



FEMA

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May 30, 2007

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and
NFIP Servicing Agent

FROM: WYO Clearinghouse

SUBJECT: David Maurstad's Testimony to the United States Senate Regarding
FEMA's Hazard Mitigation Grant Program (HMGP) and
The Road Home Program

Attached is a copy of the full written statement and transcribed oral testimony delivered by Assistant Administrator David I. Maurstad to the United States Senate on May 24, 2007. The testimony describes, in detail, FEMA's role in working with the Louisiana Recovery Authority's *Road Home* Program.

Please share this information with others in your organization, as appropriate.

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Marketing, Legal, Underwriting

**Statement of David I. Maurstad
Assistant Administrator, Mitigation**

**Federal Emergency Management Agency
Department of Homeland Security**

Presented Before the

**The United States Senate
Committee on Homeland Security and Governmental Affairs
Subcommittee on Disaster Recovery**

May 24, 2007

Good Afternoon Chairwoman Landrieu, Ranking Member Stevens, and members of the Subcommittee. My name is David Maurstad. I am the Assistant Administrator for Mitigation in the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). I am honored to appear before you today to discuss FEMA's Hazard Mitigation Grant Program (HMGP), and the Agency's role in working with the Louisiana Recovery Authority's *Road Home* Program.

THE ROLE OF THE HAZARD MITIGATION GRANT PROGRAM IN POST-DISASTER RECOVERY

In 1988, because of concerns about increasing disaster costs, Congress established the HMGP under the Stafford Act. The HMGP provides funds beyond the costs for response and recovery to states and communities to help them implement long-term hazard mitigation measures following a major disaster declaration. These mitigation measures reduce the loss of life and property in future disaster events; and reduce the costs to citizens, communities, States and the Federal Government in responding to and recovering from future events. Consistent with the President's vision to rebuild the Gulf Coast safer and stronger, the HMGP is one of the best institutional measures available to help ensure that when the next disaster hits the Gulf Coast, states and local communities have taken action to reduce their vulnerabilities. Since 1989, FEMA has provided more than \$7.3 billion in response to over 1000 federally-declared disasters to support effective mitigation in the post-event timeframe. We have provided assistance to acquire more than 33,000 properties, permanently eliminating future risk to those structures and reducing the need for response in the next disaster. Congress recently increased the HMGP funding formula, further underscoring the importance of ensuring that adequate funds are available to implement effective mitigation in the post-disaster reconstruction and recovery process.

Mitigation reduces risk – and it reduces the costs of future disasters. In fact, a 2005 independent Congressionally-mandated study found that mitigation results in significant net benefits to society as a whole – to individuals, to states and to communities – in terms

of future reduced losses, and represents significant potential savings to the federal treasury in terms of future increased tax revenues and reduced hazard-related expenditures. The study found that every dollar spent on mitigation saves society an average of four dollars; flood mitigation yields even greater savings.

As previously stated, the HMGP is FEMA's traditional post-disaster mitigation program – designed to help states and communities take action during the post-disaster rebuilding and recovery timeframe so as to reduce the loss of life and property during future disasters. HMGP funds may be used to flood-proof or elevate existing properties; acquire and relocate homes from flood-prone areas, and maintain the acquired land as open-space in perpetuity to eliminate all future risk; implement minor flood control measures; and retrofit structures to protect them from high winds and earthquakes, among other eligible activities. Projects proposed by states and local communities must: (a) conform to State and Local Hazard Mitigation Plans, which identify and assess risk to hazards and establish priorities for reducing risk; (b) be cost-effective and technically feasible; and (c) meet environmental and historic preservation compliance requirements. By statute, FEMA may contribute up to 75 percent of the costs of these projects.

It is important to emphasize that the HMGP is not designed to compensate individuals for disaster losses. Rather, the HMGP provides communities with resources to implement long term solutions that will reduce the risk to their citizens and public facilities from flooding and other hazards. The amount of HMGP funds made available to states is formula driven, based on a percentage of the estimated total amount of Individual and Public Assistance grants provided. Although final HMGP funding is not determined until Individual and Public Assistance funding is calculated, FEMA provides early estimates of HMGP funding to the state, and makes a portion of funds available to the state almost immediately after the disaster declaration.

FEMA provided the initial HMGP estimate to Louisiana in February of 2006; however, in the fall of 2005, knowing the available funding would be significant, the State allocated the first \$250 million to the affected communities for planning, acquisition and elevation of repetitive loss properties. The State established a deadline of October 2006 for communities to apply for these funds. FEMA received the first HMGP application, for use of HMGP funds through the Road Home Program, in October of 2006.

