

PROJECT ON NATIONAL SECURITY REFORM

RECALIBRATING THE SYSTEM:

TOWARD EFFICIENT AND EFFECTIVE RESOURCING
OF NATIONAL PREPAREDNESS

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Preface

The Recommendation in the Context of PNSR Analysis of the National Security System

In the U.S. three levels of government share sovereignty over common territory. This fundamental reality requires substantive improvement to current approaches to homeland security mission preparedness and execution, and if necessary, establishment of new formal and informal *intergovernmental* structures and processes. Acknowledging this reality, the PNSR Homeland Security Team identifies a key concern behind the homeland security component of the national security system: the fragmented national security and homeland security structure. This fragmented structure—between and within all levels of government—fails to require and empower systematic collaboration, coordination, and integration of strategy and policy development, resourcing, and aligned operational execution in steady-state or crises.¹

The Homeland Security Team also identifies the underlying cause as a lack of engagement with state and local levels in developing policy. Current structures and/or processes do not harness non-federal governmental capabilities to address exigent national security situations to either supplement or perform primary missions to support federal national security priorities. However, national security and homeland security policies do not always define the roles, responsibilities, and authorities of the federal government, sovereign state and local governments, the private sector, and non-governmental organizations (NGOs).²

The National Preparedness System acts as the foundation of the intergovernmental and interagency partnerships for homeland security and emergency management. Directly applicable to this system, the PNSR Homeland Security Team identifies three inter-related problem areas: (1) risk assessment; (2) operational planning, and exercise validation; and (3) the use of homeland security preparedness grants to target, develop, and sustain state and local catastrophic preparedness capabilities. These problem areas are common themes of intergovernmental conflict throughout the homeland security/ emergency management system and will be discussed throughout this paper.

¹ PNSR Homeland Security Team *State/Local Issue Team Solution Set* (November 25, 2008), p. 17, accessible on the “Reports/Additional Research” page of the PNSR Web Site, www.pnsr.org.

² *Ibid.*, p. 10.

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Executive Summary

Problem Context

The National Preparedness System³ as defined by the Post Katrina Emergency Reform Act (PKEMRA) of 2006 is intended to be the foundation of the intergovernmental and interagency partnerships for homeland security and emergency management.⁴ While the Federal Emergency Management Agency (FEMA) has statutory responsibility for the National Preparedness System, the agency does not have directive authority to manage it.

FEMA must therefore *collaborate* with the Department of Homeland Security (DHS), other Executive Branch entities, Congress, state, tribal, territorial, and local governments, associations, non-profit organizations, and the private sector to develop preparedness policy and doctrine. This preparedness collaboration seeks to assess risks, define roles and responsibilities, develop and sustain plans with associated tasks, identify capabilities and capability gaps, and determine resource requirements for operational execution of homeland security and emergency management missions—most crucially with regard to catastrophic emergencies.⁵

The effectiveness of the National Preparedness System has been steadily improving. PKEMRA and the regional establishment of Federal Preparedness Coordinators (FPCs), the Comprehensive Preparedness Guide 101 (CPG 101), Integrated Planning System, and efforts such as the Urban Area Security Initiative (UASI) and the Regional Catastrophic Preparedness Grant Program (RCPGP) are reflections of FEMA and its mission partners' growing realization that integration of the components of the National Preparedness System are best accomplished through collaborative, catastrophic, deliberative planning at the local, state, and national levels, with an

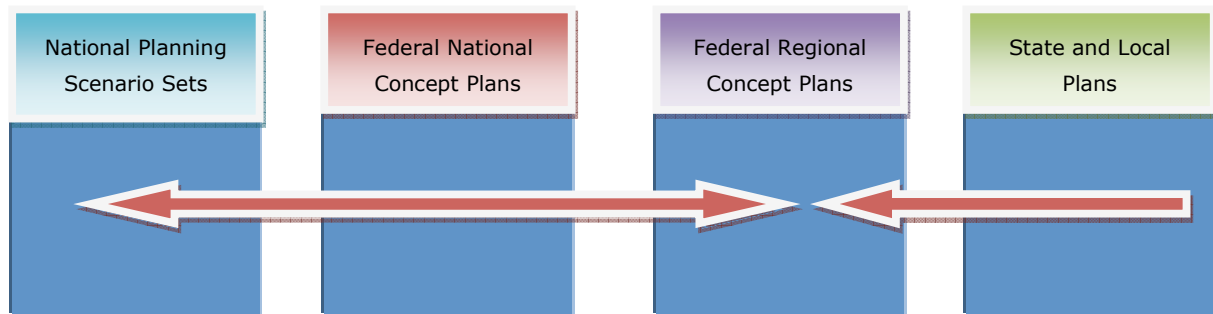
³ Various sections of PKEMRA Subtitle C, Chapter 1 address the national preparedness system. Section 644(b) lists eight components: target capabilities and preparedness priorities; equipment and training standards; training and exercises; the comprehensive assessment system; remedial action management program; Federal response inventory; reporting requirements; and Federal preparedness. Among the sections particularly relevant to this white paper are §645, National Planning Scenarios, §646 Target Capabilities and Preparedness Priorities, §648 Training and Exercises, §649 Comprehensive Assessment System, §650 Remedial Action Management Program and §652(c) Reporting Requirements, State Preparedness Report.

⁴ Preparedness is not just about preparedness for response and recovery. It undergirds the entire homeland security mission continuum to include prevention and protection (a domain beyond emergency management)— i.e., public safety functions.

⁵ As defined in *National Security Presidential Directive-51/Homeland Security Presidential Directive-20 (NSPD-51/HSPD-20)*, catastrophic emergency means “any incident, regardless of location, that results in extraordinary levels of mass casualties, damage or disruption severely affecting the U.S. population, infrastructure, environment, economy or government functions.”

emphasis on regional coordination. It is in the regions that the planning processes of federal and local entities converge, as illustrated in Figure 1 below.

