

**Testimony of Juan Manuel Ortiz  
Director for the Office of Emergency Management & Homeland Security  
City of Austin, Texas**

**On Behalf of the International Association of Emergency Managers**

**Committee of Transportation and Infrastructure  
United States House of Representatives**

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## **Introduction**

Chair Defazio, Ranking Member Graves, and members of the Committee, thank you for the opportunity to testify at today's hearing. My name is Juan Manuel Ortiz. I serve as the Director for the City of Austin's Office of [Homeland Security and Emergency Management](#).

I am testifying today on behalf of the [International Association of Emergency Managers](#) (IAEM). IAEM is the premier professional organization for emergency management, with more than 6,000 members worldwide. The mission of IAEM is to advance our profession by promoting the principles of emergency management; and, to serve our members by providing information, networking, and development opportunities. We are a non-profit educational organization dedicated to promoting the "Principles of Emergency Management" and representing those professionals whose goals are saving lives and protecting property and the environment during emergencies and disasters. IAEM was founded in 1952 as the U.S. Civil Defense Council, becoming the National Coordinating Council of Emergency Managers (NCCEM) in 1985, and the International Association of Emergency Managers in 1997. Today, IAEM continues to drive the development of the profession of emergency management through its promotion of the [Principles of Emergency Management](#), [Certified Emergency Manager \(CEM\) Program](#) and [IAEM Scholarship Program](#). The [Student Council](#) now has chapters at universities around the world and works to engage with future professionals as they choose their career paths.

The [City of Austin](#) is a home rule local government covering 271 square miles and serving nearly 1 million residents and more than 30 million annual visitors each year. Austin is the heart of one of our nation's fastest growing (32.4% population growth over the past decade) and most dynamic metropolitan areas, which is home to 2.2 million people. In addition to state government, the University of Texas, and major regional health care institutions, we are the

proud home of the [Army Futures Command](#) and of numerous national and regional corporate headquarters, including such well-known names as Apple, Dell, eBay, IBM, Oracle, NXP Semiconductors, VRBO, Whole Foods, and Yeti. Austin annually hosts numerous events that draw tens of millions of visitors, including major internationally known events such as [South by Southwest](#), the [Formula 1 Aramco United States Grand Prix](#), and [Austin City Limits](#), in addition to countless other events that draw large crowds and visitors from around the nation and the world.

The City of Austin Homeland Security and Emergency Management Office is one of several public agencies charged with keeping our city and metropolitan area safe. The 14 employees of our Office plan and prepare for emergencies, educate the public about preparedness, develop volunteers, manage grant funding to improve homeland security and public safety capabilities, coordinate emergency response and recovery, support planned events, and work with public and partner organizations to protect our whole community when it needs us the most. We were the first local emergency management agency in Texas to earn full accreditation under the Emergency Management Accreditation Program, placing us among the nation's leading emergency management agencies. That distinction is the result of our broad-based work and our innovative programs, such as [Disaster Ready Austin](#), a collaborative initiative to educate and empower residents to be prepared for emergencies and disaster that provides households, businesses, and schools with emergency planning and preparedness tools, and a recognition of our comprehensive emergency management program.

We are a comprehensive emergency management operation. In addition to planning and preparing for events that draw tens of millions of visitors and large crowds, our work addresses all aspects of emergency management. Indeed, although large events constitute a sizable portion of our workload, the top five hazards that Austin and Central Texas residents face and that keep

our staff perpetually busy are floods (Austin is in the heart of “flash flood alley”), wildfires, severe weather, hazardous materials spills, and, especially over the past 18 months, a pandemic.

Our [2020 Annual Report](#) provides a good snapshot of our work. Quoting from my opening message in the report:

*“2020 proved to be anything but a normal year, not only for emergency management, but the Austin community with the challenges we faced. It was a year that brought struggles for many but was also a year that saw Austinites and other communities come together and lead the way in tackling a global pandemic.*

*On March 1, 2020, the Austin-Travis County Emergency Operations Center (A-TCEOC) was activated in response to COVID-19. In truly historical times, emergency operations have now been sustained well into 2021 – over a yearlong activation. The COVID-19 response has brought together partners and organizations across the region to provide support and care for individuals.*

*While COVID-19 was the headline for 2020, our staff has continually met additional challenges head on as other events unfolded throughout the year – staff pursued training and learning how to combat new emergencies that our community faces and handled numerous severe weather events ranging from extreme heat to bitter cold. Additionally, Austin became a shelter for many Hurricane Laura evacuees.*

*In 2019, we began redevelopment our emergency plans to ensure that our team maintains both its focus and readiness posture to mitigate, respond to and recover from all-hazards emergencies that affect our community, and that mission did not end with COVID-19. These processes carried on well into 2020 as we adapted and modified plans to meet growing challenges and is a process that will continue every year.*

*The lessons learned from 2020 will be invaluable to our vision of being a disaster-prepared and resilient community and will shape the future of emergency management responses.*

*The partnerships forged during the trying year will ensure that we are more prepared than ever.”<sup>1</sup>*

In 2020, we added nearly 50 temporary staff to help us respond to COVID-19, created a disaster reserve team to support response needs , logged 1.1 million response hours, sheltered thousands of Gulf Coast residents displaced by category 4 Hurricane Laura, coordinated the regional response to record breaking cold that crippled our state’s power grid, distributed 71,676 units of hand sanitizer, distributed nearly 12 million pieces of personal protective equipment, housed 536 severely at-risk individuals in temporary protective shelter, housed more than 2,000 people in an isolation facility for COVID-19, established an alternate care site for COVID-19 patients, coordinated medical staffing to 31 area hospitals and launched a mobile phone application to help residents be better prepared for disasters.

