Business Executives for National Security

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Getting Down to Business:
An Action Plan for Public-Private Disaster Response Coordination
The Report of the Business Response Task Force

Photo Credit: NOAA

January 2007

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Preface

The 2005 hurricane season and its prolonged crisis aftermath demonstrated beyond doubt that the United States is not adequately prepared to deal with major catastrophes, whether natural or man-made. Coming nearly four years after the 9/11 attacks, the inadequate local, state and federal government responses to Hurricane Katrina put the entire nation on alert that America has many problems to overcome before being truly ready to mount a reinforced and efficient disaster response.

Not least of these problems is the systematic failure of government to integrate the resources of America's vast private sector into its disaster response plans, up to and including response to an Incident of National Significance.[1] As the February 26, 2006, White House report, *The Federal Response to Hurricane Katrina: Lessons Learned*, stated:

> *The Federal government should recognize that the private/non-government sectors often perform certain functions more efficiently and effectively than government because of the expertise and experience in applying successful business models. These public-private partnerships should be facilitated, recognized, funded [and]. . . the capability to draw on these resources should inform and be part of Federal, State, and local logistics systems and response plans.*

Invited by the senior leadership of both the United States Senate and U.S. House of Representatives to offer advice, in June 2006 Business Executives for National Security (BENS) formed a Task Force to recommend to the U.S. Government steps to systematically integrate the capabilities of the private sector—principally those of the business community—into a comprehensive national disaster response mechanism.

BENS did so in response not only to the federal government's recognition of a pressing need in the aftermath of Katrina, but also in response to the overwhelming demand of its membership. During the summer and autumn of 2005, many BENS members experienced first-hand the reality that the role of business in response to national disasters has not been properly thought through. In preparing this report, the Task Force has assiduously mined the wealth of experience of its members and other executives—completing nearly 100 interviews—in developing its findings.

This report's recommendations fall into three substantive categories: public-private collaboration; surge capacity/supply chain management; and legal & regulatory environment. In addition, the report specifies priorities and sequencing for implementing its recommendations.

During the late summer and fall of 2006, the report, in draft form, was circulated widely and briefed to federal agencies and congressional offices and staff, the White House, senior leaders at the National Governors Association, the National Emergency Management Association and the Association of State Attorneys General, the U.S. Northern Command, professional associations, and corporate leaders around the country. While the conclusions are those of the Task Force, the report benefits immeasurably from comments and suggestions made by our colleagues in government and business.

We present these recommendations in the belief that the failure so far to properly integrate the private sector into government disaster response capabilities, while serious and pervasive, can be remedied. To do so, however, requires a new dedication to effective public-private partnership and, we believe, a

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[1] An Incident of National Significance is defined in the Federal National Response Plan (NRP) as an actual or potential high-impact event requiring a coordinated and effective response by an appropriate combination of federal, state, local, tribal, nongovernmental, and/or private sector entities in order to save lives, minimize damage and provide the basis for long-term community recovery and mitigation activities.

new approach: simultaneous, integrated action from *both* the very top of our federal government structure *and* from the state and local levels upward.

This report's recommendations constitute the framework of an action plan to implement this new approach. Its key proposition is that Emergency Operation Centers (EOCs), which already exist at all levels of government to plan for, train and implement emergency responses to disaster, must include a seat for the private sector. The private sector, in turn, must maintain parallel structures, referred to here as "Business Operation Centers (BOCs)" that can plug-in to government operations and "scale up" with them in a *parallel* and *coordinated* manner as government adapts to deal with disasters from small to large. If this structural reform is adopted, it will greatly facilitate all of the other reforms recommended in this report.

As simple and logical as this proposition sounds, formidable political, organizational and legal obstacles now block simple and logical implementation. These obstacles can and must be overcome if we as a nation are to seriously prepare for the next major calamity. Overriding all is the need for Congress to recognize the value of establishing public-private partnerships in concord with state, regional and federal entities and to provide funding through the Department of Homeland Security grant program to sustain them.

The very sinews of American democracy have always resided in the integrity of our close-knit communities, of which business has ever been and remains an integral part. We should not undervalue the power of this bond in an age where our national security is being tested in new and daunting ways. Business must be integrated into our disaster response plans not only because businesses have material assets, money and technical expertise. American businesses are patriotic. They value their community and their nation, and have and will willingly contribute their treasure and talent toward maintaining our cherished way of life.

Key Findings and Recommendations

This BENS Task Force Report focuses on institutionalizing an effective and sustainable role for business in disaster response at all levels of government. To that end, it offers recommendations in three substantive categories:

1. **Public-private collaboration**, to plan, train, exercise, implement and evaluate joint actions required to facilitate effective communication, decision-making and execution;

2. **Surge capacity for private-sector goods and services, and the capabilities resident in private-sector supply chains to manage the delivery** of goods and services (whether pro bono or contracted) to and within disaster areas; and

3. **The legal & regulatory environment**, which can help or dramatically hinder efficient delivery of private-sector support during a disaster.

Public-Private Collaboration

Finding: The American private sector must be systematically integrated into the nation's response to disasters, natural and man-made alike. Government alone cannot manage major crises nor effectively integrate the private sector after a crisis occurs. The Task Force believes that building public-private collaborative partnerships, starting at the state level, is one of the most important steps that can be taken now to prepare the nation for future contingencies. Unfortunately, with few exceptions, durable, collaborative relationships do not today exist.

Consistent with this finding, the Task Force recommends:

A. **Creating new ways to institutionalize public-private collaboration at the state and major metropolitan area levels;**
B. **Facilitating greater public-private collaboration at the regional and federal levels; and**
C. **Building a "Business Emergency Management Assistance Compact (BEMAC)" structure.**

Surge Capacity/Supply Chain Management

Finding: America's existing commercial supply chains can provide a wider range of goods and services on demand than any level of government can possibly match. During national disasters, these supply chains have provided goods and services both with and without payment from an end user. Government at all levels should incorporate such capabilities into disaster response planning. For the most part, government has so far failed to do so.

Consistent with this finding, the Task Force recommends continued efforts re:

A. **Improving government emergency-purchasing protocols;**
B. **Revising deficient donations management systems; and**
C. **Modernizing logistics processes across the board.**

Legal & Regulatory Environment

> **Finding**: Business requires a predictable legal regime to operate efficiently in an emergency situation, whether that business is engaged in charitable or profit-motivated activities. The current legal and regulatory environment is conducive to neither predictability nor efficiency.

Consistent with this finding, the Task Force recommends that Congress:

A. **Enact a nationwide body of "disaster law";**
B. **Modify the Stafford Act[2] to include the private sector; and**
C. **Hold hearings to determine which Task Force recommendations can be implemented under existing law and which require new legislation.**

The Task Force urges government to move quickly to integrate business into its disaster response planning on the federal, state and local levels, and within the operations continuums that link levels of government together. Recognizing that the task is complex, and that political and fiscal limits make it impossible to implement all recommendations at once, the Task Force has identified and prioritized specific desired outcomes and policy drivers in Appendices F-I at the end of this report. This has been done to facilitate the deliberations of political leaders, responsible government officials and private-sector experts.

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[2] The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5121-5206.

Introduction: Background, Methods and Aims

Americans learn only from catastrophe and not from experience.
—Theodore Roosevelt

For a quarter century, Business Executives for National Security (BENS) has served as the principal channel through which senior executives can help build a more secure America. As a national, non-partisan, non-profit organization, BENS has focused on adapting successful models and practices from the private sector to strengthen the nation's security.

Coming four years after the September 11, 2001, attacks, the hurricanes of 2005 dramatized the frailties of our nation's disaster response system. As the disasters unfolded, BENS was contacted by numerous business executives seeking help in navigating the bureaucratic obstacles impeding them from providing private-sector goods and services to those in need. BENS tried to help, but, lacking established relationships with public-sector responders in the Gulf, successful outcomes were largely elusive.

As the official reports concerning the disasters of the previous summer began to emerge in early 2006, much was said about improving government responses and even about reaching out to business to help. But while these reports were long on rhetoric and generalities, they were disappointingly short on specific plans of action.

So BENS decided to *get down to business*. In June 2006, BENS chartered a Task Force [see Appendix A] comprised of senior U.S. business leaders closely tied to disaster response functions: telecommunications, retail and wholesale supply chains, utilities, manufacturing, real estate, financial services, management consulting and other key industries. The goal, said Task Force Chairman Duane Ackerman, was "to ensure that as recovery occurs at the local level, [the efficient application of private-sector capabilities and resources] are preserved as the disaster escalates and local, state and federal officials are all at the scene together."

The aim of the Task Force was to build up what U.S. Comptroller General David M. Walker, during his March 2006 testimony before the Senate Committee on Homeland Security and Governmental Affairs, called the "total force"—by which he meant the coordinated assets of federal, state and local authorities, the military, non-profit organizations, *and the private sector*.

With the support of the BENS staff and professional assistance provided pro bono by Science Applications International Corporation (SAIC), the Task Force members [see Appendix B] laid out an ambitious agenda for how to approach the task of integrating the private sector into our nation's disaster response system. In order to publish a report that captured the broadest possible range of disaster-related experiences and recommendations, the Task Force asked the BENS staff to design and conduct a comprehensive survey.

Over a 90-day period, interviews were conducted with nearly 100 CEOs, corporate security and emergency management officers, and subject-matter experts with emergency-related knowledge and perspective [see Appendix C]. This survey data formed a baseline record of private-sector response to crises. The survey sampled both small and large businesses in an array of industries and included a number of former senior government officials and disaster response experts.

Survey questions focused on respondents' experiences with Emergency Operations Centers (EOCs), with the pre-positioning of goods and services (either for their own continuity or to assist emergency responders), with

physical access and security issues, and with the escalation of authority from local to state to federal levels. Interviews included discussion about broad or industry-specific legal and regulatory issues that may have impeded the implementation of company continuity plans or the ability of a firm to assist in its community's recovery operations. Interviewers also solicited specific suggestions on how to fix the problems identified.

As survey research proceeded, the Task Force organized itself into three scoping groups to analyze lessons from recent national disasters and to document examples of private-sector disaster response capabilities.

The Task Force survey was revealing. It reaffirmed several truths that Task Force members recognized from their own experiences. First, disasters happen regularly and businesses routinely plan for such contingencies. Second, businesses in disaster-prone areas often have extensive experience collaborating with public-sector first responders. Third, after securing their own operations, businesses invariably move to help ensure the continuity of the community. As such, response from the private sector is typically automatic, not only because businesses are citizens of their own communities, but also because without continuity of community no business can be done.

The evidence from the 2005 hurricane season testifies to all these truths, particularly the final point. Private-sector assistance during and following the major 2005 hurricanes—Katrina, Rita and Wilma—totaled about $1.2 billion, 25 percent of that in products and services, the remainder in cash contributions from companies, employees and customers. At least 254 companies made cash or in-kind contributions of $1 million or more.[3] In addition, the U.S. Departments of Homeland Security (DHS) and Commerce (DOC), as well as state governments, relied on the business community for reliable information about the situation on the ground. Situation reports provided by business, based on their first-hand knowledge of local infrastructure, geography and geology, helped to shape government's response.

In thinking about the Task Force's aims, it soon became clear that the key was determining how to scale effective local responses up to a true national response capability. The nine main themes that emerged from the survey helped Task Force members frame their recommendations.

Preparation: The first theme to emerge from the surveys was that companies' experience in preparing for crises is extensive and applicable to government preparations.

All but the smallest business organizations have a continuity plan in place. For some, that means compiling executive phone lists, buying satellite phones with text-messaging functions, and making contingency arrangements with vendors. Other firms have their own 24-hour emergency operations centers, run live crisis-scenario drills with government agencies

"We need to know how to connect locally, so that we are not just addressing the needs of our employees and their families, but the needs of the larger community."
– Dr. Mark A. Sanna, Senior Director, Global Security, Kraft Foods, Inc.

"We don't count on plans, we count on training....[W]e have regular meetings of our emergency people. Live exercises, table-tops, including local first responders and local government officials."
– Donna Shalala, President, University of Miami

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[3] "From Relief to Recovery: The 2005 U.S. Business Response to the Southeast Asia Tsunami and Gulf Coast Hurricanes," U.S. Chamber of Commerce, Business Civic Leadership Center, March 2006.

as participants, and develop emergency fall-back plans with their competition so that business can be moved to a remote location in the event of crisis. Nearly all companies stressed the importance of training their employees and crisis management leaders.

Another important aspect of preparation is planning how to distribute goods and services to the people who need them. Major retailers know to stock up on extra supplies during hurricane season and position them just outside the hurricane zone in order to be able to deliver them immediately after a storm passes. Government needs to leverage that private-sector capacity and plan for its use.

Many interviewees stressed that continuity plans need to be flexible and imaginative. Business employees and government officials need to be prepared to operate in unpredictable emergency situations. This involves devising plans that are imaginative enough to deal with a host of different circumstances (such as the failure of levees in New Orleans) and are flexible enough to allow individuals to deal with completely unexpected events.

Relationships: The second theme is that relationships must be established in advance of a crisis.

Companies pursue pre-crisis relationships for their own continuity plans by developing lines of communication among employees and senior executives; with neighbors, suppliers and even competitors; and with government authorities at all levels. Said one interviewee, "you don't want to be handing out business cards...in the middle of an emergency." Many company representatives complained that, based on what they witnessed during the 2005 hurricanes, government appeared to have failed to make connections *even among its own agencies*, not to mention with the private sector.

The question often posed was that if cutthroat business competitors manage to cooperate in a crisis, why can't government agencies?

Authority: The third theme is that there is a lack of clarity about who is in charge once governmental authority escalates from the local to the state and federal levels.

Federal, state, and local government personnel are all on the scene following any Incident of National Significance, and confusion among them is common and somewhat understandable. Problems with credentialing and permitting, fights among agencies (even those under the same department), and problems related to commandeered goods and equipment are omnipresent. The surveys uncovered a number of stories where a company's trucks were commandeered by one agency while trying to deliver emergency supplies under contract to another. There also were cases where vehicles credentialed by one government authority were denied entry to the disaster area by another government authority down the road. There were many cases where two or more agencies, regardless of government level, would butt heads over turf issues in the midst of a crisis.

One organization told an interviewer that while the Federal Emergency Management Agency (FEMA) was, figuratively, at one door to help, the Customs and Immigration Service (CIS) was at the other, trying to remove employees whose visas were invalidated because the organization was closed for business (even though closure was due to the very same hurricane that its fellow DHS agency was addressing via recovery efforts).

Communications: The fourth theme is that operational and accurate communications are vital.

Crisis wreaks havoc with technology. From 9/11 to Wilma, we were told that phones and computers do not work (either because of a lack of electricity or because satellite, cellular and land lines have crashed). People cannot physically move to back-up communications locations because of evacuations or public-safety concerns. But the problem transcends technology. During Katrina, even when a company could feed into a government source or EOC, it was reported that the information available was often confusing and inconsistent, particularly when multiple government authorities were on hand.