Figure 1: Linkages between Federal, Regional, and State and Local Plans



It is the conclusion of the Homeland Security Team that catastrophic operational planning is at the crux of the National Preparedness System. Federal, state, tribal, territorial, and local governments and their mission partners must agree to and promulgate a uniform, standard and synchronized deliberative planning effort. They should base homeland security investment decisions on plans that emerge from such a national planning effort, and no longer should they base those decisions on generic lists of capabilities that exist in a vacuum and without appreciation for risk or geography. In line with the above-stated direction in which FEMA and its mission partners are going,⁶ the Team concludes that federal regions should play a central role in facilitating collaboration between *co-equal* sovereigns to drive and tailor their specific catastrophic planning and determine collaboratively established requirements.

Identified Problems

The PNSR Homeland Security Team identified two specific and related areas needing attention: (1) unresolved conflict over all-hazards risk in national preparedness; and (2) inadequate capabilities for state/local-level catastrophic operational planning.

1. Unresolved Conflict over All-Hazards Risk

Determination and assessment of risks directly drive the identification of preparedness capabilities—and any gaps in capabilities—to meet those risks. Capabilities, and more specifically the identification of inadequate capabilities, in turn drive investment decisions. The key issue is how the federal government, states, localities, and other mission partners agree on risks: i.e., where and how that agreement will occur and who should lead or facilitate the consensus-building process.

⁶ Cf. Josh Dozor *Integrating Regional and National Preparedness through FEMA Regions*, PowerPoint Presentation (May 12, 2008), accessible at <http://training.fema.gov/TEConf/doc/May%2012%20-%20Day%201/Integrating%20Regional%20and%20National%20Preparedness%20Final.ppt>.

Despite recent noteworthy improvements, the three levels of government do not yet have an effective structure and process to facilitate effective collaboration for reaching agreement on the prioritization of risk. This failure remains a fundamental problem for the National Preparedness System. State, tribal, territorial, and local governments typically do not develop capabilities for resourcing preparedness beyond the high-probability risks they identify. The officials at these jurisdictional levels find it difficult to justify to their constituents funding preparedness efforts for low-probability, high-consequence events or situations despite federal requirements. This difference in perspective thwarts effective intergovernmental catastrophic operational planning, which is a prerequisite for clarifying roles and responsibilities, accurately assessing capabilities, and establishing resource requirements that contribute to driving grant applications and awards and resource decisions generally.

Federal assistance, grants, or other forms of assistance should be reserved for planning and operational efforts that require federal involvement. Federal law supports the premise that the federal government will provide assistance when disasters in the United States are of such severity and magnitude that effective response is beyond the capabilities of the state and affected local governments. The entire Nation, therefore, assumes some degree of shared risk. And, since the states assume varying degrees of responsibility and risk, the federal government must either plan to support the least prepared state (the least common denominator)—which is a race to the bottom that could ultimately lead to state and local overdependence on the federal government—or start engaging with state and local governments to articulate clearly what is expected of them, what the federal government will provide, and what level of preparedness is unacceptable for events that will require federal participation.

2. Inadequate Capabilities for Catastrophic Operational Planning

In order to provide accelerated operational support for catastrophic events and situations, all levels of government should conduct detailed, pre-incident planning. State and local officials should do such planning but lack the required resources. They direct their limited resources at preparing for higher probability events that might occur within their jurisdiction and that are generally the sole responsibility of the state and local governments. Conversely, the federal government has the resources to engage in catastrophic planning efforts—and for the time being has dedicated some of those resources to that effort—but is unable to proceed without state and local partnership. The federal government must rely on state and local planning efforts, capabilities, and leadership. However, from the perspective of state and local authorities, the federal government in many cases focuses on high consequence, low probability scenarios that state and local officials do not consider high priorities, given their limited financial resources.

This capability issue creates another fundamental problem for the National Preparedness System. Without scenario-based catastrophic planning at the state and local levels, the federal government does not have assurance that state and local governments will achieve the federally-assumed level of preparedness. While the federal government expects all states to do catastrophic operational planning, many states do not have the capability to do so.

Proposed Solution

Planning and assessments are critical the components of a truly integrated National Preparedness System. To inform a solution to facilitate and resource such integration, the Team concludes the following:

1. Catastrophic operational planning and exercise validation confirm determination of capabilities within regions
2. The federal government has the financial burden for resourcing national catastrophic planning and assessments
3. Grants are *not* the most effective and efficient tools for resourcing state and local catastrophic planning and assessments

PNSR proposes establishing in each federal region a Regional Catastrophic Preparedness Staff (RCPS) to develop and sustain capabilities for risk assessment, catastrophic operational planning and capabilities assessment. Consideration should be given to building these standing intergovernmental and interagency staffs on the FPC Coordinating Committees which with the exception of Region One have not been developed. These RCPSs would be funded by federal direct assistance and would provide support to all existing regional mechanisms. Effectively, these staffs would conduct regional catastrophic preparedness evaluations and self-assessments based on regionally determined performance metrics in turn based on nationally determined objectives and planning assumptions.

PNSR is very aware of “working group fatigue.” The goal is not to create yet another task force or entity but rather to empower, integrate and resource more adequately existing structures where appropriate to perform statutorily-defined missions. Effective system performance requires strong participation and influence from states and local jurisdictions. In particular, the focus of these RCPSs would be to ensure operational plans exist for low-probability, high-consequence events for which a state or local area may otherwise not have the resources to plan. Finally, where participating partners determine regional and national catastrophic capability gaps exist, they will inform regional and state applications for preparedness grants to rectify these capability gaps. Priority at all levels will go to programs to enhance and sustain broad collaboration—the programs most critical to catastrophic preparedness. While such programs may address equipment shortfalls such as communications interoperability, logistics and coordination, the most important programs are those that involve personnel, e.g., readiness certification, education, planning, training, and exercise priorities.

