

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA

BEATRICE B. McWATERS; FLORENCE )  
JACKSON; CALVIN DAVIS; REGINALD )  
JONES; VAN PATIN; JOHN HUBBARD )  
BILLY SMITH; THURMOND PRICE; KEIVA )  
MELISSA COLOMB; RUSSELL HAYWARD; )  
MARY PAT VAN TINO; PAMELA JACKON; )  
WILLIAM DAVIS; ELIZABETH SIMPSON; )  
CHRIS DAVIS; LYMAN SCOTT; MICHELLE )  
DAVIS; JENNIFER SAMPEY; DAVID MAGEE; )  
KEISHAN GOODMAN; SHAWN ALLEN; )  
TIMOTHY HOOD; MICHAEL MARTINEZ; )  
LENORA BARTLEY; CHARLES HILL, JR. )  
On Behalf of Themselves and All Those )  
Similarly Situated, )

Plaintiffs, )

v. )

FEDERAL EMERGENCY MANAGEMENT )  
AGENCY; DEPARTMENT OF HOMELAND )  
SECURITY; MICHAEL CHERTOFF, Secretary )  
Of DHS; David Paulison, Acting Director, FEMA; )  
THAD W. ALLEN, Principal Federal Official, )  
FEMA; KENNETH O. BURRIS, JR., Regional )  
Director, FEMA; RON CASTLEMAN, Regional )  
Director, FEMA; RON SHERMAN, Federal )  
Coordinating Officer, FEMA; WILLIAM )  
CARWILE, Federal Coordinating Officer, FEMA; )  
BILL LOCKEY, Federal Coordinating Officer, )  
FEMA; and their successors in office, )

Defendants. )

**DECLARATION OF MICHAEL HIRSCH**

I, Michael Hirsch, state as follows:

1. I am the Individual Assistance Branch Chief within the Recovery Division at the Federal Emergency Management Agency (FEMA), a component agency of the Department of Homeland Security (DHS). I have worked at FEMA since it was created in 1979. From 1979 until 2001, I worked in FEMA's Office of the General Counsel. In 2001, I was transferred to the Response and Recovery Division of FEMA. Subsequently, FEMA became a component of DHS, at which time the Response and Recovery Division of FEMA was separated into two different divisions – the Response Division and the Recovery Division. Since that time, I have worked in FEMA's Recovery Division.
2. In my capacity as the Individual Assistance Branch Chief, I oversee the implementation of the Individual Assistance authorities of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5121 et seq. (“Stafford Act” or “Act”). One of the primary forms of Individual Assistance is the Individuals and Households Program (IHP) which is authorized by section 408 of the Stafford Act, 42 U.S.C. § 5174. IHP authorizes FEMA to provide temporary disaster housing and “Other Needs” assistance to eligible disaster applicants. Id. 42 U.S.C. § 5174(e).
3. I was deployed to respond to Hurricane Katrina from October 2, 2005 to November 3, 2005.
4. I am familiar with the facts arising from the above-captioned second Amended Complaint. I have also ascertained the status of the claims for assistance submitted by the named plaintiffs in this action, as reflect in FEMA's computer system. The status of each plaintiff's case is summarized in the final section of this declaration.

To a very great extent, the named plaintiffs have received the assistance for which they have applied.

**A. THE DISCRETIONARY PROVISION OF DISASTER RELIEF UNDER THE STAFFORD ACT**

5. FEMA is responsible for administering and coordinating the federal governmental response to Presidentially-declared disasters pursuant to the Stafford Act. 42 U.S.C. §§ 5121 *et seq.*; *see also*, Executive Order No. 12148 of July 20, 1979; and 44 Fed. Reg. 43239. FEMA’s mission is to provide federal assistance to State and local governments in carrying out their responsibilities in Presidentially-declared disasters and emergencies by providing, *inter alia*, “Federal assistance programs for public and private losses and needs sustained in disasters.” 42 U.S.C. § 5121(a)(5); 44 C.F.R. § 206.3(a), (e).
6. FEMA ensures that the distribution of supplies, the processing of applications, and other relief and assistance activities are accomplished “without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.” 42 U.S.C. § 5151(a); 44 C.F.R. § 7.1.
7. FEMA is divided into 10 geographic regions.<sup>1</sup> Generally, each regional office is responsible for implementing and coordinating the on-scene operations for disasters located within its geographic territory.

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<sup>1</sup> FEMA regions are divided as follows: Region I – Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; Region II – New York, New Jersey, Puerto Rico, and the Virgin Islands; Region III – Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia; Region IV – Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; Region V – Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin; Region VI – Arkansas, Louisiana, New Mexico, Oklahoma, and Texas; Region VII – Iowa, Kansas, Missouri and Nebraska; Region VIII – Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming; Region IX – Arizona, California, Hawaii, Nevada, Guam, and American Samoa; and Region X – Alaska, Idaho, Oregon, and Washington.

8. The Stafford Act is triggered when a governor of an affected State requests the President of the United States to declare the affected area a “major disaster,” and the President does so. 42 U.S.C. § 5170 and 44 C.F.R. § 206.36(a). The governor’s request must be based on a finding that “the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary.” See 42 U.S.C. § 5170; see § 44 C.F.R. 206.36(b).
9. Pursuant to the Stafford Act’s discretionary authority, “Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster,” and emergencies. 42 U.S.C. § 5170b(a); see also 42 U.S.C. § 5192. The “essential assistance” includes “search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons.” See 42 U.S.C. §5170b(3)(B); see also 42 U.S.C. § 5192.
10. Under the Individuals and Households Program (IHP), 42 U.S.C. § 5174 (Section 408 of the Stafford Act), the President may provide several types of discretionary Temporary Housing Assistance (THA) to eligible applicants in response to a disaster, which consist of either financial or direct THA, and Other Needs assistance.
11. Section 5174 states the President “may provide,” *inter alia*, financial assistance for rent, or direct assistance, *i.e.*, trailers or other readily fabricated dwellings, to eligible individuals and households who, as a direct result of a major disaster or emergency, “have necessary expenses and serious needs that they are unable to meet through

other means.”<sup>2</sup> 44 C.F.R. § 206.110(a); see also 42 U.S.C. § 5174(b); 44 C.F.R. § 206.113.

12. Either financial assistance or direct assistance, or both, may be made available, based on suitability and availability, to meet the needs of disaster victims. 42 U.S.C. §5174(b)(2)(B). FEMA maintains the discretion to designate the appropriate types of THA based on “considerations of cost effectiveness, convenience to the individuals and households and the suitability and availability of the types of assistance.” 44 C.F.R. § 206.110(c); 42 U.S.C. § 5174(b)(2)(B).
13. To qualify for THA, an applicant must demonstrate, *inter alia*, that his/her primary residence has been rendered uninhabitable by a major disaster and that the applicant is unable to meet his/her housing needs through other sources, such as insurance. 42 U.S.C. § 5174(b); 44 C.F.R. § 206.110(h); 44 C.F.R. § 206.113(b)(1); 44 C.F.R. §206.113(b)(6).

#### **B. FEMA’S MARSHALLING OF UNPRECEDENTED RESOURCES TO DEAL WITH HURRICANE KATRINA**

14. On August 29, 2005, Hurricane Katrina struck Louisiana, Mississippi, Alabama, and Florida, causing severe damage and massive and overwhelming flood conditions. On August 29, 2005, the President of the United States declared numerous counties and parishes in these four States to be major disasters, pursuant to the governors’ requests.<sup>3</sup> Pursuant to 42 U.S.C. §5191, the President also declared a state of “emergency” for the forty-five States that accepted Hurricane Katrina evacuees.

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<sup>2</sup> The Stafford Act also allows the President to provide eligible applicants with financial assistance for repairs to owner-occupied private residences, replacement of owner-occupied private residences not to exceed \$10,000.00, and permanent housing construction for “permanent housing in insular areas outside the continental United States . . .” 42 U.S.C. § 5174.

<sup>3</sup> See 70 Fed. Reg. 53264; 70 Fed. Reg. 53804; 70 Fed. Reg. 53801; 70 Fed. Reg. 53237.

15. FEMA funds its disaster response activities out of the Disaster Relief Fund, to which Congress appropriates money in the Department of Homeland Security Annual Appropriations Act. In addition, on September 2, 2005, Congress appropriated \$10 billion in emergency supplemental funds for disaster relief. Public Law No. 109-61. On September 8, 2005, Congress appropriated \$50 billion in further emergency supplemental funds for FEMA to respond to Hurricane Katrina. Public Law No. 109-62. These two emergency supplemental appropriations comprise the largest emergency supplemental funding that FEMA has ever received in its history.
16. When Hurricane Katrina hit, the President designated, *inter alia*, Individuals and Households Program (IHP) assistance (including Temporary Housing Assistance (THA) and Other Needs Assistance, 42 U.S.C. § 5174), and Public Assistance – assistance provided directly to States and local governments, to several counties in Louisiana, Alabama and Mississippi.<sup>4</sup> At the time Hurricane Katrina struck, FEMA was already coordinating and processing applications under the IHP for nine other active major disasters that had occurred since July 10, 2005. These nine disasters consumed \$300 million in FEMA financial resources and required the assignment of significant FEMA personnel resources even before Hurricane Katrina struck the Gulf Coast.
17. As a result of Hurricane Katrina, FEMA was required to coordinate and process applications for assistance from four states. As of October 26, 2005, FEMA has been coordinating and processing applications for eighteen active major disasters nationwide.

