

RESPOND ACT OF 2006

—————
JUNE 22, 2006.—Ordered to be printed
—————

Mr. TOM DAVIS of Virginia, from the Committee on Government Reform, submitted the following

R E P O R T

[To accompany H.R. 5316]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 5316) to reestablish the Federal Emergency Management Agency as a cabinet-level independent establishment in the executive branch that is responsible for the Nation's preparedness for, response to, recovery from, and mitigation against disasters, and for other purposes, having considered the same, reports favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 12, line 15, insert “, in consultation with the Office of Personnel and Management,” after “Leading”.

Page 14, strike lines 1 through 5 (and make appropriate conforming changes).

Page 17, line 12, strike “APPOINTMENTS.—” and insert “APPLICABILITY OF CIVIL SERVICE LAWS.—”.

Page 17, line 17, strike “Except” and all that follows through line 21, and insert the following: “Such officers and employees shall be subject to the appointment, compensation, and other provisions of title 5, United States Code, to the same extent and in the same manner as any other officer or employee, as defined by chapter 21 of such title, except that nothing in this Act shall be construed to permit or require that any officers or employees of the Agency be subject to chapter 97 of such title.”.

Page 32, after line 12, insert the following (and make appropriate conforming changes):

“(7) establishing physical and mental health care standards for the disaster workforce during and after service.”.

Page 32, line 18, strike “84.” and insert the following: “84 and shall not be so reemployed for more than 180 days in connection with any particular emergency unless, in the judgment of the Director, the public interest so requires.”.

Page 33, before line 4, insert the following new subtitle (and conform the table of contents accordingly):

Subtitle C—Federal Emergency Management Agency Procurement

SEC. 131. LIMITATIONS ON TIERING OF SUBCONTRACTORS.

(a) REGULATIONS.—The Director shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) SPECIFIC REQUIREMENT.—At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract (not including overhead and profit), unless the Director determines that exceptional circumstances apply.

(c) COVERED CONTRACTS.—This section applies to any cost-reimbursement type contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Agency to facilitate response to or recovery from a major disaster or emergency.

SEC. 132. LIMITATION ON LENGTH OF CERTAIN NON-COMPETITIVE CONTRACTS.

(a) REGULATIONS.—The Director shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative

Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary—

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) **SPECIFIC CONTRACT PERIOD.**—The regulations promulgated under subsection (a) shall require the contract period to not exceed 240 days, unless the Director determines that exceptional circumstances apply.

(c) **COVERED CONTRACTS.**—This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Agency to facilitate response to or recovery from a major disaster or emergency.

SEC. 133. PROHIBITION OF CONSIDERATION OF POLITICAL AFFILIATION IN AWARD OF CONTRACTS.

In the solicitation, evaluation, award, or termination of any contract of the Agency, no preference or consideration may be given to the political party affiliation of, the political contributions of, or the political views expressed by, the contractor or potential contractor or its officers or employees.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 5316, the RESPOND Act, was introduced on May 9, 2006, by Transportation and Infrastructure Chairman Don Young, Government Reform Committee Chairman Tom Davis, Economic Development, Public Buildings, and Emergency Management Subcommittee Chairman Bill Shuster, and over fifty other original Republican and Democratic cosponsors. The legislation would restore the Federal Emergency Management Agency (FEMA) as an independent, cabinet-level agency within the executive branch. The legislation would also strengthen the agency by creating emergency response centers and teams, improving communications at all levels, and requiring the agency to establish a comprehensive workforce development strategy for its employees. Finally, the legislation would establish a National Emergency Preparedness System to ensure that the Nation is prepared to respond to, recover from, and mitigate against the effects of all hazards and disasters.

LEGISLATIVE HISTORY

H.R. 5316, legislation to reestablish the Federal Emergency Management Agency as a cabinet-level independent establishment in the executive branch that is responsible for the Nation's preparedness for, response to, recovery from, and mitigation against disasters, was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Government Reform and Homeland Security. During the Government Reform Committee markup, Chairman Davis offered an amendment that would make a number of modifications to the RESPOND Act that

were proposed by Members of the Government Reform Committee and that reflected findings regarding personnel levels, training and procurement by the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. Specifically, the amendment would provide refinements to the acquisition laws governing FEMA and would clarify that FEMA is subject to existing civil service laws similar to other agencies in the federal government. Additionally, the amendment would make improvements to the “disaster workforce reserve cadre” created by the legislation, including ensuring that FEMA takes steps to mitigate the impact that disaster response has on the physical and mental health of those brought in to respond to disasters. Finally, this amendment would strike the requirement that the FEMA Director serve a 5-year term.

SECTION-BY-SECTION

Section 101. Establishment of agency

This section would establish the Federal Emergency Management Agency as a cabinet-level independent establishment in the executive branch.

Section 102. Responsibilities

This section would provide the responsibilities of the new Federal Emergency Management Agency.

Section 103. Director; Deputy Director

This section would establish the position of “Director” for FEMA, along with the compensation of such position as well as the qualification requirements for any individual serving in that position. The Committee adopted an amendment during consideration of the legislation that would strike the 5-year term of office for the Director. The section would also establish the position of “Deputy Director” for FEMA as well as the duties of the position and the qualification requirements for any individual serving in that position.

Section 104. Office of Inspector General

This section would require the Agency to have an Inspector General in accordance with the provisions of the Inspector General Act of 1978.

Section 105. Transfer of Functions

This section would transfer certain functions, currently housed in other federal departments and agencies, to the Federal Emergency Management Agency.

Section 106. Personnel and other transfers

This section would authorize the Director to appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out FEMA’s functions. The Committee adopted an amendment during consideration of the legislation that would clarify that such officers and employees shall be subject to the appointment, compensation, and other provisions of title 5, United States Code. This section would also authorize FEMA to hire experts and con-

sultants in accordance with section 5315 of title 5, United States Code. Finally, in addition to other administrative matters, this section would authorize the FEMA Director to reorganize the functions transferred to FEMA so long as 320 days' advance notice is provided to Congress.