This solution already aligns with the regional approach already favored by DHS/FEMA. The goal is to utilize existing mechanisms and require minimum resources for implementation in line with PNSR methodology. The following actions would be required for implementation:

- Reprogramming FY11 program funds to develop the concept, program estimate, and implementation plan
- Inserting into the FY12 budget submission a line for an annual program appropriation for standing Regional Catastrophic Preparedness Staffs

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Identified Problems

Unresolved Conflict over All-Hazards⁷ Risk

Risk is an expression and prioritization of threats, vulnerabilities, and consequences. Determination and assessment of risks directly drive the identification of preparedness capabilities to meet those risks. These assessments of risk drive determination of capability gaps and ultimately formulation of grant guidance and requirements for jurisdictions applying for and receiving grant funding. At issue is the need to make clear how the federal government, states, tribes, territories, localities, and other mission partners arrive at a consensus on prioritization of risk (informed by the Homeland Security National Risk Assessment tool), where and how that prioritization will occur, and who should lead or facilitate the consensus-building process.

Since 9/11, the federal government's grant programs and their related analyses of risk for the most part have focused on *high-consequence* terrorist threats to urban areas with their concentration of populations and critical infrastructure/key resources (CI/KR). This approach is supported in the potential events outlined in the 15 National Planning Scenarios in the 2007 DHS National Preparedness Guidelines (NPG). However, states must view prioritization of risks differently, given the demands of providing routine essential services, particularly in times of extreme budget pressures and deficits. State and local jurisdictions resource baseline operational planning for *high-probability* incidents based on their formal or informal Hazard Identification and Risk Assessment (HIRA)⁸ processes. For the most part, state, tribal, territorial, and local governments thus do not choose to develop capabilities for resourcing preparedness beyond the high-probability risks they have identified. At these jurisdictional levels, governments find it harder to justify preparedness expenditures to their constituents for low probability, high-consequence events or situations as federal risk-based scenarios might require.

⁷ PKEMRA supports the meaning of "hazard," defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 as an emergency or disaster resulting from a natural disaster or an accidental or man-caused event. PNSR would extend the meaning to include biological emergencies.

⁸ Cf. *EMAP Standard*, September 2007, published by the Emergency Management Accreditation Program (EMAP), for a discussion of HIRA as an EMAP voluntary standard and planning, pp. 5-9, 11-12. EMAP is a tool for continuous improvement as part of a voluntary accreditation process for local and state emergency management programs. An evolving process, 24 programs are currently EMAP accredited: 19 states, the District of Columbia, three counties and one parish. Two programs are on conditional accreditation. The EMAP program began in 2007 and functions under the auspices of the EMAP Commission whose members are appointed by the National Emergency Management Association (NEMA) and the International Association of Emergency Managers (IAEM).

Despite recent noteworthy improvements, the three levels of government do not yet have an effective structure and process to facilitate effective collaboration for agreement on the prioritization of risk. This failure to agree on prioritization of all-hazards risk remains a fundamental problem for the National Preparedness System. This difference in perspective thwarts development of meaningful intergovernmental catastrophic operational planning. Only through effective operational planning can the National Preparedness System clarify roles, responsibilities, accurate assessment of capabilities, and focused targeting of resource requirements which contributes to driving grant applications and awards.

Inadequate Capabilities for Catastrophic Operational Planning

As far back as 2004, the National Association of Public Administration (NAPA) stated forcefully, “Planning is the Achilles heel of homeland security.”⁹ Two years later, DHS conducted its Nationwide Plan Review which it claimed was “the most comprehensive assessment of catastrophic planning yet undertaken in this country.” Among its initial conclusions, the DHS Nationwide Plan Review Phase II Report addressed that Achilles heel saying, “The federal government should provide the leadership, doctrine, policies, guidance, standards, and resources necessary to build a shared national homeland security planning system.”¹⁰ Despite a number of federally-driven initiatives, differences in planning approaches persist.

From the state and local perspectives, the cause of an incident or situation may not be as important as the capability to manage it. Practically speaking, consideration of capabilities¹¹ informed to a lesser extent by risk is better for planning at the state level, where the *effects* of an incident or situation are more important than its cause. However, from a *national preparedness* perspective, it is indeed necessary to focus on causes to enable state and local jurisdictions to do the detailed operational planning which better anticipates effects. Moreover, from the federal perspective, given the size and complexity of the federal government, it is not possible to move entirely toward capabilities-based planning to the exclusion of risk-based elements.

In order to provide accelerated operational support for national or regional, high-consequence catastrophic events and situations, the federal government must do detailed, pre-incident planning. At the federal level, high-consequence, threat-based risk must inform much of scenario-based planning.¹² As part of the intergovernmental and interagency review of the

⁹ National Association of Public Administration (NAPA) *Advancing the Management of Homeland Security: Managing Intergovernmental Relations for Homeland Security*, A NAPA Forum of Homeland Security Executive Report (February 2004), pp. 5, 19.

¹⁰ DHS, in cooperation with the Department of Transportation *Nationwide Plan Review: Phase II Report* (June 16, 2006), p. xi.

¹¹ PKEMRA §641(1) defines capability as “the ability to provide the means to accomplish one or more tasks under specific conditions and to specific performance standards. A capability may be achieved with any combination of properly planned, organized, equipped, trained, and exercised personnel that achieves the intended outcome.”

¹² Another argument can be made, however, with respect to generic categories of events such as a nuclear detonation/dirty bomb/high-casualty WMD, large-scale hurricane, or earthquake or pandemic disease outbreak. Where these scenarios might take place in high-density population areas with the likelihood of high casualties and

National Response Framework (NRF), the Homeland Security Council (HSC) developed and consolidated the NPG's 15 National Planning Scenarios—the scenario-based approaches to operational planning—into eight key scenario sets. These eight detailed, time-sequenced operational plans and pre-scripted mission assignments are supposed to determine federal, regional, state, and local capabilities, and capability gaps.

In so doing, the federal government, in effect, has determined scenario sets that some states do not deem high priorities requiring expenditure of their limited resources. These resource constraints compel state and local governments to develop operational plans based on their own all-hazards risk assessments, i.e., their own HIRAs. Unlike the military, a state by itself cannot afford to develop and sustain eight operational plans. Hence, if a state cannot directly relate to the risk, it will not fund a capability.

This capability issue has a significant, negative effect at the federal level and creates another fundamental problem for the National Preparedness System. Without scenario-based catastrophic planning at the state and local levels, the federal government does not have assurance that state- and local-level capabilities and operational readiness will achieve the federally-assumed level of preparedness.¹³ While the federal government expects all states to do catastrophic operational planning, many states do not have the capability to do so.¹⁴

The direction in which DHS/FEMA is already going to address this problem points to an ultimate solution.