When Katrina and Rita hit Louisiana, only 3 parishes and local communities had a required approved Local Mitigation Plan. One of FEMA's first priorities was to work with those communities to assist them with that planning process, so that when the State provided the dollars, the communities would be in a position to accept and spend the funds to implement their mitigation priorities. To date this special effort has resulted in 74 parishes and local communities having approved Local Mitigation Plans. Only one parish does not currently have an approved plan, however we anticipate approval shortly.

FEMA currently estimates that over \$1.47 billion is expected to be available to Louisiana under the HMGP for Hurricanes Katrina and Rita. As of May 2007:

- FEMA has received 42 applications from the State and communities within the State, including an application for State Management Costs. A portion of Louisiana's State Management Cost was obligated in April 2006; FEMA anticipates that the State will request additional State Management funds.
- Of the 42 applications that FEMA has received, twenty-nine (29) have been approved, including a grant for training and State implementation of International Building Code standards, several planning grants, and a grant to retrofit a public building. One (1) application has been denied, and the remaining 12 applications are under review.
- FEMA has obligated \$15,440,396 in federal funds for HMGP projects and state management costs in Louisiana, as of May 4, 2007.

HMGP AND LOUISIANA'S ROAD HOME PROGRAM

Although Louisiana has made approximately \$250 million in HMGP funds available directly to local governments through the "traditional" HMGP process, the State proposes to pay out most of their expected \$1.47 billion in HMGP funds as a part of their *Road Home* Program. *The Road Home*, which is funded primarily by the Department of Housing and Urban Development's (HUD) Community Development Block Grant program (CDBG), is designed to provide individual homeowners with funds to compensate them for their losses; enabling them to stay in their homes, if they choose to do so. The Program's goal is to restore and redevelop communities – which includes purchasing and redeveloping residential properties. This goal is not the goal of the HMGP, which is to reduce the loss of life and property in, and costs of, future disaster events. The State proposes to use HMGP funds to "reimburse" *The Road Home* for residential properties originally purchased with CDBG funds – once the subject communities designate the purchased properties as open-space because of their flood risk.

When Louisiana signed the FEMA-State agreement for Hurricanes Katrina and Rita, as all States do for all disasters, the State agreed to comply with the Stafford Act and FEMA regulations, including HMGP requirements. Louisiana officials did not consult with or involve FEMA in *The Road Home* program's design until after critical decisions on program requirements had been made. Unfortunately, those requirements directly conflict with the HMGP program objectives and legal requirements, resulting in FEMA's inability to approve use of HMGP funds under *The Road Home*. Nonetheless, the HMGP funds remain available to the State to use for eligible activities.

Recognizing these conflicts, FEMA Administrator Paulison, in August 2006, established a Steering Committee, consisting of representatives from FEMA, State and HUD staff to identify and attempt to resolve areas of concern. This Steering Committee worked collaboratively until February of this year, making significant progress toward addressing many of the requirement differences between *The Road Home* and the HMGP programs. However, legal barriers concerning equitable treatment in the distribution of HMGP funds became a significant obstacle to further progress. FEMA has proposed ways to address these specific concerns that would allow funds to proceed through *The Road Home*; however the State has not yet been willing to make changes to the program.

FEMA recognizes the catastrophic nature of the 2005 hurricanes and the extraordinary challenges of rebuilding smarter and stronger. We have exhibited extreme creativity and flexibility in working with the Gulf Coast states to help them in the recovery process. FEMA has made four significant accommodations to the State of Louisiana regarding HMGP. First, the Agency provided Louisiana additional time and resources to utilize the HMGP funds made available; extending the HMGP application submission cut-off one year beyond the deadline established in the regulations – from March 2007 to March 2008.

A second accommodation was FEMA's agreement to allow the State to acquire properties from homeowners and hold title pending final decisions by communities regarding the disposition of those properties – decisions about whether to redevelop the property or designate it as open-space because of high flood risk. *The Road Home* program was intended to quickly provide funds directly to homeowners to enable them to move on with their lives. Because the State believed communities could not make timely decisions regarding recovery, rebuilding and land-use, including which properties they would accept as open-space when *Road Home* offers were made, the State made the decision not to involve local communities initially.

