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January 10, 2006

The Honorable Tom Davis
Chairman
Select Bipartisan Committee to Investigate the
Preparation for and Response to Hurricane Katrina
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing to request that the Select Committee obtain from the Department of Homeland Security the operational annex to the National Response Plan, which we requested on September 30, 2005, but which the Department still has not provided. This is one of the core documents the Select Committee should have for its investigation.

On November 1, 2005, I joined Rep. Henry A. Waxman in sending a letter to Homeland Security Secretary Michael Chertoff asking why the Department had not yet completed an operational annex to the federal government's National Response Plan for natural disasters and terrorist attacks.[1] As we stated in our letter, Secretary Ridge issued the National Response Plan last January to establish broad lines of authority for agencies responding to catastrophic events. But the Plan stated that a "more detailed and operationally specific" annex would set forth in detail the precise role of each agency involved in federal response efforts.[2]

When Hurricane Katrina struck, this operational annex — which is called the Catastrophic Incident Supplement (CIS) — still had not been completed. In our letter to Secretary Chertoff, we asked for an explanation, especially given the Secretary's repeated statements that, in his opinion, the government's failure to properly plan was the primary flaw in the federal response to Hurricane Katrina. For example, on October 19, 2005, Secretary Chertoff

[1] Letter from Rep. Henry A. Waxman and Rep. Charlie Melancon to Homeland Security Secretary Michael Chertoff (Nov. 1, 2005).

[2] U.S. Department of Homeland Security, *National Response Plan, Catastrophic Incident Annex* (December 2004), at p. CAT-1 (issued on Jan. 6, 2005).

testified before the Select Committee that "80 percent or more of the problem lies with the planning."[3]

On December 20, 2005, the Department sent a response to our letter.[4] This response revealed that the CIS was completed on September 6, 2005 — just seven days after Hurricane Katrina struck. However, the Department's response did not explain why this operational annex was delayed for over seven months, or why it was not completed prior to Hurricane Katrina.

The Department's letter did suggest that at least part of the reason for the delay involved unspecified objections by the Defense Department. The letter stated that the CIS was not completed until the Defense Department agreed to a Memorandum of Agreement, which was not signed until September 6, 2005. According to the response, this MOA "was essential to obtaining DOD approval of the CIS."[5] In testimony before the Committee, Secretary Chertoff also highlighted coordination problems with the Department of Defense, stating that the absence of adequate planning "goes to how well we work with the military when the military has large numbers of assets they can bring to bear on a problem, how fluid we are with them."[6]

According to the National Response Plan, "[a] more detailed and operationally specific NRP Catastrophic Incident Supplement (NRP-CIS) that is designated 'For Official Use Only' will be approved and published independently of the NRP."[7] Yet the Department's letter claims that the federal response to Hurricane Katrina "would not have been improved by the use of the CIS."[8] The Department explains that the CIS is now limited only to a "no-notice event, such as a terrorist attack or earthquake," although no such limitation is mentioned in the National Response Plan itself.[9]

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[3] FDCH Political Transcripts, *House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Holds a Hearing on Department of Homeland Security Relief Response* (Oct. 19, 2005).

[4] Letter from Pamela J. Turner, Assistant Secretary for Legislative Affairs, Department of Homeland Security, to Rep. Charles Melancon (Dec. 20, 2005).

[5] *Id.*

[6] FDCH Political Transcripts, *House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Holds a Hearing on Department of Homeland Security Relief Response* (Oct. 19, 2005).

[7] U.S. Department of Homeland Security, *National Response Plan, Catastrophic Incident Annex* (December 2004), at p. CAT-1 (issued on Jan. 6, 2005).

[8] Letter from Pamela J. Turner, Assistant Secretary for Legislative Affairs, Department of Homeland Security, to Rep. Charles Melancon (Dec. 20, 2005).

[9] *Id.*

These conflicting statements are hard to understand. On one hand, the Department says it now has a plan to deploy federal assets in a more timely manner, but on the other hand, it says this plan would have made no difference for Hurricane Katrina. Without additional information, members of the Committee cannot gauge whether there has been any real improvement in federal planning for disasters like Hurricane Katrina.

Unfortunately, the Department has failed to produce a copy of the operational annex to inform this assessment. You and I requested the CIS on September 30, 2005, when we sent a document request to Secretary Chertoff seeking "documents ... prepared, or sent between August 29 and September 15, 2005, by officials of the Department of Homeland Security or any of its constituent agencies relating to ... emergency preparations, or emergency responses."[10] Since the CIS was apparently completed on September 6, 2005, it should have been provided to the Committee.

For these reasons, I ask that the Committee now obtain from the Department of Homeland Security the following documents:

(1) All draft and final versions of the Catastrophic Incident Supplement prepared between January 1, 2005, and December 31, 2005;

(2) All draft and final versions of the Memorandum of Agreement relating or referring to the Catastrophic Incident Supplement; and

(2) All documents or communications, including internal communications, received, prepared, or sent by officials of the Department of Homeland Security or any of its constituent agencies relating to any draft of the Catastrophic Incident Supplement or Memorandum of Agreement, including edits, additions, deletions, or other comments by any agency or office.

Because these documents were requested more than three months ago, and given the little time the Select Committee has remaining for its work, I request that the Department provide these documents by January 17, 2005. I look forward to discussing this issue further with you.

Sincerely,

Rep. Charlie Melancon

[10] Letter from Rep. Tom Davis and Rep. Charlie Melancon to Homeland Security Secretary Michael Chertoff (Sept. 30, 2005).