

CITY OF NEW ORLEANS
C. RAY NAGIN, MAYOR



January 7, 2008

The Honorable Donald E. Powell
Federal Coordinator for Gulf Coast Rebuilding
U.S. Department of Homeland Security
Washington, DC 20528

Dear Chairman Powell:

Thank you for your response to our request for support in removing the myriad barriers that have blocked progress on the Public Assistance (PA) projects of highest priority to the City of New Orleans. I had expected to meet with you the week of December 3, 2007, and to present you with this response in person. Since that meeting was postponed and is not currently scheduled, please find my written response below.

As we identified in our request, each of our priority projects has its own set of barriers that require a thorough review and close attention by all partners in this recovery effort if they are to be moved to completion. I appreciate that you have provided us with such a detailed status report on each of our priorities from the perspective of FEMA Administrator David Paulison. While this information has answered many of our questions and provided some clarification regarding our highest priority projects, there are still unresolved issues that must be addressed. The following is an explanation of what remains to be done to resolve outstanding issues regarding our priority PA projects.

Top Five Priority PA Projects

1. *Police and Fire Department Stations and Substations*

According to your letter, FEMA claims that they have reassessed and verified all buildings that may qualify for replacement and finalized eligible damages, and that these results were presented to our Capital Projects Office and Recovery Director's Office in August 2007. To clarify, none of the Police and Fire Department stations or substations has undergone "comprehensive damage assessment." Rather, they have been assessed for roof stabilization and repair, which is currently underway. Following roof repair, all of these facilities will require comprehensive damage assessments in order to determine what is needed to return them to their pre-storm functionality. Furthermore, we know that scopes change as assessments are made, architecture and design review is conducted, and actual repair or reconstruction of facilities begins. It is therefore premature to suggest that damage assessments on these facilities are final as we are just beginning design and construction on many of them, and we must expect that the scopes will change.

In August 2007, FEMA committed to our Capital Projects and Office of Recovery Management staffs a willingness to make future cost adjustments based on new scopes. Towards this end, the City of New Orleans meets weekly with FEMA and GOHSEP to jointly review progress on building assessment, scope alignment, and cost adjustments for all of our PA-eligible facilities. This ongoing process *has* resulted in cost adjustments, but by virtue of sheer persistence on the part of the City of New Orleans and GOHSEP rather than by any proactive steps taken by FEMA. It is still a struggle to get up-to-date versions written on many facilities. Going forward, we would appreciate your attention in ensuring that comprehensive damage assessments are conducted for our Police and Fire Department stations and substations, and that cost adjustments are made in accordance with the revised damage estimates.

2. *New Combined Facility (Crime Lab/Property & Evidence/Coroner)*

One of our top five PA priorities, as stated in our initial request, is a new combined facility including the Crime Lab, Coroner, NOPD Property and Evidence, and the Clerk of Criminal District Court. As a clarification, the main barrier that we have faced with this project is the lack of complete and accurate damage assessments for each of these separate facilities. We cannot make a determination regarding a combined-use Alternate or Improved project until we receive these damage assessments. I certainly do appreciate the readiness of FEMA to prepare an Alternate or Improved project worksheet for this new combined-use facility. When we receive complete and accurate damage assessments for each of these facilities, we will follow the proper channels to request this promised project worksheet from FEMA.

Your letter states that FEMA has funded repairs to the Criminal District Court building, and that all courtrooms are now fully operational as minor repairs are still being made. While some repairs have been funded, FEMA has only obligated \$5.8 million less the City's insurance obligation, while the repair costs are estimated at \$8.9 million. This leaves a \$3.1 million gap in necessary funding to return the facility to pre-storm functionality. Further, all courtrooms are *not* fully operational as there are still roof repairs to be made. Water leakage has been reported in courtrooms in the upper levels, which could pose a serious health threat to those employees and citizens working toward the recovery of our criminal justice system, including citizen jurors. Repairs are also still being made in the basement of the court building. Finally, there are reported subsidence issues that have not been addressed, and will require expert assessment in the future. In short, the Criminal District Court will continue to require FEMA's priority attention.

