staff in Room 2157 Rayburn House Office Building.

Definitions for Schedule

1. The term "record" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

5. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.

SCHEDULE

All records and communications, including internal communications, referring or relating to the Department of Defense's efforts to prepare for and respond to Hurricane Katrina including, but not limited to, efforts: to provide food, water, and shelter to victims of Hurricane Katrina; to provide public safety and law enforcement resources to the areas affected by Hurricane Katrina; to provide relief, including evacuation, to victims at the Louisiana Superdome, the New Orleans Convention Center, and the area known as the cloverleaf; to mobilize active duty and reserve forces to support relief efforts; and to provide medical assistance in the affected areas, which were received, sent or reviewed between August 23, 2005 and September 15, 2005, by the following persons:

1. Donald Rumsfeld, Secretary of Defense;
2. Paul McHale, Assistant Secretary of Defense for Homeland Defense;
3. Gordon England, Acting Deputy Secretary of Defense;
4. Peter Verga, Principal Deputy Assistant Secretary for Homeland Defense;
5. Admiral Timothy Keating, Commander, North American Aerospace Defense Command and United States Northern Command;
6. General Russell Honore, Commander of Joint Task Force Katrina;
7. Lieutenant General Steven Blum, Chief, National Guard Bureau;
8. Col. John J. Jordan, military assistant to former Federal Emergency Management Agency Director Michael Brown; and
9. Col. Anthony Daskevich, Defense Coordinating Officer in Louisiana.

HSOC SPOT REP

SPOT REP #:	#013
Date/Time (EDT):	08/29/05 @ 2230
Reference:	New Orleans Helicopter Overflight
Source of Information:	FEMA Teleconference - observations from Marty Bahamonte, FEMA Public Affairs Participants included Patrick Rhode, Mike Lowder, Bill Locke, Mike Pawlowski and Mary Anne Lyle
Type of Incident:	Hurricane Katrina

Update	
Summary:	Marty Bahamonte of FEMA Public Affairs made two aerial over flights of the New Orleans area the afternoon of Monday, August 29, 2005 As additional information becomes available it will be reported. He concluded the two immediate major problems would be 1. Access to the city because roads are flooded to the north and east. 2. Housing His observations include the following: • The I-10 Twin Span bridges to the east of the City to Slidell are compromised in both directions for a stretch of five to seven miles. On the east side bridge sections are gone, on the west side bridge sections are buckled and askew. • There is no way to enter New Orleans from the east Highway 11 appears generally in tact but is under water where it enters the City and will require some repair but appears to be a quick fix. • The western I10/I610 junction connecting Jefferson and Orleans Parrish is under water • Entrance from the north is not possible because as roads get into the city, they are under water • I10 to the west appears to have several underwater sections • The Airline Highway by the airport is above water • There is a quarter-mile breech in the levee near the 17th Street Canal about 200 yards from Lake Pontchartrain allowing water to flow into the City. • The levee in Metarie is in tact. • Only one of the main pumps is reported to still be working but cannot keep up with the demand and its longevity is doubtful • In the neighborhoods there are many small fires where natural gas lines have broken • Flooding is greatest in the north and east in New Orleans, Metairie

	and north towards Slidell – an estimated 2/3 to 75% of the city is under water. • The flights did not go all the way north to Slidell so conditions there are not reported • Some homes were seen with water to the first floor and others completely underwater • Hundreds of people were observed on the balconies and roofs of a major apartment complex in the city The location has been provided to City officials. • Downtown there is less flooding Most buildings have windows blown out but otherwise appear structurally sound • West and South of the City appear dry • Lake Front Airport by Lake Pontchartrain is under water • There is an oil tanker grounded in the Industrial Canal – two tugs were observed working with the ship. • The Coast Guard reported two other tankers aground but they were not observed. • The Coast Guard is flying rescue missions for people stuck on roofs. They reported seeing about 150 people but also said that as they lifted people out, they saw others breaking through the roofs of adjacent homes. • The Coast Guard will use night vision devices and continue rescue missions into the night. • Search and Rescue will need boats, in some locations high wheeled trucks may be usable FEMA USR Teams are coordinating boat use with Louisiana Fish and Game officials • The City reports about 300 people have been rescued by boat so far. These rescue operations will continue through the night. • Boat traffic is not restricted and movement of supplies by boat and barge is feasible. • The Inter Harbor Canal is not visible • A few bodies were seen floating in the water and Coast Guard pilots also reported seeing bodies but there are no details on locations or numbers.
Significance:	
Actions/Follow-Up:	N/A
Miscellaneous:	
Prepared By:	Mathew Thompson NRCC Planning Section Analyst

From: Besanceney, Brian [j
Sent: Monday, August 29, 2005 9:27 PM
To: Wood, John F; Bergman, Cynthia; Karonis, Jeff; Knocke, William R; Boudreaux, Chad; Cannatti, Ashley
Subject: FYI from FEMA

Natalie Rule, head of PA for FEMA called. Said the first (unconfirmed) reports they are getting from aerial surveys in New Orleans are far more serious than media reports are currently reflecting. Finding extensive flooding and more stranded people than they had originally thought - also a number of fires.

