

## Financing Disaster Recovery –

### The Problem Is...

Two years after Hurricane Katrina, New Orleans is still trying to recover in the face of near bankruptcy.

While FEMA will eventually provide funds to local governments to help them repair damage to their own buildings and infrastructure, this process can take from months to years. If not careful, the local government may only receive funds to repair the facilities, not build mitigation or resistance to future disasters into that process.

Damaged housing and downtown areas can take years – if not decades – to rebuild. When homes and businesses are destroyed, cities and counties lose property tax revenues, along with revenues from real estate transfer taxes, business licenses, and utility consumption taxes, for years.

New Orleans was forced to lay off critical City staff as they are struggling to rebuild because of lack of revenues. And cities and counties may also have existing ordinances which require particular procedures for bidding for contractual services.

***Imagine recovering from a disaster the size of Katrina with reduced city and county revenues!***



Katrina Damage to Transportation from Flooding

### What Can Be Done?

Cities and counties can take four simple steps – NOW – before any disaster – to ensure that money moves more smoothly after a disaster and potentially adding millions of dollars for recovery.

- (1) Modify the purchasing and contracting portion of the Municipal Code to allow the city manager (or county administrator) to make emergency purchases.
- (2) Adopt a repair and reconstruction ordinance to make sure that the city or county receives public assistance dollars from FEMA after disasters that will not only repair buildings damaged in the community to their pre-existing condition, but also repair them to a standard that reduces the likelihood of future damage in a flexible, cost-effective, manner.



Damage to Sonoma County Courthouse in 1906

- (3) Prepare for the claims reimbursement process by:
  - Designating the organization in the local government responsible for tracking claims, the status of reimbursements, and interfacing with various state and federal government agencies.
  - Formulating documentation procedures. FEMA requires meticulous paperwork of all expenditures for which the local government expects reimbursement.
  - Preparing for delays in reimbursement. FEMA Public Assistance is not the same as insurance in that it requires local governments to fund initial repairs before the reimbursement funds begin to flow.
  - Pre-planning for coordination with special districts within your jurisdiction during the claims reimbursement process.
- (4) Have either an annex to the ABAG multi-jurisdictional Local Hazard Mitigation Plan (LHMP) that has been approved by FEMA, or a “stand alone” LHMP adopted as part of the safety element of the city’s or county’s General Plan. Then that local government will be eligible for additional FEMA funds.

## MORE INFO –

### Authorize Emergency Purchases

Several Bay Area cities and counties have changed their municipal codes to allow for emergency purchases.

For example, in San Jose, the Municipal Code reads:

4.12.145 **Emergency purchases by city manager.** In case of a public emergency involving the threatening of lives, property or welfare of the people of the city or the property of the city, until the next meeting of the council, the city manager may purchase supplies, materials or equipment without formal bidding, as formal bids would be an "idle act" in such an emergency, and may contract for general services which the city manager deems necessary for the purpose of meeting such emergency.

For the purpose of meeting such emergency, the city manager may expend any unencumbered moneys in the emergency reserve fund, notwithstanding the fact that such moneys may not have been appropriated for such purpose, to the extent that other moneys have not been appropriated or are otherwise unavailable therefor.

At the first City Council or Board of Supervisors meeting held after a disaster, the Council/Board may want to allow for specific suspension of normal contracting procedures for a limited period allowing for emergency debris removal and other necessary acts.



The City of Oakland worked with insurance companies and FEMA after the October 1991 East Bay Hills Firestorm to contract with a single firm for debris clean-up, thereby allowing for the debris to be completely removed by June 1992.

## MORE INFO –

### Adopt a Repair and Reconstruction Ordinance

Local governments need to adopt a repair and reconstruction ordinance to ensure that they receive public assistance dollars from FEMA after disasters that will not only fix buildings damaged in their community, but also fix them to a higher standard, thereby increasing mitigation efforts.