Interviewees differed on what would constitute an ideal arrangement for coordinating communications. Some preferred that one voice speak on behalf of all government to the private sector; others preferred to gather information from multiple sources and sort it out on their own. All concurred on three points, however: that more organized communication between government and business needs to occur; that government personnel must be clear about what they need; and that officials placed in a communications role must have the authority to make quick decisions.

Logistics: The fifth theme is that a need exists for improved methods to deliver goods and services to the government or directly to needy communities during crises.

Interviewees discussed at length government's inability to accept and distribute goods and services in an efficient manner following Katrina. Everything from food and clothing to medical care came in, but without control over the distribution system, ice melted, donated clothing piled up and rotted, and medical personnel were turned away. One company had 600,000 tarps available to cover damaged roofs, but the federal government was unable to draw on the supply chain to secure and distribute them. Another company offered to donate three mobile communications units, only to be told that their offer was refused and then countered with a request to buy ten of the same. We were told by one interviewee that a senior manager of a large transportation association spent a full day trying—and failing—to locate a single authoritative point of contact within FEMA to coordinate bus deployments. Numerous examples were cited of the government's inability to accept private-sector donations, often because of a lack of pre-defined procedures or mechanisms for doing so.

Interestingly, many companies we interviewed had not heard of DHS' National Emergency Response Registry (NERR). The NERR, created during

"We're competitors, not enemies. We collaborate during emergencies.... We had one competitor who gave us office space, and we'd do the same for them. Relationships were all in place beforehand."
– Gregg Jones, Chief Administrative Officer, Greenberg Traurig, LLP

"On the communication side: If the land lines aren't working—which they are not if the power is down—you will only have cell phones. Whatever system you have, they have two problems: one, the power to the towers went down, and two, their backup batteries only had a short useful life.... So in any business that is spread out...you're basically out of business. This season all of the senior executives have three separate cell phones on different systems, hoping that at least one of the systems will be up and operating in the areas where we need it."
– Gerald D. Kelfer, President & CEO, Avatar Holdings Inc.

the Hurricane Katrina response, was an Internet-based system to source goods and services to the government during emergencies. Most interviewees expressed support for the concept but wanted to know why the NERR was kept a virtual secret from businesses, given that DHS sought to implement such a system. That frustration also was reflected by some in government.

Other companies discussed concerns about government contracting, with many stories about procurement process problems. Surprisingly, complaints never focused on payment issues (although some companies reported very long delays in FEMA reimbursements). Rather, many companies were perplexed by rules requiring federal government agencies—but not states and localities—to refuse pro bono donations and demand for-fee contracts instead. Still other complaints noted that work offered at one fee was sometimes rejected in favor of the same work paid at a *higher* fee—which some companies regarded as unconscionable. For example, one large restaurant chain offered to distribute boxed lunches at a price of $4.50 per lunch but ultimately rescinded the offer when FEMA refused to pay less than $6 per lunch. Many of these problems stemmed from government procedures that tied the hands of FEMA officials. However, it also was reported that many government contracting officers seemed to be unaware of the variety of contracting vehicles available to them during crises, and either did not know how to streamline the contracting process or were not empowered to do so.

Business response: The sixth theme is that like government authorities, companies also play the role of first responders and thus need to be given priority status.

The private sector plays a critical role in post-disaster community reconstruction. Disasters often destroy many key components of a community's critical infrastructure, and business continuity for companies in those industries (such as energy and telecommunications) is an essential component of the community's immediate recovery. Therefore, these corporate first responders (identified as such by the authorities and prior to a crisis) need to be given priority status with regard to credentialing and access to facilities, affected areas, and information. Many interviewees also proposed that banks and waste removal services should be added to this list of corporate first responders, since two repeatedly-mentioned areas of post-disaster civil unrest concerned cash and garbage pick-up.

Because the private sector plays an essential role in rebuilding the community, it is important that government agencies generally refrain from commandeering essential goods from corporate first responders. Many interviewees specifically complained that government officials often commandeered their backup fuel tanks. Fuel and power frequently were cited as the most important resources needed early in a crisis. Without those inputs, business cannot proceed—and many continuity plans fall apart. Some interviewees also suggested that laws be enacted to require gas stations to install emergency generators, ensuring that they can pump their own fuel in emergency situations.

FEMA: The seventh theme is that FEMA must make dramatic improvements in the planning and coordination of its recovery efforts.

Nearly all respondents asserted that FEMA failed in its efforts following Katrina. There were a few good stories shared, but all agreed on two points. First, FEMA representatives were replaced far too often, which resulted in FEMA policies being inconsistently applied and the establishment of working relationships with FEMA on the local level becoming nearly impossible. Second, the mechanisms for establishing two-way communications with FEMA officials on the ground were unreliable from the start and quickly overwhelmed.

The Good Samaritan: The eighth theme is that the vast majority of companies—like the vast majority of citizens—will strive to "do the right thing" during crises.

When asked about their Good Samaritan actions, most companies simply said that they aimed to do the right thing and worried about the monetary and regulatory implications later. When asked what aspect of previous disaster recovery efforts they are proud of most, companies said that it was being able to help their communities and their own employees.

One can discern from this feedback that organizational cultures that are not risk-averse in their daily behaviors will not be inclined to be risk-averse in a crisis. The challenge is how to transfer this cultural insight from the private sector to government bureaucracies.

Legal and Regulatory Barriers: The ninth theme is that regardless of industry, size, or location, companies found significant regulatory barriers that hindered their ability to execute their own continuity plans, to assist within their communities, assist other communities, and work in concert with government recovery efforts. Some of those impediments, such as permitting and credentialing, have been mentioned above. Others involved financial filings, gasoline mixes, health inspections, and much more. In fact, the interviews uncovered far more than we could catalogue in this report. In many cases, government authorities waived regulations that would prove to be unnecessary or overly burdensome in the midst of crisis. In others, the government did approve the waiver—but only after weeks of meetings in Washington. Of course, there also were reports of laws and regulations not being waived at all, leaving companies in fear of legal reprisal should they act to "do the right thing" versus consulting their legal counsel first.

The three Task Force scoping groups set out to develop recommendations that flowed from their own experience. Informed by these nine insights, they focused on developing key questions for deliberation. They are:

Public-Private Collaboration

- How can business become better integrated structurally into the disaster response effort?

- What mechanisms can improve how business and government communicate and coordinate decision-making before, during and after a crisis, at all levels of government?

"If you start reading the 300-page National Pandemic Flu Plan, they categorize and prioritize different categories in terms of what they think is critical infrastructure—garbage men are level 6, which is almost at the bottom. You'd think we'd be up there with critical utilities because that's basically what we are, but we're not. We're down there below everybody and their brother."
– Michael R. Lambert, Corporate Director of Safety, Republic Services, Inc.

"If you've got twenty employees in your firm, and you are trying to give them some cash so that they can take care of their families—they might not have a home, they might not have a car, they might not have a place to stay—you try and give them $500 each—that's $10,000, and you've got to fill out a...currency transaction report—for an established customer! That's my pet peeve, and you can't get...Washington to even think about: if it is a national disaster, waive it for a week, waive it for...two week[s] for an established customer."
– Chevis Swetman, Chairman, President & CEO, Peoples Financial Corporation

Surge Capacity/Supply Chain Management

- How can government improve contingency contracting and pre-qualification of vendors for goods and services that will likely be needed?

- How can government and business facilitate and accelerate the delivery of resources (assets and volunteers) that business offers on a pro bono basis?

- How can business emergency-response resources be deployed and managed by federal, state and local government agencies to maximize speed and utility and minimize redundancy?

Legal & Regulatory Environment

- How can government improve Good Samaritan laws to better protect businesses and their employees who volunteer to help?

- How can legislation, regulation and policy be better aligned at the federal, state and local levels to encourage private-sector preparedness and better mobilize the private sector in a catastrophic event?

- Is revision of the Stafford Act desirable?

After assimilating the results of the Task Force survey, each scoping group developed recommendations for the *near term* that optimize business participation in disaster response. They also developed recommendations for the systematic *longer-term* integration of the private sector into the National Response Plan and its execution in a disaster.

These recommendations are presented in the following three chapters. A fourth chapter—an "Expert's Guide to Priorities and Sequencing"—describes a path for systematic private-sector integration consistent with the federal government's revised NRP; it is the Task Force's summary statement of the actions required to implement the recommendations in this report.

Chapter 1. Public-Private Collaboration

> **Finding**: The American private sector must be systematically integrated into the nation's response to disasters, natural and man-made alike. Government alone cannot manage major crises nor effectively integrate the private sector after a crisis occurs. The Task Force believes that building public-private collaborative partnerships, starting at the state level, is one of the most important steps that can be taken now to prepare the nation for future contingencies. Unfortunately, with few exceptions, durable, collaborative relationships do not today exist.

Consistent with this finding, the Task Force recommends:

> **A. Creating new ways to institutionalize public-private collaboration at the state and major metropolitan area levels;**
> **B. Facilitating greater public-private collaboration at the regional and federal levels; and**
> **C. Building a "Business Emergency Management Assistance Compact (BEMAC)" structure.**

Local, state or regional public-private partnerships are vital to filling gaps in homeland security and disaster response that neither government nor business can manage alone. These partnerships mobilize private-sector cooperation—including the supply of material assets, volunteers, information and expertise—that strengthens our nation's capability to prevent, prepare for, and respond to catastrophic events.

For responding to disasters, the private sector encompasses the for-profit business community in all its aspects. Those aspects include critical infrastructure,[4] the disaster response supply chain,[5] and other business sectors (e.g., architecture and engineering firms, the hospitality industry, mortuary services) that may be called on for support in a crisis or that are necessary for the continuity of community in the aftermath of a disaster.[6]

Ensuring continuity of community is essential for recovery from disaster in all forms. Good will aside (and there were innumerable examples of companies acting out of nothing more than corporate citizenship), although most businesses plan for rebuilding and restoration of operations and for the safety and security of employees, they also recognize the interdependencies that exist in communities. A functioning community is

"Public-private partnerships are truly the best way for America to imagine solving its problems down the road, [including both] the simplest notion of a standard setting responsibility, being that of the federal government, and the real generation of solutions to problems being forthcoming from the private sector–the link between the two is the ultimate public-private partnership that will be the answer to so many of our challenges."
– Admiral James M. Loy, USCG (Ret.), Senior Counselor, The Cohen Group

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[4] Critical infrastructure includes: 1) Agriculture, food (meat, poultry, egg products); 2) Public health and healthcare; 3) Food (other than meat, poultry, egg products); 4) Drinking water and wastewater treatment systems; 5) Energy, including the production, refining, storage, and distribu-tion of oil and gas, and electric power (except for commercial nuclear power facilities); 6) Banking and finance; 7) National monuments and icons; 8) Defense industrial base; 9) Information tech-nology; 10) Telecommunications; 11) Chemical; 12) Transportation systems; 13) Emergency services; 14) Postal and shipping; 15) Dams; 16) Government facilities; 17) Commercial facilities; 18) Nuclear reactors, materials, and waste.

[5] The Disaster Response Supply Chain consists of commercial suppliers, distributors, and vendors at the wholesale and retail level.

[6] Non-governmental and charitable organizations are also critically important to disaster-response efforts, but their role is beyond the scope of this Task Force.

best defined by its natural commercial and social relationships, and can be a locality, a state, an urban area within a state, or multiple states. If business is to reconnect with its customer base, care for employees, restore operations, and recover quickly from a catastrophic event, it has a clear incentive to participate in the community response to disaster.

Whether activating established distribution networks or deploying aid quickly in the aftermath of a disaster, the private sector can play a critical role in securing communities nationwide. The private sector also needs—and can provide in return—disaster information, coordination of access, protection and prioritization of resources (e.g, fuel). A further benefit is that private sector emergency resources can improve overall situational awareness—if they are tied into the local, state and federal systems. Established partnerships work because they enable business and government leaders to work together not just once but on an ongoing basis across many initiatives and all industry sectors.

Government and business know intuitively that they need to work together during crisis, but how to do so does not come without effort on both sides. Business-government collaborations require a level of trust and agility that is easiest to build at the local, state and regional levels and possible at all levels. It is important that local communities be as self-supporting as possible in their crisis-response capacities, putting a high premium on the efficiencies to be gained through cooperation; federal response capabilities may be quickly overwhelmed if Washington were faced with several simultaneous incidents.

At the same time, business must adopt new methods of cooperation to support federal emergency response efforts. New structures are needed for this purpose, and among these, regional public-private partnerships can be critical in helping to sort through the multiple and overlapping requests from federal, state and local government agencies that arise in a crisis. Regional arrangements can allow business and government leaders to better coordinate requests from multiple government agencies and to develop coherent disaster response plans according to the needs and priorities of their respective regions.

A. Institutionalizing Public-Private Collaboration at State and Major Metropolitan Area levels

The purpose of state Emergency Operations Centers (EOCs) is to facilitate coordination among essential government personnel during a crisis. Through its emergency and disaster grants program, the federal government has encouraged states to develop EOCs.[7] Many states and cities have indeed developed such capabilities, as have major utility companies. The Task Force recommends that those states, cities and other critical infrastructure entities that have not should do so promptly.

"[Y]ou have to recognize the strengths of the various areas...And those strengths are not the same. [T]here is no reason to expect government...to be as good at military deployment as the military is. The point is that businesses are better able to execute on certain things, the military is better able to execute on some things, and government is better able to execute on some things. And the question is how you link them up and take advantage of those various strengths. The failure was access to tremendous resources that were just under-utilized or never accessed because there was no communication and there was no imperative to pull them in."
–Thomas A. Oreck, President, Oreck Corporation

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[7] Public Law 107-206, "2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States." Phase 1 grants of $50,000 to each state are used for an initial assessment of the hazards, vulnerabilities and resultant risk to existing EOCs. Phase 2 grants address the most immediate deficiencies and require a 50 percent non-federal cost share.

Like government, most major (and many smaller) retailers and vendors in the disaster supply chain have their own emergency operations centers. These centers provide a location where employees in charge of emergency management can communicate with the workforce and make important business continuity decisions. Among the companies that do not have EOCs, most still have emergency communications, protection, and restoration plans. The extent of business continuity planning varies among industry sectors and among individual businesses.

Because government has EOCs to coordinate emergency response, and because the private sector has its own EOCs and emergency restoration plans, it seems logical that government should use its EOCs to tap into the vast organization of emergency resources and communication networks the private sector can offer. Thus, the Task Force recommends that every state and major metropolitan EOC offer a seat at the table—or broaden representation if it already exists— for at least one business representative to serve as liaison to the business community at large. This representation should complement, not replace, presence in the EOC granted currently to public utilities. Further, the Task Force recommends that a Business Operations Center (BOC) be established to operate in conjunction with each EOC, to provide a forum for collaboration, coordination, and decision making between the public and private sectors.