1. **Unprecedented staff increases**

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<sup>4</sup> The President did not designate IHP for Florida.

18. Responding to major disasters creates special staffing requirements, and FEMA is authorized to hire temporary personnel to perform disaster and emergency services for which it does not have adequate full-time employees. 42 U.S.C. § 5149(b). Personnel authorized by the special hiring authority in the Stafford Act are referred to as Stafford Act Employees (SAEs).
19. FEMA retains “Reservist” SAEs who are temporary employees assigned to certain cadre lists within FEMA Regional offices and Headquarters, and then deployed intermittently to specific disasters and emergencies, and deactivated once the work at that particular site is finished. Reservists have temporary-, intermittent-, or regular-schedule, non-competitive, one-year renewable appointments in the federal excepted service.
20. FEMA also has the authority to hire at a disaster site if the need arises. So-called “Local Hire” SAEs are hired from the locality that experienced a disaster for an appointment of no more than 120 days.
21. Before Hurricane Katrina struck the Gulf Coast, FEMA had approximately 4,000 SAEs in its disaster cadres.
22. Since Hurricane Katrina, FEMA has increased its temporary staffing by 85%. FEMA now has approximately 7,300 SAEs in its cadres - 5,483 of whom have been deployed to respond to Hurricane Katrina.

## **2. Scores of new Disaster Recovery Centers**

23. Following Presidential major disaster declarations, FEMA, in coordination with State and local governments, may establish Disaster Recovery Centers (DRCs) throughout the parts of States that are affected by the disaster. DRCs are one-stop centers for

FEMA, other federal agencies, state and local governments, and voluntary organizations to provide information for disaster victims. Before DRCs can open, however, FEMA must secure structurally-sound facilities, staff the DRCs, equip the facilities with information technology infrastructure and telecommunications equipment, and provide security. Typically, the process of evaluating and setting up a DRC takes three to ten days.

24. In the aftermath of Hurricane Katrina, opening DRCs in the hardest-hit areas of Louisiana and Mississippi proved much more difficult than in most disasters because FEMA had difficulty identifying and securing structurally-sound facilities and fully staffing the DRC due to lack of adequately trained personnel and a lack of housing available for DRC staff.
25. Despite these difficulties, FEMA was able to open the largest number of DRCs in the history of the Federal government's disaster assistance program following Hurricane Katrina. There are currently 50 fixed-site DRCs and ten mobile DRCs operating in Louisiana (four others have closed since Hurricane Katrina), and 30 fixed-site DRCs and two mobile DRCs in Mississippi (eight others have closed). FEMA also opened 53 DRCs in Texas to provide information and services to evacuees, mainly from Louisiana and Mississippi immediately before and after Hurricanes Katrina and Rita, seven of which remain open at this time. Finally, FEMA opened 33 DRCs in Alabama -- three are still open.

**3. Multiple new Joint Field Offices in every state**

26. FEMA may also establish Joint Field Offices (JFOs), multi-agency coordination centers, to enable effective and efficient coordination of federal disaster efforts. JFOs

are multi-agency coordination centers which are staffed by Federal Coordinating Officers, the lead FEMA official for the response to each disaster, and the State Coordinating Officers, the lead State officials for the responses to each disaster. The JFOs are the base of operations for all of the federal agencies who work with FEMA in responses to disasters, as well as the base of operations for state officials who was working with the State Coordinating Officers to coordinate the state's response with the Federal responses in Louisiana, Mississippi and Alabama.

27. After Hurricane Katrina struck, FEMA opened new JFOs in Baton Rouge, Louisiana; Jackson, Mississippi; and Montgomery, Alabama.

**4. Major increase in number and staffing of National Processing Centers**

28. FEMA has four permanent National Processing Service Centers (NPSCs), often referred to as call centers, staffed with FEMA full-time employees and Stafford Act Employees. The permanent National Processing Service Centers are located in Hyattsville, Maryland; Denton, Texas; Winchester, Virginia; and San Juan, Puerto Rico. Total staffing for the National Processing Service Centers can reach 2,600 employees at full-capacity, but generally the total number of staff is about 1,600 employees.

29. The National Processing Service Centers are responsible for:

- Registering individuals for assistance by phone.
- Providing damage assessment of homes and personal property through on-site inspections.
- Processing registrations to determine (and communicate) assistance eligibility.
- Responding to applicant questions by phone (and mail) throughout the assistance process.

Applicants can register for federal assistance on FEMA's Internet site or by calling one of the call centers using a FEMA toll-free number.

30. When Hurricane Katrina made landfall on August 29th, 2005, FEMA's year-round NPSCs implemented 24-hour operations, and began to activate additional call centers across the country. NPSC staff were then deployed to each newly activated call center to provide training and on-going support.
31. Within the first week of FEMA's response, six additional call centers were activated, including two FEMA Regional Call Centers located in Chicago, Illinois, and Orlando, Florida, along with four Internal Revenue Service (IRS) call centers, converted to disaster call centers, located in Atlanta, Georgia; Dallas, Texas; Philadelphia, Pennsylvania; and Buffalo, New York. Within the next week, eight additional call centers became operational, including a FEMA Regional Call Center located in Pasadena, California, and seven contract call centers located in Dallas, Texas; Birmingham, Alabama; Deland, Florida; Enfield, Connecticut; North Hollywood, California; San Diego, California; and Sergeant Bluff, Iowa, eventually enabling FEMA to increase staffing to more than 13,000 call agents.
32. Previously, FEMA's largest disaster response took place during the 2004 Hurricane Season, when the NPSCs broke all previous records by activating 12 additional call centers and reaching a maximum staffing level of just over 4,000 agents. In comparison, within the first month after the Hurricane Katrina disaster declaration, FEMA more than tripled the 2004 staffing totals, with more than 13,000 agents across 19 centers.
33. During the 2004 hurricane season, the NPSCs also broke all previous records by answering more than 4 million calls from August through the end of 2005. This season, FEMA answered more than 4 million calls during the first 40 days of the

Katrina response effort (August 29 through October 7), which equates to an average of 100,000 calls per day. More specifically, on FEMA's busiest day during the 2004 Hurricane Season (October 4), the centers processed approximately 64,464 incoming calls. This season, on September 27, FEMA answered 197,037 calls.

**C. FEMA'S PROVISION OF UNIQUE EMERGENCY ASSISTANCE MEASURES IN RESPONSE TO UNPRECEDENTED DEMAND**

34. Immediately before and after Hurricanes Katrina and Rita, approximately 255,000 residents of Louisiana, Mississippi, and Alabama (the overwhelming majority of whom were pre-disaster residents of Louisiana and Mississippi) evacuated their homes. Some of these disaster victims moved to other locations within Louisiana and Mississippi, while others moved to other locales throughout the United States. These evacuees relocated to approximately 1,600 shelters throughout the United States. Approximately 185,000 evacuees were living in as many as 1,355 shelters in twenty-eight states, and the balance of the evacuees were living in shelters in other states.
35. FEMA recognized that its traditional method for awarding temporary housing assistance would not suffice when faced with such an unprecedented number of evacuees who could not return to their predisaster geographic areas. Typically, disaster victims who need temporary shelter only require shelter for a short period of time—during the incident period. FEMA then assesses disaster applications on a case-by-case basis in order to award THA assistance. However, due to the sheer numbers of evacuees and lack of viable housing, FEMA developed unique programs designed first to shelter the evacuees, then to transition them into more permanent housing options.

**1. FEMA's Short-Term Hotel Program**

36. In the days immediately following Hurricane Katrina, the Red Cross operated shelters and also funded hotel stays for evacuees. A significant number of the evacuees who initially relocated to shelters were eventually moved into hotels.
37. As the Red Cross hotel program expanded, FEMA took over the funding and management of the program through 42 U.S.C. § 5170b(a)(3) and 42 U.S.C. § 5192. FEMA provided the emergency assistance in the form of money for hotels rents to the States hosting the evacuees (referred to as Section 403 short-term hotel program).
38. Prior to Hurricane Katrina, FEMA had not used its authorities under Sections 5170b and 5192 to provide emergency shelter in the form of paying for hotel expenses for such a large number of disaster applicants. Further, FEMA has not operated large-scale emergency shelter assistance for as long as it has for Hurricane Katrina.
39. On October 25, 2005, FEMA took over the management of the short-term hotel program from the Red Cross with the goal of transitioning evacuees from the Section 403 emergency shelters into housing supported by Temporary Housing Assistance (either in the form of rental assistance or temporary housing units) under 42 U.S.C. § 5174 (also referred to as “Section 408” assistance).
40. On November 14, 2005, FEMA issued “Disaster Specific Guidance – Hurricanes Katrina and Rita Transitional Housing Strategy.” This Guidance established procedures to transition disaster applicants staying in hotels subsidized by Section 403 to housing supported by Temporary Housing Assistance (Section 408). Attachment A, Disaster Specific Guidance – Transitional Housing Strategy (Nov. 14, 2005). The Guidance stated that FEMA would notify each evacuee household in a hotel that the hotel assistance to the States would expire on December 1, 2005. *Id.* at

2 (“States will cease paying, on a reimbursable basis, for hotel leases/stays.”). The Guidance also stated, however, that due to the scarcity of available housing in Louisiana and Mississippi, FEMA could extend the period of the Section 403 short-term hotel program by fourteen-day increments until January 7, 2006. Id.