Section 107. Savings provisions

This section would provide for the continuity of certain matters, such as legal proceedings, that commenced prior to the transfer of functions to FEMA but have not yet been resolved.

Section 108. Conforming and technical amendments

This section would amend the Chief Financial Officer Act to include FEMA in the list of covered agencies.

Section 121. Workforce development

This section would amend subpart I of part III of title 5, United States Code, to add a new chapter 101 providing certain personnel management flexibilities for FEMA, as described below:

“§10101. Definitions

“This section would provide definitions for chapter 101 of title 5, United States Code.

“§10102. Human capital strategy

“This section would require the FEMA Director to develop a human capital strategy for the development of the Agency’s workforce and submit the strategy to Congress six months after date of enactment of this chapter.

“§10103. Recruitment bonuses for the Federal Emergency Management Agency

“This section would authorize FEMA to pay recruitment bonuses to employees. The authority would expire five years after date of enactment of this chapter.

“§10104. Retention bonuses for the Federal Emergency Management Agency

“This section would authorize FEMA to pay retention bonuses to employees. The authority would expire five years after date of enactment of this chapter.

“§10105. Disaster workforce reserve cadre

“This section would establish within FEMA a disaster workforce cadre to help the Agency meet its surge requirements during periods of emergency. Federal annuitants are authorized to be re-employed pursuant to this authority, except that no annuitant may be re-employed under this authority for more than 180 days.”

Section 131. Limitations on tiering of subcontractors

The section would require the Director to promulgate regulations that would address the problems that have surfaced in Katrina recovery contracts with the excessive use of pass-through subcontracts that add little or no value to the accomplishment of contract requirements and add unnecessary cost and complexity. The regulation would preclude a firm under a cost-type disaster recovery contract from subcontracting more than 65% of the cost of performance unless the Director determines that exceptional circumstances apply.

Section 132. Limitation on length of certain non-competitive contracts

The section would require the Director to promulgate regulations to limit the performance period of disaster recovery contracts awarded using other than competitive procedures pursuant to section 303 (c) of the Federal Property and Administrative Services Act (41 USC 253 (c)). That performance period is to be the minimum required to meet the urgent and compelling requirements and to enter into another contract for the required goods or services through the use of competitive procedures. The regulations would provide for a performance period of not more than 240 days unless the Director determines that exceptional circumstances apply.

Section 133. Prohibition of consideration of political affiliation in award of contracts

The section would provide that in the awarding and administration of contracts, the agency shall not grant a preference of or give consideration to the political affiliation, political contributions or views of the contractor, potential contractor or its officers or employees. The section, for the purpose of emphasis, in effect restates current law on this important issue.

EXPLANATION OF AMENDMENTS

The provisions within the Chairman's amendment adopted in Committee are explained in this report.

COMMITTEE CONSIDERATION

On May 18, 2006, the Committee met in open session and ordered reported favorably the bill, H.R. 5316, as amended, by voice vote, a quorum being present.

ROLLCALL VOTES

No rollcall votes were taken.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill reestablishes the Federal Emergency Management Agency (FEMA) as a cabinet-level, independent establishment in the executive branch responsible for disaster planning, response and recovery at the national level. Legislative branch employees and their families, to the extent that they are otherwise eligible for the benefits provided by this legislation, have equal access to its benefits.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings, as well as findings by the Select Bipartisan Committee to Investigate the Preparation for and Response to Hur-

ricane Katrina, and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 5316. The Committee finds the authority for this legislation in article I, section 8 of the Constitution.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 5316. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2829 from the Director of Congressional Budget Office:

JUNE 21, 2006.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for H.R. 5316,, the Restoring Emergency Services to Protect Our Nation from Disasters Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 5316—Restoring Emergency Services To Protect Our Nation From Disasters Act of 2006

Summary: H.R. 5316 would remove the Federal Emergency Management Agency (FEMA) from the Department of homeland Security (DHS) and make it a cabinet-level agency reporting directly to the President of the United States. FEMA had a similar status prior to the formation of DHS in 2003. Under the bill, DHS's responsibilities for ensuring that the national is prepared to respond to man-made and natural disasters would be transferred to FEMA. The bill also would authorize FEMA to coordinate an all-hazards emergency management system that includes federal government activities related to preparedness, response, recovery, and mitigation for terrorism, natural disasters, and other emergencies.

The bill would authorize the appropriation of \$400 million over the 2007–2008 period for emergency equipment grants for states. H.R. 5316 also would authorize the appropriation of \$96 million over the 2007–2009 period and such sums as are necessary after that period for a catastrophe planning program. In addition, the bill would authorize the appropriation of such sums as necessary for a new grant program for state and local governments to help them meet planning requirements under the national Emergency Preparedness System (NEPS).

Assuming appropriation of the necessary and specified amounts, CBO estimates that implementing H.R. 5316 would cost \$912 million over the 2007–2011 period. Enacting this legislation would not affect direct spending or revenues.

H.R. 5316 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform act (UMRA). assuming appropriation of the authorized amounts, state and local governments would benefit from more than \$1 billion in grants to improve emergency preparedness, plan for catastrophic incidents, and purchase emergency equipment. Any costs incurred by those governments would be conditions of receiving federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5316 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 550 (health).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
FEMA consolidation costs and ongoing:					
Estimated authorization level	17	17	17	17	17
Estimated outlays	15	17	17	17	17
Grants for NEPS implementation:					
Estimated authorization level	100	102	104	106	107
Estimated outlays	10	47	79	102	104
Emergency equipment assistance grants:					
Authorization level	200	200	0	0	0
Estimated outlays	20	94	136	82	20
Catastrophe planning program:					
Authorization level	30	32	34	35	35
Estimated outlays	14	23	29	34	35
Total changes:					
Estimated authorization level	347	351	155	158	159
Estimated outlays	59	181	261	235	176

Basis of estimate

For this estimate, CBO assumes that H.R. 5316 will be enacted near the start of fiscal year 2007 and that the necessary amounts will be appropriated over the 2007–2011 period. CBO estimates that implementing this bill would cost \$912 million over the 2007–2011 period, assuming appropriation of the necessary funds. Those costs represent estimated expenditures for activities that H.R. 5316 would authorize but do not include continuing costs for other FEMA programs, such as disaster relief—with outlays that fluctuate significantly from year-to-year, depending on the need to respond to disasters.