Participation in the BOC should represent critical infrastructure and other industries/companies vital to community viability and continuity in crisis situations. Recognizing that it is not possible for all businesses to participate at the "table" at once, the Task Force recommends that BOC membership be generally rotating and structured in three tiers:

1) Critical infrastructure owners and operators as permanent members;
2) Other sectors or companies deemed critical to restoring the continuity of community, represented as necessary (these seats could be rotating or permanent, based on the number of such businesses or the nature of the functions they provide to the community); and,
3) Entities representing business at large within the community (Chambers of Commerce, professional or trade organizations, or civic clubs, e.g., Rotary), as rotating participants that can reach back to their business membership for help or information sharing.

The BOC concept creates an operational capability that integrates private-sector resources into emergency response plans. It is precisely this operational capability that is missing from the National Response Plan as currently constructed—despite the frequent exhortations in federal reports that the private sector be included. A BOC, connected structurally to its corresponding EOC, will greatly enhance disaster-response capability by providing a vehicle to include the private sector in planning, preparation, training, exercises and execution.[8]

"A new topic [in disaster response] is 'cross-industry response.' The telephone companies can only do so much on their own, because eventually they rely on the power companies, who in turn rely on some other industry such as the transportation industry. [W]e need to consider what happens to the other related industries such as the financial industry, [which is] dependent on the transmission of data among their various sites. Working together on a cross-industry basis is the only truly complete solution."
– Larry Babbio, Vice Chairman and President, Verizon Communications, Inc.

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[8] Although outside the Task Force's purview, our assessment suggests that EOCs also should have substantial non-governmental organization (NGO) representation. Many EOCs have a seat for the American Red Cross and Voluntary Organizations Assisting in Disaster (VOADs), which include NGOs and faith-based organizations; however, participation is not consistent across the country.

The Task Force believes that to ensure that the BOC concept spreads nation-wide, the Congress should direct DHS to create guidelines and funding for states and urban areas to build BOCs. Public-private communications systems and data interchanges may require direct appropriation. However, sustaining funding through the DHS Grants & Training program should be tied to the states and urban areas developing, training and exercising the EOC-BOC collaboration.

> The state of Georgia has developed and is exercising the BOC concept. The Georgia BOC will be operated by a team of representatives from corporations, trade associations and chambers of commerce. The BOC will have about 30 organizational representatives who will be aligned with the state's Emergency Support Functions (ESFs), as defined in the National Response Plan. BOC representatives must maintain an extensive knowledge of a company's operations and possess the authority to quickly commit company resources. In addition, the BOC will have a team of analysts with broad understanding of multiple commercial sectors and the ability to rapidly define problems and propose solutions for them. It is likely that one to two full-time employees with relevant emergency management experience will be required to adequately manage and sustain the BOC.
>
> The Georgia BOC will initially operate virtually, using teleconferencing, email and other web-based tools for communication, with the exception that the BOC manager and analysts will co-locate at or near the Georgia Emergency Operations Center (GEOC).
>
> One also can look to similar examples in Florida, Massachusetts, Texas, Utah, Los Angeles, New York City and the San Francisco Bay Area. All are organized somewhat differently according to the particular requirements of the jurisdictions they serve, but the overriding theme in each is the presence of the private sector in each phase of operation, from planning through execution.

Recommendation:

A. Integrate business into existing and prospective Emergency Operations Centers (EOCs) of states and large urban areas through the establishment of Business Operations Centers (BOCs).

  1. Formalize a business presence in state and urban emergency operations centers, to include emergency planning, training and testing through periodic drills.

  2. Include Critical Infrastructure sectors, if not already represented, and those industry sectors not classified as critical but typically a part of the disaster response supply chain (e.g., retail and wholesale), and other critical businesses, such as the service and hospitality industries. Businesses need cross-sector links to one another and the credentials and clearances to operate with state and local EOCs before, during and after a catastrophic event.
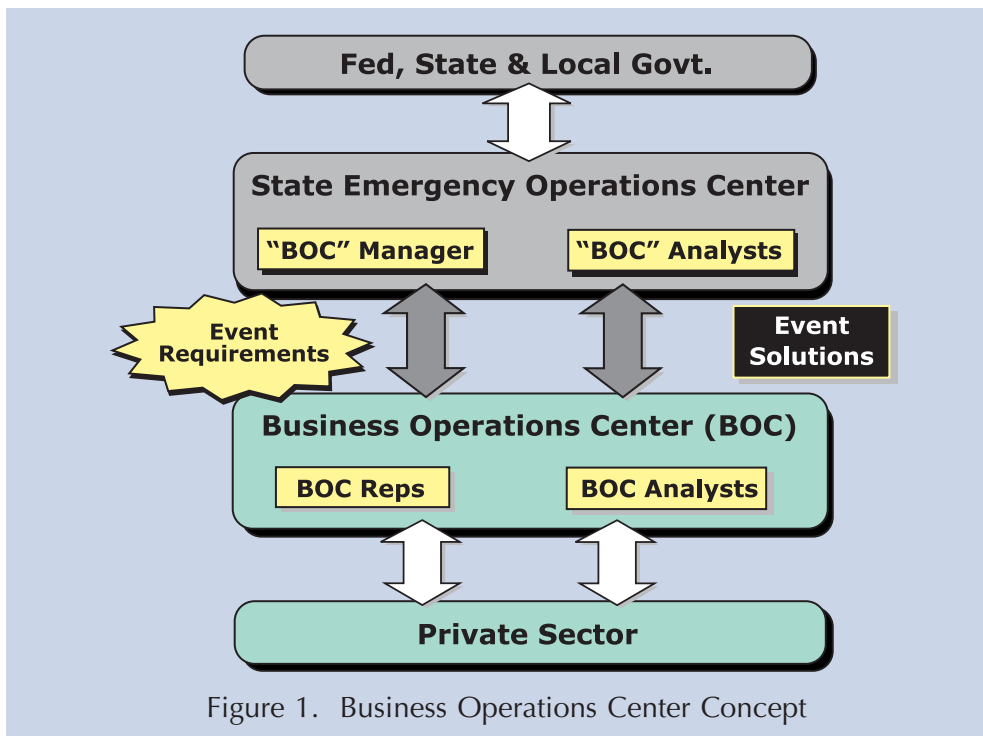
Figure 1. Business Operations Center Concept

3. Congress should tie this requirement to receipt of federal homeland security grants/funds.

4. Require testing, training and exercising of a formal business presence in state and local emergency operations centers to ensure proper functioning in a crisis.

5. Ensure that the BOC remains a permanent entity by codifying it in the National Response Plan, sustained by the DHS-sponsored grants program.

B. Facilitating Greater Public-Private Collaboration at Regional and Federal Levels—Scaling-up to an Incident of National Significance

Unless their operations are compromised or incapacitated, state and local governments are likely to have the first look at what goods and services are needed during a crisis. They are responsible for transmitting this information to public and private relief organizations.

If, however, a disaster rises to the level of an Incident of National Significance,[9] the resources of the federal government are brought to bear. The introduction of federal resources and authority presents the challenge of "scaling-up" to accommodate a new set of players without loss of efficiency.

Within the National Response Plan, the mechanism for this "scaling-up" process is the Joint Field Office (JFO). Before we face another disaster, it

"Prior to the federal government getting involved, most communities have a local plan that has local players that have relationships and know what to do, especially around critical infrastructure. Once that process is overwhelmed, that's where the issue begins to get complicated....That's when...the problem escalates in terms of degree of complexity, and all the relationships between the federal government and the state, the federal government and the private sector, [and] the federal government and the city become the issue at hand."
– Duane Ackerman, President & CEO, BellSouth Corporation

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[9] The National Response Plan recognizes the potential magnitude of threats from weapons of mass destruction and severe natural disasters by adoption of a new term, the Incident of National Significance. An Incident of National Significance is described as an incident with high impact requiring an extensive and well-coordinated response by federal, state, local, tribal, and nongovernmental authorities to save lives, minimize damage, and provide the basis for long-term community and economic recovery.

must be resolved how business will "plug in" to the plan as DHS organizations and the U.S. Northern Command (NORTHCOM) come into the mix through the JFO. To smoothly transition from local and state operations to federal presence, business-government relationships and roles within the JFO must be more than predetermined; they must be practiced.

This recommendation sounds straightforward, but in truth, the task is both challenging and complex. Government and the private sector must work together to identify, in advance, governmental needs and the resources available to match them. Roles on both sides must be clear, and each entity must play to its strengths with as little mutual interference as possible. When possible, government must provide information on required goods and services, access to disaster sites, and security for relief workers in the area of operations. The private sector must in turn be prepared to execute its supply chain operations according to established procedures, with the least possible regulatory interference and with reasonable protection from legal liabilities.

DHS recently established a liaison to the critical infrastructure Emergency Support Functions (ESFs).[10] The JFO has a critical infrastructure liaison position intended to interface with all critical infrastructure companies—but one individual cannot handle all of the activity generated in a crisis. That is why DHS should establish a private-sector position linked to a BOC-like concept in the JFO and establish an ongoing public-private relationship in each of the ten FEMA regional offices. In both cases, two conditions must be met for the liaison to be effective: the business designee(s) must have sufficient authority to commit the businesses they represent to take action; and the government, especially in the JFO, must recognize that BOC input deserves serious and high-level attention.

The Task Force believes that to build enduring public-private collaborations at the regional and federal levels Congress needs to direct DHS to create guidelines and provide funding for such entities.

Recommendation:

B. Facilitate greater public-private collaboration that will continue as disaster response and recovery activities escalate to include federal components under a Joint Field Office structure.

1. Establish long-term solutions that fully integrate the private sector with regional entities and federal agencies, including creation of a Business Operations Center (BOC) model at the JFO and/or FEMA regional level. Recognize that a single event spanning multiple regions or multiple events in different regions may require the operation of more than one JFO/FEMA-BOC structures.

2. Establish a common set of private-sector expectations and "rules of engagement" consistent with local, state and federal roles,

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[10] Emergency Support Function 15 – External Affairs has been modified (July 2006) to include the private sector.
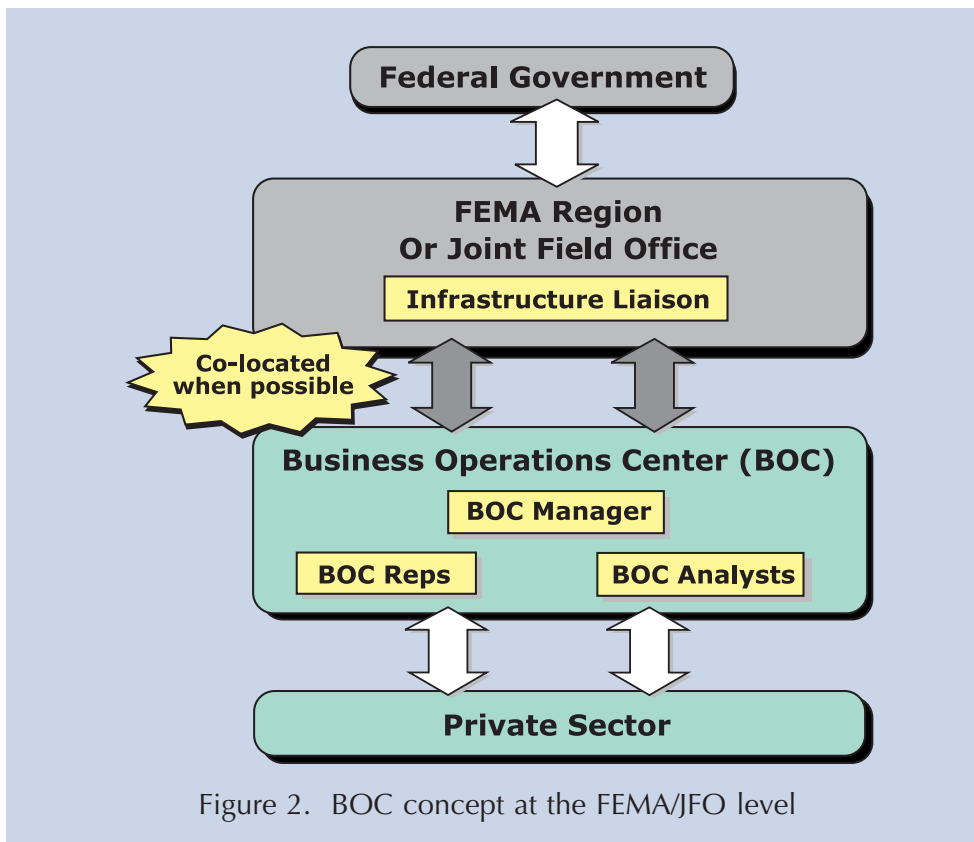
Figure 2. BOC concept at the FEMA/JFO level

responsibilities and methods of operation. Broadcast these standards widely and conduct necessary training and practical exercises, so that they are thoroughly understood in advance of an actual disaster.

3. Weave the above recommendations into a strong fabric of business-government collaboration on a nationwide basis:

   a. Create regional partnerships with common elements and local flexibility to provide the resources, structure and local commitment needed to implement and exercise Task Force recommendations on a sustainable basis.

   b. Ensure BOC personnel understand and complete training under the National Incident Management System (NIMS).

   c. Provide outcomes-based federal funding to enable regional partnerships to implement and exercise the above recommendations and share best practices across the country.

C. A Business Emergency Management Assistance Compact

A successful example of a national mechanism for matching needs with available resources is the state mutual-aid program known as the Emergency Management Assistance Compact, or EMAC. EMAC currently enables affected states to request government resources from non-affected states, and it obliges non-affected states to comply if they are able.

The EMAC program could and should be expanded to include private-sector resources. An expanded EMAC program could knit together a fabric of state-based Business Operations Centers to create a scalable, flexible and robust

"[EMAC has] existed since Hurricane Andrew. We test it every year, we exercise, we have written policy manuals, guided direction; it really can serve as a model for that kind of provision. It's simple but robust, and that's ultimately what we're talking about when it comes to private-public partnership."
– Mike Sherberger, former Director, Georgia Office of Homeland Security/Georgia Emergency Management Agency

"network of networks." Trained private-sector representatives would work alongside emergency management leaders to coordinate government and private-sector resources using interoperable processes and technical tools (e.g., same communication systems, same data exchange systems, etc.). This program would provide the mechanism for identifying in advance and rapidly deploying billions of dollars of business resources on a nationwide basis.

> The Task Force will nominate a team to work with the National Emergency Management Association (NEMA) to explore application of the Emergency Management Assistance Compact (EMAC) model to the task of identifying, cataloguing and requesting private sector-resources for use by government.