41. On November 23, 2005, FEMA modified its November 14, 2005, Guidance and extended the hotel subsidies from December 1, 2005, to December 15, 2005. Attachment B, Disaster Specific Guidance – Transitional Housing Strategy – Revision 1 (Nov. 23, 2005). Furthermore, the ten states with the most evacuees in hotels - Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Nevada, Tennessee and Texas - were authorized to seek an additional extension of the Section 403 short-term hotel program until January 7, 2006, if they provided a satisfactory explanation, by December 6, 2005, as to how they intended to meet the January 7, 2006, deadline. Id. Ninety-three percent (93%) of the total number of disaster applicants who are staying in hotels under the Section 403 short-term hotel program are located in these top ten states.
42. At this time, evacuees are still occupying approximately 41,800 hotel and motel rooms in forty-nine states and the District of Columbia. FEMA has targeted a variety of resources to assist these disaster applicants occupying hotel rooms. These include on-site FEMA Community Relations personnel who visit the applicants in the hotels to facilitate the processing of their application. There is a dedicated pool of FEMA Processing Center agents assigned to work with these field staff in order to expedite their casework. Anyone calling in on the FEMA 800# who identifies themselves as being in a hotel is also referred as a priority to this group of processing agents.

FEMA has also dedicated a fax com line specifically for FEMA field staff and hotel applicants to submit their documentation so that it can be given priority attention in resolving their case and processing their assistance. FEMA also established a separate Housing Referral Hotline and provided that phone number to all hotel/motel applicants as a resource for them in locating affordable housing in the continental US.

2. **FEMA's automatic provision of Transitional Housing Assistance**

43. In response to the President's recommendation, FEMA exercised its discretion to expedite its temporary housing assistance to Hurricane Katrina victims. It consisted of \$2358.00 in "Transitional Housing Assistance" to eligible applicants whose pre-disaster residences were located in the most severely damaged areas. The \$2358.00 figure is based on the average fair market rental for a two-bedroom unit for three months.<sup>5</sup> See Attachment C, FEMA Memorandum on Transitional Housing Assistance (Sept. 28, 2005). In order to ensure the rapid provision of Transitional Housing Assistance to those desperately in need, FEMA waived the requirement that a FEMA inspector certify that the pre-disaster residence had been rendered uninhabitable. Id.

44. Instead, FEMA contracted with a company called Myriad, Inc., to verify the occupancy and ownership of each residence using, *inter alia*, geo-spatial mapping and satellite imagery. See Attachment D, FEMA National Processing Service Center Memorandum on Transitional Housing Assistance (Sept. 27, 2005). For verified

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<sup>5</sup> FEMA will provide Transitional Housing Assistance for only one applicant per household. Attachment D, FEMA Memo. on Transitional Housing Assistance at 2 (Sept. 27, 2005). If an eligible household under the Transitional Housing Assistance were separated as a result of Hurricane Katrina, the separated members of the household may be eligible for THA as set out in FEMA's September 19, 2005, Memorandum. See *Infra* ¶ 60.

applicants, FEMA “auto-determined” they were eligible for \$2358 for three months rent. Id. This was the first time that FEMA had waived the inspection requirement and used geo-spatial mapping to auto-determine assistance for disaster applicants.

45. On the basis of satellite data, FEMA provided approximately \$1.2 billion in Transitional Housing Assistance to approximately 510,000 evacuees. This procedure enabled FEMA to supply aid even where homes had been completely demolished and occupancy would therefore have been difficult to verify via on-site inspection. It also allowed FEMA to provide aid where the recipient might not yet have been in a position to formally apply for assistance.

### **3. FEMA’s waiver of recertification requirements**

46. Under the standard rental assistance, to be recertified for continued rental assistance, the applicant is required “to show exhaustion of the initial award and provide information about their permanent housing plan.”<sup>6</sup> Id.
47. After FEMA verified eligibility under the Transitional Housing Assistance policy, it sent a request to the Department of Treasury to issue a check or make an electronic deposit to the eligible applicant. FEMA then mailed a letter explaining to the applicant that the Transitional Housing Assistance was to be used only for rent, and that in order to qualify for continued rental assistance, the applicant would be required to submit receipts showing that the Transitional Housing Assistance had been used for rent. Id. at 3; Attachment E, Boilerplate Letter to Eligible Applicants.
48. However, FEMA has since discovered that some applicants received the notification letter sometime after they had received the check or electronic deposit, and in many

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<sup>6</sup> Permanent housing plans should include information regarding whether the applicant plans to return to their pre-disaster home, will remain in current location and continue looking for work, or will move to a new location when employment is found. Attachment D, Transitional Housing Assistance Memo. (Sept. 27, 2005) at 4.

instances had already spent the money on necessities other than rent. Attachment F, FEMA Memorandum (Nov. 21, 2005) at 1. The reason for this lag is that the deposits made by electronic fund transfer are instantaneous, and there was no way of guaranteeing the simultaneous receipt of the check sent by the U.S. Treasury and FEMA notification letter. Nevertheless, FEMA determined that it was more important to get the money into the accounts of those affected by Katrina and Rita as soon as possible, than to delay transmittal of the funds until after the letter was delivered to the disaster victims.

49. To address this circumstance, FEMA issued a directive on November 21, 2005, waiving the requirement that rental receipts be submitted as a condition for recertification. The directive states that eligible applicants who cannot return to their predisaster homes and are requesting “initial recertification of rental assistance” need not provide rental receipts

as a pre-condition to additional rental assistance if they are otherwise eligible and certify, in writing, that one or both of the following situations apply:

They received their initial rental assistance prior to receiving official written notification through the mail explaining the intended use of the rental assistance.

They used all or a substantial part of the rental assistance on serious and essential needs (e.g., food, clothing) because they lacked sufficient additional funding to address those needs.

Id. Further, to assist applicants in meeting the written requirement, FEMA prepared a self-certification form. Id. at 2.

#### **D. FEMA’S ADDITIONAL PROVISION OF TRADITIONAL DISASTER ASSISTANCE IN RESPONSE TO UNPRECEDENTED DEMAND**

##### **1. Temporary Housing Assistance – Rental**

50. As explained above, the Section 403 short-term hotel program and the auto-determined transitional housing award were unique measures that FEMA implemented to deal with the unprecedented demand following Hurricane Katrina. In addition, FEMA implemented its standard temporary housing assistance under 42 U.S.C. § 5174 (referred to as Section 408 assistance). In several respects, however, FEMA adapted the requirements for Section 408 assistance to respond to the unique needs of Hurricane Katrina relief.
51. Temporary Housing Assistance in the form of financial aid is intended to be used for rental payments: the President “may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreation vehicles, or other readily fabricated dwellings.” Id. § 5174(c)(1)(A)(i). The amount of rental assistance is based on the “fair market rent for the accommodations provided plus the cost of any transportation, utility hookups, or unit installation not provided directly by the President.” Id. § 5174(c)(1)(A)(ii); 44 C.F.R. § 206.117(b)(i)(B).
52. To be eligible for continued rental assistance, applicants “must submit rental receipts to show that they have exhausted the FEMA rent funds, and provide documentation identifying the continuing need.” 44 C.F.R. § 206.114(b)(2).
53. Since Hurricane Katrina occurred, FEMA has received over 1,400,000 applications for assistance under the Individuals and Households Program. The applicants are spread out across the country ranging from their home states of Louisiana, Mississippi, and Alabama to Georgia, Arkansas, California, and Virginia. Even while struggling against the poor infrastructure in the disaster areas, mail disruptions, and

the unprecedented number of applications, FEMA has been able to provide over \$4 billion in Housing Assistance to victims of the Katrina disaster who are now located in all 50 states (plus DC and territories). After most disasters, there are not significant disruptions to the mail and phone systems, and applicants are able to contact FEMA more easily than has been the case in Katrina's wake. Applicants are also able to return to their houses more quickly, meet with inspectors, and determine a permanent housing plan rapidly. In Katrina, applicants have been displaced from their homes and jobs for a long period of time, if not permanently. To accommodate the heightened needs of disaster applicants, FEMA used additional staff, technology, and contractors to provide timely and innovative responses to the disaster victims.