It is the “effects-based” planning approach which offers a middle position, i.e., between scenario-based and capabilities-based. Many states are now embracing FEMA's Comprehensive Preparedness Guide 101 of March 2009 as their planning tool. CPG 101 suggests that states can do catastrophic planning any way they want, for example, by employing "hybrids." Hybrid catastrophic planning incorporates: (1) scenario-based planning through hazard-specific or threat-specific annexes; (2) function-based planning to identify common tasks; and (3) capabilities-based planning to determine the capability for taking a course of action.

Using hybrid, effects-based planning, the federal government would have to adjust its own capability requirements accordingly rather than determining additional catastrophic requirements for the states beyond their own all-hazards risk determinations. Nevertheless, to perform operational catastrophic planning, the intergovernmental and interagency preparedness partners must have mutually agreed-upon risk and threat analyses to inform scenarios.¹⁵ CPG 101

significant impact on the national economy, the Federal government would be prudent to look through the lens of capabilities-based planning.

¹³ PKEMRA §653(b) requires the federal government to do catastrophic operational planning.

¹⁴ The exception would be in cases of direct correlation to realistic risk, where the planning is consistent with a state's risk assessment, e.g., for those doing catastrophic earthquake planning along the West Coast and along the New Madrid Fault Line or hurricane planning along the East and Gulf Coasts.

¹⁵ These risk and threat analyses are especially difficult when it comes to terrorist scenarios which yet have no precedent and thus no objective basis for quantifiable measurement.

suggests this collaboration best occurs at the regional level—that is at neither the federal nor the state level.

Following agreement at a series of national summits in the summer of 2008, FEMA regions—working with their regional mission partners—are supposed to be integrating state plans within their regions to create operational regional plans for the eight key scenario sets. These plans are to identify shared regional capabilities and capability gaps. Regional catastrophic planning proposes to translate capability gaps into regional requirements for the federal government as well as for state and local governments. Thus, the FEMA region has the potential to become the nexus for the National Preparedness System where federal preparedness would presumably align with state and local preparedness.

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Solution Points to Consider

Operational Planning and Exercises Validate Determination of Capabilities

Congress, the Office of Management and Budget (OMB), and federal departments and agencies with grant-making responsibilities must be able to justify resource expenditures for preparedness. They must also have credible measures for outcomes to determine whether grant monies are well spent. Notwithstanding all the efforts to capture and record capability data, capability only has meaning such as it is validated—or not—operationally. The most efficient and effective validation comes via operational planning, exercises, and execution in an actual event or situation.¹⁶ Absent a developed and sustained capability for states and localities to perform catastrophic operational planning—detailed, time-sequenced operational plans with logistical requirements, pre-scripted mission assignments, and communications processes—credible measurement of capabilities and capability gaps will remain unsatisfactory and continue to frustrate effective intergovernmental collaboration.

In the post-Katrina environment, FEMA's Disaster Operations Directorate created the Gap Analysis Tool for use in the hurricane states to identify capability gaps that would require federal assistance. After two years of testing this approach, the FEMA leadership considered applying this Gap Analysis Tool to other scenarios in other regions. Implicit in PKEMRA, the FEMA regions have the responsibility for reconciling the capability gaps in their regions using techniques such as the Gap Analysis Tool. To date, DHS/FEMA has not reconciled this capability analysis with the National Preparedness Guidelines' Target Capabilities List (TCL) requirements for the grant programs.¹⁷ In addition, the components of the National Incident Management System (NIMS) doctrine deal largely with preparedness, resource management, and mutual aid. NIMS components tie directly to capabilities required during an incident. However, to date, DHS/FEMA has also not reconciled the NIMS assessment requirements with these capability gaps. In sum, therefore, DHS/FEMA has not fully integrated the assessment of operational capability gaps, TCL capability gaps, and NIMS compliance requirements.

¹⁶ The *National Response Framework (NRF)* of January 2008 illustrates the so-called Preparedness Cycle for capability-building which begins with planning. The Preparedness Cycle consists of: Planning → Organizing, Training, and Equipping → Exercising → Evaluating and Improving. *NRF*, p. 27.

¹⁷ The same argument for realistic risk assessment applies to the Gap Analysis Tool, the TCL and other such Federal approaches. If a jurisdiction does not feel that the Gap Analysis reflects realistic preparedness goals for that jurisdiction's risk, then it will put minimal effort into the analysis.

While these best efforts are progressing, ultimate reconciliation must fully address the underlying intergovernmental challenge to national preparedness: the complexities of shared sovereignty.

This intergovernmental challenge has had its effects at the national interagency level. It has contributed to frustrating DHS/FEMA efforts to integrate operational planning with the programmatic initiatives sponsored by the DHS Office of Intelligence and Analysis (I&A), the DHS Office of Infrastructure Protection (OIP), the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC), and the rest of the federal interagency community. While the federal operational plans driven by the eight scenario sets and developed under the Integrated Planning System (IPS) are worthy attempts at integration, the outcomes remain to be seen.

Since the beginning of the homeland security grant program, attention, and resources have focused on exercises as a way to build capabilities. Systems like the Lessons Learned Information Sharing (LLIS.gov) disseminate lessons learned from the exercise program and establish a strong communication platform for state and local agencies nationally. Unfortunately, well-developed operational plans do not routinely drive the exercise planning process. To the contrary, exercises drive planning—the reverse of intent and good practice. Over the past several years, development of the National Exercise Program (NEP) and Homeland Security Exercise and Evaluation Program (HSEEP) doctrine have provided more rigorous evaluation criteria into the exercise planning process. While HSEEP doctrine does not specifically require operational planning as a precursor to exercise plans, it certainly encourages it. CPG 101 is more direct. It requires exercises to serve as an evaluation tool for measuring planning effectiveness. The FEMA National Preparedness Directorate (NPD) takes the position that all national- and regional-level exercises should validate plans, citing the 2006 requirement for the urban area tactical interoperable communications exercises conducted in 2007. Says NPD, this validation requirement will apply to the 2010 national-level exercise on an improvised nuclear device (NLE-10) and the 2011 national-level exercise on a catastrophic earthquake (NLE-11).