FEMA Programs and current spending

H.R. 5316 would establish FEMA as a separate agency from the Department of Homeland Security and would add to its responsibilities most of the functions currently assigned to the Preparedness Directorate of DHS. Under current law, FEMA's primary responsibilities are to respond to all types of disasters, mitigate the damage of future disasters, and help communities recover after a disaster. Most of the spending for these activities comes out of the Disaster Relief Fund. To help the Gulf Coast recover from the 2005 hurricanes, for example, over \$60 billion was initially appropriated to the fund, though over \$20 billion was eventually reallocated to other federal programs that were engaging in disaster recovery efforts related to the hurricanes. On balance, CBO estimates that disaster relief spending will total well over \$20 billion in fiscal year 2006. (In contrast, such spending totaled about \$12 billion in fiscal year 2005 but averaged much less than those amounts prior to 2005.) In addition, FEMA manages the National Flood Insurance Program. CBO estimates that spending for flood insurance claims will exceed \$20 billion in fiscal year 2006. The bill would not change FEMA's responsibilities for providing such disaster assistance or for paying flood insurance claims.

Under H.R. 5316, FEMA would add “preparedness” to its list of authorized activities. Under current law, the Preparedness Directorate of the DHS administers most of the grant and training programs that benefit state and local governments by helping them prepare for future terrorist attacks, natural disasters, or other

emergencies. In 2006, the Congress appropriated more than \$3 billion for those purposes. H.R. 5316 would not reauthorize appropriations for those existing state and local grant programs; however, it would authorize the appropriation of funds for a few new grant programs. This bill would not transfer to FEMA any DHS programs concerned with law enforcement activities to prevent terrorism, the protection of critical infrastructure, or intelligence analysis.

FEMA consolidation costs and ongoing administration

CBO estimates that a few new senior positions would be needed to manage the new independent FEMA and that some current employees would see salary increases with their new responsibilities. In 2006, the agency's appropriation for administrative costs was \$236 million. CBO estimates that staff and salary increases under the bill would cost about \$2 million a year. The bill also would authorize FEMA to establish an Inspector General (IG) office. We assume that the new IG office would be somewhat larger in size and scope than the office operated by FEMA prior to the formation of DHS because of its increased responsibilities. (In 2002, FEMA's IG office had a budget of \$10 million.) Assuming appropriation of the necessary funds, CBO estimates that the new IG office would add about \$15 million annually to the agency's administrative costs.

Under this bill, CBO estimates that about 500 full-time equivalent employees would be transferred from DHS to FEMA to administer FEMA's new preparedness responsibilities. Currently, FEMA has over 2,200 permanent full-time employees, many in the Washington Metropolitan area. The Congress established the DHS in 2003, and the agency is still in the process of consolidating its operations and employees. CBO expects that any significant consolidation of FEMA employees would be unlikely to occur under H.R. 5316 over the next five years. If the agency were to consolidate its employees into one location, however, we estimate that it could cost between \$25 million to \$35 million in one-time costs to move, house, and equip the employees of this larger agency. If the agency were to acquire a new headquarters building, the costs would be significantly higher, though this bill does not include a specific authorization for that purpose.

Grants for NEPS implementation

H.R. 5316 would authorize the appropriation of such sums as are necessary for a new grant program for state and local governments to meet planning requirements under the National Emergency Preparedness System, an existing framework for achieving effective emergency preparedness at all levels of government. Under current law, most of the money for disaster preparedness planning is provided to states through the Emergency Management Performance Grants. In 2006, the Congress appropriated \$185 million for these grants. H.R. 5316 would place new requirements on states, such as developing a new emergency preparedness report that assesses the states' current level of preparedness under the NEPS. Based on information from state and local entities about their needs for additional resources for planning and historical spending patterns for similar grants, CBO estimates that implementing this new grant program would require additional appropriations of about \$100 mil-

lion a year, resulting in outlays of about \$340 million over the 2007–2011 period, assuming appropriation of the estimated amounts.

Emergency equipment assistance grants

The bill would authorize the appropriation of \$200 million a year over the 2007–2008 period for grants for training and equipment for emergency communications. Based on spending patterns of similar programs, CBO estimates that implementing these grants would cost about \$350 million over the 2007–2011 period, assuming appropriation of the specified amounts. (Additional outlays from the authorized amounts would occur after 2011.)

Catastrophe planning program

H.R. 5316 would authorize the appropriation of \$96 million over the 2007–2009 period and such sums as may be necessary after 2009 to implement a catastrophe planning program that would include developing plans to address catastrophes, training state and local government officials, and conducting exercises to test the efficacy of those plans. For this estimate, CBO adjusted the amount authorized to be appropriated in 2009 for anticipated inflation to estimate the cost of this program after 2009. Based on historical spending patterns of similar programs, CBO estimates that implementing this provision would cost \$135 million over the 2007–2011 period.

Intergovernmental and private-sector impact: H.R. 5316 contains no intergovernmental or private-sector mandates as defined in UMRA. Assuming the appropriation of authorized amounts, state and local governments would benefit from more than \$1 billion in grants to improve emergency preparedness, plan for catastrophic incidents, and purchase emergency equipment. Any costs incurred by those governments would be conditions of receiving federal assistance.