54. Due to the significant difficulties in locating and assisting the disaster victims following Hurricane Katrina, FEMA has experienced some delays in the processing of disaster applications. Currently, there are 84,470 applications listed as "pending" for a housing assistance determination in FEMA's National Emergency Management Information System (NEMIS) system, a computer program designed to supplement FEMA's processing of disaster applications. Of those pending applications, 25,256 have received an initial housing decision and are pending to receive a determination for additional housing assistance. Applications may be listed as pending for a variety of reasons, including: an applicant may have recently applied for assistance and a decision has not yet been made; FEMA may not be able to locate the applicant; FEMA has not been able to verify occupancy or ownership of the property claimed by the applicant to be the applicant's pre-disaster dwelling; the applicant has an insurance policy that provides for the same type of damage coverage

as the housing assistance program (and therefore would be a duplication of benefits); FEMA is waiting for necessary documentation from the applicant; NEMIS has identified the application as a potential duplicate with other applications for benefits; and FEMA could be reviewing the applications to determine eligibility for “other needs” assistance. FEMA is decreasing the number of pending applications by running software applications in NEMIS to replace manual casework. These software applications were developed to group cases and direct them to specific NEMIS queues assigned caseworkers experienced in handling that particular queue. FEMA currently has over 1,000 case workers assigned to work all of the manual queues necessary to process applications. These caseworkers are able to manually process 50,000 – 60,000 “actions” per week. “Actions” are particular determinations as to an applicant’s file – for example, a determination that the applicant’s insurance does not cover certain claimed expenses could constitute one action.

**2. FEMA’s waiver of the Shared Household Rule**

55. The Stafford Act prohibits a duplication of benefits. 42 U.S.C. § 5155. The Act states “[t]he President . . . shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance of any source.” *Id.* (emphasis added). For rental assistance and direct assistance, FEMA generally will “include all members of a pre-disaster household in a single registration and will provide assistance for one temporary housing residence, unless [FEMA] . . . determines that the size or nature of the household requires that we provide assistance for more than one residence.” 44 C.F.R. § 206.117(a)(ii)(b)(A);

- (a)(i)(B). This is often referred to as the Shared Household Rule. The Rule avoids duplication of assistance for the same damage or injury, based on the reasonable expectation that families and roommates who chose to live together before a disaster will continue living together afterward.
56. Pursuant to FEMA regulations, an applicant may have to return funds to FEMA if the agency “determines that the assistance was provided erroneously, that the applicant spent the funds inappropriately, or that the applicant obtained the assistance through fraudulent means.” 44 C.F.R. § 206.116(b).
57. FEMA uses the National Emergency Management Information System (NEMIS), a computer program, to process applications. After an applicant registers for assistance, either by phone or on the FEMA website, the application is transferred into the NEMIS registration module. Once the application is in the registration module, NEMIS runs the application through hundreds of pages of business rules to compare the collected data with the eligibility requirements for whatever type of assistance is requested. If the application meets all of the business rules, it can be processed for payment under NEMIS’s “auto determination.” The majority of applications are auto-determined using these rules.
58. If the application does not meet the business rules, it is transferred into the human services module of NEMIS, where it is assigned a FEMA caseworker. The FEMA caseworker reviews the application for errors, and/or contacts the applicant for additional information prior to making a determination of eligibility.
59. FEMA structured NEMIS so that it automatically notifies FEMA and the applicant of potential duplication when more than one applicant seeks assistance using the same

pre-disaster address and phone number. Upon receipt of such notice, FEMA assigns a caseworker to the application, and the applicant must then demonstrate that she/he is not seeking duplicate assistance. After FEMA gathers more information on the potentially duplicative application, and exercises its discretion to determine whether additional THA or Other Needs Assistance should be awarded.

60. FEMA typically applies the Shared Household Rule, and thus, provides Temporary Housing or Other Needs Assistance for only one residence per predisaster household. As a result of the mass evacuations and lack of adequate housing in the areas hardest hit by Hurricane Katrina, however, FEMA modified its Shared Household Rule. On September 19, 2005, FEMA issued a directive stating that Temporary Housing or Other Needs Assistance “for more than one residence may be provided to a household whose members are displaced and living in different geographical locations from one another as a result of Hurricane Katrina.” Attachment G, Memorandum THA to Households Displaced by Hurricane Katrina (Sept. 19, 2005).
61. Consequently, FEMA caseworkers are manually reviewing multiple applications from the same household for THA and Other Needs Assistance to determine eligibility. Manual eligibility determinations are far more time-consuming than applications that are “auto-determined” through NEMIS, but a reasonable effort to determine eligibility must be made in order to avoid duplication of assistance, which is prohibited under 42 U.S.C. § 5144.

### **3. Temporary Housing Assistance - Direct**

62. THA may also be provided directly in the form of housing units under the Individuals and Households Program. The President “may provide temporary housing units,

acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A) [rental assistance].” Id. § 5174(c)(1)(B).

63. The Stafford Act requires that “[a]ny readily fabricated dwelling [including trailers] whenever practicable, be located on a site that (i) is complete with utilities; and (ii) is provided by the State or local government, by the owner of the site or by the occupant who was displaced by the major disaster.” 42 U.S.C. § 5174(d). “A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.” Id. § 5174(d)(1)(B).

64. To date, FEMA has provided approximately 36,000 travel trailers and 850 mobile homes as direct assistance to eligible applicants in Louisiana, Alabama and Mississippi who were affected by Katrina.

#### **4. Other Needs Assistance**

65. Another type of discretionary assistance available under the Individuals and Households Program is “Financial Assistance to Address Other Needs.” 42 U.S.C. § 5174(e). “The President, in consultation with the Governor of a State, may provide financial assistance . . . to meet disaster related medical, dental, and funeral expenses” and “to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.” Id. This aid is available to individuals and households who have “other disaster-related necessary expenses or serious needs.” 44 C.F.R. § 206.119(a). The Federal share of financial assistance to address “other needs” is 75 percent and “the non-Federal share shall be paid from

funds made available by the State.” 42 U.S.C. § 5174(g)(2); 44 C.F.R.

§206.110(i)(2).

66. To date, FEMA has provided approximately \$788,000,000.00 in Other Needs Assistance to applicants affected by the Katrina disaster. These applicants have suffered substantial or total loss of their personal belongings. The average award of Other Needs Assistance per applicant in Louisiana (the hardest hit state) is about \$4200, including Personal Property, Vehicle Damage, and Miscellaneous Expenses (such as the purchase of a generator or chainsaw to help them in their recovery process). In other hurricane disasters, the average award is \$2000 or less.
67. To qualify for an award of Other Needs Assistance, an applicant must apply for, and be denied, a Small Business Administration (SBA) Disaster Home Loan, or demonstrate that the SBA he loan received “does not satisfy [his] total necessary expenses or serious needs arising out of the major disaster.” 44 C.F.R. § 206.119(a)(1)-(3). FEMA does not require applicants for other types of assistance to apply for an SBA loan, and FEMA will not deny THA “solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from [SBA] . . . or any other Federal agency.” 42 U.S.C. § 5174(a)(2).

#### **E. STATUTORY LIMITATIONS ON FEDERAL ASSISTANCE**

68. THA is not an alternative to permanent housing: “FEMA expects all recipients . . . to obtain and occupy permanent housing at the earliest possible time.” 44 C.F.R. § 206.114(a). FEMA regulations define a permanent housing plan to mean “a realistic plan that, within a reasonable timeframe, puts the disaster victim back into permanent housing that is similar to the victim’s pre-disaster housing.” 44 C.F.R. § 206.111.

69. FEMA may certify recipients for continued rental assistance beyond the initial period of assistance “based on need, and generally only when adequate, alternate housing is not available or when the permanent housing plan has not been fulfilled through no fault of the applicant.” 44 C.F.R. § 206.114(a); 42 U.S.C. § 5174(c)(B)(ii). FEMA has the discretion to provide THA (rental and/or direct) “for a period not to exceed 18 months from the date of the declaration” of the major disaster. 44 C.F.R. § 206.110(e); 42 U.S.C. § 5174(B)(ii).
70. The maximum amount of federal financial assistance (both THA and Other Needs Assistance) available to applicants under the Individuals and Households Program is \$25,000.00, adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers. 42 U.S.C. § 5174(h); 44 C.F.R. § 206.110(b). During the fiscal year in which Hurricanes Katrina and Rita occurred, this cap has risen to \$26,200.