The Level of Federal Responsibility for Resourcing National Preparedness

The federal government has strong interest in supporting states to ensure catastrophic operational planning is done effectively. The federal government and its state, tribal, territorial, and local partners have a shared responsibility for preparedness resourcing. Because that responsibility involves an affordability issue, all partners must acknowledge that the levels of shared resources are unequal and finite.

Since 2001, the federal government has appropriated some \$35 billion in homeland security preparedness grants¹⁸ to state, tribal, territorial, and local¹⁹ governments, and non-profit

¹⁸ For purposes of this paper, the terms homeland security preparedness grants are comprehensive and cover those grants originating in DHS, FEMA, HHS, CDC, Department of Justice, and Department of Agriculture. Of this \$35 billion, some \$30 billion have been DHS/FEMA monies.

¹⁹ The Conference Report accompanying the 2006 DHS Appropriations Act states the following with regard to units of local government: “[A]ny county, city, village, town, district, borough, parish, port authority,

organizations. Although the homeland security grant programs have made a positive impact on national preparedness, effective performance measurements of preparedness outcomes have been difficult to produce thus far. Indeed, agreement is not universal on how to measure preparedness outcomes or how to identify a preparedness end state.²⁰ Least effective have been performance assessments which measure training and exercise activities or equipment acquisitions rather than capability outcomes. And so, questions remain.

FEMA's Grant Programs Directorate (GPD) has four or five working groups using a FEMA investment perspective to apply a cost/capability analysis to preparedness outcomes via the Cost-to-Capability (C2C) Initiative. GPD is asking the following illustrative questions:

- What is the desired outcome for a grant and preparedness?
- What are the desired capabilities?
- Are they the right capabilities?
- Is it possible to standardize capability requirements across communities with differing risks and threats?
- Are capabilities measured in terms of—
 - How many more communities can be protected?
 - Against how many more types of events/situations can communities be protected?
 - How much more collaboration has been achieved?
- How do the preparedness partners achieve a balance between utilizing limited resources for measuring capabilities versus building those capabilities?

In our interconnected society and globalized economy of the 21st Century, our federal system of government increasingly functions according to a network governance model, as opposed to the traditional hierarchical. It is a familiar and reasonable expectation, therefore, that complex, multi-site, catastrophic incidents or situations require management by temporary, hierarchical networks according to principles of unified command at the lowest feasible jurisdictional level.²¹ Adjacent jurisdictions or state and federal governments provide temporary excess capabilities under mutual aid agreements such as the state-to-state Emergency Management Assistance Compacts (EMACs).²² Mutual aid agreements play a supporting role to fill operational capability gaps. This supporting role not only applies to crisis-state mission support in an incident or situation. It also applies to the federal government's steady-state support for preparedness, of which grants are but one tool.

transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state shall constitute a 'local unit of government'."

²⁰ Some even question whether outcomes should be measured at all, what level of government should do the measuring, and whether it is ever possible to reach a satisfactory end state agreed by all levels of government.

²¹ Cf. Donald P. Moynihan *From Forest Fires to Hurricane Katrina: Case Studies of Incident Command Systems* (IBM Center for The Business of Government, 2007), p. 6.

²² The Emergency Management Assistance Compact (EMAC) is administered by the National Emergency Management Association (NEMA). In 1996, Congress ratified the EMAC as law making it the first ratified national disaster compact since the Civil Defense Compact of 1950. EMACs cover many of the issues associated with deployed emergency personnel such as licensing, credentialing, liability, workers compensation, and reimbursement.

That being said, a local government's determination of its high-probability risks informs its operational planning. Through planning, that locality determines its requirements for resourcing preparedness to meet those risks. As the number and type of jurisdictions that could be affected by the scale of a potential event or situation expands beyond a locality, it becomes the responsibility of those jurisdictions, collaborating intra-state or interstate as regions, to determine requirements for resourcing preparedness to meet those high-probability risks. Historically and by NIMS doctrine, mutual aid is the first layer of resource support beyond the local jurisdiction. Indeed, NIMS is essentially about managing resources via mutual aid which is fundamental to incident management and is national in scope through EMACs. It is worth noting as well that CPG 101 acknowledges the need for states to factor consideration of private sector and NGO protection and response capabilities into preparedness requirements.

Inevitably, *high-consequence* risks and events that are national in scope—regardless of whether they are high- or low-probability—create inherent capability gaps for local and state jurisdictions and regions. These capability gaps for dealing effectively with catastrophic incidents—those regional or national in scope—create a requirements identification problem. State and local governments indeed have a degree of responsibility to support high-consequence events of national significance. Yet by themselves, they do not have the capability or responsibility to support catastrophic national preparedness.

As stated above, the skills and bandwidth of the full- or part-time state and local administrative staff are extremely limited. State and local governments do not have the organic capability to perform low-probability, high-consequence risk assessment, although some may be able to outsource to the private sector to do the assessments for them. Neither do state governments have the resources to develop detailed, time-sequenced catastrophic operational plans. It would be impractical for states and localities to grow their own organic capability for such planning, and once achieved it would have to be sustained in order to maintain personnel resources which are trained and have continuity.

It is, therefore, important to underline two aspects of preparedness relative to resourcing decisions.

- Preparedness is a means to an end and not a core a mission
- The level of preparedness reflects a jurisdiction's risk tolerance for low-probability, high-consequence events

As a result, when budget-constrained state, tribal, territorial, and local governments consider resource trade-offs, their priority goes to support near-term, operational *mission essential* activities for routine and high-probability events. These jurisdictions will not necessarily support longer-term preparedness capability requirements—especially when viewed as federally determined according to federal assessments of risk.

While progress is certainly being made, FEMA has not yet been able to facilitate meaningful definition and assignment of preparedness roles and responsibilities for low-probability, high-

consequence catastrophic events and situations among the localities, states, territories, intra-state regions, tribal governments, interstate regions, and the federal government. Only through a fully resourced, federally subsidized, ongoing process for operational planning—properly informed by risk assessment—can capability development and sustainment and capability gaps be determined.