Previous CBO estimates: On June 2, 2006, CBO prepared a cost estimate for H.R. 5316, the Restoring Emergency Services Act of 2006, as ordered reported by the House Committee on Transportation and Infrastructure on May 17, 2006. The two versions of the bill are similar, but they would authorize the appropriation of different amounts for different grant programs, and CBO's cost estimates reflect those differences.

On June 2, 2006, CBO prepared a cost estimate for H.R. 5351, the National Emergency Management Reform Act of 2006, as ordered reported by the House Committee on Homeland Security on May 17, 2006. H.R. 5351 would authorize the President to establish the Directorate of Emergency Management within the Department of Homeland Security and would authorize appropriations for some FEMA programs.

Both H.R. 5351 and H.R. 5316 would reorganize FEMA but would do so in different ways. Each bill would authorize the appropriation of different amounts for different FEMA and preparedness activities and grant programs, and CBO's cost estimates reflect those differences.

Estimate prepared by: Federal costs: Julie Middleton; impact on state, local, and tribal governments: Melissa Merrell; impact on the private sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

Chapter Sec.

SUBPART A—GENERAL PROVISIONS

21. Definitions 2101
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SUBPART I — MISCELLANEOUS

* * * * *
 101. *Federal Emergency Management Agency personnel* 10101
 * * * * *

SUBPART D—PAY AND ALLOWANCES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

- Secretary of State.
- Secretary of the Treasury.
- Secretary of Defense.
- Attorney General.
- Secretary of the Interior.
- Secretary of Agriculture.
- Secretary of Commerce.
- Secretary of Labor.
- Secretary of Health and Human Services.
- Secretary of Housing and Urban Development.
- Secretary of Transportation.
- United States Trade Representative.
- Secretary of Energy.

Secretary of Education.
 Secretary of Veterans Affairs.
 Secretary of Homeland Security.
 Director of the Office of Management and Budget.
 Commissioner of Social Security, Social Security Administration.
 Director of National Drug Control Policy.
 Chairman, Board of Governors of the Federal Reserve System.
 Director of National Intelligence.
Director of the Federal Emergency Management Agency.

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SUBPART I—MISCELLANEOUS

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CHAPTER 101—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

Sec.

- 10101. *Definitions.*
- 10102. *Human capital strategy.*
- 10103. *Recruitment bonuses for the Federal Emergency Management Agency.*
- 10104. *Retention bonuses for the Federal Emergency Management Agency.*
- 10105. *Disaster workforce reserve cadre.*

§ 10101. Definitions

For purposes of this chapter—

- (1) *the term “Federal Emergency Management Agency” or “Agency” shall be considered to refer to the Federal Emergency Management Agency established under section 101 of the RESPOND Act of 2006; and*
- (2) *the term “Director of the Federal Emergency Management Agency” or “Director” shall be considered to refer to the Director of the Federal Emergency Management Agency appointed under section 103 of the RESPOND Act of 2006.*

§ 10102. Human capital strategy

(a) *IN GENERAL.—The Director of the Federal Emergency Management Agency shall develop a human capital strategy to ensure that the Agency has a workforce of the appropriate size and with the appropriate skills and training to effectively carry out the mission and responsibilities of the Agency, consistent with the policies and plans developed pursuant to this section.*

(b) *CONTENT.—The strategy shall include, at a minimum—*

- (1) *a workforce development strategy for the Agency;*
- (2) *an assessment of the workforce characteristics and future needs of the Agency;*
- (3) *an analysis of how the Agency’s human resources policies and programs align with the Agency’s mission, strategic goals, and performance outcomes; and*
- (4) *any other elements that the Director determines necessary to develop and maintain a human capital strategy, including elements described in section 1402.*

(c) *SCHEDULE.—The Director shall transmit to Congress—*

- (1) *the strategy developed under this section not later than 6 months after the date of enactment of this chapter; and*

- (2) *periodic updates to the strategy referred to in paragraph (1).*

§ 10103. Recruitment bonuses for the Federal Emergency Management Agency

(a) *IN GENERAL.*—*The Director of the Federal Emergency Management Agency may pay a bonus to an individual in order to recruit the individual for a position within the Agency that would otherwise be difficult to fill in the absence of such a bonus.*

(b) *BONUS AMOUNT.*—

(1) *IN GENERAL.*—*The amount of a bonus under this section shall be determined by the Director, but may not exceed 25 percent of the annual rate of basic pay of the position involved.*

(2) *FORM OF PAYMENT.*—*A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.*

(c) *SERVICE AGREEMENTS.*—*Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement with the Federal Emergency Management Agency. The agreement shall include—*

(1) *the period of service the individual shall be required to complete in return for the bonus; and*

(2) *the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.*

(d) *ELIGIBILITY.*—*A bonus under this section may not be paid to recruit an individual for—*

(1) *a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;*

(2) *a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or*

(3) *a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.*

(e) *TERMINATION.*—*The authority to pay bonuses under this section shall terminate 5 years after the date of enactment of this chapter.*

§ 10104. Retention bonuses for the Federal Emergency Management Agency

(a) *AUTHORITY.*—*The Director of the Federal Emergency Management Agency may pay, on a case-by-case basis, a bonus under this section to an employee of the Agency if—*

(1) *the unusually high or unique qualifications of the employee or a special need of the Agency for the employee's services makes it essential to retain the employee; and*

(2) *the Director determines that, in the absence of such a bonus, the employee would be likely to leave—*

(A) *the Federal service; or*

(B) *for a different position in the Federal service.*

(b) *SERVICE AGREEMENT.*—*Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Agency to complete a period of service with the Agency. Such agreement shall include—*

(1) the period of service the individual shall be required to complete in return for the bonus; and

(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

(c) **BONUS AMOUNT.**—

(1) **IN GENERAL.**—The amount of a bonus under this section shall be determined by the Director, but may not exceed 25 percent of the annual rate of basic pay of the position involved.

(2) **FORM OF PAYMENT.**—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

(d) **LIMITATION.**—A bonus under this section may not be based on any period of service which is the basis for a recruitment bonus under section 10103.