**F. FEMA’S ADMINISTRATIVE APPEAL PROCESS**

71. FEMA regulations provide applicants with an opportunity to appeal the agency’s determination of eligibility for THA. 44 C.F.R. § 206.115(a). Applicants must file their appeal within 60 days after receiving notice of the award or denial of assistance. Id. Applicants can appeal the following: “(1) Eligibility for assistance, including recoupment; (2) Amount or type of assistance; (3) Cancellation of an application; . . . (5) The denial of continued [rental, direct, or other-needs] assistance; (7) Termination of direct housing assistance; . . . or (10) Any other eligibility-related decision.” 44 C.F.R. § 206.115(a). The appeal must be in writing and explain the reason for the appeal. 44 C.F.R. § 206.115(b). “An applicant may ask for a copy of information in his or her file by writing to FEMA.” 44 C.F.R. § 206.115(c).

72. The Regional Director of FEMA, or his/her designee, “will review the original decision after receiving the appeal. FEMA . . . will give the appellant a written notice of the disposition of the appeal within 90 days of receiving the appeal. The decision of the appellate authority is final.” 44 C.F.R. § 206.115(f).

**G. ASSISTANCE TO NAMED PLAINTIFFS**

73. At my direction, my staff pulled from NEMIS information regarding the status of the Named Plaintiffs’ applications. The NEMIS data shows as follows:

- a. Beatrice McWaters applied for disaster assistance with FEMA on September 5. She was awarded Expedited Assistance of \$2000 on September 9, and she received a Transitional Housing Rental Assistance payment of \$2358 on November 7. On November 18 she received an additional replacement housing assistance payment of \$10,500. To date Ms. McWaters has not filed any appeals or requested any additional disaster assistance from FEMA.
- b. Florence Jackson applied for disaster assistance with FEMA on September 9. She was awarded Expedited Assistance of \$2000 on September 15, 2005, Transitional Housing Rental Assistance of \$2358 on November 11, 2005, and an Eligible Personal Property payment of \$5,195.76 on November 18, 2005. Ms. Jackson has a Medical claim that is currently pending receipt of required documentation substantiating her claim.
- c. Calvin Davis applied for disaster assistance with FEMA on September 10, 2005. She was awarded Expedited Assistance of \$2000 on September 10, 2005, and Transitional Housing Rental Assistance of \$2358 on October 18. Ms. Davis was contacted by a FEMA inspector on November 18. She stated that she did not plan to return to New Orleans and that she did not have any damage so her claim for continued assistance was withdrawn. On December 1, 2005, FEMA determined Calvin Davis was eligible for direct housing – Readily Fabricated Dwelling.
- d. Reginald Jones applied for disaster assistance with FEMA on September 9, 2005. He was awarded Expedited Assistance of \$2000 on September 9 and Transitional Housing Rental Assistance of \$2358 on November 11. He was then awarded Eligible Replacement Property of \$10,500 and Eligible Personal Property of \$9,008.00 on November 11. To date, Mr. Jones has not appealed or requested additional assistance from FEMA.
- e. Van Patin applied for disaster assistance with FEMA on September 11, 2005. Mr. Patin was awarded Expedited Assistance of \$2000 on September 12, and

he was withdrawn from FEMA's program on October 9 due to the inspector's inability to contact him. The inspector visited the boarding house where Mr. Patin had been staying, and was informed that the home sheltered homeless veterans and that Mr. Patin had not been living at this shelter for a few months prior to Hurricane Katrina. Mr. Patin has not requested to be reinstated, and no further assistance has been awarded.

- f. John Hubbard applied for disaster assistance with FEMA on October 31, 2005. He had a FEMA inspection scheduled three days later, on November 3, which was withdrawn due to Mr. Hubbard's inability to meet with the inspector. Occupancy could not be verified, as Mr. Hubbard had no documentation available and he could not remember his landlord's name and no one in the neighborhood knew him. To date, Mr. Hubbard has not requested to be reinstated to FEMA's program for disaster assistance or submitted documentation to verify occupancy.
- g. Billy Smith applied for disaster assistance with FEMA on September 4, 2005, then applied a second time on September 30, 2005. Mr. Smith was awarded Expedited Assistance of \$2000 on September 9, and Transitional Housing Rental Assistance of \$2358 on November 25, 2005, after verification of occupancy. Mr. Smith had an inspection scheduled on November 20, which was withdrawn on November 22 due to the inspector's inability to contact Mr. Smith.
- h. Thurmond Price applied for disaster assistance on October 8, 2005. FEMA attempted to inspect the home on November 3, but Mr. Price was not able to make inspection. The inspector attempted to perform an exterior inspection, but could not find a home with the address given; the USPS states that the address is "undeliverable." Mr. Price cannot receive assistance until occupancy is proven and an acceptable address is supplied. Mr. Price has not filed a formal appeal, and has not contacted FEMA to receive a new inspection. There are no other linked cases for the address that he supplied.
- i. Keiva Melissa Colomb applied for assistance on August 30, 2005. She was awarded \$2000 Expedited Assistance on September 9, \$2358 for Transitional Housing Rental Assistance on September 24, and \$7124.97 for Personal Property on November 15. She has not filed an appeal.
- j. Russell Hayward applied for disaster assistance on September 7, 2005. He was awarded Expedited Assistance of \$2000 on September 9, and Transitional Housing Rental Assistance of \$2358 on October 10. Both award letters were sent to his current mailing address. Mr. Hayward stated that he had dental/medical expenses, and was advised that they can be submitted for review. His inspection could not be completed as he was not in the area and did not have a person available for a third-party-inspection. No formal appeal is on file.

- k. Mary Pat Van Tino cannot be found in FEMA's computer system.
- l. Pamela Jackson applied for disaster assistance on September 20, 2005. She was awarded \$2000 for Expedited Assistance on September 21, \$2358 for Transitional Housing Rental Assistance on September 27, and \$10,391.51 for Personal Property on November 11 via Phase 2 of Transitional Housing Assistance (geo-spatial inspection). No appeal is on file.
- m. William Davis applied for disaster assistance on September 11, 2005. He was linked with three other members of the home and appealed to separate himself from the household. The system was updated and FEMA awarded Davis both Transitional Rental Assistance (\$2358) and Expedited Assistance (\$2000) on November 25, 2005.
- n. Elizabeth Simpson applied for disaster assistance on September 12, 2005. She was awarded \$2000 for Expedited Assistance on September 14, and \$2358 for Transitional Housing Rental Assistance on November 21 after occupancy was verified by inspection. The inspection indicated, however, that the home was habitable and safe; therefore, no further Rental Assistance will be available. She has an application from SBA for Other Needs assistance and has not returned the loan packet. No appeal is on file.
- o. Chris Davis applied for disaster assistance on September 6, 2005. He was awarded \$2000 for Expedited Assistance on September 8, but occupancy had not been verified at that time for Transitional Housing Assistance. The applicant submitted documents on November 3, 2005, with occupancy information; FEMA's system was updated to indicate valid occupancy, and Transitional Housing Rental Assistance of \$2358 was paid on November 25, 2005.
- p. Lyman Scott applied for disaster assistance on September 8, 2005. He was awarded \$2000 for Expedited Assistance on September 5, and \$2358 for Transitional Housing Rental Assistance on November 23 after occupancy was verified via documentation submitted by Mr. Scott. An appeal regarding Rental Assistance is on file, but was mooted by the finding of eligibility after Mr. Scott submitted documentation. Mr. Scott has submitted documents for Dental assistance (missing insurance information). On December 2, FEMA awarded Scott \$10,391.51 in personal property assistance.
- q. Michelle Davis applied for disaster assistance on September 4, 2005. She was awarded Expedited Assistance of \$2000 on September 8, \$1352 of Rental Assistance on November 21, and \$2549.62 for Personal Property on November 21. She was inspected on November 20, and all items found during the inspection were paid. The applicant mailed Moving and Storage information on November 20, and FEMA's mailroom is scanning the information into her file. No appeal is on file.

- r. Jennifer Sampey applied for disaster assistance on September 1, 2005. She was awarded \$2000 for Expedited Assistance on September 9. On November 29, FEMA approved Sampey's request for rental assistance.
- s. David Magee applied for disaster assistance on September 7, 2005. He was awarded \$1506.00 in Rental Assistance on November 22 after occupancy was proven via inspection. He has received an application for an SBA loan for personal property, but has not yet returned it. He currently has an application for a Mobile Home/Travel Trailer, and will also be reviewed for Medical expenses.
- t. Keishan Goodman applied for disaster assistance on September 1, 2005. She was awarded \$2000 for Expedited Assistance on September 9, and \$2358 for Transitional Housing Rental Assistance on September 28. Goodman has requested continued rental assistance. On December 1, FEMA sent Goodman a letter requesting rental receipts or a signed declaration stating she spent the assistance on other disaster related needs.
- u. Shawn Allen applied for disaster assistance on September 3, 2005. He was awarded \$2000 for Expedited Assistance on September 9, 2005, and Rental Assistance of \$1352 on October 17, 2005. The inspector was only able to perform an external inspection, as the applicant was not in the area to be present for the inspection. There is no appeal on file.
- v. Timothy Hood applied for disaster assistance on September 11, 2005. Prior to the disaster, he lived with his parents, who have received both Expedited Assistance and Transitional Housing Assistance. All members of the household relocated to San Antonio, Texas, with the same mailing address. No appeal is on file, and Hood has not supplied documentation showing he is living separate from his parents.
- w. Michael Martinez applied for disaster assistance on September 7, 2005. He received \$2000 for Expedited Assistance on October 17, 2005, Transitional Housing Assistance of \$2358 on October 21, 2005, and \$10,783.39 for Eligible Personal Property on October 25, 2005. No formal appeal is on file for any additional assistance.
- x. Lenora Bartley applied for disaster assistance on September 9, 2005. She was withdrawn on October 11 and then again on November 11 due to the inspector's inability to contact the applicant for a complete inspection and to obtain signatures. She is linked with her husband, who has received Expedited Assistance and Transitional Housing Assistance, but she claims they are now separated. Ms. Bartley has been reinstated and is currently pending an inspection.