The California Building Officials (CALBO) has developed a model ordinance for repair and reconstruction to help fulfill this objective. While FEMA has requested that any reference to the possibility of these ordinances helping cities qualify for more post-disaster public assistance be removed from the model ordinances, that is still (obviously) one of the intents. The "catch" is that local governments must enforce the ordinance "uniformly" before disasters occur to maximize eligibility for Public Assistance. This means that the ordinances must be applied to all damaged buildings, regardless of source of the damage (i.e. quake, flooding, fire, a bus going through the building, etc) and regardless of whether it is a publicly- or privately-owned building. More on the "back and forth" between CALBO and FEMA is included in the Preface to the model ordinance documents (link below).

Between July 1, 2007 and January 1, 2008, local governments have a window to develop and adopt local amendment packages to supplement the 2007 California Building Standards Code. CALBO is recommending that the second of their two model ordinances be included in that package of local amendments that are at the ultimate discretion of each city council and board of supervisors. (The first model ordinance is for the 2001 building code - a code that is about to expire and thus the usefulness of adopting an amendment to that code is limited.) The model ordinances are at the following link:

[http://www.calbo.org/documents/Repair Reconstruction Ordinance 5-07.pdf](http://www.calbo.org/documents/Repair_Reconstruction_Ordinance_5-07.pdf)

ABAG staff recommends that you work with your building department and others IMMEDIATELY to ensure that the second of these model ordinances is adopted by your City Council or County Board of Supervisors prior to the January 1, 2008 deadline.

In addition, local governments should conduct an inventory of their public facilities that clearly documents the "condition" of those facilities, and should develop a process for regularly updating this information. Many claims are denied because FEMA Public Assistance will replace to "pre-existing conditions." Without documentation, the debates about the pre-existing condition can be extensive.

## MORE INFO –

### Prepare for the Claims Reimbursement Process

Many local governments think of FEMA Public Assistance as a form of “insurance” for public facilities. This is a myth that can cause local governments both money and time during the recovery process.

Local governments should designate the person and department in the local government responsible for oversight and management of the FEMA Public Assistance process, including tracking claims, the status of reimbursements, and interfacing with various state and federal government agencies. This may be the Finance Manager, the Assistant City Manager, or the City Manager. That person needs to regularly interface with the other city or county departments, particularly police, fire, building, public works, and risk management. The local Office of Emergency Services or Fire Department is *typically* NOT the appropriate place for this function.

The department responsible for tracking claims should develop documentation procedures well before the disaster strikes. FEMA requires meticulous paperwork of all expenditures for which the local government expects reimbursement. This documentation should also clearly document pre-existing conditions if the city or county does not have the repair ordinance discussed above. Without documentation, the debates about pre-existing conditions can be extensive. For example, after Hurricane Katrina, New Orleans has had difficulty getting repairs to its damaged streets paid for out of FEMA Public Assistance funds due to their poor condition prior to the hurricane. The documentation may be most appropriately handled by the Risk Manager or Public Works Director.

Cities and counties need to have a special fund for emergency repairs because FEMA Public Assistance is not the same as insurance in that it requires local governments to fund initial repairs before the reimbursement funds begin to flow. Cash flow is a major recovery financing issue, as local sales and property tax revenue are instantly affected by a disaster.

Also, local governments need to consider how other public agencies (i.e. school districts, utility districts, non-profit agencies that provide social services) fit into the local claims/reimbursement management process. A local government’s recovery can be significantly hampered by delays in claims, or denials of claims, for other agencies within its jurisdictional boundaries. For example, if the sewer and water districts aren’t reimbursed for damage, then the city might go ahead with street repairs in neighborhoods that don’t yet have fully operational utilities and the streets might have to be torn up twice or even three times to make the repairs later.

## MORE INFO –

### Adopt the Local Hazard Mitigation Plan as Part of Local Seismic Safety Element

**Federal law** (the Disaster Mitigation Act of 2000 or DMA 2000) requires that local governments have either an annex to the ABAG multi-jurisdictional Local Hazard Mitigation Plan (LHMP) that has been approved by FEMA, or a “stand alone” LHMP for the jurisdiction to be eligible for FEMA **mitigation** funds after disasters.