In my experience, the best government is the government closest to the people. Under the HMGP, voluntary buy-out decisions are made by communities in conjunction with their citizens. The HMGP community-based decision and application process enables local officials and citizens to make important decisions about ways to reduce their vulnerability to future events while, at the same time, ensuring community sustainability and promoting effective planning for delivery of critical public services, such as police and fire protection. This process ensures that citizens have the opportunity to work directly with their local leaders to make these critical decisions. As a former Mayor, State Senator and Lieutenant Governor, I believe that cutting communities out of this process in hopes of involving them down the road is not the most effective approach when trying to assist communities to reduce their risk, which is the objective of the HMGP. Citizen participation results in needed buy-in and leads to stronger, better managed communities.

The Road Home program takes an individual rather than a community approach, making purchase offers to individual homeowners without engaging communities. Consistent with this approach, Louisiana requested to be allowed to purchase residential properties at pre-flood value using CDBG funds, and then transfer these properties to the communities when related land use decisions were made. At that point, the State would reallocate the property costs to the HMGP, freeing up CDBG funds for other purposes. Once again demonstrating flexibility, FEMA agreed in concept to this approach and began developing the legal and programmatic frame to make it work. FEMA also asked the DHS Inspector General to help the Agency and the State make sure that appropriate financial management controls were in place to allow for this cost reallocation and to ensure accountability for all HMGP funds. The effort to establish this framework was

put on hold in February 2007, once the State indicated its intention to seek legislative relief from the legal barriers identified by FEMA.

A third accommodation to Louisiana was the FEMA-HUD coordination to develop a Programmatic Environmental Assessment (PEA) to meet National Environmental Policy Act (NEPA) requirements, and a Programmatic Agreement to meet National Historic Preservations Act (NHPA) Section 106 requirements for HMGP activities proposed as the part of *The Road Home*. This agreement would make sure that the State did not have to work through two separate NEPA and NHPA compliance processes to meet HUD and FEMA requirements. A preliminary draft of the agreement was completed in November 2006; however, this work was put on hold while the State considered its options to address program conflicts.

Fourth, FEMA agreed to provide the staff resources necessary to enter all community-based HMGP project applications into the National Emergency Management Information System (NEMIS) – normally a State responsibility. NEMIS is FEMA's HMGP management system, enabling the Agency to maintain project and financial management oversight as called for in federal regulations. Louisiana advised FEMA early on that they planned to submit a single HMGP application for \$1.2 billion to implement *The Road Home*. This request to submit a non-specific blanket application was unprecedented, and FEMA does not believe that such an application to spend over one billion dollars allows for the financial and management controls needed to provide adequate and appropriate oversight and accountability of taxpayer dollars. Also, because the individual properties will ultimately be transferred to their communities, FEMA would need to establish controls to manage projects at the parish level. Because accountability to the American people and the Congress is so important, FEMA is willing to do the work necessary to ensure that adequate controls and reporting mechanisms are in place.

Additionally, FEMA is exploring ways to streamline the cost-effectiveness determinations required by statute for HMGP projects, to further reduce the burden for project development on State and local officials.

The efforts and progress of the FEMA/State/HUD *Road Home and HMGP* Steering Committee demonstrate FEMA's willingness to be flexible and to work with Louisiana to execute important programs in a manner that is seamless to the individual property owners. Ultimately, however, the details needed to implement these resolutions were not finalized because FEMA determined that the State's proposed process for making purchase offers to homeowners violates the Stafford Act.

Specifically, the State established a 40 percent penalty in purchase price offers for homeowners leaving the State or remaining in the State but not committing to a three-year property ownership period. However, the State exempted seniors from the penalty, thereby creating a program where the purchase price offer varies based on: (a) age of the homeowners, (b) the homeowner's ability to remain in-State, and (c) the homeowner's willingness or ability to own property for three years. Such inequities conflict with non-discrimination provisions of Federal law, including Section 308 of the Stafford Act –

Nondiscrimination in Disaster Assistance – which provides that disaster relief and assistance activities shall be accomplished in an equitable and impartial manner without discrimination on the grounds of race, color, religion, nationality, sex, age or economic status.

In December 2006, FEMA advised the State in writing of our concerns with *The Road Home*'s design. The letter offered potential solutions to address those concerns, and also offered to continue meeting with the State to identify options for moving forward. In a second letter in February 2007, FEMA notified the State that *The Road Home* application could not be approved as submitted under the HMGP. The LATRO, in turn, provided specific feedback concerning the application's deficiencies, and committed to continue working with the State to resolving the issues and support the State's recovery activities. Madam Chair, I'd like to provide those two letters for the hearing record.

