



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**  
**Washington, DC 20515**

**James L. Oberstar**  
**Chairman**

**John L. Mica**  
**Ranking Republican Member**

David Heymsfeld, Chief of Staff  
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James W. Coon II, Republican Chief of Staff

September 10, 2008

**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

**FROM:** Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

**SUBJECT:** Hearing on “Role of the Federal Government in Small Business Disaster Recovery”

**PURPOSE OF THE HEARING**

On Friday, September 12, 2008, at 10:00 a.m., in room 2167 of the Rayburn House Office Building, the Subcommittee on Economic Development, Public Buildings, and Emergency Management will hold a hearing on the role of the Federal Government in the recovery of small businesses from disasters.

**BACKGROUND**

The Robert T. Stafford Disaster Relief and Emergency Assistance Act<sup>1</sup> (“Stafford Act”) provides the statutory authority for most Federal activities in the wake of a natural disaster or other emergency. In particular, section 406 of the Stafford Act<sup>2</sup> provides for the repair, restoration and replacement of damaged facilities. Assistance under section 406 of the Stafford Act is primarily for state and local government facilities.<sup>3</sup> However the Stafford Act also provides assistance to a limited universe of private non profit (“PNP”) facilities that perform services of a “governmental nature”. For example, it doesn’t matter whether a fire house is owned by the local government or a private non-profit, as it performs a service of a governmental nature. Even for PNPs, grant

<sup>1</sup> 42 U.S.C. 5121-5207.

<sup>2</sup> 42 U.S.C. 5172.

<sup>3</sup> See section 406(a)(1)(A).

assistance is limited. Congress amended section 406 of the Stafford Act<sup>4</sup> in the Disaster Mitigation Act of 2000<sup>5</sup> to require PNPs to first seek a loan from the Small Business Administration (“SBA”) before applying for assistance from the Federal Emergency Management Agency (“FEMA”).

After a disaster, assistance provided directly to businesses is provided through the SBA, under the authority of the Small Business Act<sup>6</sup> rather than through FEMA. SBA assistance takes the form of loans not grants. Businesses are eligible for loans up to \$2 million for repairs or replacement of their buildings, inventory, and machinery, as well as working capital loans to help with business losses as a result of the disaster. These loans are at interest rates as low as four percent.

While FEMA does not provide Public Assistance grants, including those under section 406, to small businesses, businesses benefit indirectly from that program. For example, the authority to reimburse state or local governments to remove debris from private property includes debris on commercial property as well as homes. However, unlike eligible private non-profits, businesses can not be reimbursed if they remove the debris themselves. In addition, businesses receive indirect benefits from repairs to public facilities such as roads, sewers, and water systems.

Businesses can also receive assistance indirectly under FEMA’s Hazard Mitigation Grant Program or Pre-Disaster Mitigation Program authorized by sections 404<sup>7</sup> and 203<sup>8</sup> of the Stafford Act, respectively. Under these programs, state and local governments can use their grants to provide some assistance to private businesses, such as buyouts or elevations of structures in a flood plain.

On July 29, 2008, Representative Steve King introduced H.R. 6641, the “Small Business Owner Disaster Relief Act of 2008”. H.R. 6641 amends section 406 of the Stafford Act to allow businesses with 25 or fewer employees to receive grants under section 406 of the Stafford Act to repair, restore, or replace their damaged facilities. The assistance is limited to the maximum amount of assistance a family can receive under FEMA’s Individuals and Households program under section 408(h) of the Stafford Act<sup>9</sup>, which is currently \$28,800.

#### PRIOR LEGISLATIVE AND OVERSIGHT ACTIVITY

In 110<sup>th</sup> Congress, the Committee on Transportation and Infrastructure acted on the following bills related to FEMA, the Stafford Act, and disaster assistance:

- **H.R. 6658, the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2008”:** This legislation amends the Stafford Act to improve the assistance the Federal Government provides to states, local governments, and communities after major disasters and emergencies. On July 31, 2008, the Committee ordered H.R. 6658 reported to the House.