Recommendation:

C. Build a Business Emergency Management Assistance Compact (BEMAC) Structure.

   1. Expand existing FEMA and state models to better forecast the resources and capabilities that are critical in the early stages of a disaster.

   2. Create state and regional resource registries of private-sector resources, including resources government expects to purchase and those that business expects to provide on a pro bono basis during catastrophic events.

   3. Create a mechanism similar to EMAC to connect business resources in unaffected states to states in the disaster zone.

   4. Create business support teams similar to EMAC "A-teams," which send emergency management officials from outside the disaster zone to the affected state(s).

   5. A BEMAC system should complement, not replace, existing mutual aid processes like those in place in the public utilities sectors.

Chapter 2. Surge Capacity/Supply Chain Management

> **Finding**: America's existing commercial supply chains provide a wider range of goods and services on demand than any level of government can possibly match. During national disaster, these supply chains have provided goods and services, both with and without payment from an end user. Government at all levels should incorporate such capabilities into disaster response planning. For the most part, government has so far failed to do so.

Consistent with this finding, the Task Force recommends continued efforts re:

    A. Improving government emergency-purchasing protocols;
    B. Revising deficient donations management systems; and
    C. Modernizing logistics processes across the board.

In the wake of recent national disasters, government agencies at all levels have tried to prepare themselves for future contingencies by forecasting needs and arranging to secure resources. Unfortunately, with the exception of critical infrastructure, the role of the private sector remains unscripted and untested—despite the fact that the private sector is the ultimate source of the materiel and commercial services that will be needed.

The nation must do much more to develop the "emergency marketplace" in advance of the next crisis. To do so, four overarching principles should apply:

- The private sector routinely operates efficient supply chains; government should not be expending time, effort, and money to build its own.
- The goal is to get product to the disaster zone quickly and at fair market price.
- In the disaster zone, the private sector must be granted access and know that adequate security will be provided.
- More planning needs to be put into "last mile logistics."

A. Improving Emergency-Purchasing Protocols

Business prepares for disaster by developing relationships with public officials in the community and knowing what emergency services are locally available. It plans for protection of its business infrastructure and merchandise, as well as for the safety of its employees. Many businesses have methods of maintaining or re-establishing contact with employees so that business continuity can be readily restored. When warning is available, major supply chains, using point-of-sale data from previous disasters, begin moving necessary products towards a disaster zone in advance of need. They also develop contingency contracts or agreements to obtain goods and services that are likely to be needed in case of emergency.

Like business, government can predict some (but not all) of its needs prior to a crisis. And like business, government can and should plan ahead to have

"If something is disrupted, [there must be a] plan for reconstitution that makes sense, rather than 'first come, first served' or 'we're bigger than you are.' "
– Bruce Townsend, Corporate VP, Security, FedEx Corporation

those needs filled in the wake of a disaster. To do so, it must communicate its projected resource requirements to its suppliers. Armed with such information, commercial relationships between the private sector and governments at all levels can be pre-negotiated for those goods and services; examples include electrical power, communications capabilities, engineering/construction, equipment maintenance, field services (e.g., lodging, food services and sanitation), security, medical services, mortuary services, supply operations, and transportation.

Many localities and states have already entered into contracts with the private sector to provide these crisis and post-crisis goods and services. Likewise, the Federal Emergency Management Agency (FEMA) has contracts in place to provide the most common commodities (like water and ice) that are needed following a disaster.

The disaster recovery agencies should establish blanket purchase agreements with the suppliers of emergency materials, thus making the contracting process quicker and more efficient. Regardless of the type of pre-qualified government contracting vehicle, however, the contracting officers must be trained, ready, and authorized to make quick decisions within the bounds of those arrangements.

In November 2006, the General Services Administration (GSA) consolidated its emergency response resources into a new Office of Emergency Response and Recovery, providing a central location from which it can support first responders, emergency workers and recovery teams. For both routine purchasing and emergency contracting, some companies have elected to become certified suppliers to the federal government through the GSA Federal Supply Schedule. This mechanism avails the federal purchaser access to thousands of pre-qualified vendors who hold "schedule" contracts with GSA that establish purchasing mechan-isms and commercial pricing similar to catalog buying. By virtue of pre-certification, GSA Schedule vendors will likely be preferred by government purchasers and receive "first bite." To further consolidate buying opportunities, GSA introduced a Disaster Relief and Emergency Preparedness Category to its popular online storefront, *GSA Advantage!*® Of note, the FY 2007 National Defense Authorization Act (PL 109-364, Sect. 833) allows states and localities to purchase from the GSA Schedule to facilitate recovery from natural disasters (as declared by the President), terrorism and certain types of attacks.

Beyond that GSA Schedule pool, there is an even larger vendor market that must be accessible in a crisis. In the first week after a crisis, materials availability is paramount. Many capable vendors in a disaster area may not have undergone a GSA certification, and those that have may no longer have the capability to deliver on their pre-crisis agreements and contracts. This Task Force recommends that in addition to the multiple contracting schedules, government must improve its access to the national commercial marketplace for additional support in a crisis. For example, FEMA should pre-qualify vendors after studying the use of qualified bidders lists (QBL) in accordance with the authority established in the Federal Acquisition Regulation (FAR). The supply chain would benefit from a rigorous and adaptable qualifying and pricing process identified and implemented in advance of the need.

"I find it sadly humorous that the media was so surprised that some great American companies... were really good at the logistics of this. What do you think these people do for a living? They're not $200 billion companies because they're stupid!"
– A restaurateur affected by Hurricane Katrina

Also, the public sector should recognize and capitalize on the ubiquity of large-scale retailers likely to be in or near the disaster zone. Such retailers should be preferred when they are unmatched in terms of materials availability and quick delivery, advantages that are not readily duplicated in the public sector.

Contracting officers also must become better at using the emergency contracting authorities available to them in the FAR. In May 2003, the Office of Federal Procurement Policy (OFPP) published guidance on the use of emergency procurement flexibilities to help ensure that agencies could effectively meet the demands associated with fighting terrorism. The OFPP is currently updating its guidance to also address flexibilities relevant to other emergency situations. With the guidance in place, it is important for contracting officers to be trained and tested, just the same as first responders, in any emergency preparedness exercises conducted at local, state and federal levels.

While pre-contracting for emergencies has been improved—especially at the federal level, in the wake of Katrina—the Task Force believes that more can be done to leverage the vast resources of the private sector in a crisis. The mechanism most in need of development between government and the private sector is a means to deliver commercial goods in a crisis in a timely and cost-effective manner. As stated at the outset of this chapter, existing commercial supply chains provide a wider array of goods and services than the government can match. It is not evident that government has fully leveraged these private-sector resources in its planning. This process must allow for the effective use of vendors present in affected areas that have the existing/surviving infrastructure to deliver within the "last mile."

"We had to fight for fuel with the government and [other companies] — even though we were all on the same team. We're all calling the same five guys to get the same things. It would be far better if there were a pre-positioned supply chain."
— Robert S. Boh, President and CEO, Boh Bros. Construction Co., LLC

A consistent criticism of government buying in a crisis is that emergency procurement rules are scattered throughout thousands of pages of federal regulations and, thus, are obscure and hard to locate. Consequent to Katrina, in July 2006 the government issued an interim rule concerning the Federal Acquisition Regulation (FAR) that has the effect of providing a single reference to acquisition flexibilities that may be used to facilitate and expedite acquisitions of supplies and services during emergency situations.

Specifically, this rule revises FAR Part 18 to provide a single reference to the acquisition flexibilities already available to expedite acquisitions of supplies and services during emergencies. For ease of use, the flexibilities are divided into two main groups: "Available Acquisition Flexibilities," which may be used anytime and do not require an emergency declaration; and "Emergency Acquisition Flexibilities," which may be used only after an emergency declaration or designation has been made by an appropriate official. The second group is further divided into three subgroups: contingency operation; defense or recovery from certain attacks; and incidents of national significance, emergency declaration, or major disaster declarations.

This addition to the FAR adds no new rules and regulations.

Recommendation:

A. Improve forecasting for emergency goods and services, putting more pre-contracts in place and pre-qualifying vendors.

1. Have FEMA, with the help of state emergency organizations, other DHS offices and the private sector, improve forecasting models for the most critical items needed during the initial response to the most likely emergencies/crises:

    a. The models should be data-driven from recent experience. Most major retailers have vast point-of-sale databases that capture the consumable items most in demand before, during and after a crisis. These could be provided to modelers through industry trade organizations.

    b. Engage major retailers, or their association representatives, in the construction of scenarios covering a variety of events and magnitudes.

2. With the above list, FEMA should work with vendors to establish pricing mechanisms that would set prices during the crisis period at the market price in effect immediately preceding the emergency. Electronic markets exist so that price lists for some commodities could be updated routinely to address normal pre-emergency price fluctuations. States and local municipalities would agree to use these price lists in time of emergency (an example is the routinely updated system of "Average Wholesale Price" used in the pharmaceutical industry).

    a. Establishing a schedule, whether derived from "Average Wholesale Price" or another method, works well in stable times and for certain product categories. AWP is a "warehouse" price and is not applicable to retail pricing, however. As described in the FAR, schedule pricing cannot change just because of a crisis; rather, in order to increase pricing, the contract would need to contemplate the increase.

    b. For many "consumable" categories, like groceries, implementing a schedule or price list is not feasible. Commodity prices can fluctuate rapidly based on changing market conditions after a crisis. Likewise, transportation costs also may change significantly due to the rising cost of fuel, contributing to an overall rise in the cost of commodities. As a result, schedule pricing could cause product shortages in a true catastrophe or in a crisis of long duration. Therefore, FEMA should work with vendors to establish a business-oriented pricing mechanism allowing the government to make rapid product selection decisions. The system should involve pre-qualification of the prospective vendors and then take into account the factors of 1) vendor's stated price, 2) vendor's availability (when can it be delivered in the desired amount at the desired location?), and 3) government's assessment as to the reliability of the vendor. With the proper pre-qualification of vendors (e.g., use of a QBL), requests by government can be

transmitted and vendor responses received and processed quickly.

3. Many major retailers and some states already have pricing policies that take effect automatically in a declared disaster zone. States, working through national organizations like the NGA, should take the lead in developing pricing mechanisms to be implemented in disaster situations and areas. Decisions to implement pricing policies can be tied to a state or national declaration of emergency. Rules should stipulate the duration of the pricing policy and procedures to modify the duration if conditions change or do not materialize. The decision to return to normal operation can be made by the states, in conjunction with the private sector. (As a rule, price blocks should be geographically based on where the crisis exists. Different areas reconstitute more quickly than others and can be released from price blocks more quickly). Such "anti-gouging" regulations should aspire to national standards to both streamline and simplify their implementation, but states—not the federal government—should take the lead in their development.

4. GSA Schedule vendors may opt to take increased inventory positions on certain Stock Keeping Units (SKUs)[11] prior to forecast events (e.g., hurricanes) or long shelf-life items for other kinds of emergencies. FEMA and/or state EOCs would work with the private sector to assess and monitor pre-emergency inventory buildup:

   a. The private sector will pre-stage appropriate inventory levels when possible before the event and will be moving inventories rapidly after the event. Effective communication between the private sector and government is essential to ensuring that the right amount of product ends up in the right place.

   b. It is imperative that government enable the private sector to leverage the flexibility of its supply chain to meet crisis needs. Creating large "stockpiles" of government purchased and warehoused merchandise is neither effective nor advisable.

5. The government, through the Federal Trade Commission (FTC) or other relevant authorities, should consult with private-sector groups as needed to review the list of required items developed in recommendation A.1 above to determine and grant conditional waivers to any trade and regulatory restrictions. For example, provisions of the Trade Agreement Act and Buy America Act may restrict rapid responses to crisis. These waivers must be pre-defined so that they can take effect automatically upon declaration of an emergency.

6. To increase the pool of vendors, government should establish mechanisms for pre-qualifying non-GSA vendors prior to a crisis and for qualifying non-GSA vendors during a crisis:

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[11] SKU: An identifier used by merchants to permit the systematic tracking of products and services offered to customers

a. For purposes of pre-qualifying vendors, the Federal Acquisition Regulation provides authority for agencies such as FEMA to use QBLs. FEMA should explore the use of QBLs or similar mechanisms for pre-qualifying vendors.

b. For the purposes of qualifying vendors during a crisis, a simplified certification process based on business information maintained by commercial analysis firms (such as Dun & Bradstreet) and a civil/criminal background check could be employed. Qualification requirements should be tailored to maximize the purchaser's access during a crisis to vendors with product availability and quick delivery windows. The emphasis must nevertheless be on pre-qualification because it is inherently difficult to qualify vendors during a crisis.

c. In extremis, FEMA and first responders should retain the flexibility to purchase from any vendor at their discretion if events preclude even simplified qualification processes.

7. Government should establish more effective vendor selection mechanisms. Price may not be the first determinant in a crisis; availability and delivery window may take precedence. It is important, therefore, that the purchaser have access to the widest range of goods and services possible. Therefore, if pre-certified or otherwise qualified vendors cannot meet the requirements, procedures should not preclude making other sources available to the purchaser.

a. This system must, however, be open, transparent and self-auditing in the interest of integrity and fairness.

b. At the same time, privacy protections must be incorporated into the system to ensure that participating vendors cannot access competitor information through this process.

8. Vendors should list their disaster-related inventory positions or build-up on state (or regional) registries. The number of potential disaster-related products is large, with a very dynamic fluctuation in what is in-stock. So it is probably advisable to limit registry to just those items expected to be in short supply. Additionally, this approach does not address the "deconfliction" of competing requests for the same stock. For example, a state or city may request all of a given product in stock. In the end, businesses will decide how to distribute stock within their own systems. With accurate registries, however, government will have better insight into where resources are available.

9. In addition to pre-registering items expected to be in short supply, states and regions should implement "reverse auction" systems, in which the public sector list its needs and invites private sector bids. FEMA is in the process of developing this capability for its own use. GSA vendors could respond to these orders, and those not filled by pre-qualified

vendors would be sent to the "open market" for others to fill. The price would be the one established in recommendation 2 above.

B. Revising Deficient Donations Management Systems

In a disaster, experience shows that volunteerism and pro bono donations on behalf of the private sector—businesses, non-governmental and charitable organizations combined—are the norm. The challenge for government and the private sector is to ensure that donated goods and services from the latter support, rather than interfere with, efficient public response and recovery. Many public-sector entities prefer not to deal with private donations because they add to the complexity of and often duplicate the public response mechanism.

Dismissing private-sector donations is not a realistic or necessarily desirable goal, however. Moreover, the real impediment generally is a lack of government capability to match its needs with what the private sector has and is willing to donate. That shortcoming can and must be rectified if for no other reason than to allow the government to better plan for using the full range of resources that can be made available.

It is not this Task Force's intent to prescribe how non-governmental (NGOs) or charitable organizations should factor into a crisis response, except to note that they will play a major role and must be integrated along with business into the nation's response mechanisms (as the American Red Cross [ARC], as a special case, long has been).