- y. Charles Hill, Jr. applied for disaster assistance on September 10, 2005. He was awarded Expedited Assistance of \$2000, but was withdrawn for any further assistance on October 22 due to the inspector's inability to contact the applicant for a complete inspection. The contractor, Myriad, could not verify occupancy, so Transitional Housing Assistance was not awarded. Mr. Hill is currently in the appeal queue as of November 19. On December 1, FEMA sent Hill a letter stating it was awarding him rental assistance.

In accordance with 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Signed this 5 day of December, 2005.



Michael Hirsch  
Individual Assistance Branch Chief  
Recovery Division  
Federal Emergency Management Agency  
Department of Homeland Security

# Attachment A

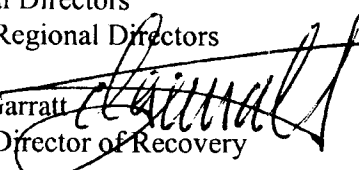


**FEMA**

November 14, 2005

**MEMORANDUM**

**TO:** Federal Coordinating Officers  
Deputy Federal Coordinating Officers  
FEMA-DR-1603/1604/1605/1606/1607  
Regional Directors  
Acting Regional Directors

**FROM:** David Garratt   
Acting Director of Recovery

**SUBJECT:** Disaster Specific Guidance - Hurricanes Katrina and Rita  
Transitional Housing Strategy

**ISSUE:**

Pursuant to Sections 403 and 502 of the Stafford Act (42 U.S.C. §§ 5170b and 5192), FEMA has been funding, under the "403 Program," the provision of temporary and interim shelter (including motels, hotels and apartments) for evacuees from Hurricanes Katrina and Rita. This memorandum serves to establish procedures for transitioning from the 403 Program to the provision of longer-term temporary housing under Section 408 of the Stafford Act (42 U.S.C. § 5174)(the "408 Program"). The guidelines below are to be followed by each Joint Field Office (JFO) and FEMA Region, who are also charged with ensuring this guidance is immediately shared with their respective States.

**STRATEGIC OVERVIEW:**

The catastrophic impacts of Hurricanes Katrina and Rita required an unprecedented response, particularly as it related to sheltering those impacted by the disaster. As evacuees now move into the next phase of the housing program, and relocate from hotels, motels, and other interim sheltering into longer-term temporary housing, FEMA will attempt to contact every evacuee to outline their options and responsibilities.

A combination of FEMA and State field teams and the National Processing Service Centers (NPSCs) will attempt to contact each evacuee household currently lodged in FEMA-subsidized hotels and motels through a series of phone calls, flyers, and direct personal contact. The purpose of this outreach will be to:

- Register those residents who have not yet registered with FEMA, determine the eligibility of each hotel resident for FEMA assistance, and provide funding and referrals as appropriate.
- Inform each household that hotel assistance under the 403 Program is scheduled to end on December 1, 2005, and outline options for transitioning toward a more permanent housing solution.
- Explain the intended and appropriate uses of FEMA assistance.

Evacuees may call 1-800-762-8740 (TTY 1-800-462-7585) for assistance in locating housing.

As outlined in the strategic timeline below, FEMA's goal is to progressively transition evacuees from hotels, motels and other housing units funded under the 403 Program to longer-term solutions under the 408 Program.

## **STRATEGIC TIMELINE:**

### **As of December 1, 2005**

**Hotel funding paid under the contract between Corporate Lodging Consultants (CLC) and FEMA will cease.** Applicants can choose to remain in the hotel or motel through the use of their FEMA rental assistance or their own funding, but will be advised that this is a costly option. An effort will be made to encourage and work with them to find more appropriate housing for the longer term. Both hotels and applicants will be advised of the December 1 date as soon as possible through CLC and the methods outlined above.

**States will cease paying, on a reimbursable basis, for hotel leases/stays.** Regions/JFOs will immediately notify States that, as of December 1, no new State or local hotel leases will be reimbursable under the 403 Program. In addition, existing hotel stays under State and local leases will terminate on December 1. (Exception: Due to the scarcity of available housing in the States of Louisiana and Mississippi, the FCO may approve – in no more than 14-day increments – an extension of the period of subsidized hotel leases under the 403 Program. No extensions will be authorized beyond January 7, 2006.)

**States will restrict new or extended 403 Program apartment leases.** Regions and/or JFOs will immediately notify States that:

1. Effective immediately, the acceptable term of any new or extended lease executed between now and December 1 will be limited to three months, unless longer lease terms are specifically approved by me upon the recommendation of the FCO or (for States without a JFO) FEMA Regional Director upon a determination that no three-month options exist. Leases beyond three months should be kept to the shortest lease terms possible. Further, any extended leases beyond three months must include a termination provision, and must allow for the leases to be transferred to the occupant.
2. As of December 1, no new or extended State and local apartment leases will be reimbursable under the 403 Program.

**No Later Than March 1, 2006**

**All other 403 Program-to-408 Program transitions will be complete.** Other funding under Section 403 of the Stafford Act, including that for cruise ships, travel trailers (with the exception of State and local employee camps), and other fixed facilities will end no later than March 1. By this time, all 403 Program to 408 Program transitions will have taken place. In addition, all 403 Program apartment leases will end no later than March 1.

# Attachment B

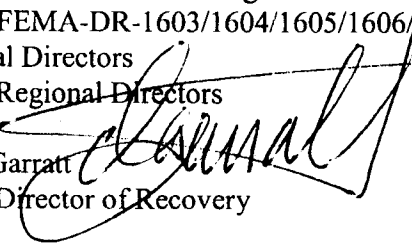


**FEMA**

November 23, 2005

**MEMORANDUM**

**TO:** Federal Coordinating Officers  
Deputy Federal Coordinating Officers  
FEMA-DR-1603/1604/1605/1606/1607  
Regional Directors  
Acting Regional Directors

**FROM:** David Garratt   
Acting Director of Recovery

**SUBJECT:** Disaster Specific Guidance - Hurricanes Katrina and Rita  
Transitional Housing Strategy – Revision 1

The following is a revision to – and supersedes – subject guidance issued on November 14, 2005.

**ISSUE:**

Pursuant to Sections 403 and 502 of the Stafford Act (42 U.S.C. §§ 5170b and 5192), FEMA has been funding, under the “403 Program,” the provision of temporary and interim shelter (including motels, hotels and apartments) for evacuees from Hurricanes Katrina and Rita. This memorandum serves to establish procedures for transitioning from the 403 Program to the provision of longer-term temporary housing under Section 408 of the Stafford Act (42 U.S.C. § 5174)(the “408 Program”). The guidelines below are to be followed by each Joint Field Office (JFO) and FEMA Region, who are also charged with ensuring this guidance is immediately shared with their respective States and evacuee-hosting jurisdictions.

**STRATEGIC OVERVIEW:**

The catastrophic impacts of Hurricanes Katrina and Rita required an unprecedented response, particularly as it related to sheltering those impacted by the disaster. As evacuees now move into the next phase of the housing program, and relocate from hotels, motels, and other interim sheltering into longer-term temporary housing, FEMA will attempt to contact every evacuee to outline their options and responsibilities.

A combination of FEMA and State field teams and the National Processing Service Centers (NPSCs) will attempt to contact each evacuee household currently lodged in FEMA-subsidized hotels and

motels through a series of phone calls, flyers, and direct personal contact. The purpose of this outreach will be to:

- Register those residents who have not yet registered with FEMA, determine the eligibility of each hotel resident for FEMA assistance, and provide funding and referrals as appropriate.
- Inform each household that hotel assistance under the 403 Program is scheduled to end as of December 15, 2005, and outline options for transitioning toward a more permanent housing solution.
- Explain the intended and appropriate uses of FEMA assistance.

Evacuees may call 1-800-762-8740 (TTY 1-800-462-7585) for assistance in locating housing. Hours of operation are 8 a.m. to 9 p.m. Eastern.

As outlined in the strategic timeline below, FEMA's goal is to progressively transition evacuees from hotels, motels and other housing units funded under the 403 Program to longer-term solutions under the 408 Program.