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<sup>4</sup> Section 406(a)(3).

<sup>5</sup> P.L. 106-390.

<sup>6</sup> 15 U.S.C. 631-651e.

<sup>7</sup> 42 U.S.C. 5170c.

<sup>8</sup> 42 U.S.C. 5133.

<sup>9</sup> 42 U.S.C. 5174.

- **H.R. 6109, the “Pre-Disaster Mitigation Act of 2008”:** This legislation reauthorizes FEMA’s Pre-Disaster Mitigation Program and makes improvements, including codification of the competitive aspects of the program. On June 23, 2008, the House passed H.R. 6109 by voice vote.
- **H.R. 3247, the “Hurricane Katrina and Rita Recovery Facilitation Act of 2007”:** This legislation provides additional Federal relief targeted to the recovery from Hurricanes Katrina and Rita in Louisiana and Mississippi. On October 29, 2007, the House passed H.R. 3247 by voice vote.
- **H.R. 3224, the “Dam Rehabilitation and Repair Act of 2007”:** This legislation establishes a program to provide grant assistance to states for use in rehabilitating publicly-owned dams that fail to meet minimum safety standards and pose an unacceptable risk to the public. On October 29, 2007, the House passed H.R. 3224 by a recorded vote of 263-102.
- **H.R. 1144, the “Hurricanes Katrina and Rita Federal Match Relief Act of 2007”:** This legislation provides significant relief for communities devastated by Hurricanes Katrina, Rita, and Wilma, by raising the Federal cost share for critical disaster relief programs to 100 percent and by authorizing the cancellation of Community Disaster Loans under certain conditions like all previous Community Disaster Loans. H.R. 1144 was enacted as part of P.L. 110-28, the “U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007”.

In the 110<sup>th</sup> Congress, the Committee also collaborated with the Committee on Financial Services on H.R. 1227, the “Gulf Coast Hurricane Housing Recovery Act of 2007”, to ensure that Louisiana is allowed to use Hazard Mitigation Program funds for its Road Home program. H.R. 1227 passed the House March, 21, 2007.

In the 109<sup>th</sup> Congress, Congress enacted the Post-Katrina Emergency Management Reform Act of 2006 (Title VI of P.L. 109-295).

In the 106<sup>th</sup> Congress, Congress enacted P.L. 106-390, the Disaster Mitigation Act of 2000.

In the 110<sup>th</sup> Congress, the Committee has held numerous hearings related to FEMA and the Stafford Act, including:

- “Moving Mississippi Forward: Ongoing Progress and Remaining Problems” (June 19, 2008);
- “Saving Lives and Money through the Predisaster Mitigation Program” (April 30, 2008);
- “National Flood Plain Remapping: The Practical Impact” (April 2, 2008);
- “Readiness in the Post Katrina and Post 9.11 World: An Evaluation of the New National Response Framework” (September 11, 2007);
- “Assuring the National Guard is as Ready at Home as It is Abroad” (May 18, 2007);
- “Legislative Fixes for Lingering Problems that Hinder Katrina Recovery” (May 10, 2007);
- “National Levee Safety and Dam Safety Programs” (May 8, 2007);
- “FEMA’s Preparedness and Response to All Hazards” (April 26, 2007);

- “FEMA’s Emergency Food Supply System” (April 20, 2007); and
- “Post-Katrina Temporary Housing: Dilemmas and Solutions” (March 20, 2007).

WITNESSES

**The Honorable Steve King**  
Congressman  
5<sup>th</sup> District of Iowa

**The Honorable Bruce Braley**  
Congressman  
1<sup>st</sup> District of Iowa

**Mr. Herbert Mitchell**  
Assistant Administrator of the Office of Disaster Assistance  
U.S. Small Business Administration

**Mr. Marko Bourne**  
Director of Policy and Program Analysis  
Federal Emergency Management Agency