(e) **TERMINATION OF AUTHORITY.**—The authority to grant bonuses under this section shall expire 5 years after the date of enactment of this chapter.

§ 10105. Disaster workforce reserve cadre

(a) **ESTABLISHMENT.**—There is established within the Federal Emergency Management Agency a disaster workforce reserve cadre to meet the Agency's surge requirements during periods of emergency, as determined by the Director of the Federal Emergency Management Agency.

(b) **REVIEW.**—Not later than 90 days after the date of enactment of this chapter, the Director shall conduct a comprehensive review of the current disaster workforce reserves for the purpose of identifying areas for redevelopment. As part of the review, the Director shall review and redevelop the disaster workforce to create a capable cadre by—

(1) providing for the effective utilization of the disaster workforce;

(2) establishing consistent and shorter disaster workforce mobilization times;

(3) establishing standards to meet mission requirements;

(4) establishing a robust credentialing system for the disaster workforce to integrate capabilities and skill sets into job descriptions for a more effective and faster response capability;

(5) establishing employment protections for disaster workforce reservists;

(6) establishing a streamlined deployment system; and

(7) establishing physical and mental health care standards for the disaster workforce during and after service.

(c) **ANNUITANTS.**—If an individual receiving an annuity from the Civil Service Retirement and Disability Fund becomes temporarily reemployed pursuant to this section, such annuity shall not be discontinued thereby. An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 and shall not be so reemployed for more than 180 days in connection with any particular emergency unless, in the judgment of the Director, the public interest so requires.

(d) **EXPENSES.**—The Director may provide members of the disaster workforce reserve cadre transportation and per diem in lieu of subsistence, in accordance with applicable provisions of this title, for

the purpose of participating in any training that relates to service as a member of the disaster workforce reserve cadre.

* * * * *

SECTION 901 OF TITLE 31, UNITED STATES CODE

§ 901. Establishment of agency Chief Financial Officers

(a) * * *

(b)(1) * * *

(2) The agencies referred to in subsection (a)(2) are the following:

(A) * * *

* * * * *

(H) The Federal Emergency Management Agency.

* * * * *

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

* * * * *

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

[(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.]

* * * * *

[SEC. 507. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

[(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

[(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

[(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

[(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

[(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

[(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential vic-

tims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

[(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

[(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

[(b) FEDERAL RESPONSE PLAN.—

[(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order No. 12148 (44 Fed. Reg. 43239) and Executive Order No. 12656 (53 Fed. Reg. 47491).

[(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.]

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ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

* * * * *

TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

* * * * *

[EMERGENCY SUPPORT TEAMS

[SEC. 303. The President shall]

SEC. 303. EMERGENCY SUPPORT AND RESPONSE TEAMS.

(a) *EMERGENCY SUPPORT TEAMS.*—The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

(b) *EMERGENCY RESPONSE TEAMS.*—

(1) *ESTABLISHMENT.*—In carrying out subsection (a), the President, acting through the Director of the Federal Emergency

Management Agency, shall establish at a minimum 3 national response teams and sufficient regional and other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.

(2) TARGET CAPABILITY LEVEL.—The Director shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 703(b)(2)(A), are established for Federal emergency response teams.

(3) PERSONNEL.—The President, acting through the Director, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels.

(4) READINESS REPORTING.—The Director shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 703(b)(8)(A).

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TITLE VI—EMERGENCY PREPAREDNESS

SEC. 601. DECLARATION OF POLICY.

The purpose of this title *and title VII* is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards.

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Subtitle A—Powers and Duties

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SEC. 616. CATASTROPHIC PLANNING PROGRAM.

(a) ESTABLISHMENT.—The Director shall establish a program to assist States and local governments representing areas at substantial risk for a catastrophic incident, and other Federal agencies as appropriate, in developing a comprehensive program to prepare for a catastrophic incident.

(b) ACTIVITIES.—The program may include planning, training, exercises, and such other activities as the Director considers necessary.

(c) SITE SELECTION.—In conducting the program, the Director, in coordination with a State or local government, shall select sites within the jurisdiction of such State or local government that are at substantial risk for a catastrophic incident and require addi-

tional preparedness activities to ensure an effective response and recovery.

(d) **CATASTROPHIC INCIDENT.**—*In this section, the term “catastrophic incident” means any natural or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, or government functions.*

(e) **REPORT.**—*The Director shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the preparedness levels of participating jurisdictions.*

(f) **AUTHORIZATION OF APPROPRIATIONS.**—*There is authorized to be appropriated to carry out this section \$30,000,000 for fiscal year 2007, \$32,000,000 for fiscal year 2008, \$34,000,000 for fiscal year 2009, and such sums as are necessary for each fiscal year thereafter. Such sums shall remain available until expended.*

Subtitle B—General Provisions

* * * * *

SEC. 630. EMERGENCY EQUIPMENT ASSISTANCE.

(a) **GRANTS.**—*The Director shall carry out a program to make grants to States and local governments to improve the response capabilities of the States and local governments in the event of a major disaster or other emergency.*

(b) **USE OF FUNDS.**—*Grants amounts received by a State or local government under this section shall be used—*

(1) *to purchase or improve commercially available interoperable communications equipment that—*

(A) *complies with, where applicable, national voluntary consensus standards;*

(B) *facilitates operability, interoperability, coordination, and integration between and among emergency communications systems (including satellite phone and satellite communications equipment); and*

(C) *ensures that first responders, government officials, and emergency personnel are able to adequately and effectively communicate with each other in the event of a major disaster or other emergency;*

(2) *to purchase mobile equipment to generate emergency power; and*

(3) *to train first responders and emergency personnel on how best to use effectively such equipment.*

(c) **APPLICATIONS.**—*A State or local government seeking a grant under this section shall submit to the Director an application at such time, in such manner, and accompanied by such information as the Director may require.*

(d) **TECHNICAL ASSISTANCE.**—*The Director shall provide to States and local governments technical assistance with respect to the procurement, installation, and use of equipment under subsection (b)(1).*

(e) *COORDINATION.*—In implementing the program, the Director shall ensure the coordination with other emergency equipment assistance grant programs.