On April 4, 2007, Louisiana appealed FEMA's denial of the \$1.2 billion HMGP project application for use in the Road Home program. By regulation, FEMA has 90 days to respond to that appeal; and a decision on the appeal will be provided to the State by June 15, 2007. Regardless of the appeal determination, FEMA remains committed to working with the State to modify or better define the proposal in this application – or develop new HMGP project applications – that meet HMGP requirements and support State and local mitigation goals. Again, Louisiana has until March 2008 to submit its final HMGP proposals to FEMA.

While there have been difficulties in some areas, progress is being made in others. With the State's approval, FEMA has provided staff to work directly with communities to help them prepare applications through the "traditional" HMGP program; this also is normally a State responsibility. In partnership with the Governor's Office of Homeland Security and Emergency Preparedness, FEMA staff is embedded in New Orleans, working closely with the City to develop applications for mitigation of housing, such as elevations and reconstructions, using approximately \$32 million of the \$57 million that the State allocated to New Orleans for standard HMGP activities, including residential elevation and reconstruction. Recently I met with Dr. Ed Blakely, Executive Director for Recovery Management in the City of New Orleans. Both he and I are optimistic that collaboration between his staff and FEMA staff will soon result in approved HMGP projects that will enable New Orleans to begin effectively using HMGP funds to reduce risk during the critical post-disaster reconstruction process – precisely what the HMGP program is designed to do.

My understanding after meeting with Dr. Blakely is that New Orleans will identify eligible HMGP projects that will far exceed the parish's \$57 million allocation. As we move further away from the events of August 2005, communities are increasingly able to identify their mitigation priorities and potential areas for elevation, reconstructions and hardening of critical facilities. FEMA believes that, like New Orleans, other Louisiana communities are working now to identify HMGP-eligible projects that will exceed their allocation of the \$250 million made available by the State under the traditional HMGP. Until the State decides to utilize HMGP for its intended purposes apart from HMGP from

The Road Home and to continue to allocate additional funds to the local communities, FEMA will not be able to work with New Orleans and those other communities to develop viable community-based HMGP applications that will support safer rebuilding. Many of these projects would likely involve the same homeowners who applied for and are awaiting *Road Home* funding; which could significantly reduce the *Road Home*'s financial burden. Should Louisiana decide to administer HMGP and *The Road Home* independently, FEMA is committed to providing, as quickly as possible, the federal resources necessary to help the State's communities develop and implement these important mitigation projects.

CONCLUSION

The objectives of *The Road Home* and the HMGP are complementary. Recognizing that, one has to consider the best way to achieve the goals and objectives of both programs; the best way does not have to be one combined program. In fact, FEMA, based on our years of experience and success with the HMGP, urges the State to administer the programs and run them on two separate but parallel tracks. Working through the State and with the communities, we can implement the HMGP in a timely fashion while also supporting the primary objectives of *The Road Home*.

Whether combined with *The Road Home* or implemented on a parallel track, the more than \$1.47 billion HMGP funding available as a result of Hurricanes Katrina and Rita provides a tremendous opportunity for the State of Louisiana, its communities, and its citizens, to implement mitigation measures that will reduce vulnerabilities and future losses. I've visited the Gulf Coast more than a dozen times since August 2005, and I know people are discouraged and frustrated that they don't see progress. But I am also concerned when I see rebuilding going on and people putting things back just like they were before Katrina. We must stay vigilant and ensure that communities and their citizens have the resources through the HMGP to rebuild in a way to reduce their vulnerability.

Regardless of the difficulties to this point, FEMA remains willing and open to continue to meet with Louisiana officials to identify options for aligning the HMGP with the *Road Home* program; however, we must remain focused on the tried and true objectives of the HMGP. We have already resolved or are prepared to resolve most issues associated with combining the two programs; however, legal barriers require a change to *The Road Home* program that the State, thus far, has not been willing to make.

I want to re-emphasize that the legal issues do not preclude each program from proceeding separately; *The Road Home* can continue as planned, utilizing the significant amount of HUD-CDBG funding provided, while HMGP funds can be used in the customary manner, as the State is already doing with \$250 million.

Thank you for the opportunity to testify before you today, and I will be pleased to respond to any questions that Members may have.

Good Afternoon Chairwoman Landrieu, Ranking Member Stevens, and members of the Subcommittee.