The City of New Orleans is truly appreciative to FEMA for funding the completion of the Criminal Justice Facilities Master Plan that was presented to me on September 26, 2007, and we look forward to identifying funding and bringing this plan to fruition. We were not aware, however, that a team was being assembled by FEMA to oversee the future of our criminal justice facilities. In a meeting chaired by James Stark on October 18, 2007, a reference was made to a proposed Criminal Justice team comprised of FEMA, State, and City representatives. It was also said, however, that no final decision had been made regarding whether or not to form the team, what the role of the team would be, nor were any team assignments made or requested.

For your information, the City of New Orleans intends to create a formal cooperative framework with the Criminal Sheriff to manage the implementation of the Master Plan for the entire site. Further, we have recently created an internally-staffed Project Delivery Unit (PDU) and brought on a nationally-recognized project management firm that, under the management of the PDU, will be responsible for projecting and managing construction budgets, the sequencing of operations, design and construction, and related work on all of our capital and infrastructure projects. When the cooperative framework, PDU, and project management systems have been worked out, we will welcome the assistance of the State and FEMA to expedite next-stage processes.

3. Sanitation Transfer Station and Warehouse

Storm debris removal remains a challenge in our recovery process, and I believe that further clarification regarding the Sanitation Transfer Station and Warehouse is in order. The Elysian Fields Transfer Station and Warehouse both received considerable damage from Hurricane Katrina and the subsequent flooding, and have been inoperable since the storm. These facilities each have associated project worksheets, and work is currently underway to return them to their pre-storm functionality. In order to reconstruct the Warehouse facility, the adjacent FEMA-eligible citizen drop-off site for storm debris, which was operated by Omni Pinnacle, had to be closed. This does not mean, however, that there is no longer storm debris to dispose of.

You indicated in your letter that FEMA has determined that the types and volumes of waste coming into the Transfer Station are consistent with pre-disaster types and volumes. I am not sure how FEMA made that determination, as the Transfer Station has been inoperable since Hurricane Katrina. What we know from anecdotal and qualitative evidence is that since there is no longer a citizen drop-off for storm debris, the incidence of illegal dumping of storm debris has risen dramatically in the city. My staff is currently working with FEMA to estimate the amount of remaining storm debris and alternatives for its collection and disposal. While we are not requesting FEMA to fund normal and ineligible operations of any of our facilities, we do expect them to continue to fund the removal of storm-related debris for our citizens.

Due to the nature of our disaster, and to the delays of post-disaster recovery programs such as the Road Home, many citizens are just now able to come back to the city and begin the rebuilding of their storm-damaged homes. Their storm debris is not being picked up nor is there a place for citizens to drop it off themselves. The City needs an alternative FEMA-funded citizen drop-off site for storm debris to take the place of the former facility that was closed due to FEMA-eligible repairs. Only when our citizens can proactively and legally drop off storm debris can they truly move forward in their rebuilding and recovery. Many potentially viable properties may not be reclaimed if the debris disposal issue is not addressed.

4. Mahalia Jackson Theatre for the Performing Arts

Your letter indicates that FEMA is waiting to receive a copy of the City's detailed break-down of contractor bid documents associated with the engineer's estimate for eligible repairs to the Mahalia Jackson Theatre. While my staff has submitted these documents to their local FEMA counterparts on multiple occasions, they have clearly not been received by the proper FEMA officials. We have addressed this issue with FEMA on several occasions and I think we are moving ahead on this project. We look forward to the quick versioning of the associated project worksheets now that we have once again presented the requested documents to FEMA officials. Please let me know if you would like a copy of these documents for your records.