(f) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2006, 2007, and 2008. Such sums shall remain available until expended.

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TITLE VII—COMPREHENSIVE EMERGENCY PREPAREDNESS SYSTEM

SEC. 701. DEFINITIONS.

In this title, the definitions contained in section 602 and the following definitions apply:

(1) *CAPABILITY.*—The term “capability” means the ability to provide the means to accomplish one or more tasks under specific conditions and to specific performance standards. A capability may be delivered with any combination of properly planned, organized, equipped, trained, and exercised personnel that achieves the intended outcome.

(2) *COVERED GRANT.*—The term “covered grant” means a grant referred to in section 708 and any other emergency preparedness grant administered by the Federal Emergency Management Agency.

(3) *MISSION ASSIGNMENT.*—The term “mission assignment” means a work order issued to a Federal agency by the Federal Emergency Management Agency, directing completion by that agency of a specified task and setting forth funding, other managerial controls, and guidance.

(4) *OPERATIONAL READINESS.*—The term “operational readiness” means the capability of an organization, an asset, a system, or equipment to perform the missions or functions for which it is organized or designed.

(5) *PERFORMANCE MEASURE.*—The term “performance measure” means a quantitative or qualitative characteristic used to gauge the results of an outcome compared to its intended purpose.

(6) *PERFORMANCE METRIC.*—The term “performance metric” means a particular value or characteristic used to measure the outcome that is generally expressed in terms of a baseline and a target.

SEC. 702. NATIONAL EMERGENCY PREPAREDNESS GOAL.

(a) *ESTABLISHMENT.*—The President, acting through the Director, shall establish and revise as necessary a national emergency preparedness goal that defines the target level of emergency preparedness to ensure the Nation’s ability to respond to, recover from, and mitigate against all hazards, including major disasters and other emergencies.

(b) *NATIONAL INCIDENT MANAGEMENT SYSTEM AND NATIONAL RESPONSE PLAN.*—The national emergency preparedness goal, to the greatest extent practicable, shall be consistent with the national incident management system and national response plan.

SEC. 703. ESTABLISHMENT OF THE NATIONAL EMERGENCY PREPAREDNESS SYSTEM.

(a) *ESTABLISHMENT.*—The President, acting through the Director, shall establish a national emergency preparedness system to enable the Nation to meet the national emergency preparedness goal.

(b) *COMPONENTS.*—The national emergency preparedness system includes the following components:

(1) *NATIONAL PLANNING SCENARIOS.*—

(A) *IN GENERAL.*—The Director, in coordination with the heads of other appropriate Federal agencies and the Task Force established under section 707(a), may develop planning scenarios to reflect the relative risk requirements presented by all hazards in order to provide the foundation for the flexible and adaptive development of target capabilities and the identification of target capability levels to meet the national emergency preparedness goal.

(B) *DEVELOPMENT.*—In developing national planning scenarios, the Director shall ensure that the scenarios—

(i) reflect the relative risk of all hazards and illustrate the potential scope, magnitude, and complexity of a broad range of representative hazards; and

(ii) provide the minimum number of representative scenarios necessary to identify and define the tasks and target capabilities required to respond to all hazards.

(2) *TARGET CAPABILITIES AND EMERGENCY PREPAREDNESS PRIORITIES.*—

(A) *ESTABLISHMENT OF GUIDELINES ON TARGET CAPABILITIES.*—Not later than 180 days after the date of enactment of the Restoring Emergency Services to Protect Our Nation From Disasters Act of 2006, the Director, in coordination with the heads of other appropriate Federal agencies, including the National Council on Disability, and the Task Force established under section 707(a), shall update and revise as necessary guidelines to define the risk-based target capabilities for Federal, State, and local government emergency preparedness that enables the Nation to respond to, recover from, and mitigate against all hazards, including major disasters and other emergencies.

(B) *DISTRIBUTION OF GUIDELINES.*—The Director shall ensure that the guidelines are provided promptly to Congress and the States. The States are encouraged to make the guidelines available to local governments within their jurisdictions.

(C) *OBJECTIVES.*—The Director shall ensure that the guidelines established under subparagraph (A) meet the following objectives:

(i) *SPECIFICITY.*—The guidelines specifically describe the training, planning, personnel, and equipment that Federal, State, and local governments need to possess, or to which they need to have access, in order to meet the national emergency preparedness goal.

(ii) *FLEXIBILITY.*—The guidelines are sufficiently flexible to allow Federal, State, and local government officials to set priorities based on particular needs,

while achieving nationally determined emergency preparedness levels within a specified time period.

(iii) *MEASURABILITY.*—The guidelines are designed to enable measurement of progress toward specific emergency preparedness levels.

(D) *EMERGENCY PREPAREDNESS PRIORITIES.*—In establishing the guidelines under subparagraph (A), the Director shall establish emergency preparedness priorities that appropriately balance the risk of all hazards, including major disasters and other emergencies with the resources required to respond to, recover from, and mitigate against them.

(E) *MUTUAL AID AGREEMENTS.*—The Director may provide support for the development of mutual aid agreements within States.

(3) *EQUIPMENT.*—

(A) *EQUIPMENT STANDARDS.*—

(i) *IN GENERAL.*—The Director, in coordination with the heads of other appropriate Federal agencies and the Task Force established under section 707(a), shall develop, promulgate, and update as necessary national voluntary consensus standards for first responder equipment for use in the field. In developing such standards, the Director shall—

(I) ensure that the standards encourage and support nationwide interoperability and operability of equipment and other capabilities consistent with the national emergency preparedness goal, including the safety and health of first responders;

(II) to the maximum extent practicable, ensure that the standards are consistent with any existing voluntary consensus standards;

(III) to the maximum extent practicable, ensure that the standards use technologies already certified by other Federal agencies of the United States;

(IV) take into account, as appropriate, threats that may not have been contemplated when such existing standards were developed; and

(V) focus on maximizing interoperability, operability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety of equipment.