Therefore, given the intergovernmental budget realities, the federal government must assume the financial burden of shared responsibility for resourcing risk assessment and operational planning for catastrophic incidents and situations that require regional preparedness capabilities.

Are Grants the Right Tool for Resourcing State and Local Catastrophic Planning and Assessments?

Although some homeland security grants to be sure were FEMA legacy programs, the homeland security grant program we have today came of age in fear and haste as a reaction to 9/11. Eight years on, it is now possible to do a thoughtful analysis on the effectiveness and efficiency of grant programs as the resource mechanism for state and local catastrophic planning and assessments. As stated in the previous section, it is important to recognize that grants are only one tool to serve national preparedness. State and local government resource contributions, e.g., via EMACs, are already very robust.²³ The federal interagency and DHS components to include FEMA provide additional resources such as:

- FEMA’s Technical Assistance (TA) program
- Lessons Learned Information Sharing (LLIS.gov)
- Responder Knowledge Base (RKB)
- Radiological Emergency Preparedness Program (REPP)
- Integrated Planning System/CPG-101
- Homeland Security Exercise and Evaluation Program (HSEEP)
- National Guard Civil Support Teams (CSTs)
- Doctrine development activities for the National Response Framework (NRF) and the National Incident Management System (NIMS)
- Training activities at the National Domestic Preparedness Consortium (NDPC), Emergency Management Institute (EMI), Center for Domestic Preparedness (CDP) and Naval Postgraduate School (NPS)

Most of these preparedness activities take place without grant funding. The use of grant funds must be assessed in the context of the entire structure and associated processes of the National Preparedness System. At all governmental levels and where appropriate across the private sector and NGO communities, the National Preparedness System requires consistent levels of resourcing for both capability development and sustainment. Two questions must then be asked:

- How can the federal government minimize and integrate the fragmented grant requirements it has determined for the states, as documented by the 2008 Analysis of

²³ Expressed in terms of a percentage of state and local homeland security budgets, federal homeland security grants represent a very small fraction of total state and local homeland security expenditures.

Federal Preparedness Requirements (AFPR) study—an effort which received broad state-level input?

- In terms of pure funding, is the federal homeland security preparedness grant program by itself the most effective and efficient mechanism to achieve meaningful national preparedness, or is some structural or process improvement required to make it so?

Grants are expensive to manage in terms of time, talent, and treasure, both for the recipients and the federal government.²⁴ Smaller and poorer jurisdictions have to dual-hat staff. The federal government, e.g., FEMA's GPD and National Preparedness Directorate (NPD), OMB and congressional staff, has to dedicate resources to oversight and monitoring. At the state level, State Administrative Agencies (SAAs) must manage both the grants interface with the federal government but also do the oversight and monitoring of sub-grantees at the local level which in turn usually have to dual-hat officials to undertake additional grant reporting and management duties. Resourcing primarily via grants with their oversight and reporting requirements fosters intergovernmental relationships which can be more adversarial than collaborative and thus not optimal for unity of purpose.

Grant management requires states to perform voluminous data collection drills in the application and reporting processes. With regard to applications, for example, FEMA advises grant applicants to incorporate references to national level programs and doctrine like the Gap Analysis, State Preparedness Report, TCL, National Priorities, National Planning Scenarios, and Integrated Planning System. States are supposed to show how they will use these programs to drive their planning while specifying other regional working groups that will participate in the planning process to close gaps, while tying deliverables back to these programs and demonstrating improvements in capabilities. On top of that, states need to meet statutory and policy match requirements for preparedness grants. Budgetary strains are forcing states to forfeit grant monies because they cannot make either an in-kind or cash match. Some would even argue that risk management is too focused on grants rather than pure threat and vulnerability.²⁵

²⁴ Traditionally, FEMA preparedness programs have taken the form of cooperative agreements, e.g., the Chemical Stockpile Emergency Preparedness Program (CSEPP). The use of DHS and FEMA preparedness grants for the most part derived from the Justice Department Office of Justice Programs' (OJP's) practice of awarding formula grants, e.g., Community Oriented Policing Services (COPS) grants, to state agencies, which in turn sub-grant funds to various units of state and local government. In 1998, in response to congressional mandate, OJP established an office that was ultimately named the Office for Domestic Preparedness (ODP) to develop and administer the national Domestic Preparedness Program. Its purpose was to develop and administer training and equipment assistance to state and local emergency response agencies to augment their preparedness against the terrorist threat of weapons of mass destruction (WMD). The Homeland Security Act of 2002 transferred ODP to DHS. Eventually, its responsibility for grants would fall under the DHS Preparedness Directorate as the Office of Grants and Training (G&T). In 2007, G&T transferred to FEMA and by January 2008 completed reorganization as the Grant Programs Directorate (GPD).

²⁵ As is well known, the statutory 80/20 pass-through requirement for grant funds from states to local jurisdictions has fostered more of an adversarial than collaborative relationship. Solid data to support an across-the-board national 80/20 mandate is absent and does not distinguish between those states which need more resourcing of state-level capability from those which don't. States see the rule as counter-productive to state-wide planning. In addition, since 9/11, states may only apply three percent of their grants to management and administration of grant programs. The Senate version of the FY10 Homeland Security Appropriations Bill raises that limit to five percent which will be resolved in conference.

The net effect is that most states and local jurisdictions don't have the capability or resources to manage the complexity of the National Preparedness System efficiently and effectively and grow that capability through the grant programs. Some states may indeed have existing SAAs, e.g., those states receiving Department of Justice criminal justice grants. Others have had to establish and staff entirely new SAAs to administer homeland security preparedness grants and do the budget work-sheets and post-award sub-jurisdiction monitoring and servicing. They need help from regional structures to collect and manage data both to apply for and do the reporting on grants.

A more comprehensive approach would further empower DHS, specifically FEMA as the department's executive agent, to serve as its regionally-based preparedness facilitator—i.e., where the department and agency are already going.