As an example, an organization known as Aidmatrix (www.aidmatrix.org) has been working since 2000 to build global relief networks connecting people in need to surplus products and goods. It claims links with over 35,000 charitable organizations worldwide. FEMA is working with Aidmatrix to leverage their resources to respond to future US domestic disasters.

The key is to get in front of volunteerism from business and the NGO community in advance of a crisis so that those groups become effective partners and not unwanted guests.

"We had a number of people donating things to New Orleans. There's no mechanism in place to coordinate those things. You want to have a real transparent process in place, but you also want to utilize the gifts that are being offered."
– Dickie Brennan, Managing Partner, Dickie Brennan & Company

Recommendation:

B. Improve planning, forecasting and use of assets and volunteers that businesses, NGOs and charitable organizations make available on a pro bono basis.

1. State operations centers should add representatives from a few key NGO and charity groups to participate in planning, exercising and operations. (Businesses would coordinate donations through the Business Operations Center [BOC] concept described in Chapter 1.)

2. FEMA should, as part of the modeling effort described in Recommendation A, improve forecasts for the most likely charitable needs for a range of scenarios, to allow the various NGOs to plan their own responses in advance of need.

3. State (or regional) registries should be created for pro bono resources not normally for sale, like warehouse space, buses, or volunteers. Such registries should include both business and NGO/charitable organization resources. They should be combined with the for-sale registries described in A.8 above.

4. A reverse auction capability attached to the system described above can also be applied to unanticipated needs for pro bono goods and services. This area is ideal for management by a council of key NGOs. However, it should be integrated and not separate from the mechanisms established for governmental and private-sector response.

5. State coordinators representing charitable and NGO organizations should work within their respective national infrastructure to fully utilize their organizations for tasks like sorting and storage, rather than pushing these burdensome tasks on to people in the affected area. They also should develop their own operating plans at the state level. Questions of storage facilities, logistics, housing, and so forth should be addressed in advance.

6. DHS should develop nationwide education programs for the private sector on how best to prepare its people for volunteer efforts—like dispensing of medications—giving them required training, inoculations, and other preparatory skills.

C. Logistics Processes

Throughout this report, the underlying stipulation has been that the private sector operates efficient, resilient supply chains that cannot and should not be duplicated by the government. However, there are ways that the private sector, working with government, can improve the functioning of these logistics processes in a crisis.

If, as recommended in Chapter 1, the full integration of the private sector into EOC operations at all governmental levels is achieved, it will overcome the major coordination obstacle: determining how government and business gather information, communicate, analyze problems, propose solutions, deconflict and make decisions. That is why the EOC/BOC partnership described earlier is so central to the success of the action plan described in this report. What remains is improving the "rules of the road" in effect during crisis response, thus clearing the way for the private sector to operate its supply chains effectively.

Businesses, working with government, can improve the effectiveness of logistics processes during a disaster. Here are some considerations:

Preparedness. To ease the strain on the supply chain in advance of and during a crisis, businesses need to educate their employees on emergency preparedness and encourage them to stockpile certain goods. Government also plays a role in educating the public-at-large on the need to prepare. Such preparedness can lessen peak demand during the first 72 hours of a

"You have the most phenomenal logistics network in the United States that exists anywhere in this world. Why in the world does the government insist on trying to replicate that at a much higher cost [knowing] they couldn't anticipate where the need is?"
– Ken Senser, Senior Vice President, Global Security, Aviaton and Travel, Wal-Mart Stores, Inc.

crisis, which may be the time required to get the supply chain back into full operation.

Business closure. In disasters that come with some pre-warning (e.g., a hurricane), state emergency officials must weigh public safety against the need to keep major supply-chain retailers open as long as possible to provide customers with emergency services and supplies. Shutting down prematurely impedes the ability of a retailer's customers to prepare their own homes and businesses for an impending crisis. It also affects retailers' ability to protect stock and employees if the notice to shut down is immediate. Here, as in other areas involving prudential judgment, reasonable balances must be struck.

Credentialing. A major effort also must be mounted to address the permitting and credentialing process imposed by public authorities in the aftermath of a crisis. In the Katrina disaster, nearly all businesses reported this shortcoming as a major impediment to restoring business continuity of community. The first issue is resolving the restrictions on professionals licensed in one state from practicing in another. The second is granting access into a disaster area for Critical Infrastructure and Key Resources (CI/KR) owners and businesses to inspect, repair and re-establish their services. The government has made headway in the second area, but both remain key prerequisites if the professional and private sectors are to quickly resume operations.

Point-of-delivery. Conceptually simple but practically demanding "last mile logistics," otherwise known as point-of-delivery issues, also must be resolved. Commercial supply chains do not possess company-controlled offload and distribution capabilities aside from those associated with their own fixed facilities. Such capabilities therefore must be provided by recipients, and since the ability to do this is by no means easily assured in most crises, it must be planned. Finally, business-owned or chartered transport should not be used to warehouse emergency supplies because the efficiency of the supply chain hinges on keeping these transportation assets in motion.

The Task Force believes that involving the private sector in the planning, exercising and execution of local, state and regional emergency response plans can identify and solve these current shortcomings in crisis-response logistics processes. If the private sector is not integrated in the planning process, we believe that government will make the same mistakes repeatedly.

Recommendation:

C. Improve the management by federal, state and local governments of business emergency response resources to maximize speed and utility and minimize redundancy.

   1. Test, validate and use the EOC, BOC and BEMAC models described above to minimize physical and regulatory roadblocks and help facilitate the operation of business supply chains.

    a. The proliferation of EOCs and BOCs recommended here may overburden the trained emergency response personnel available to individual private-sector organizations. A virtual presence can overcome the need to staff the BOCs 24/7. Also, periodically rotating the businesses supplying personnel to the BOC can ease the burden.

    b. Plans must include a physical back-up in the event of communications or other data-sharing disruptions.

2. In order to lessen peak demand during a crisis, employers should be encouraged to develop programs that help their employees stockpile personal emergency supplies. The additional benefit is that it frees the employee to return to work sooner.

3. Improvements to the permitting and credentialing process must continue. States, working with appropriate local authorities, must create agreed standards and protocols. These procedures must be communicated to and practiced with private-sector supply chain operators.

4. For GSA-qualified companies, and others as the state crisis teams see fit, develop a system of pre-certification of the transportation fleet so that supply chains can be restarted as soon after the event as possible and can flow as freely as is practical.

5. Transfer capability to the BOC for members of state departments of transportation, law enforcement, and the private sector to coordinate movement of business-owned vehicles with critical supplies into impacted areas as efficiently as possible. This capability already exists in many state EOCs, but it needs to be applied consistently and properly on a statewide basis and should be a function of the BOC.

6. The transportation command-and-control model adopted should be consistent across states; current differences often obstruct seamless end-to-end supply chain operation when multiple jurisdictions are transited.

7. Local, state and regional authorities must take responsibility for "last mile logistics," which will then allow the private-sector supply chains to play to their strengths in responsiveness and agility.

8. Businesses should take the lead in educating local, state and regional entities on private-sector surge/supply chain management best practices to ensure they are not forced to operate inefficiently and, therefore, ultimately at greater cost to government.

Chapter 3. Legal & Regulatory Environment

Finding: Business requires a predictable legal regime to operate efficiently in an emergency situation, whether that business is engaged in charitable or profit-motivated activities. The current legal and regulatory environment is conducive to neither predictability nor efficiency.

Consistent with this finding, the Task Force recommends that Congress:

A. **Enact a nationwide body of "disaster law";**
B. **Modify the Stafford Act to include the private sector; and**
C. **Hold hearings to determine which Task Force recommendations can be implemented under existing law and which require new legislation.**

Action by Congress and the Executive Branch is essential for putting into place a legal and regulatory environment in which the private sector can become a full partner in the national response to disasters. We can and must ensure that federal, state and local emergency planners include the private sector in the preparations, testing, training, and execution of their responsibilities. We also must rethink the not-inconsequential issue of the legal allocation of risk through the civil justice system, most importantly tort law, as well as through regulation.

The Task Force understands that a comprehensive review of the legal and regulatory environment surrounding emergency response will require considerable time and effort, and we urge Congress to schedule hearings to deal with longer-term issues. But we also urge government to concentrate initially on specific short-term objectives so that an adequate private-sector response is available for the next disaster—not one that may befall us years from now.

One example of an important short-term action would be to implement the critical EOC/BOC partnership concept discussed earlier. That action could be done through a mandate to DHS under existing law, even as other long-term legislative solutions are being considered.

Another important action would be to adopt immediate legislative fixes to the Stafford Act (such as those included in "The Post-Katrina Emergency Management Reform Act of 2006" [S. 3721], introduced by Senator Susan Collins on July 25, 2006).

A. National Disaster Law

Major disasters are a national issue, and uniformity of law across states is essential to the efficient leveraging of the nation's business assets in dealing with them. During the Katrina response effort, many out-of-state businesses that tried to help had little or no familiarity with the laws of Louisiana, which hurt their efforts and hurt the people of New Orleans. While we must respect the purposes and value of federalism, we should nevertheless explore whether we need a body of federal disaster law to preempt the heterogeneous patchwork of state law in this particular context.

"Business normally conducts [its] activities in an environment which is governed by civil authority and provided access to resources through the commercial marketplace. In a disaster where civil authority is overwhelmed and normal commercial activity disrupted, assistance at the federal level may be necessary in order for private sector entities to perform expected disaster response functions."
– Duane Ackerman, President & CEO, BellSouth Corporation

Two basic principles should guide us in thinking about such a body of law:

- Things should get easier, not harder, and better, not worse, during a local/regional disaster or incident of national significance.
- Individuals and businesses acting in good faith should be able to confidently provide assistance based on a predictable set of rules and responsibilities governing their conduct.

Following the hurricanes of 2005, a great number of laws and regulations necessarily were waived, suspended or modified—HIPAA (Health Insurance Portability and Accountability Act) privacy provisions being a case in point. This body of waiver authority should be kept "on the shelf" for consideration in future disasters. However, to be effective when invoked, government must communicate with the private sector in advance of and during the crisis to set a level of expectations sufficiently high so that the predictability standard is met.

Recommendation:

A. Congress should hold hearings and produce legislation for a nationwide body of "Disaster Law."

1. Considerations for such legislation are: 1) lack of predictability, 2) differences between laws applicable to pre-disaster agreements and those applicable to people and organizations who deliver goods and services voluntarily after a disaster occurs, and 3) variations in state law.

   a. With respect to liability, Congress should improve protections with the aim of ensuring predictability of liability for private-sector entities and citizens providing Good Samaritan (no reimbursement to the provider) goods and services, <u>particularly when those goods and services are specifically requested by the government, e.g., FEMA or a state or local government:</u>

      1. Safe harbor provisions in existing law should be reviewed and cataloged in a Stafford Act provision (see Recommendation B below);

      2. Good Samaritan activities deemed appropriate to federal protection but not covered in current law should be identified.

2. Congress should clarify and standardize to the extent possible the liability of professionals acting in good faith during disasters.

   a. Examine the need for government-backed secondary insurance, or some other type of indemnification mechanism (perhaps analogous to the Federal Deposit Insurance Corporation [FDIC]), to mitigate some of the potential private-sector risk in emergency response situations.

   b. Investigate the effect of federal law, regulations and standards for disaster response on the liability insurance coverage to businesses.

c. Review federal laws, regulations and standards regarding medical response to disasters to determine where revisions can improve the effectiveness, safety and efficiency of medical care delivery and the protection of medical facilities and professionals in those circumstances. For example:

1. Triage: The Department of Health and Human Services (HHS) could set triage standards to be used as the benchmark in determining negligence by health care providers dealing with mass casualties and by emergency medical responders to disaster scenes. HHS currently provides only voluntary triage standards and supporting tools. Moreover, many different triage systems are in use nationwide, setting up the certainty of problems when medical augmentation teams from outside a disaster area support a local triage system different than the one in which they are trained.

2. Lack of Adequate Vaccines and Medicines: Protection for healthcare providers needs to be established in case a scarcity of effective vaccines and other medicines early in a crisis requires experimental and out-of-formulary treatments.

3. Transportation of Patients in Non-Standard Vehicles: Protection needs to be established for medical facilities and transportation providers who through necessity use emergency vehicles not normally suitable to the purpose for transporting injured or sick persons.

d. To the maximum extent possible, facilitate ordinary rules of risk and liability allocation being applied to emergency situations.

e. Provide for a predictable, single (and probably federal) jurisdiction for hearing disputes arising in the course of response to an Incident of National Significance.

3. With regard to regulation, federal agencies with oversight/regulatory authority over the private sector need to clarify and promulgate procedures that allow the agencies to quickly implement discretionary authorities for the relaxation of regulations in the event of an emergency. These authorities need to be pre-packaged as much as possible so that they can be triggered by an appropriate declaration of emergency. Examples include:

a. Antitrust: DHS should take advantage of the "voluntary agreements" section of the Defense Production Act, PL 81-774, which allows competitors (with government notice and clearance) to allocate certain resources.

b. Effects on the Environment: The entire body of environmental impact laws and regulations can usefully be reviewed to determine if standard waivers need to be developed to cover disaster situations.

c. Licensing: Develop uniform rules concerning interstate recognition of business and professional licensing during times of emergency,

"Some agencies like the Department of Education get very high marks, but one problem was that the agencies did not seem to speak with one another. While we had FEMA and others at one door helping us to re-open, we had the immigration service at another talking about deporting our foreign students because they weren't in school. These were regulations that could have been suspended given the situation."

- Yvette M. Jones, Chief Operating Officer and Senior Vice President for External Affairs, Tulane University

perhaps incorporating a trigger mechanism activated by the Governor of the state where the emergency situation exists.

d. Privacy: Rules governing the release of personal data by competent authority during a crisis should be reviewed and clarified. During Katrina, much confusion and concern was generated because of statutes (such as HIPAA) that appeared to prohibit the release of personal data.

e. Service delivery: We must review and if necessary revise laws and policies concerning how and when providers of goods and services during a catastrophe can terminate service after a crisis has passed—especially laws that would affect providers of free or discounted goods. Companies providing services such as medical care or housing after Katrina found that they could not terminate services once a patient/tenant was in the system, even if that patient/tenant abused or violated the terms of service.

f. Trade restrictions: Review the Trade Agreement Act (19 USC 2501, *et seq.*) and the Buy America Act (41 USC 10a - 10d) to determine if waiver authority is warranted to ensure these laws do not restrict government's purchasing from non-domestic sources in an emergency.

g. Regulatory agencies should establish and test contact procedures and empower federal regulators to respond quickly to private sector requests for regulatory relief when a crisis has occurred.