5. Sewerage and Water System

The sewerage and water system in New Orleans is indeed a foundational system in the long-term rebuilding efforts of our city, which is why I thought it important to include in the City's top five PA priorities. I am pleased to hear that you have asked Executive Director Marcia St. Martin for additional PA priorities from the Sewerage & Water Board of New Orleans. I cannot stress enough how important the timely repair and replacement of the city's sewerage and water system is to our recovery. I have spoken to Ms. St. Martin, and she has informed me that she is providing her list of top five priority PA projects and their associated barriers to you directly. I appreciate your commitment to expediting the PA process for the Sewerage & Water Board of New Orleans and removing any barriers to progress that they have faced in the PA process.

Other Priorities

1. Timely Versions and Appeals Resolutions

I was encouraged to hear that FEMA has adjusted its project management allocation formula for the City of New Orleans based on the three years worth of documentation submitted by our Capital Projects Administration in January 2007. The City is at a tipping point in the recovery, and we have used this increased allocation to bring on a nationally-recognized firm, MWH, to serve as our Project Manager to handle our robust schedule of Public Assistance priority projects, and related capital and infrastructure works.

Your letter mentioned the advent of a "Just-in-Time" versioning process by FEMA, and we are pleased to learn of it. While there has been improvement in this area, I still respectfully request that you seek the policy changes necessary to bring resolution to requests for versions, appeals and determinations of percent damage within 30 days.

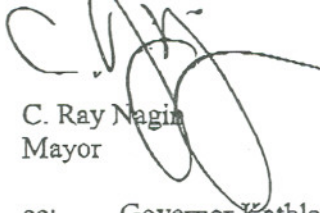
The issue of appeals resolutions, unfortunately, still remains. Without a neutral third party to mediate, the current appeals process is not an appeal. There is pending federal legislation that would provide a neutral third party within the appeals process, and create a form of arbitration with rules for participation and control of documents. In the meantime, I ask that you engage with the current appeals process in order to improve the effectiveness and timeliness of issue resolution. FEMA has been more cooperative recently on appeals but the process is still very time-consuming and unpredictable, which is especially problematic when hard-working contractors are awaiting payment for their contributions to the recovery.

2. Definitive Determination of Repair vs. Replacement

Your letter states that FEMA has reassessed and verified all building that may qualify for full replacement value and has solidified the eligible damages. The fact is that the City still has several major buildings that are pending a final determination, such as the Templeman I and II Prison and the Community Corrections Center, and we have been told that calculations are in progress. Further, the City has identified flaws in some calculations, when we have been given access to them, and have no channel for remediation of these errors. For instance, in August 2007 my staff found that the damage assessment for our Crime Lab had gone from well over 50% damaged to 18% damaged—overnight. When we asked for the calculations that had been used for the damage findings, we found basic arithmetic errors, improper use of FEMA formulae, and other flaws. Currently, we are hearing that our findings on the calculations may result in a substantially revised overall damage assessment for this structure. However, there is no established procedure to formally challenge faulty calculations, as is the applicant's right. The informal channels result in an unfortunate adversarial experience rather than joint problem solving in partnership towards recovery.

A mandated 30 day time frame for timely resolutions and mechanisms for challenging faulty calculations will allow us to more effectively rebuild our capital and infrastructure assets. Once again, I ask you to pursue the necessary policy changes to bring about these process improvements. A rebuilding process with unpredictable time frames and uncertain outcomes is awkward for both FEMA and the City of New Orleans. I believe that, under your leadership, these policy changes will help us all to move forward in the recovery of our city.

Sincerely,



C. Ray Nagin
Mayor

cc: Governor Kathleen Blanco
Governor-Elect Bobby Jindal
Edward J. Blakely, Director of Recovery and Development Administration
Kenya Smith, Director of Intergovernmental Affairs, City of New Orleans
Warren Riley, Chief of Police, City of New Orleans
Marcia St Martin, Executive Director, Sewerage & Water Board of New Orleans
Secretary Michael Chertoff, DHS
James Stark, Interim Director of Gulf Coast Rebuilding, DHS FEMA
Sid Melton, Director of Mississippi Transitional Recovery Office, DHS FEMA
Carlos Castillo, Assoc. Administrator, Disaster Assistance Division, DHS FEMA
William Peterson, Regional Administrator, DHS FEMA Region 6