5

Proposed Solution

Federal Direct Assistance for Baseline Resourcing of Catastrophic National Preparedness

PKEMRA mandated that FEMA regions are to serve as the decentralized, distributed capability for DHS for integrating preparedness programs and engaging states. Implicit in the thinking behind CPG 101 is the understanding that the FEMA regions are obviously closer to the states and localities than FEMA or DHS headquarters and therefore should serve as the translators of capabilities and requirements.²⁶

PKEMRA gave additional FEMA authorities to facilitate interagency collaboration at the federal level. However, the agency has not been able to exercise those authorities fully. While coordinating mechanisms such as the National Response Coordination Center (NRCC) were designed to play that role, the other Cabinet-level departments do not ascribe to FEMA the gravitas to execute the mission. FEMA—as the DHS lead agency for national preparedness—needs to exercise stronger governance by mandating that assignments to such bodies as the NRCC are career enhancing. In turn, senior officials elsewhere in the federal department and agency space must exercise their own right level of oversight to ensure that they detail their best people to serve in these mechanisms. For example, the ESF [Emergency Support Functions] Leadership Group has devolved to a “junior group.” The ESF Leadership Group must be what its title suggests: a “senior group.” Only via strong governance can FEMA fully execute on behalf of DHS its collaborative responsibilities as a convener for other DHS agencies, Justice, HHS, the Department of Defense (DoD), the Department of Transportation (DoT), and other federal departments and agencies with homeland security missions.

Progress toward regional DHS and FEMA empowerment and regional preparedness has been uneven. Some regions have advanced farther than others. Further to effect the intent of Subtitle C of PKREMA to develop and sustain the National Preparedness System, FEMA, as the executive agent of DHS for preparedness, should execute its collaborative interagency and intergovernmental responsibilities at the regional level via cooperative agreements with states in that region. The FEMA Regional Administrator (RA) should exercise these responsibilities through the Federal Preparedness Coordinator (FPC) who shall serve as a DHS official. The FPC is the RA’s representative to the states for preparedness matters in that region. It is the FPC responsibility to further PKEMRA intent by implementing the annual planning guidance prepared by FEMA headquarters and required by the regional preparedness CONOPS.

²⁶ Cf. as well, DHS/FEMA *Regional-National Preparedness Concept of Operations*, January 11, 2007.

Therefore, further to fulfill FEMA's empowered, collaborative responsibilities, the federal government should resource the RA to provide the FPC with appropriate staff to facilitate joint interagency/intergovernmental catastrophic operational planning and assessment funded by an annual DHS/FEMA appropriation.

Regional Catastrophic Preparedness Staffs (RCPSs)

The goal is not to create yet another task force or council but rather to resource, empower, and integrate, when appropriate, existing structures to perform statutorily defined missions. These Regional Catastrophic Preparedness Staffs should build on existing regional structure, e.g., the FPC Coordinating Committees, and should support other regional working groups to streamline and integrate all catastrophic planning and assessment efforts in a region. These regional working groups may include the FEMA Regional Advisory Councils (RACs) and Regional Interagency Steering Committees (RISCs), DHS Protective Security Advisors (PSAs) and Sector Coordinating Councils (SCCs), Joint Terrorism Task Forces (JTTFs), Area Maritime Security Committees (AMSCs), and HHS Regional Emergency Coordinators (RECs), state fusion centers and Emergency Operations Centers (EOCs) with their ESFs, and, where applicable, Regional Catastrophic Planning Teams (RCPTs) under the Regional Catastrophic Preparedness Grant Program (RCPGP). In its planning and assessment role, the RCPS would supplement and enhance the RCPGP efforts with direct federal assistance and better integrate RCPGP planning efforts with UASI and State Homeland Security Program (SHSP) planning and assessment efforts where applicable.

Efficient and effective performance requires strong participation and influence from states and local jurisdictions. In particular, the focus of these RCPSs would be to ensure operational plans are in place for catastrophic events for which a state or local area may otherwise not have the resources to plan, given the low-probability, high-consequence of such an event. Catastrophic events represent an operational and planning blind spot. Recognizing that states and local jurisdictions will be directly involved if such events occur, only the federal government can resource baseline catastrophic operational planning and assessment development and sustainment.

The RCPSs would operate under a structure and process informed by NIMS. Their purpose would be to develop and sustain regional operational catastrophic preparedness capabilities with states and other non-federal mission partners and, where applicable, leverage a state's Emergency Management Assistance Program (EMAP) accreditation. These standing RCPSs will work with existing planning, training, and exercise units in the states and at the local level to conduct:

- Catastrophic risk assessment
- Catastrophic operational planning and exercise validation
- Catastrophic capability inventories via negotiated processes
- Through which gaps are identified for targeting grants and other resources
- Regional evaluations and self-assessments informed by regionally determined performance metrics

With regard to risk assessment, these RCPSs along with their regional and state organizations would translate and develop guidance to do a HIRA for priorities which the federal government wants to support. Input would come both from DHS's Homeland Infrastructure Threat and Risk Analysis Center (HITRAC), with support from Justice, and the state fusion centers to support the regional HIRA. Further, regions must have the latitude to prioritize and focus on regional risk.

As for planning, neither FEMA nor U.S. Northern Command (NORTHCOM) should provide states with planners as a substitute for developing an organic capability along with regional partners. While the Task Force Emergency Response (TFER) is a commendable interim effort, the RCPSs should develop and sustain an organic operational planning capability which can leverage regional assets, e.g., universities, national labs, Federally Funded Research and Development Centers (FFRDCs), contractors, etc., as the case may be. States and local jurisdictions should still be responsible for sustaining and developing a planning capability for what they determine as high-probability events or situations. However, in some states, it may be necessary to augment that capability through grant applications which will be collaboratively determined at the regional level. Local capabilities, moreover, do not need to be consistent or the same throughout a state, given the local jurisdictions' determination of their own risk profiles.

The RCPS would develop and sustain not just federal operational response planning; it would drive operational planning with the private sector and NGOs to leverage EMAC and NIMS for a more robust regional, mutual aid system. Critical is empowerment of the private sector, especially small and medium businesses who struggle to pay for engaging in preparedness, and development of some form of private sector operational framework.²⁷ Moreover, the RCPS must facilitate cooperative agreements with respect to regional catastrophic operational planning which must account for the mutual need for states to incorporate out-of-region states with their capabilities and their capability gaps into their planning process.