B. Revise the Stafford Act

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5121-5206, is a federal law designed to bring an orderly and systematic means of federal natural disaster assistance to state and local governments in carrying out their responsibilities to aid citizens. The Stafford Act is a 1988 amended version of the Disaster Relief Act of 1974, Public Law 93-288. The amended act created the system in place today by which a Presidential Disaster Declaration of an emergency triggers financial and physical assistance through FEMA. The Act gives FEMA the responsibility for coordinating government-wide relief efforts and includes the contributions of 28 federal agencies and non-governmental organizations, such as the American Red Cross. In October 2000, Congress amended the law with passage of the Disaster Mitigation Act of 2000, Public Law 106-390, which permitted contributions of federal resources to private nonprofit entities under certain conditions.

The SAFE Port Act of 2006 (PL 109-347, Sect. 607) extends the Stafford Act to include the private sector, but only to the extent that it precludes the head of a federal agency from denying or impeding essential service providers[12] access to the disaster site or impeding them from performing restoration or repair services.

"People need cash. Law enforcement needs to...partner up with the banks so that as branches are opened without power, you're not putting employees at risk. [T]hey (law enforcement) think it's a business thing: 'I'm not going to help you at Bank United.' [But]our service is essential to the community, and if I [open] a branch without any alarm, without any cameras, and you're looking at $80,000 in your teller drawer, and you've got a line of people, you're not going to feel too good."

– Ramiro Ortiz, Chief Operating Officer, BankUnited Financial Corp.

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[12] Essential Service Providers include entities that provide telecommunications, electrical power, natural gas, water and sewer services or any other essential services as determined by the President. They include municipal, nonprofit and private, for profit, entities in the act of responding to an emergency or major disaster.

Several recent congressional actions have proposed changing the Stafford Act yet again, but none of these efforts have been successful. The Task Force believes that Congress should extend coverage of the Act beyond state and local government to include the private sector, with particular attention to the provision of security or protection of private-sector personnel and assets operating in a disaster zone. Authorities should be automatic upon presidential declaration of a national disaster, but protections offered should be specific and limited to situations where it is impractical or impossible for the private sector to provide for its own security.

Recommendation:

B. Congress should revise the Stafford Act to designate the private sector as a critical component of a comprehensive disaster response mechanism.

   1. Such provision in law can usefully support designated categories of private-sector partners:

      a. To participate as full partners in the planning, training, equipping, certification, exercise and execution of disaster response;

      b. To be afforded federal assistance when necessary to carry out disaster responsibilities, e.g., providing escort and security so that emergency repairs, etc., can be effected in a disaster zone;

      c. To coordinate and request assistance directly through the appropriate federal agency (such as designated Source Selection Authorities [SSAs] and NRP-designated lead agencies) without having to work through third-party (i.e., FEMA) officials.

C. Congressional Hearings

While remedies to the private sector's full participation in the nation's disaster response capabilities are urgent, such remedies should not be taken hastily. Adequate consideration and deliberation before deciding to legislate is in order—once in place, law is hard to undo. The Task Force therefore urges Congress to review carefully the body of existing law pertaining to disaster response and the agencies of government responsible for carrying out that law. The initial focus of its investigation should be to determine which of the recommendations of this Task Force can be implemented under existing statute, and which require new legislation.

A series of hearings, early in the 110th Congress, can build momentum for systematically integrating the private sector and its resources into the national response to disaster in the near term, even as longer-term new legislation is being crafted.

Recommendation:

C. Congress, early in its 110th session, should hold hearings to determine which remedies suggested by this Task Force can be implemented under existing law and authority, and which may require new legislation.

Chapter 4. An Expert's Guide to Priorities and Sequencing for the Integration of the Private Sector into U.S. National Disaster Response Planning and Execution

Government should move quickly to integrate business into its disaster response planning, doctrine, exercises and operations and ensure that adequate resources are devoted to implementing Task Force recommendations at the state and regional level on a sustainable basis.

The recently released National Infrastructure Protection Plan (NIPP) acknowledges that Critical Infrastructure and Key Resources (CI/KR) are essential to the nation's security, public health and safety, economic viability, and way of life. Natural or man-made disasters that weaken or destroy CI/KR will significantly disrupt the functioning of government and business alike, producing cascading effects far beyond the targeted infrastructure and physical location of the incident. Direct attacks, natural disasters or technological hazards could produce catastrophic losses and will require the coordinated collaboration of the whole of society—public and private sectors—to put the country back on its feet.

The Business Response Task Force recommendations proposed in this report are directed toward creating mechanisms that would integrate the full capabilities of the private sector as a critical component of a comprehensive national disaster response. This chapter addresses the priorities and sequencing necessary to put those steps into action.

Federal Plans and the Private Sector

The federal government, through DHS, has done a good job developing the policy frameworks to be used in all aspects of protection and disaster management. The National Response Plan (NRP), National Incident Management System (NIMS) and the NIPP together provide for a comprehensive approach to ensuring the viability of the national community from a structural and policy perspective. What is still missing, however, are the operational components and mechanisms that allow all members of the community to participate as required to fulfill the objectives of the risk management framework described in the NIPP.

DHS' risk management framework addresses economic sectors in a vertical fashion, but in real economies businesses operate within a community, not an industrial sector. Communities are not only customers; they also make decisions that affect businesses' ability to function. Likewise, communities cannot return to normal function without the private sector, which owns or operates 85 percent of U.S. critical infrastructure. Figuring out how to reconcile the top-down federal sectoral view with the bottom-up community-centered perspective of business means that determining where the private sector should plug into federal doctrine is a complex but vital undertaking.

"You want to re-center from a government-dominated, marginally assisted system to a genuinely collaborative partnership, because in fact the private sector brings more speed and more resources and more capability than government has internally."
– Newt Gingrich, former Speaker of the U.S. House of Representatives

While that process plays out—as it must—we must do what we can on other fronts, and the actual community level is the best place to start.

The Near Term

The Task Force recommends that the near-term focus be centered on implementing the Business Operations Center (BOC) concept described in Chapter 1. The EOC/BOC partnership model provides the operating processes necessary for private sector-involvement in the risk management framework, focused initially on immediate response. The BOC provides a basis for public-private collaboration that creates the necessary level of trust needed for full integration of the private sector to succeed. This is most easily achieved at the state and local levels because, in most cases, such relationships already exist organically as part of normal social life—it's "the community thing."

Does that mean that we have to create 55 separate BOCs, one for each state, federal jurisdiction and territory? Ideally, yes; but achieving this goal will depend on the political and business leadership at the state level. The same is true for BOCs in major urban areas. New York City and Los Angeles County are creating their own versions, and others should follow.

There also is a question of resources. In the end, it is hard to see any other way to proceed than to have some federal dollars, through some combination of grants, credits or offsets, or by direct appropriation, support the EOC/BOC concept.

A private-sector presence also should exist at the regional level. The June 2006 DHS Nationwide Plan Review Phase 2 Report suggests that a new DHS-directed regional system is needed.[13] Were such a capability developed, the inclusion of a BOC would be an important component. Establishing BOCs in each of the ten current FEMA regions would at least be a good start.

The creation of state and major metropolitan area BOCs should be put on the fast track for— deployment, training and exercising before the end of 2007. Regional BOCs will follow on the success of deployment at the state/major metropolitan area levels.

The Horizon

Doctrine development. The longer-term objective is to formalize private-sector participation in the National Response Plan and other doctrine. Ultimately, the private sector needs a permanent presence at the regional and federal doctrinal development level. Task Force members are participating in the current revisions of the NRP and NIMS and will seek to codify the public-private partnership collaborations recommended in this report.

Capabilities-based resource planning. To begin, the private sector needs to have a large role in the current development/revision of the Universal Task List (UTL) and Target Capabilities List (TCL). The UTL and TCL were developed at the direction of *Homeland Security Presidential Directive(HSPD) 8: National Preparedness* with the participation of federal,

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[13] U.S. Department of Homeland Security, *Nationwide Plan Review: Phase 2 Report*, June 16, 2006.

state and local government representatives and professional associations representing government responders. The TCL provides the basis for preparedness for all of the national planning scenarios and each of the major missions of prevention, protection, response and recovery.

The TCL tiering summary chart assigns capabilities, outcomes, capability resources, and roles to government, non-governmental organizations, the private sector, and citizens. On cursory review, the Task Force believes the private sector can make major contributions in the planning, management and support of at least the 25 of the current 37 target capabilities in the TCL. Further, we believe that the current tiering summary chart under-represents the contributions the private sector can make to national preparedness, thereby both raising the cost of public-sector investment in such capabilities and reducing the effectiveness and efficiency of preparedness efforts.

The development and maintenance of TCL capabilities by federal, state and local governments is supported by congressional appropriation. Where capabilities are assigned to the private sector in the TCL, government could likewise support the development and maintenance of such capabilities in federal equipment, training, certification, credentialing and exercise programs.

Another area for private-sector inclusion is in the development and implementation of changes to the National Incident Management System (NIMS). The NIMS reflects the doctrine contained in *HSPD 5: Management of Domestic Incidents*. Of the three NIMS components, only the Incident Command System (ICS) is defined and, as yet, does not clearly indicate where or how the private sector plays in its execution.

Likewise, as the other two components of NIMS are defined (the Multi-agency Coordination System [MACS], which describes the relationships among the operations centers at all levels, and the Public Information System [PIS]), inviting early private-sector participation will ensure that its views are reflected in the final products. Moreover, creating an enterprise architecture for the NIMS will complete the development cycle by defining public- and private-sector concepts of operations, organizational relationships, activities, information needs, rules and supporting systems. DHS may want to consider separate development of an enterprise architecture to support the NRP.

Similarly, federal agencies should coordinate with those private-sector entities governed by the National Infrastructure Protection Plan (NIPP) and its sector-specific supporting plans to develop a process and schedule for affected private-sector entities to come into compliance with those plans.

Operations planning. In the case of operations planning, DHS Secretary Michael Chertoff has told Congress that the system is broken and cannot be fixed without a major investment. A new National Planning System (NPS) for coordinated federal, state, tribal, local and NGO/private-sector planning has not yet been authorized or funded. This is a clear opportunity to get the legislation right the first time relative to private-sector participation. In the meantime, the private sector needs to make its voice heard on Capitol Hill to give substance to a requirement for private-sector participation that is currently defined only in the broadest terms.

In addition to establishing private-sector participation in planning at the national level, the NPS should carve out room for business-to-business efforts. Many areas of response and recovery are most effectively and efficiently organized and implemented by the affected private sector, not as a government-controlled activity. An excellent example is the mutual aid pacts in place among the utility companies in the southeastern United States. The planning system should be sensitive to and try to identify areas of the economy that are best restored by the private sector itself in the event of a disaster. In doing so, government should encourage and support processes by which industry groups can organize and plan—and publish those plans as part of the NPS.

Having the private sector commit resources and aggressively pursue ongoing participation in thousands of local, state and federal contingency planning efforts will never be fully achievable. But inclusion of the private sector in the NPS can probably be accomplished at the federal and state levels, in the largest urban areas—and at the regional level. The business case for doing this planning is the basis for this report, and it is, to the Task Force, compelling.

Training and exercises. As stated repeatedly in this report, repetitive, detailed training and exercising of the plans developed for public-private collaboration are essential for such operations to work efficiently in an actual disaster. Some members of the Task Force feel that a major national exercise that truly strains the system must occur in the near term if we are to honestly confront the shortfalls and unknowns that exist in our current plans. To encourage public-private collaboration, DHS grant funding to the states and other entities must be contingent on demonstration of significant participation by the private sector in disaster training and exercises.

Operations. Based on the successful outcome of private-sector and government collaboration on implementing the recommendations in this report, in an actual disaster the private sector would be able to carry out the roles it had equipped itself for based on capabilities-based planning, defined in doctrine, planned in contingency and crisis action plans, and trained for in exercises.

Lessons-learned assessments. The operations continuum is not a circle but a never-ending spiral. The impetus for change in doctrine and operations is the assessment program. The private sector must play its role here as well. As a consequence of scale, the most extensive and expensive commitment required is at the local and state levels. Once again resources for this activity must come from federal, state and private coffers.

Resourcing Private-Public Collaborative Relationships

Finding the resources to implement the recommendations in this report will be difficult but doable if we proceed gradually from what now exists to the achievement of the ideal. As reported here, many examples of state EOCs exist. In a few, the BOC concept has been implemented. As the concept scales up to the regional or federal level, new sources of funding will have to be identified.

"Congress can and should encourage DHS to provide grant funding to implement the recommendations of this report. Without strong Congressional action, public-private collaboration in crisis management and response will remain an afterthought."
— Former Sen. John Breaux (D-LA)

Along the operations continuum, doctrine development, capabilities-based planning, and operations planning require an excess of brainpower over cash. The major investment is talent and time, and the Task Force believes that the private sector is willing to commit those resources if it is given its seat at the table. The true costs occur during the training, exercising, operations and assessment phases. The current grant program is geared largely to funding one-off exercises.

The Task Force urges Congress to commission DHS to begin development of an architectural framework linked to or as part of the NRP to ensure that fully functional and staffed BOCs can be maintained in each state, urban area and region.

Recommendation:

Ensure that adequate resources are devoted to implementing Task Force recommendations at the state, regional and federal level on a sustainable basis.

Appendices F through I at the end of this report identify and prioritize specific desired outcomes and policy drivers keyed to the Task Force recommendations.

Appendix A – Business Response Task Force Charter

June 2006

CHARTER

BENS Business Response Task Force: BENS has formed a Task Force to review and recommend to the U.S. Government steps to systematically integrate the capabilities of the private sector—principally that of the business community—as a critical component of a comprehensive disaster response mechanism. Membership is comprised of senior business leaders from U.S. industries closely tied to disaster response: telecommunications, supply chain logistics, utilities, real estate management, and so forth. Business leaders understand the need to ensure the continuity of their community in order to maintain their own business continuity, but business-government collaboration in major disasters is largely disorganized.

BENS: For nearly 25 years, Business Executives for National Security has served as the primary channel through which senior executives can help build a more secure America. BENS is a national, non-partisan, non-profit organization that harnesses successful business models from the private sector to help strengthen the nation's security.

Scope: We propose to collect lessons learned during the responses to Katrina, 9/11, and other incidents of national significance. We believe that the experiences, reactions, and responses to catastrophic events apply equally to other kinds of national disasters and are, therefore, appropriate exemplars for our review. The Task Force will focus on the time between when the hurricanes were first predicted to make landfall in the U.S. through the response phase of operation.

Process and final report: The Task Force will analyze lessons from these disasters to recommend reforms enabling future improved public-private collaboration and coordination. The Task Force will provide examples of response functions for which it makes sense to rely on the private sector, and will offer policy recommendations to optimize the contributions of business during national disasters. It will propose a program leading to an architectural framework to integrate private sector participation into disaster response at all levels—local, state, and regional—and under the execution of the National Response Plan.