(ii) *DEADLINE.*—Not later than 180 days after the date of enactment of the Restoring Emergency Services to Protect Our Nation From Disasters Act of 2006, the Director shall promulgate standards under this subparagraph.

(B) *CONSULTATION WITH STANDARDS ORGANIZATIONS.*—Before issuing standards, the Director shall also consult with relevant public and private sector standards organizations.

(4) *TRAINING AND EXERCISES.*—

(A) *PROGRAM.*—Not later than 180 days after the date of enactment of the Restoring Emergency Services to Protect Our Nation From Disasters Act of 2006, the Director, in co-

ordination with the heads of other appropriate Federal agencies, including the National Council on Disability, and the Task Force established under section 707(a), shall establish and maintain a comprehensive training program for all levels of government to implement the national emergency preparedness goal, national incident management system, and national response plan.

(B) TRAINING STANDARDS.—The Director shall develop and update as necessary, national voluntary consensus standards for the training program established under subparagraph (A).

(C) EXERCISES.—The Director, in coordination with the heads of other appropriate Federal agencies and the Task Force established under section 707(a), shall establish and maintain a program, including risk-based scenarios that stress the emergency management system, to conduct emergency preparedness-related exercises that reinforce identified training standards, provide for evaluation of emergency preparedness, and support the national emergency preparedness goal, national incident management system, and national response plan.

(5) COMPREHENSIVE ASSESSMENT SYSTEM.—

(A) ESTABLISHMENT.—The Director, in coordination with the National Council on Disability and the Task Force established under section 707(a), shall establish a comprehensive system to assess on an ongoing basis, the Nation's overall emergency preparedness, including operational readiness.

(B) PERFORMANCE METRICS AND MEASURES.—The Director shall ensure that each component of the national emergency preparedness system, national incident management system, and national response plan is developed with clear and quantifiable performance metrics, measures, and outcomes.

(C) CONTENTS.—The assessment system established under subparagraph (A) shall assess—

(i) compliance with the national emergency preparedness system, national incident management system, and national response plan to achieve a consistent approach to national emergency preparedness and response;

(ii) capability levels at the time of assessment against target capability levels defined pursuant to the guidelines established under paragraph (2)(A);

(iii) resource needs to meet the desired target capability levels defined pursuant to the guidelines established under paragraph (2)(A); and

(iv) performance of training, exercises, and operations.

(6) BEST PRACTICES, AFTER ACTION REVIEWS, AND REMEDIAL ACTION PROGRAM.—

(A) IN GENERAL.—The Director, in coordination with the National Council on Disability and the Task Force established under section 707(a), shall establish a system for

identifying best practices and conducting after action reviews of incidents and exercises.

(B) *REMEDIAL ACTION.*—*The Director, in coordination with the National Council on Disability and the Task Force established under section 707(a), shall ensure through a remedial action program that the best practices and after action reviews identified under subparagraph (A) are used to revise and update the national emergency preparedness system, national incident management system, and national response plan on a continual basis.*

(7) *FEDERAL RESPONSE CAPABILITY INVENTORY.*—

(A) *IN GENERAL.*—*Not later than 180 days after the date of enactment of the Restoring Emergency Services to Protect Our Nation From Disasters Act of 2006, the Director, in coordination with the heads of other appropriate Federal agencies, shall develop and maintain a Federal response capability inventory that includes the performance parameters of the capability, the timeframe within which the capability can be brought to bear on an incident, and the readiness of such capability to respond to all hazards, including major disasters and other emergencies.*

(B) *DEPARTMENT OF DEFENSE.*—*The Director, in coordination with the Secretary of Defense, shall develop a list of organizations and functions within the Department of Defense that may be used, pursuant to the authority provided under sections 402, 403, and 502 of this Act, to provide support to civil authorities during major disasters and other emergencies.*

(8) *REPORTING REQUIREMENTS.*—

(A) *FEDERAL EMERGENCY PREPAREDNESS REPORT.*—

(i) *IN GENERAL.*—*Not later than 12 months after the date of enactment of the Restoring Emergency Services to Protect Our Nation From Disasters Act of 2006, and annually thereafter, the Director, in coordination with the heads of other appropriate Federal agencies, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the Nation's level of emergency preparedness.*

(ii) *CONTENTS.*—*Each report shall include—*

(I) *an assessment of how Federal emergency preparedness assistance supports the national emergency preparedness system;*

(II) *an assessment of compliance with the national emergency preparedness system, national incident management system, and national response plan;*

(III) *an assessment of current Federal and State capability levels and a description of target capability levels defined pursuant to the guidelines established under paragraph (2)(A);*

(IV) *an assessment of performance of training, exercises, and operations;*

(V) information on the use of mutual aid agreements;

(VI) a review of the inventory described in paragraph (7)(A); and

(VII) an assessment of resource needs to meet target capability levels defined pursuant to the guidelines established under paragraph (2)(A), including—

(aa) an estimate of the amount of Federal, State, and local expenditures required to attain the target capability levels; and

(bb) the extent to which target capability levels were created or enhanced as the result of using covered grant funds during the preceding fiscal year.

(B) STATE EMERGENCY PREPAREDNESS REPORT.—

(i) **IN GENERAL.**—Not later than 15 months after the date of enactment of the Restoring Emergency Services to Protect Our Nation From Disasters Act of 2006, and annually thereafter, a State receiving a covered grant shall submit a report to the Director on the State's level of emergency preparedness.