I'm David Maurstad, Assistant Administrator for FEMA's Mitigation Directorate.

FEMA's Hazard Mitigation Grant Program provides States and communities with post-disaster funds to help them implement long-term hazard mitigation measures, such as:

- Elevating homes;
- Acquiring homes from flood-prone areas;
- Maintaining acquired land as open-space to eliminate all future risk; and
- Retrofitting structures to protect them from floods, winds and earthquakes.

By funding such activities, the Federal Government helps communities rebuild stronger, safer and smarter.

In fact, a 2005 Congressionally-mandated study found that every dollar spent on mitigation saves society an average of four dollars; flood mitigation yields even greater savings.

FEMA expects Louisiana to have access to more than \$1.47 billion in Katrina and Rita HMGP funds.

As early as fall 2005, Louisiana recognized mitigation's value and set aside \$250 million in HMGP funds to encourage their local governments to plan for and prioritize "traditional" mitigation activities such as planning, elevation, and acquisition.

Since then, the State has invested valuable time trying to incorporate the bulk of their HMGP funds – over \$1 billion dollars – into the *Road Home*, a state-designed Program that will use \$10.4 billion (verify) in HUD Community Development Block Grant funds to compensate storm victims.

Unfortunately, Louisiana didn't consult FEMA while developing the *Road Home*. Consequently, they encountered difficulties while trying to combine two different Federal programs.

Beginning in August 2006, FEMA worked with HUD and Louisiana in a flexible and accommodating manner, offering creative options to address barriers to progress.

Ultimately, the State's decision to exempt Senior Citizens from a *Road Home* penalty – again made without consulting FEMA – makes their *Road Home*-HMGP proposal unworkable because the exemption conflicts with the Stafford Act's Nondiscrimination in Disaster Assistance Section, which states **"...relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status."**

This is not FEMA's only concern. The goals and objectives of the two programs are different. *The Road Home* seeks to compensate individual homeowners; whereas, the HMGP helps communities reduce their vulnerability to future events.

Last October, Louisiana submitted an HMGP application for over \$1 billion to acquire 12,000 properties under the *Road Home*. The proposal didn't indicate whether the properties met HMGP requirements; nor did it describe how such requirements could be met. Without this information, and considering the legal barriers, FEMA denied the application.

Louisiana appealed the denial in April, and we're reviewing that now. Madam Chair, I'd like to provide copies of two letters related to these matters for the hearing record.

We're approaching the second anniversary of the devastating 2005 hurricane season; and over \$1 billion in HMGP funds remain available to Louisiana.

HMGP success relies on community involvement, because communities are ultimately responsible for their resiliency – their ability to reduce their vulnerability and avert disaster. Community-wide mitigation educates citizens about hazards, motivates them to incorporate mitigation into their land use decisions, and galvanizes them to reconstruct stronger and smarter.

But time is slipping by, and we can't let disaster amnesia set in. Louisiana should seriously consider separating the HMGP from *The Road Home*. I've visited the Gulf Coast many times since August 2005, and I know victims are frustrated that they don't see progress. But to get people back on their feet and removed from harm's way, mitigation must be done right.

As a former Mayor, State Senator, and Lieutenant Governor, I'm no stranger to the challenges that sometimes accompany federal funds.

My experience also makes me confident that a concerted Louisiana-FEMA focus on the HMGP will result in effective mitigation activities across the state.

For instance – FEMA, Louisiana, and the City of New Orleans are developing HMGP proposals now, and after recently meeting with Dr. Blakely, New Orleans' Executive Director for Recovery Management, I'm convinced that New Orleans' HMGP proposals will far exceed the Parish's \$57 million allocation.

If *The Road Home* and the HMGP operate separately, FEMA can provide the State's communities with the resources they need to reduce property damage and loss of life during future events – our collective mission.

With *Road Home's* attention to homeowners and HMGP's community focus, Louisiana-FEMA collaboration can result in a whole that is greater than the sum of its parts, with Louisiana's citizens and communities the beneficiaries.

The mitigation prospects that \$1.47 billion in HMGP funds offers Louisiana are tremendous. In fact, FEMA granted Louisiana a 1-year extension to their HMGP application deadline so the state can take full advantage of these opportunities.

FEMA and the Hazard Mitigation Grant Program stand ready to assist Louisiana's communities help themselves rebuild stronger and smarter so that when the next storm hits the Gulf, communities will be more resilient, and the result won't be as disastrous.

Thank you and I look forward to your questions.

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