Timing: The Task Force intends to complete work within approximately 45 days from the start date.

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Appendix C – List of Survey Interviews

Admiral Jim Loy, USCG (Ret.)

ALZA Corporation

Armed Forces Benefits Association

AutoNation, Inc.

Avatar Holdings Inc.

BankUnited Financial Corp.

Baptist Health South Florida

BellSouth Corporation

The Biloxi Sun Herald

Boh Bros. Construction Co., LLC

Burger King Holdings, Inc.

CACI International Inc

Cargill, Incorporated

Chevron Corporation

Cisco Systems Inc.

Citigroup Inc.

City National Bank

Coca-Cola Enterprises Inc.

Colonial Pipeline Company

ConAgra Foods, Inc.

Cushman & Wakefield Inc.

Darden Restaurants, Inc.

DataPath, Inc.

Deloitte & Touche LLP

Deutsche Bank AG

Dickie Brennan & Company

D.J.'s National Food Service

The Dow Chemical Company

Dr. Kathleen E. Toomey, M.D., M.P.H.

Durr Heavy Construction, LLC

Exponent, Inc.

FedEx Corporation

Food Lion, LLC

Food Marketing Institute

Gene Matthews

General Electric Company

Greenberg Traurig, LLP

Harman International Industries, Incorporated

Harrah's Entertainment, Inc.

The Home Depot, Inc.

INSTEDD

Intel Corporation

International Business Machines Corporation

iWave, Inc.

J.B. Hunt Transport Services, Inc.

Johnson & Johnson

JPMorgan Chase & Co.

Keefe, Bruyette & Woods, Inc.

Kraft Foods Inc.

Lacy Suiter

Laitram L.L.C.

Lockheed Martin Corp.

The Macerich Company

Marriott International, Inc.

McKesson Corporation

Miami Herald

Michael Sherberger

Monogram Systems

NC4 (The National Center for Crisis and Continuity Coordination)

Ochsner Clinic Foundation

Oreck Corporation

Patton Boggs LLP

Peoples Financial Corporation

Pfizer Inc.

Raymond James Financial, Inc.

Republic Services, Inc.

Richard Andrews

Royal Caribbean Cruises Ltd.

Ryder System, Inc.

Sandler O'Neill & Partners, L.P.

Science Applications International Corporation (SAIC)

The Honorable John Breaux

Southern California Edison

Southern Company

The Honorable Newt Gingrich

St. Barnabas Health Care System

Steven Cash

Tenon Group Plc

The Staubach Company

Toll Brothers, Inc.

Tulane University

United States Northern Command

University of Miami

Verizon Communications Inc.

Wachovia Corporation

Wal-Mart Stores, Inc.

The Westfield Group

The White Oak Group, Inc.

William I. Hancock

WS Management, LLC

Appendix D – Relevant Recommendations from Federal Government After-action Reports and Other Sources

Numerous reports have reviewed the response to Hurricane Katrina. Many of these reviews, including those conducted by Congress and the White House, favor improving emergency preparedness, response, and recovery via improved partnerships with the private sector.

1. The White House report entitled *The Federal Response to Hurricane Katrina: Lessons Learned* enumerated specific recommendations to be implemented by collaboration with the private sector. The White House report recommended that private-sector organizations "actively participate in all phases of a Federal Disaster response." The **House of Representatives' report,** *A Failure of Initiative,* provided anecdotal evidence of failures in collaboration. The report of the **Senate Committee on Homeland Security and Governmental Affairs,** *A Nation Still Unprepared*, "examined in detail the actions of officials of local, state and federal government departments and agencies."

Public-Private Collaboration

The House report stated that critical elements of the National Response Plan (NRP) were unsuccessfully executed during Hurricane Katrina. Gaps in the National Communications System, a component of the NRP, resulted in miscommunication and slow response in delivering relief supplies. The report illustrated how communications inoperability led to issues with command and control and situational awareness.

Another recommendation, according to the Senate *A Nation Still Unprepared* report, is "to enhance regional operations to provide better coordination between federal agencies and the states and establish regional strike teams." Among their other duties, the regional offices should "enhance cooperation with NGOs and the private sector, and provide personnel and assets, in the form of Strike Teams, to be the federal government's first line of response to the disaster."

The White House report recommended actively engaging the private sector in reviewing the NRP and the NIMS and finalizing the Interim National Infrastructure Protection Plan. Both Congress and the White House suggested that slow delivery of relief commodities can be remedied via more robust relationships with the private sector. The report recommended that DHS mandate "pre-competed" private-sector contracts for arranging advanced communications capabilities.

Surge Capacity for Goods and Services

The House Katrina report also detailed problems with medical response, including inadequate communications equipment, confusion relating to hospital evacuations, and problems with credentialing. The report referenced failures in advanced contracting, which led to hasty acquisitions and vulnerability to fraud. One company tasked with supplying temporary housing experienced contracting issues when the requirements for the work order changed midway through their response.

The White House report specified that HHS arrange "pre-configured" teams of health care professionals, including volunteer health professionals from the private sector. DHS should partner with the private sector to develop a scalable, flexible, and transparent logistics system for the procurement and delivery of goods and services. DHS should pre-identify private-sector resources to provide disaster support. Also, states are encouraged to enter into contractual arrangements with private-sector companies for procurement and delivery of goods prior to a disaster.

Legal and Regulatory Framework

The House report cited exemplary companies with existing emergency preparedness plans. The White House suggested that DHS overhaul regional disaster plans by collaborating with the private sector and by setting standards for private-sector preparedness against which regional plans can be measured.

The White House recommended that DHS lead an interagency effort to remove federal and legal liability obstacles to utilization and coordination of private-sector resources during a disaster. Private-sector actors also are encouraged to plan their "giving streams" at the local level.

2. The DHS "Lessons Learned Information Sharing" report on public-private partnerships for emergency preparedness explains the need for coordination between public safety agencies and private sector entities. Public-private relationships must be established prior to emergencies. Familiarity of the two sectors with each other's capabilities and response procedures is paramount. The private sector plays a vital role in emergency situations; it employs most of the nation's workforce, owns 85 percent of critical infrastructure, and produces essential goods and services. The public sector often underestimates the private sector's involvement in emergency preparedness, while the private sector often overestimates the capabilities of the public sector. Collaboration by public groups with the private sector is imperative to ensure emergency preparedness and safety.

Public-Private Collaboration

Many public- and private-sector groups have established partnerships to improve emergency prepared-ness, prevention, mitigation, response, and recovery efforts. This allows the public- and private-sector entities to share risk, vulnerability, and threat information; coordinate response and recovery operations; develop all-hazards plans to pool resources and information; and share educational and training opportunities.

However, many communities have failed to establish such partnerships, either because they are viewed as costly and time-consuming or because the public-private relationships lack the necessary trust and understanding to exchange sensitive information and allocate valuable time and resources.

The section on developing partnerships outlines possible steps toward establishing long-lasting relationships with public-or private-sector groups. The steps include:

1. Clearly define purpose and objectives
2. Identify partners
3. Develop incentives to try to persuade potential partners to join.
4. Secure commitment, usually by developing personal relationships with individuals at the senior level and with individuals responsible for mitigation, response, and recovery operations.
5. Initiate dialogue to discuss capabilities, resources, and opportunities for mutual assistance.
6. Build the partnership by establishing objectives that reflect the interests of all members, identifying leaders, forming a plan or task force around each objective, and planning regular activities to ensure long-lasting relationships.

Surge Capacity for Goods and Services

Large-scale incidents can quickly deplete response resources, leading to a surge in demand for goods and services. Sharing resources is often prevented by questions surrounding liability, cost, and availability of resources. In order to overcome these obstacles, public-private partnerships must identify available member resources and then develop procedures to manage and share them.

According to the report, resource sharing plans should accomplish the following:
- Define how partners borrow and/or expend resources during emergencies.
- Include agreements on inventorying, requesting, allocating, using, and returning resources.

- Include qualifications that must be met in order for resource sharing to occur. Such qualifications can include:
  - prior depletion of public sector resources
  - expected impact of the incident on the private sector group's area of concern
- Hold public-private training exercises that include resource sharing plans so partners can practice requesting, locating, using, and returning resources.
- Include agreements on liability and reimbursement.
- Establish a single resource inventory for the responding agency.
- Establish resource request procedures.
- Develop rules for resource allocation, usage, and return.

Legal and Regulatory Framework

An important obstacle to public-private partnerships is the hesitancy to share sensitive or proprietary information. At the federal level, DHS has undertaken various initiatives to provide secure ways to share information. Many local communities have not taken such initiatives, and fears persist concerning improper dissemination and/or the cost of secure sharing. Private groups also occasionally lack clearances to view necessary information. In order to build partners' trust in each other's ability to protect sensitive information, the report suggests formalized information sharing networks with security features that protect and limit the dissemination of and access to sensitive information. The report also suggests assigning a single public safety agency to disseminate all threat notifications to guarantee accuracy and reliability.

The report lauded a number of Presidential Directives and national strategies that have encouraged public-private partnerships. Most such initiatives focus on establishing relationships between public and private groups on a national level and facilitating information sharing among industries and federal agencies. On a local level, however, public safety agencies and private sector groups in many communities do not collaborate effectively. DHS has established initiatives to help foster local partnerships, and other developmental programs exist in some areas through non-profit associations. Additionally, many industries face local pressure or are legally obligated to enact safety and preparedness measures that require coordination with the public sector. The report also encourages communities lacking such programs or initiatives to dedicate time and resources to establishing public-private partnerships.

3. Government Accountability Office (GAO) testimony, "Hurricane Katrina: Planning for and Management of Federal Disaster and Recovery Contracts," April 10, 2006, contains many cogent observations about what went right and what went wrong.

Public-Private Collaboration

Government contracts have long been a mainstay in public-private enterprise, but they now face new challenges. In the face of unexpected contingency scenarios, an adequate response is of paramount importance, but efficiency and avoiding waste cannot be overlooked. Contracts were inked hastily and oversight was lacking, as there was an insufficient number of trained personnel to conduct oversight, as well as unclear definitions and delegations of responsibility. The agencies scrutinized by this report–FEMA, GSA, and the U.S. Army Corps of Engineers–have high-risk acquisition practices that equate to a "vulnerability to fraud, waste, and abuse." The efficiency owed to taxpayer dollars can be better facilitated with advanced planning and pre-arranged contracts.

Surge Capacity for Goods and Services

A lack of communication between agencies at the federal level and between levels of government, as well as a failure to anticipate needs, led to the inefficient acquisition and allocation of goods and services. Specifically, the need for temporary housing was underestimated, and for other goods and services that

were anticipated, the mechanisms by which to acquire them, legal and logistical, were neither fully understood nor well lubricated. Furthermore, the GAO report notes tensions in upholding Stafford Act preferences to engage contracts with businesses in the affected area (e.g., contracting with Gulf region business in recovering from Hurricane Katrina). The difficulty of taking the initiative to engage local businesses instead of falling back on national contractors, coupled with the fact that there was vast confusion among GSA and FEMA officials about the actual Stafford Act preferences and how to apply them, resulted in local businesses often being overlooked in taking advantage of government contracting opportunities. GSA officials state that they plan to review the Federal Acquisition Regulation (FAR) to clarify Stafford Act guidance.

Legal and Regulatory Framework

Along with Stafford Act implications and oversight complications, other legal and regulatory issues were factors in the response to Hurricane Katrina. The Army Corps of Engineers noted a hindrance to pre-arranged contracts in that funding must be secured for a particular mission before formal preparation can ensue. Regarding communication and continuity, especially in contract oversight, turnover and transition can pose problems, and the Corps disclosed its policy to rotate personnel every 29 days to minimize costs due to regulations under the Fair Labor Standards Act. To combat these problems, FEMA stated that it is implementing a process to better distribute work and information among rotating personnel, and GSA is investigating alternative options for smoother contract oversight.

4. The Council on Foreign Relations (CFR) Report, "Neglected Defense: Mobilizing the Private Sector to Support Homeland Security" by Stephen Flynn and Daniel B. Prieto, March 13, 2006, offers ten clear recommendations.

Public Private Collaboration

- Change policy paradigm from telling companies to protect themselves to offering leadership in securing critical infrastructure.
  - Current attitude is that the there are enough market incentives for the private market to provide levels of security commensurate with the threat of catastrophic incidents–but this is untrue. The government must take an active role understand how the private sector operates and then use this understanding to encourage the private sector to provide more security.

- Create a national list of priorities, as mandated by law, as appropriate for government to do, and as requested by various industries.
  - Mandated by Homeland Security Act of 2002, but will likely not reach completion by end of 2006. Therefore Congress should commission a rapid-turnaround study to be conducted by the NAS with input from the private sector to compile a list of national priorities
  - Then these priorities should be used as a guide for allocation of resources and as a measure of effectiveness and progress toward bolstering national security.

- Strengthen DHS management and personnel experience, specifically by sponsoring and facilitating a personnel exchange with private sector.
  - DHS is currently plagued by high turnover, low morale, making it difficult to realize long-term initiatives – it needs experienced managers
  - Such an exchange program can be modeled after those employed at the Federal Reserve

- Improve information sharing with private sector, and government must be held accountable for doing it.
  - Private sector should be fully integrated, but there are reservations: businesses fear if they share information with the government it will be mishandled and could place them at a competitive disadvantage, and the government worries about leaking classified information to the private sector.

Appendix E – Glossary of Acronyms in this Report

AAF – Available Acquisition Flexibilities – form of acquisition flexibilities available in the Federal Acquisition Regulation (FAR) to facilitate and expedite acquisitions of supplies and services during all types of emergencies. "Available Acquisition Flexibilities" identifies the flexibilities that may be used anytime and do not require an emergency declaration.

ABA – American Bar Association – a voluntary bar association of lawyers and law students, which is not specific to any jurisdiction in the United States. The ABA's most important activities are the setting of academic standards for law schools and the formulation of model legal codes.

ARC – American Red Cross – a humanitarian organization that provides emergency assistance, disaster relief and education inside the United States, as part of the International Federation of Red Cross and Red Crescent Societies.

AWP – Average Wholesale Price

BENS – Business Executives for National Security – a national, non-partisan, non-profit organization that harnesses successful business models from the private sector to help strengthen the nation's security.

BOC – Business Operations Center

CFR – Council on Foreign Relations – an American foreign policy think tank based in New York City. It describes itself as being "dedicated to increasing America's understanding of the world and contributing ideas to U.S. foreign policy."

CI/KR – Critical Infrastructure/Key Resources – According to the Homeland Security Act of 2002, "critical infrastructure" refers to "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters." The term "key resources" means "publicly or privately controlled resources essential to the minimal operations of the economy and government."

DHS – Department of Homeland Security – a Cabinet department of the Federal Government of the United States with the responsibility of protecting the territory of the United States from terrorist attack and responding to natural disasters. The department was created from 22 existing federal agencies in response to the terrorist attacks of September 11, 2001.