(ii) **CONTENTS.**—Each report shall include—

(I) an assessment of State compliance with the national emergency preparedness system, national incident management system, and national response plan;

(II) an assessment of current capability levels and a description of target capability levels;

(III) an assessment of State performance of training, exercises, and operations;

(IV) information on the use of mutual aid agreements;

(V) information on the distribution by the State of the guidelines established by paragraph (2)(A) to local governments within its jurisdiction; and

(VI) an assessment of resource needs to meet target capability levels defined pursuant to the guidelines established under paragraph (2)(A), including—

(aa) an estimate of the amount of expenditures required to attain the target capability levels; and

(bb) the extent to which target capability levels were created or enhanced as the result of using covered grant funds during the preceding fiscal year.

(C) USE OF QUANTIFIABLE PERFORMANCE MEASUREMENTS.—To the extent practicable, each report shall be based on quantifiable performance measurements.

SEC. 704. NATIONAL INCIDENT MANAGEMENT SYSTEM.

(a) **NATIONAL INCIDENT MANAGEMENT SYSTEM.**—There is hereby established a national incident management system that encompasses a single, comprehensive approach to domestic incident management to ensure that all levels of government across the Nation

have the capability to work efficiently and effectively together by using a consistent approach to domestic incident management for all hazards, including major disasters and other emergencies.

(b) RESPONSIBILITIES OF DIRECTOR.—

(1) RESPONSIBILITY FOR SYSTEM.—The Director shall be responsible for all aspects of the national incident management system, including completing, implementing, maintaining, and revising the system.

(2) COORDINATION OF SYSTEM.—The Director shall coordinate with the heads of other appropriate Federal agencies in revising the system.

SEC. 705. NATIONAL RESPONSE PLAN.

(a) RESPONSIBILITIES OF DIRECTOR.—

(1) RESPONSIBILITY FOR PLAN.—The Director shall be responsible for all aspects of the national response plan, including completing, implementing, maintaining, and revising the plan.

(2) COORDINATION OF PLAN.—The Director shall coordinate with the heads of other appropriate Federal agencies, including the National Council on Disability, in revising the plan.

(b) INITIAL REVIEW AND REVISION OF RESPONSE PLAN.—

(1) IN GENERAL.—Not later than March 1, 2007, the Director shall, in coordination with the heads of other appropriate Federal agencies, including the National Council on Disability, and the Task Force established under section 707(a), complete a comprehensive review of the national response plan for the purpose of identifying areas for revision.

(2) REVIEW AND REVISE.—As part of the review, the Director shall review and revise the national response plan—

(A) to ensure integration and consistency with the national incident management system;

(B) to establish a protocol for a proactive Federal response in support of a State to a catastrophic disaster with or without warning; and

(C) to clarify the role of who is in charge of the Federal disaster response.

(c) MISSION ASSIGNMENTS.—To expedite the provision of assistance under the national response plan, the Director, in coordination with the heads of other appropriate Federal agencies and the Task Force established under section 707(a), shall develop prescribed mission assignments for logistics, communications, mass care, health services, and public safety.

SEC. 706. FEDERAL EMERGENCY PREPAREDNESS.

(a) AGENCY RESPONSIBILITY.—In support of the national emergency preparedness system established under this title, the President shall ensure that each Federal agency with responsibility for responding to major disasters and other emergencies shall—

(1) have the operational capability, including the personnel to make and communicate decisions, organizational structures that are assigned, trained, and exercised for their missions, sufficient physical resources, and the command, control, and communication channels to make, monitor, and communicate decisions to meet the national emergency preparedness goal;

(2) have the operational command and control structures that comply with the national incident management system;

(3) develop, in support of crisis operational capability, a deliberate planning capability, including plans, personnel, and training; and

(4) develop, train, and exercise rosters of disaster response personnel to be deployed when the organization is called upon to support a Federal response.

(b) CONSTRUCTION.—Nothing in this section shall limit the authority of the Secretary of Defense with regard to the command and control, training, planning, equipment, exercises, or employment of Department of Defense forces, or the allocation of Department of Defense resources.

SEC. 707. NATIONAL EMERGENCY PREPAREDNESS TASK FORCE.

(a) ESTABLISHMENT.—The Director shall establish a National Emergency Preparedness Task Force (referred to in this section as the “Task Force”) to ensure effective and ongoing coordination of Federal emergency preparedness, response, recovery, and mitigation efforts for all hazards that incorporates State and local government and private sector input in the development and revision of the national emergency preparedness goal, the national emergency preparedness system, national incident management system, and national response plan.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall consist of members appointed by the Director from State and local emergency management organizations and governmental and nongovernmental emergency response organizations from the State and local levels.

(2) REPRESENTATION.—To the extent practicable, Task Force members shall represent—

(A) geographically diverse areas (including urban and rural);

(B) State and local emergency management professional organizations; and

(C) individuals involved in a cross section of emergency response disciplines and professions, including as appropriate fire service and law enforcement, hazardous materials response, emergency medical services, public works personnel routinely engaged in emergency response, health professionals, and organizations with expertise in accrediting and establishing standards for emergency management services.

(3) CONSULTATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Director shall consult with the Secretary of Health and Human Services.

(4) EX OFFICIO MEMBERS.—The Director shall designate one or more officers from the Federal Emergency Management Agency to serve as an ex officio member of the Task Force.

SEC. 708. AUTHORIZATION.

(a) IN GENERAL.—The Director is authorized to make grants to any State or local government for the purpose of carrying out this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for the Director to assist State and local governments to meet requirements under this title.

TITLE [VII] VIII—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS

SEC. [701] 801. (a) * * *

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TECHNICAL AMENDMENTS

SEC. [702] 802. (a) * * *

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REPEAL OF EXISTING LAW

SEC. [703] 803. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235, 236, 237, 301, 302, 303, and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

SEC. [704] 804. Funds heretofore appropriated and available under Public Laws 91–606, as amended, and 92–385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

SEC. [705] 805. DISASTER GRANT CLOSEOUT PROCEDURES.

(a) * * *

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