Committee on Transportation and Infrastructure
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Mr. Chairman: My name is Mitchell L. Moss and I am a Professor of Urban Policy and Planning at New York University. It is a privilege to be invited to testify this morning before the Committee on Transportation and Infrastructure of the U.S. House of Representatives.

My remarks today are based on research that I have conducted about the Stafford Act, work that has been supported, in part, by the Center for Catastrophe Preparedness and Response at New York University.

Let me state at the outset that I believe a strong, independent FEMA is essential for responding to disasters and catastrophes in the United States. As you know, the responsibility for responding to disasters is fundamentally one that falls on state and local governments. We should not hamper the capacity of first responders across the country by embedding FEMA within a massive bureaucracy, weighing them down with competing missions, cultures, and budgetary priorities.

Following the creation of the U.S. Department of Homeland Security, FEMA lost its status as an independent agency,

suddenly finding itself as a relatively small entity of fewer than 3,000 individuals competing for attention and resources within a mammoth federal government organization of 180,000 employees.

As I note in "The Stafford Act and Priorities for Reform," once "FEMA was folded into DHS, three our of every four grant dollars provided by FEMA for local preparedness and first-responders went to terrorism-related measures --- in other words, $2 billion in grants to prevent terrorist attacks, but initially, only $180 million for natural disasters." (Mitchell Moss, Charles Shellhamer and David Berman, "The Stafford Act and Priorities for Reform," Journal of Homeland Security and Emergency Management, Volume 6, No.1, 2009).

FEMA's mission to help communities prepare for and respond to all hazards is not intrinsically congruent with the larger goal of the U.S. Department of Homeland Security, to protect the nation's borders and prevent a large scale terrorist attack.

As early as 2003, the U. S. Government Accounting Office warned that FEMA's placement within the Department of Homeland Security affected its ability to focus on vital areas such as natural disasters, hazard mitigation, and flood insurance. Reports prepared by the U.S. House of Representatives and the U.S. Senate, after Hurricane Katrina, noted that the placement of FEMA within the Department of Homeland Security limited its ability to respond effectively to that disaster.

There are four characteristics of disaster assistance that should be considered in any effort to reform the current federal structure of disaster assistance.

1. Although we have improved our ability to prepare for and even anticipate the advent of disasters, the actual impact

and effects of disasters are not predictable. Disasters disrupt communities in ways that we cannot foresee. And, it is the responsibility of our state and local governments as well as civic organizations to be the first-responders. At the federal level, FEMA must be prepared to act quickly and with dispatch. Any organizational structure that adds to delay costs lives and puts communities at risk. Simply put, we need FEMA to be designed so that it can provide assistance and resources to states and localities quickly.

2. Providing disaster assistance in the United States requires flexibility as well as the capacity to respond quickly, to forge creative solutions to disasters based on the distinct socio-economic and physical characteristics of the fifty states. For disaster assistance to be effective, FEMA must work collaboratively with states and localities as well as the skills to mobilize other federal agencies.

Disaster assistance cannot be done by a single agency; it involves cooperation and coordination among a vast array of public, nonprofit, and private sector groups. By having an agency with cabinet-level status, directly reporting to the President, FEMA is better-positioned to do its job, and to call upon other federal agencies to assist as needed.

3. Following a disaster, it is vital for local governments to perform their essential tasks. This is an example of how FEMA does not replace or substitute for the work of other units of government. Debris and trash must be removed. Law and order must be restored. Buildings need to be inspected to determine if they are safe. Strategy must be developed for rebuilding what was lost.

Therefore, it is important to strengthen FEMA's capacity to assist localities as well as to make it independent; at the present time, FEMA covers the overtime costs of local

government employees involved in disaster recovery work, but when a local government has its tax base destroyed after a disaster, it cannot pay the salaries of its employees, much less overtime. After Hurricane Katrina, New Orleans was forced to lay off 30,000 workers due to a lack of public funds. Provisions must be included in any reform of the Stafford Act to allow FEMA to fund the salaries and overtime of state and local government employees for a designated period of time after a catastrophe.

Admittedly, Congress has recognized the limitations of the Stafford Act and established special programs to provide additional assistance following a catastrophe. After the Northridge earthquake in Southern California, Congress appropriated $11 billion. In response to the September 11 terrorist attack, Congress appropriated $40 billion, and $110 billion was appropriated after Hurricanes Katrina and Rita.

4. As we know, utilities such as power lines, telephone towers and antennas, as well as water systems are often destroyed or damaged during a disaster. The resumption of utilities is essential following a catastrophe. Yet, the Stafford Act only covers public and non-profit utilities, failing to recognize the role of profit-making utilities, especially in today's deregulated environment.

After the September 11 terrorist attack in New York City, Con Edison, the private utility operating in New York City, lost a major substation in lower Manhattan, and Verizon's major telecommunications facility at 140 West Street, just across the street from the World Trade Center, was seriously damaged, disrupting millions of phone and computer lines. The cost of restoring and rebuilding this infrastructure was not eligible for reimbursement under the Stafford Act since neither company met the definition of a public or non-profit utility.

Congress did appropriate $783 million through the U.S. Department of Housing and Urban Development to compensate for damaged properties and businesses, including the restoration of utility infrastructure related to the September 11 attack, but it required more than two years – including extensive legal battles – for energy and telecommunications to get reimbursed.

Hurricane Katrina destroyed more than three million customer phone lines and more than a thousand cell phone sites. Private telecommunications firms moved quickly to repair phone lines in New Orleans, often moving faster than the federal government. But, "utility workers are not treated as emergency responders." Furthermore, when BellSouth sought security escorts to accompany their workers into dangerous areas and requested "priority" access to food, fuel, water and shelter from the federal government," they were denied because the Stafford Act does not recognize utility workers as "emergency responders." (Moss et al, Journal of Homeland Security and Emergency Management).

Mr. Chairman, let me close by simply pointing out that we have learned a great deal about preparing for and responding to disasters over the past century. More than a hundred years ago, we considered responding to disasters to be the responsibility of charities and civic groups. Over time, we have come to recognize that government has a vital role to play in disaster assistance and, as the hearing report prepared by this committee points out, the scale of federal disaster assistance has grown substantially in recent decades. Based on our research it is clear that a strong, independent FEMA is essential to improve our nation's capacity to act quickly and effectively in response to disasters.