EAF – Emergency Acquisition Flexibilities – a form of acquisition flexibilities available in the Federal Acquisition Regulation (FAR) to facilitate and expedite acquisitions of supplies and services during all types of emergencies. "Emergency Acquisition Flexibilities" identifies the flexibilities that may be used only after an emergency declaration or designation has been made by the appropriate official.

EMAC – Emergency Management Assistance Compact – an interstate agreement that streamlines the assistance one governor can lend another after a natural disaster or terrorist attack by providing a framework for flexible response. EMAC was first introduced to the states in 1993, and the program is administered by the National Emergency Managers Association (NEMA).

EOC – Emergency Operations Center – the central command and control facility responsible for carrying out emergency preparedness and emergency management or disaster management functions at a strategic level in an emergency situation, and for ensuring the continuity of operation of the company or political subdivision. The EOC is responsible for the strategic, or "big picture" of the disaster and does not normally directly control field assets but makes strategic decisions and leaves tactical decisions to lower commands.

ESF – Emergency Support Function – a mechanism that consolidates multiple agencies that perform similar or like functions into a single, cohesive unit to allow for the better management of emergency response functions.

FAR – Federal Acquisition Regulation – the Federal Acquisition Regulations System is established for the codification and publication of uniform policies and procedures for acquisition by all executive agencies. The Federal Acquisition Regulations System consists of the Federal Acquisition Regulation (FAR), which is the primary document, and agency acquisition regulations that implement or supplement the FAR.

FDIC – Federal Deposit Insurance Corporation – the FDIC preserves and promotes public confidence in the U.S. financial system by insuring deposits in banks and thrift institutions for at least $100,000; by identifying, monitoring and addressing risks to the deposit insurance funds; and by limiting the effect on the economy and the financial system when a bank or thrift institution fails.

FEMA – Federal Emergency Management Agency – an agency of the Department of Homeland Security (DHS) within the Emergency Preparedness and Response Directorate. FEMA's purpose is to coordinate the response to a disaster that has occurred in the United States and overwhelms the resources of local and municipal authorities.

FTC – Federal Trade Commission – an independent agency of the United States government, established in 1914 by the Federal Trade Commission Act. Its principal mission is the promotion of consumer protection and the elimination and prevention of anticompetitive business practices.

GAO – Government Accountability Office – the non-partisan audit, evaluation, and investigative arm of Congress, and an agency in the Legislative Branch of the United States Government. According to GAO's current mission statement, the agency exists to support the Congress in meeting its Constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the American people.

GEOC – Georgia Emergency Operations Center – the central command and control facility responsible for carrying out the principles of emergency preparedness and emergency management or disaster management functions for the state of Georgia.

GSA – General Services Administration – an independent agency of the United States government, established in 1949 to help manage and support the basic functioning of federal agencies. The GSA supplies products and communications for U.S. government offices, provides transportation and office space to federal employees, and develops government-wide cost-minimizing policies, among other management tasks.

HHS – Health and Human Services – a Cabinet department of the United States government with the goal of protecting the health of all Americans and providing essential human services.

HIPAA – Health Insurance Portability and Accountability Act – law requiring HHS to establish national standards for electronic health care transactions and national identifiers for providers, health plans, and employers. It also addresses the security and privacy of health data.

ICS – Incident Command System – a management system used within the United States, parts of Canada, the United Kingdom and other countries to organize emergency response, designed to offer a scalable response to incidents of any magnitude. As part of FEMA's National Response Plan (NRP), the system has become part of the National Incident Management System (NIMS). The system is designed to grow and shrink along with the incident, allowing more resources to be smoothly added into the system when required or released when no longer needed.

INIPP – Interim National Infrastructure Protection Plan – the Base Plan that provides the framework and sets the direction for implementing a coordinated, national effort in the event of an incident. It provides a roadmap for identifying CI/KR assets, assessing vulnerabilities, prioritizing assets, and implementing protection measures in each infrastructure sector.

JFO – Joint Field Office – a temporary federal multiagency coordination center established locally to facilitate field-level domestic incident management activities related to prevention, preparedness, response, and recovery when activated by the Secretary.

MACS – Multiagency Coordination System – the combination of personnel, facilities, equipment, procedures, and communications integrated into a common system. When activated, the MACS has the responsibility for coordination of assisting agency resources and support in a multi-agency or multi-jurisdictional environment.

NEMA – National Emergency Management Association – a non-partisan, non-profit 501(c)(3) association dedicated to enhancing public safety by improving the nation's ability to prepare for, respond to and recover from all emergencies, disasters, and threats to America's security. The state directors of emergency management are the core membership of NEMA.

NERR – National Emergency Response Registry – permanent Internet-based system to source goods and services to the government in emergencies

NGO – Non-governmental organization – a non-profit group or association that acts outside of institutionalized political structures and pursues matters of interest to its members by lobbying, persuasion, or direct action.

NIMS – National Incident Management System – a system that integrates effective practices in emergency preparedness and response into a comprehensive national framework for incident management. The NIMS is meant to enable responders at all levels to work together more effectively to manage domestic incidents no matter what the cause, size or complexity.

NIPP – National Infrastructure Protection Plan – a document called for by Homeland Security Presidential Directive 7 which aims to unify Critical Infrastructure and Key Resource (CI/KR) protection efforts across the country.

NORTHCOM – U.S. Northern Command – a Unified Combatant Command of the United States Military created in 2002 in the aftermath of the September 11th attacks. Its mission is to protect the United States homeland and support local, state, and federal authorities, and it is responsible for U.S. military operations in the United States.

NPS – National Planning System

NRP – National Response Plan – a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents. The plan incorporates best practices and procedures from incident management disciplines—homeland security, emergency management, law enforcement, firefighting, public works, public health, responder and recovery worker health and safety, emergency medical services, and the private sector—and integrates them into a unified structure. It forms the basis of how the federal government coordinates with state, local, and tribal governments and the private sector during incidents.

OFPP – Office of Federal Procurement Policy – policy office within the Office of Management and Budget that plays a central role in shaping the policies and practices federal agencies use to acquire the goods and services they need to carry out their responsibilities. OFPP was established by Congress in 1974 to provide overall direction for government-wide procurement policies, regulations and procedures and to promote economy, efficiency, and effectiveness in acquisition processes.

QBL – Qualified Bidders List

SAIC – Science Applications International Corporation – Although SAIC is a large technology firm with numerous federal, state, and private sector clients, its traditional expertise has been supporting the United States Department of Defense and the Intelligence Community, including the National Security Agency.

SKU – Stock Keeping Unit – an identifier that is used by merchants to permit the systematic tracking of products and services offered to customers. SKUs are not always associated with actual physical items, but more appropriately billable entities.

SSA – Sector Specific Agency – Federal department or agency responsible for the overall coordination of planning, preparedness, and protection-related activities within each of the 17 CI/KR sectors.

TCL – Target Capabilities List – list of capabilities developed by the Department of Homeland Security that are required to prevent, protect against, respond to, and recover from incidents of national significance.

UTL – Universal Task List – a list of every unique task that was identified from the suite of Common Scenarios developed under the leadership of the Homeland Security Council. The fifteen scenarios address a range of probable threats from terrorists, natural disasters and other emergencies.

VOAD – Voluntary Organizations Assisting in Disaster – a coalition of various volunteer organizations with formal disaster response plans. These organizations share information about their capabilities, resources, and special areas of expertise in order to foster cooperation and reduce duplication of effort.

Appendix F – Public-Private Collaboration Outcomes and Drivers

State & Local Collaboration

Outcome:
- Build a "Business Operations Center" (BOC) capability in states and urban areas
  - Include critical infrastructure, disaster supply chain businesses and other critical businesses

Driver:
- Congress directs DHS to create guidelines and funding for states and urban areas to build BOCs
- Congress considers funding public-private communications systems and data links with direct appropriation; funding BOC sustaining costs through the federal grant program
- Congress directs DHS to tie receipt of funds to training and exercising

Achievability: High

Regional and Federal Collaboration

Outcome:
- Create an escalation process for public-private collaboration when increased federal participation is necessary

Driver:
- Congress directs DHS to create guidelines and funding for regional and federal BOCs (FEMA, JFO, other)

Achievability: High

Outcome:
- Integrate the BOC concept into the National Response Plan (NRP)

Driver:
- DHS to invite private-sector participation in developing and integrating the BOC concept into the NRP

Achievability: Moderate

"Business EMAC"

Outcome:
- Work with National Emergency Management Association (NEMA) to explore application of Emergency Management Assistance Compact (EMAC) model to private-sector resources

Driver:
- Task Force to nominate team to:
  - Validate "Business EMAC (BEMAC)" concept with NEMA
  - Seek support from the National Governors Association
- Congress provides funds through DHS to states for implementation

Achievability: High

Appendix G – Surge Capacity/Supply Chain Management Outcomes and Drivers

Emergency Purchasing

Outcome:
- Improve forecasting for emergency goods and services

Driver:
- FEMA improves forecasting model with other DHS offices and private-sector input and collaboration

Achievability: High

Outcome:
- Have pre-contracts in place and vendors pre-qualified

Driver:
- FEMA improves contracting and qualification mechanisms

Achievability: High

Outcome:
- Establish prices at the vendors' then-current market prices

Driver:
- FEMA and vendors establish pricing mechanisms

Achievability: Moderate

Outcome:
- Develop pricing mechanisms to be implemented in disaster situations

Driver:
- States take lead, working through affiliate associations to approach a national standard

Achievability: Moderate

Outcome:
- Establish mechanism for pre-qualifying before a crisis and for qualifying non-GSA or otherwise qualified vendors during a crisis

Driver:
- Governments create streamlined mechanisms for emergency certification

Achievability: High

Outcome:
- Establish more effective vendor selection mechanisms
  - Must have transparency of transactions
  - Be self-auditing

Driver:
- Governments develop mechanisms that include other vendor sources if pre-certified or otherwise qualified vendors cannot meet availability and delivery requirements.

Achievability: Moderate

Outcome:
- Further develop online "reverse auction" system for meeting ad hoc needs

Driver:
- Congress provides funding for NEMA to implement as part of "Business EMAC"

Achievability: Development of system: High; Funding: Moderate

Donations Management
Outcome:
- Identify most likely pro bono needs for a range of scenarios

Driver:
- FEMA improves forecasting model with business and NGO input and collaboration

Achievability: High

Outcome:
- Create online registry and reverse auction capability for meeting unanticipated needs for pro bono goods and services

Driver:
- Congress provides funding for NEMA to implement as part of "Business EMAC" within state EOC/ BOC

Achievability: Development of process: High; Funding: Moderate

Logistics Processes
Outcome:
- Educate business employees and public on emergency preparations to lessen peak demand

Driver:
- Businesses provide employee education
- DHS continues improving website **www.ready.gov**

Achievability: High

Outcome:
- Improve credentialing process for private-sector responders and volunteers prior to and during disasters

Driver:
- States working with local authorities create standards and protocols
- Congress provides funding through DHS

Achievability: Moderate

Outcome:
- Improve "last mile" logistics to improve vehicle offloading and distribution capabilities

Driver:
- States and major urban areas working with local authorities develop capabilities

Achievability: Moderate

Appendix H – Legal & Regulatory Environment Outcomes and Drivers

Disaster Law: Liability
Outcome:
- Improve Good Samaritan protections with aim of ensuring predictability of liability

Driver:
- Congress and states develop common body of legislation or enact new law

Achievability: Low

Outcome:
- Clarify/standardize liability of professionals acting in good faith during disasters (e.g., patient triage, alternative treatments, etc.)

Driver:
- Congress improves legislation on the books or enacts new law

Achievability: Low

Disaster Law: Regulation
Outcome:
- Clarify and promulgate procedures that allow quick implementation of discretionary authorities during disasters
- Package and set triggers for implementation
  - Antitrust
  - Emergency implementation of environmental law
  - Licensing
  - Privacy
  - Service delivery and termination

Driver:
- Federal agencies review laws and authorities under their purview and make necessary changes

Achievability: High

Stafford Act
Outcome:
- Revise the Stafford Act to enable the private sector to:
  - Participate as full partners in the complete range of disaster response activities
  - Be afforded non-monetary federal assistance when necessary
  - Request assistance directly through the appropriate federal agency

Driver:
- Congress enacts revision

Achievability: Moderate

Congressional Hearings
Outcome:
- Identify recommendation from this report that can be implemented under existing authorities

Driver:
- Task Force uses its government affairs resources to encourage Congress to act

Achievability: High

Appendix I – Priorities and Sequencing

Business Integration into the National Response Plan

Outcome:
- Integrate business more fully in the federal, state and local government operations continuums:
  - Doctrine development
  - Capabilities-based resource planning
  - Operations planning
  - Training and exercises
  - Operations
  - Lessons-learned assessments

Driver:
- Congress directs DHS to include substantive business participation in federal programs
- Congress makes federal funds available to states for business participation

Achievability: Integration into NRP: High; Funding: Low

Resource commitment

Outcome:
- Ensure adequate resources are devoted to implementing Task Force recommendations at the state, regional and federal levels on a sustainable basis

Driver:
- Congress directs DHS to create guidelines and provide funding for states, urban areas, and regions to build sustainable partnerships to implement Task Force recommendations
- Task Force to consider a standing advisory group to:
  - Keep government and business focused in implementing the Task Force recommendations
  - Inform a core group of state governors and enlist their support for implementing the Task Force recommendations
  - Advise states, urban areas and regions on implementation of the recommendations
  - In cooperation with other like-minded groups (e.g., the Business Roundtable), develop a voluntary national-level advisory group that can offer advice and instruction to states interested in building a BOC structure

Achievability: Moderate

Business Executives for National Security

For a quarter century, Business Executives for National Security has been the primary channel through which American business leaders can contribute their special experience and talent to help build a more secure nation.

Founded in 1982 by business executive and entrepreneur Stanley A. Weiss, BENS is guided by the simple notion that America's security is everybody's business. Led by President and CEO General Charles G. Boyd, U.S. Air Force (Ret.), BENS is a national, nonpartisan organization of senior executives dedicated to enhancing our national security using the successful models of the private sector.

As the United States confronts threats of terrorism at home and abroad, BENS is more important than ever before. The innovative business-government partnerships that BENS has fostered over the past two decades to help save the Defense Department billions of dollars are now uniquely positioned to help meet the new challenges of the 21st century.

BENS is expanding these public-private partnerships into all aspects of homeland security – helping to guard against cyber attack, track terrorists' financial assets, secure the nation's ports, and prepare state and local governments to deal with catastrophic events or terrorist attacks.

Recognizing that the nation will never fully realize the efficient, agile military it needs to win a global war on terrorism without an equally efficient and agile support structure, BENS remains a tireless advocate for smarter spending at the Pentagon.