**New state law** (AB 2140, 2006 – Hancock) provides an additional financial incentive for local governments who have adopted either of these types of LHMPs into the Seismic Safety Element of their General Plan, typically as an “implementation appendix” to the Safety Element.

After a disaster, **Public Assistance** costs are typically split 75% federal-25% state-local. The 25% state share is then split 75% state – 25% local. This new state law (Govt. Code Sec. 8685.9) allows the state share to be up to the full 100% with no 25% local match providing two conditions are met:

(a) the local agency is located within a city, county, or city and county that has adopted a local hazard mitigation plan in accordance with federal DMA 2000 **as part of the safety element of its General Plan and**

(b) the state legislature passes special, disaster-specific legislation waiving the local share (something that the legislature has done for virtually every federal major disaster declaration since 1983)

Thus, a local government could potentially save 25% of 25% - or 6¼% of the cost of Public Assistance. Most Bay Area local governments who adopted an annex to the regional multi-jurisdictional Local Hazard Mitigation Plan noted that they planned to adopt their annex as part of the safety element. It is financially important for all local governments to actually do this as soon as possible.



## NEXT STEPS FOR ABAG –

Based on the discussion at the Regional Planning Committee meeting in December 2007, ABAG is committed to taking several steps, as indicated below.

### ROLE FOR REGIONAL COORDINATION

ABAG needs to develop and maintain a regional “scorecard” of the best practices related to disaster recovery financing described in this document, together with those local governments who have taken the recommended steps. This information is being collected by ABAG using a survey of local government finance, building, planning, and emergency management departments.

ABAG is committed to developing and maintaining a website containing links to background documents and presentations provided to ABAG’s Regional Planning Committee related to recovery. That website is <http://quake.abag.ca.gov/recovery>.

ABAG is a provider of technical assistance, not an additional layer of government related to the transfer of federal Public Assistance funds. ABAG is a provider of technical assistance. In this role, ABAG has obtained funding from the City of Oakland to develop a model recovery plan for that city based on the planning guidance document developed in 1991 by the California Governor’s Office of Emergency Services. In addition, this document should include explicit descriptions of the role of ABAG, MTC, and other regional agencies in coordinating disaster recovery.

### ADDITIONAL IDEAS FOR ABAG ASSISTANCE IN HELPING WITH MONEY FLOW

ABAG has two existing service programs that are potentially related to financial issues after disasters – the ABAG PLAN liability insurance pool and ABAG Financial Services. Both programs are viewed as essential contributors to the toolbox of regional financial recovery strategies.

ABAG PLAN is considering how it might offer a set of recommended procedures for documenting “existing conditions” – particularly streets, sidewalks, sewer lines, and government buildings. The existing program to systematically videotape existing sewer lines is an excellent example. Such tools are essential in obtaining Public Assistance.

ABAG PLAN is also considering the potential role of pooled government “revenue interruption insurance” after a disaster and any appropriate role for ABAG.

ABAG Financial Services is investigating the use of various types of bonds and the role of bond insurance for assisting in the cash-flow brought about by delays in the payment of Public Assistance funds by FEMA.

### POSSIBLE COORDINATION WITH STATE AGENCIES AND PROCESS

ABAG should work with the State Office of Emergency Services and others to encourage training for finance and human resource departments related to business continuity and documentation of disaster expenses.

ABAG should encourage the use of the state-wide master mutual aid agreement to promote the exchange of finance, human resource, planning, and public works department staff to gain valuable work experience on disaster-related issues and to assist impacted local governments. This program would be similar to existing programs related to fire, police, and building inspection departments.

Any recommended changes to State or federal law are viewed as premature.

**CREDITS** – Prepared by Jeanne Perkins with technical review by Fred Turner and Laurie Johnson. **PHOTO CREDITS** – BBC–page 1 (left); Sonoma County Library Collection–page 1 (right); Oakland Councilmember Quan –page 2 (left).