#### **STRATEGIC TIMELINE:**

##### **As of December 15, 2005**

**Hotel funding paid under the contract between Corporate Lodging Consultants (CLC) and FEMA will cease.** Applicants can choose to remain in the hotel or motel through the use of their FEMA rental assistance or their own funding, but will be advised that this is a costly option. An effort will be made to encourage and work with them to find more appropriate housing for the longer term. Both hotels and applicants will be advised of the December 15 date as soon as possible through CLC and the methods outlined above.

*(Exception: Due to the scarcity of available housing in and/or high concentrations of evacuees in Louisiana, Mississippi, Alabama, Texas, Florida, Georgia, Arkansas, Tennessee, California, and Nevada, those States are authorized a further extension – to January 7, 2006 - of the period of subsidized hotel leases under the 403 Program, provided they submit the following information to the FCO or (for States without a JFO) FEMA Regional Director for approval. To ensure an uninterrupted subsidy program continuation, information should be submitted no later than December 9, 2005, and must provide the following:*

- *Outline the state's plan and timeline to transition those households out of hotels/motels and into temporary housing by January 7, 2006.*
- *A commitment to submit – to their respective FEMA Regional Office or, if established, Joint Field Office – weekly (COB Wednesday) status reports outlining their progress and any challenges in meeting the extended January 7, 2006 deadline.*

**States will cease paying, on a reimbursable basis, for hotel leases/stays.** Regions/JFOs will immediately notify States that, as of December 15, no State or local hotel leases will be reimbursable under the 403 Program.

**States will restrict new or extended 403 Program apartment leases.** Regions and/or JFOs will immediately notify States that:

1. Effective immediately, the term of any new leases executed between now and through December 15 will be limited to no more than three months (but no longer than March 1, 2006), unless longer lease terms are specifically approved by the FCO or (for States without a JFO) FEMA Regional Director upon a determination that no three-month options exist. Leases beyond three months should be kept to the shortest lease terms possible. Further, any extended leases beyond three months must include a termination provision, and must allow for the leases to be transferred to the occupant. FEMA will reimburse any reasonable penalties associated with the directed early termination of leases.

2. As of December 15, no extended State and local apartment leases will be reimbursable under the 403 Program, unless specifically approved by the FCO or (for States without a JFO) FEMA Regional Director.

**No Later Than March 1, 2006**

**All other 403 Program-to-408 Program transitions will be complete.** Other funding under Section 403 of the Stafford Act, including that for cruise ships, travel trailers (with the exception of State and local employee camps), and other fixed facilities will end no later than March 1. By this time, all 403 Program to 408 Program transitions will have taken place. In addition, all 403 Program apartment leases will end no later than March 1.

# Attachment C

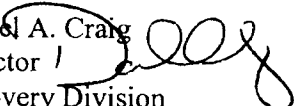


**FEMA**

SEP 28 2005

MEMORANDUM FOR: Regional Directors  
Acting Regional Directors  
Regions I-X

THROUGH: Response & Recovery Division Directors

FROM: Daniel A. Craig  
Director  
Recovery Division 

SUBJECT: Assistance via Non-Traditional Inspection Methods

This memorandum serves as official notification that streamlined inspection measures are to be implemented to assist with damage verification of primary homes located in zones deemed uninhabitable or where long term inaccessibility is expected.

A home inspection is generally required as a condition of determining eligibility for assistance. However, due to the magnitude and severity of damage in declared states and the continuing inaccessibility in the most devastated neighborhoods, inspections are infeasible within a reasonable time frame. As such, use of an alternate method of damage verification is essential for the timely delivery of assistance to registrants from these areas. FEMA will clearly identify these areas by using a combination of rapid needs assessment, map overlay, and GIS data. Utilizing a commercial consumer information database, FEMA's automated processing database will verify ownership, occupancy and other qualifications necessary for assistance delivery in these areas.

Please ensure that this policy is promptly shared with your respective States.

For additional information regarding the policy, please contact Lumumba Yancey at (202) 646-3939.

cc: NPSC Coordination Team  
Sandra Martin, Congressional Affairs

# Attachment D



**FEMA**

**September 27, 2005**

**MEMORANDUM FOR:** NPSC Processing Staff  
**FROM:** NPSC Coordination Team  
**SUBJECT:** Transitional Housing Assistance

**Background:**

Evacuees from Hurricane Katrina may be eligible for Transitional Housing Assistance as they begin to establish residency outside of the affected area. Applicants' whose pre-disaster residence was located in the most severely impacted areas of Hurricane Katrina, have been identified through the use of geo-spatial mapping and satellite imagery and may qualify for this assistance based on non-traditional inspection methods.

FEMA has contracted occupancy verification to a company called Myriad, Inc. With this verification the majority of applications will be auto-determined for rental assistance in the amount of \$786/month for a total of \$2358. This program is intended for applicants that reside in the counties of **Orleans, St Tammany, St Bernard, Jefferson and Plaquemines**; that continue to be displaced from their pre-disaster residence. This amount is based on the average fair market rental rate for a two-bedroom unit nationwide.

Additionally since this program is a partnership between FEMA and HUD, applicants who are determined to be ineligible for the IHP Program, will be referred to HUD for possible assistance under their Hurricane Katrina Housing Assistance Program.

**Initial Assistance Processing:**

**SQL scripts will be run daily to auto process applications from zip codes of the affected counties where the satellite imagery is available.**

For the applicants where occupancy cannot be verified by Myriad, the following will occur:

- These cases will be in the FEMA Manual-Disaster Specific sub-queue. They would be distinguishable as a "Transitional Housing Assistance PND, occupancy not verified."
- If the contractor could not verify occupancy do a search in a previous Louisiana or Mississippi disaster for the applicant or the co-applicant by social security number.

- If the damaged dwelling address matches, and the applicant or another household member was able to show occupancy, make a comment in the file that “**Occupancy was verified per disaster XXXX**” and process the rental assistance amount of \$2358.
- If there was no previous disaster application, attempt to verify by using the reverse phone directory on the internet ([www.reversephonedirectory.com](http://www.reversephonedirectory.com)). Enter the damaged address and or phone number to attempt to match the applicant or other household member. If a match exists, enter a comment occupancy verified in the name of XXXX via current phone directory and process the rental assistance in the amount of \$2358.
- If no verification is found using these methods, process the applicant as INP which will initiate a referral to the HUD housing program.

### **Processing Multiple Applications from the Same Household:**

There will likely be many instances of multiple applications being filed from the same household. FEMA will continue with the policy of providing housing assistance to only one member of a household, with the anticipation that families and roommates that lived together prior to a disaster will continue to do so following a disaster.

Whenever possible, FEMA will determine the primary lease or mortgage holder of the pre-disaster residence and provide the Transitional Housing Assistance to that individual.

Roommates, adult children, or other non leaseholders, should be determined as ineligible for housing assistance under IHP, but will receive a HUD referral in the event that it is no longer feasible for these households to remain intact.

Roommates, adult children, or other non leaseholders may still qualify for ONA assistance for personal property, transportation or medical/dental/funeral when the need is verified.

### **Duplicate Investigation and Duplicate Resolution Processing:**

**Duplicate Investigation:** Please use the current guidance posted on the IA webpage to process applications as follows:

- Make a determination of the applicant who should be considered head of household and set the status as ‘Not Duplicate’. The SQL query will identify this application as the eligible application, and process the Transitional Housing Award.
- Companion cases for family members who had to relocate separate from Head of Household would be set as ‘Possible Duplicate’. The SQL will identify these as being duped with the primary mortgage/leaseholder and will route the case to Duplicate Resolution for a manual determination.
- Family members addressed through the application of Head of Household or companion case/family member would be set as Exact Duplicate. The SQL query will identify these

as being assisted under the Head of Household and auto process an IAW status. These applicants will receive a HUD referral

**Duplicate Resolution:** ” Companion cases to these special Rental Assistance cases will have been set as Possible Duplicate and will therefore need further resolution. All applications that are linked as possible duplicate and are not the HOH will need to be called to verify if they have been able to rejoin the HOH or have remain housed separately. In either case their HA Status will be set as IAW (although they may have separate ONA issues for review). But if they remain housed separate from the HOH, a comment will be added to the file:

Summary: “Poss dup = refer app to HUD”.