The RCPS should have further responsibilities for developing a strategy for NIMS implementation—the working/resourcing/facilitation of NIMS compliance. While NIMS has wide acceptance in the field, its compliance criteria have added a layer of complexity to the process, given the budgetary pressures on some state and local jurisdictions to meet the costs of compliance. The RCPS would be best positioned to arrive at a strategy to implement and evaluate implementation. Federal guidance should be in the form of best practices as opposed to determination of standards which state and local jurisdictions could construe as unfunded mandates.

With regard to validation of operational plans via exercising, the RCPS would *not* attempt to create yet more exercises. Rather, it would strengthen HSEEP doctrine and directly relate established exercise programs with the explicit purpose of validating operational planning.

²⁷ PNSR has another homeland security issue team developing a recommendation for a public-private operational collaboration committee structure for interface with EOCs at the local, state and regional levels.

As for regional self-assessments, the RCPS would oversee these regional training and exercise programs to enable peer-to-peer performance-based evaluations. If necessary, it would rely on SimCell to replicate federal participation and would use the National Exercise Simulation Center (NESC) to include HHS, for example, to perform assessments. The RCPS would manage the *collaborative* definition of performance, capabilities, and outcomes, and effectively structure them to provide the local, tribal, territorial, state, intra-state regional, interstate regional feedback to enhance further regional collaboration. Achievement of effective and efficient intergovernmental collaboration requires an end-to-end, systems engineering approach with a feedback loop and metrics which best occurs at the regional level.

The Regional Catastrophic Preparedness Staff would have additional responsibility over common functions: e.g., development and sustainment of regional capabilities for interoperable communications, logistics, and knowledge management (including the use of social networking processes to facilitate network nodes). With respect to contracting, it would make recommendations to the RA and FPC who will be authorized to order—if necessary—contractor support services off the General Services Administration (GSA) Schedule. Service on the RCPS would expose state and local representatives to development of acquisition strategies and program management.

Finally, where the RCPS partners determine regional and national catastrophic capability gaps, they will inform regional and state applications for preparedness grants to go toward filling these gaps. This process could apply to all preparedness grants, i.e., in addition to DHS/FEMA grants, DOJ, HHS, Department of Agriculture (USDA), etc., for the respective department/agency region. FEMA federal-level interagency grant coordination mechanisms, e.g., the DHS-HHS Grant Oversight Steering Committee, should expand to include DOJ and the USDA and replicate coordination mechanisms at the respective regional levels through the standing working group.

Gaps identified in the capability gap inventory for low-probability, high-consequence events involving land- or water-based search and rescue, medical surge, or chemical, biological, radiological, nuclear, and explosives (CBRNE), for example, would be appropriate targets for grants. Effectively, the RCPS would help target annual grant priorities to develop and sustain operational catastrophic capabilities, reflecting possible needs in addition to the federal direct assistance to the region for that purpose, or for low-probability, high-consequence events or in response to state prioritization.

Priority at all levels will go to programs to enhance and sustain broad collaboration, i.e., those most critical to catastrophic preparedness. While such programs may address equipment with regard to communications interoperability, logistics, and coordination, the most important programs are those which address personnel, e.g., certification, education, training, exercising, and planning. Facilitation of building relationships among jurisdictions should be the positive outcome. Grants that target equipment acquisitions should be based on the regional, collaborative determination of a jurisdiction's need. Distribution of grants which are specific, e.g., those that would target CBRNE detection, is less prone to rely on population-based grant guidance. Because of their emphasis on effects-based criteria, such grants which address specific capability gaps are not as likely to generate contention as the region struggles with

prioritizing states' needs. FEMA's Radiological Emergency Preparedness Program (REPP) for nuclear power plants provides such a model.

Federal direct assistance to the regions and their standing Regional Catastrophic Preparedness Staffs would improve the effectiveness of grant investments and the efficiency of program management. Such has been demonstrated with respect to federal direct assistance to the JTTFs.²⁸ PNSR recommends that the Government Accountability Office (GAO), for example, undertakes a comparative cost analysis to assess current program management costs at all three levels of government relative to the costs of the proposed RCPSs.

A Regional Catastrophic Preparedness Staff would draw personnel for TDY up to three years from federal departments and agencies, with the expectation that state and local authorities might only be able to provide personnel for one-year TDY rotations. The RCPS would secure non-federal representatives for Intergovernmental Personnel Act (IPA) mobility billets and provide their parent agencies and organizations with reimbursement, thus affording them to maintain their own full-time employee (FTE) levels. State and local jurisdictions would derive further benefit: rotational assignments would continually refresh and enhance collaborative expertise. In addition, FEMA and other USG personnel could backfill IPA Mobility billets during rotations to further to advance a two-way street culture of collaboration. However achieved, the RCPS structure would conform to a common template adapted by regional partners. Each region would right-size and configure its RCPS according to its specific regional assets and needs.

In sum, the Regional Catastrophic Preparedness Staff concept represents an intergovernmental solution for end-to-end, systems-managed, regional collaboration. The RCPS will provide the RA and FPC with a standing coordinating body with states in the region. It will not have decision-making authority: states will continue to decide on issues affecting the states; the federal government will continue to decide on issues affecting the federal government.

Implementation

Finally, the concept would empower and leverage the intent of the FPC Coordinating Committee concept, the RISC process and current and evolving efforts by FEMA and its mission partners without having to establish entirely new mechanisms. DHS and FEMA can effect this recommendation under existing authorities. They should do so by:

- Reprogramming FY11 FEMA program funds to develop the concept, program estimate, and implementation plan
- Inserting into the FY12 FEMA budget submission a line for an annual program appropriation for a standing catastrophic preparedness working group in each region

²⁸ Other examples of federal direct assistance are DHS and FBI personnel serving as state fusion center analysts, provision of DHS OIP Protective Security Advisors (PSAs) and NORTHCOM Defense Coordinating Officers (DCOs) and Defense Coordinating Elements (DCEs).



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