FYI in case tomorrow's sit reps seem more "severe"

Sent from my BlackBerry Wireless Handheld

From: Rhode, Patrick [Patrick.Rhode@dhs.gov]
Sent: Monday, August 29, 2005 11:05 PM
To: mjackson
Subject: Update

Michael,

Just a quick update since our phone conversation this evening.

We just spoke with our first rep on the ground in New Orleans who did a helo tour and describes a 200 yard collapse of the levy on the south side of the lake which is accounting for much of the additional flooding. While significant, this was the only apparent collapse viewed.

He reiterates significant logistical challenges to the movement of teams and commodities by ground via east side of New Orleans. Says north is compromised as well, essentially leaving western as one of few potential options.

Describes approximately 60 percent of the city as under water to some degree.

Says a seven mile stretch of the twin span along I10 to Slidel is 100 percent compromised with many sections in need of repair.

Saw 1 oil tanker run aground and understands from coast guard that two more may have as well.

We understand that a robust search and rescue is underway in new orleans and through the evening using night vision equipment. Reports of many successful rescues by air from tops of homes. Fish and wildlife boats are also contributing sucessfully to this effort. Approx 150 were estimated to be stranded as I write this.

Waterways are open via boat or barge for commodity planners to consider as alternate routes.

Our Oklahoma DMAT team is moving the special needs population out of the superdome for better care now in baton rouge - this may range close to 1,000.

Our rapid needs assessment teams are scheduled to be on the ground by first light in the morning and will have immediate reach back to dmats and usr.

Only a few unconfirmed random body sightings at this time. Accuracy not reliable at this time.

Debris removal teams ae engaged at this time and overnight in la and ms.

Less visibility on MS as storm remnants kept assessments to a minimum this evening, although there are significant search and rescue assets enaged there as well. More visibility on entire scope of situation in am.

Thanks,

Patrick

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WGUS54 KLIX 291316
FFWLIX
LAC071-087-291915-

BULLETIN - EAS ACTIVATION REQUESTED
FLASH FLOOD WARNING
NATIONAL WEATHER SERVICE NEW ORLEANS LA
814 AM CDT MON AUG 29 2005

THE NATIONAL WEATHER SERVICE IN NEW ORLEANS HAS ISSUED A

* FLASH FLOOD WARNING FOR...
  ORLEANS PARISH IN SOUTHEAST LOUISIANA
  THIS INCLUDES THE CITIES OF...NEW ORLEANS
  ST. BERNARD PARISH IN SOUTHEAST LOUISIANA
  THIS INCLUDES THE CITY OF CHALMETTE

* UNTIL 215 PM CDT

* A LEVEE BREACH OCCURRED ALONG THE INDUSTRIAL CANAL AT TENNESSE
  STREET. 3 TO 8 FEET OF WATER IS EXPECTED DUE TO THE BREACH.

* LOCATIONS IN THE WARNING INCLUDE BUT ARE NOT LIMITED TO ARABI AND
  9TH WARD OF NEW ORLEANS.

DO NOT DRIVE YOUR VEHICLE INTO AREAS WHERE THE WATER COVERS THE
ROADWAY. THE WATER DEPTH MAY BE TOO GREAT TO ALLOW YOUR CAR TO CROSS
SAFELY. VEHICLES CAUGHT IN RISING WATER SHOULD BE ABANDONED QUICKLY.
MOVE TO HIGHER GROUND.

A FLASH FLOOD WARNING MEANS THAT FLOODING IS IMMINENT OR OCCURRING.
IF YOU ARE IN THE WARNING AREA MOVE TO HIGHER GROUND IMMEDIATELY.
RESIDENTS LIVING ALONG STREAMS AND CREEKS SHOULD TAKE IMMEDIATE
PRECAUTIONS TO PROTECT LIFE AND PROPERTY. DO NOT ATTEMPT TO CROSS
SWIFTLY FLOWING WATERS OR WATERS OF UNKNOWN DEPTH BY FOOT OR BY
AUTOMOBILE.

LAT...LON 2992 9012 2994 9003 2987 8987 3001 8985
      3004 8982 3008 8993 3002 9012

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