Comment Text: ER provided to HOH = 9\*-\*\*\*\*\*. Applicant = family member relocated separately; referred to HUD Katrina Disaster Housing Assistance Program

### **Recertification Processing**

Transitional Housing applicants will have received an initial rental assistance amount of \$2358, which is intended to cover three months. However, if an applicant indicates their actual rental payment is higher than \$786/mo prior to the end of the 3 month cycle, they may be provided the difference between \$2,358 and the actual FMR where they are currently residing. Example, applicant is currently residing in Atlanta, where the FMR is \$928/mo., they would be eligible for a supplemental payment prior to the end of the three month period. In these cases we will process as follows:

- If an applicant calls Helpline to request additional funds based on their current location, the Helpline Rep will create or request a work packet sent to FEMA Manual DR Specific and comment, “Transitional Housing Applicant Eligible for Increased FMR”
- A VA-NPSC caseworker will determine the actual FMR at the current location of the applicant by going to <http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=docs> and process the appropriate supplement.
- If an applicant mails receipts or sends a letter requesting additional funds, an HSS located in the MD-NPSC mailroom will place a comment in the file that states “Transitional Housing Applicant Eligible for Increased FMR, receipts submitted for \$----. No image will be necessary, and a VA-NPSC caseworker will review the comments and award the appropriate supplement.

Prior to being recertified for additional assistance, the applicant will need to show exhaustion of the initial award and provide information about their permanent housing plan. They will **not** be required to show exhaustion of the \$2,000 EA award.\*

As with pre-recertification supplements, the mailroom will enter the dollar amount of receipts provided, negating the need to view actual receipts. Applicants will need to be contacted by to determine what their long term housing plans are, and what steps are being taken to meet that plan. Once this contact has been made, and the housing plan and exhaustion of funds has been verified, an additional 3 months of rental assistance at the FMR of the current location may be processed. The applicants file should be updated as follows:

- Comment that receipts verified, initial award exhausted appropriately
- Enter the applicants long term housing plans as
  - Return to pre-disaster home/area
  - Will remain in current location looking for work
  - Will move to new location when employment found

Actual rental awards will not be paid unless the rental is **less than** the FMR. In all cases, the total amount of assistance provided to an applicant for all categories of IHP can not exceed the program maximum of \$26,200.

**\*Note:** In some instances applicants that were provided a debit card received a second \$2,000 EA payment in error. These applicants will need to show exhaustion of funds for one of the EA payments (\$2,000).

# Attachment E

FEDERAL EMERGENCY MANAGEMENT AGENCY  
NATIONAL PROCESSING SERVICE CENTER  
ADDRESS  
CITY, STATE & ZIP

FEMA Registration ID:

Disaster No: XXXX

NAME  
ADDRESS  
CITY, STATE & ZIP

Dear M(R/S) NAME:

The Federal Emergency Management Agency (FEMA) reviewed your request for disaster assistance. Based upon our review, you were approved to receive a payment for advanced "Rental Assistance" to help you locate transitional housing. If you provided FEMA with a bank account when you registered, your funds will be deposited by an electronic funds transfer immediately upon releasing the funds. Otherwise, you will receive a check in the next few days in the mail. For future payments, you can provide FEMA with a bank account so we can more quickly provide you with rental assistance.

These funds are to be used to cover your transitional housing needs. You must keep rental receipts for auditing purposes. If you require continued rental assistance, you must submit rental receipts to show that you have exhausted the rental assistance on rent. If you don't keep your rental receipts, you will not be eligible to receive additional rental assistance in the future.

Also enclosed is FEMA Form 90-69B, the Declaration and Release. This form must be completed, signed and returned to FEMA within 14 days of this letter's date. If you do not return the signed form you will not be eligible for additional assistance. In addition, you may also be required to return the money already received.

If you knowingly make false statements to obtain disaster aid, it is a violation of federal and State laws, which carry severe criminal and civil penalties, including a fine up to \$250,000, imprisonment, or both.

**IN ORDER TO RECEIVE ADDITIONAL FUNDS IN THE FUTURE,  
YOU MUST PROVIDE FEMA WITH VALID CONTACT  
INFORMATION (ADDRESS AND TELEPHONE NUMBER). PLEASE  
USE THE WEB AT [www.fema.gov](http://www.fema.gov), or CALL 1-800-621-FEMA (3362).**

Attachment

## Information on Transitional Housing Payment to Hurricane Katrina Evacuees

Rental Assistance This money is to be used to rent a different place to live. Additional assistance may be awarded in 3 month increments. Supplemental payments will be adjusted for your household's bedroom requirement and the location of the rental unit.

Continued Assistance: If you require continued rental assistance you must: 1) provide documentation showing that you are making efforts toward a permanent housing solution; and 2) submit rental receipts to show that you have exhausted the rental assistance on rent.

Declaration and Release: You **must sign and return the enclosed FEMA Form 90-69B**. Failure to return the signed 90-69B to FEMA will result in you being ineligible for additional assistance. You may also be required to return the money already received.

Agreement to Proper Use of Funds: By signing the 90-69B form, you are agreeing that the information on your application is true and correct. You are also agreeing to use these funds only for the purpose stated above. If you want to know how to use this money or have any other questions, please check Frequently Asked Questions at [www.fema.gov](http://www.fema.gov) or call FEMA's Helpline at 1-800-621-FEMA (3362) or 1-800-462-7585 TDD (for hearing/speech impaired).

Disaster Assistance from Other Agencies: If you have applied to disaster relief agencies other than FEMA, they will contact you separately.

Fraud, Waste, and Abuse: FEMA has the capacity and procedures for expeditious reporting of allegations of fraud, waste or abuse to the Department of Homeland Security's Office of Inspector General.

# Attachment F



FEMA

November 21, 2005

**MEMORANDUM**

**TO:** Donna Dannels  
Acting Deputy Director of Recovery  
Chief, National Processing Service Center Section

**FROM:** David Garratt  
Acting Director of Recovery

**SUBJECT:** Disaster Specific Guidance - Hurricanes Katrina and Rita  
Recertification of Rental Assistance

Effective immediately, and in accordance with 44CFR, 206.114(b)(3) and (4), the following guidance applies to the initial recertification of rental assistance for victims of Hurricane's Katrina and Rita:

1. Evacuees who cannot return to their homes and who are requesting *initial* recertification of rental assistance are not required to provide rental receipts as a pre-condition to additional rental assistance if they are otherwise eligible and certify, in writing, that one or both of the following situations apply:
  - a. They received their initial rental assistance prior to receiving official written notification through the mail explaining the intended use of the rental assistance.
  - b. They used all or a substantial part of the rental assistance on serious and essential needs (e.g., food, clothing), because they lacked sufficient additional funding to address those needs.
2. Evacuees must sign and return the attached self-certification form.

Please implement this guidance immediately.

Attachment

Hurricane Katrina/Rita Housing Assistance

Declaration of Funds Use and Continuing Need for Housing

Applicant's Information

FEMA Registration # \_\_\_\_\_

\_\_\_\_\_  
(Last, First Middle Initial)

\_\_\_\_\_  
(Street Address - Damaged)

\_\_\_\_\_  
(City, County, State)

\*\*\*\*\*

I hereby declare, under penalty of perjury that (check all that apply)

- I received the initial assistance prior to receiving official written notification through the mail explaining the intended use of the rental assistance.
- I used all or part of the rental assistance on serious and essential needs (e.g., food, clothing), because I lacked sufficient additional funding to address those needs.
- I have a continuing need for Housing.

\*\*\*\*\*

**For Continued, Future Housing Assistance:**

**I understand that** financial assistance for rental of temporary housing is only provided when FEMA determines that the individual's residence is destroyed, uninhabitable, or inaccessible.

**I understand that** in order to be considered for continued rent assistance I must submit rent receipts to show that I have exhausted the FEMA rent funds.

**I understand that** in order to be considered for continued rent assistance I must establish a realistic permanent housing plan and provided documentation showing that I am making efforts to obtain permanent housing.

**I understand that,** if I intentionally make false statements or conceal any information in an attempt to obtain additional disaster aid, it is a violation of federal and State laws, which carry severe criminal and civil penalties, including a fine up to \$250,000, imprisonment, or both.

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

# Attachment G

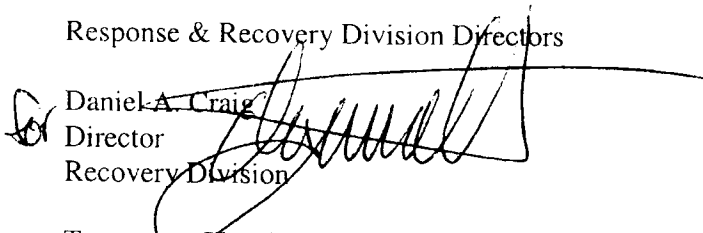
SEP 19 2005



**FEMA**

MEMORANDUM FOR: Regional Directors  
Acting Regional Directors  
Regions I – X

THROUGH: Response & Recovery Division Directors

FROM:  Daniel A. Craig  
Director  
Recovery Division

SUBJECT: Temporary Housing Assistance to Households Displaced by  
Hurricane Katrina

This memorandum serves as official notification to Regions that temporary housing assistance for more than one residence may be provided to a household whose members are displaced and living in different geographical locations from one another as a result of Hurricane Katrina. Household members in the same geographical location will continue to be eligible for assistance in accordance with 44 CFR 206.117(b)(1)(i)(A).

For additional information, please contact Lumumba Yancey on (202) 646-3939.

cc: Sandra Martin, Congressional Affairs