Of course, we do not do this on our own. In addition to our City of Austin and our regional partners, our partnership with the Texas Division of Emergency Management (TDEM) and with the Federal Emergency Management Agency (FEMA) are critical to our efforts. We greatly appreciate their partnership and their support as our work would not be possible without it.

As this Committee and Congress look at how the federal government can better support local emergency management efforts, my testimony will aim to provide constructive guidance with the aim of strengthening these partnerships and improving our ability to meet our core mission.

### **Recent Laws: FACE Act of and Disaster Recovery Reform Act of 2018**

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<sup>1</sup> [http://www.austintexas.gov/sites/default/files/files/HSEM/2020%20Annual%20Report\\_Web.pdf](http://www.austintexas.gov/sites/default/files/files/HSEM/2020%20Annual%20Report_Web.pdf)

I would be remiss if I did not begin with a recognition of what Congress has done in recent years to improve the federal-state-local emergency management partnership. The Federal Advance Contracts Enhancement Act (FACE Act/PL 116-272) and the Disaster Recovery Reform Act of 2018 (PL 115-254) made important improvements to the federal-state-local emergency management partnership. The full Transportation & Infrastructure Committee worked hard on these laws, and we deeply appreciate those efforts.

Enacted in response to a 2018 General Accountability Office (GAO) report<sup>2</sup>, the FACE Act makes several improvements to the advance contracts process whereby FEMA provides its state and local partners with goods and services ahead of disasters so that they can be rapidly deployed. The bill implements GAO's recommendations to improve the advance contracts process, including providing state and local partners with updated and full information about available advance contracts, updating program guidance, and regular communication with congressional oversight committees.

The Disaster Recovery Reform Act of 2018 made even more important improvements. It made it more difficult for FEMA to recapture disaster assistance funds based on technicalities and put a statute of limitations to recapture disaster assistance funds. There is no question that FEMA should have full authority to recapture disaster assistance funds that were willfully or carelessly misspent. However, FEMA all too often recaptures disaster assistance funds on the pretext of small violations of arcane procedural rules and regulations, the complexity of which are exacerbated by policy inconsistencies across regions and from year to year. That situation not only creates an adversarial relationship between FEMA and its state and local partners, but it

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<sup>2</sup> <https://www.gao.gov/assets/gao-19-93.pdf>

leads to trepidation among state and local emergency managers and officials and a focus on bureaucratic minutiae when state and local emergency managers and officials should be focused on a bold and comprehensive disaster response effort. These provisions in the 2018 law went a long way towards reducing that adversarial relationship and to allowing for a more robust state and local response in the immediate aftermath of a disaster.

More importantly, Section 1234 of the 2018 law overhauled and bolstered FEMA's pre-disaster mitigation efforts, creating the Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) programs. This may be the most important change Congress has made to FEMA programs in a generation. For too many years, there was much study, discussion, and debate about how our nation needed to shift from responding to disasters, usually in an ad hoc and increasingly expensive manner, to creating more resilient communities that are better protected from and prepared for disasters. BRIC and FMA put words into action, providing a major increase in federal funding for pre-disaster mitigation and better focusing that funding on local governments that implement local policies to make their communities more resilient.

Austin has an excellent pre-disaster mitigation story I can share with the Committee. As I mention above, a major challenge facing Austin and other central Texas communities is the ever-present danger of flash floods. The combination of local topography, a rocky landscape, and rainfall events that are often severe and localized lead to flash floods that can quickly turn quiet streams into raging torrents with little or no warning. It is for good reason that Austin and Central Texas have been dubbed "flash flood alley".

The City of Austin has taken a proactive approach to this problem, establishing a [Watershed Protection Department](#) charged with protecting lives, property, and the environment

by reducing the impact of flood, erosion, and water pollution. Where practicable, City policy favors a “natural” approach to flood damage protection that focuses on removing households and people from repetitive risk flood areas. Similarly, City policy promotes a “natural” approach to watershed protection and stormwater management that uses green infrastructure and natural elements to protect riparian areas and water quality.

For example, in the Onion Creek watershed in a low- and moderate-income neighborhood in south Austin, the City has partnered with the Army Corps of Engineers and FEMA to buy out and relocate more than 800 households from a severely flood-prone neighborhood of single-family homes. After completion of those buyouts, the City and our federal partners restored the flood plain and its riparian areas to their natural state and created a new park that provides an array of recreational opportunities.

The City combines these “natural” approaches with traditional grey infrastructure in areas where relocations are not practicable and natural, green infrastructure approaches are not practicable or sufficient. For example, to address flooding along Waller Creek, which runs from the University of Texas through the heart of downtown Austin before emptying into Lady Bird Lake, the City constructed the [Waller Creek Flood Control Tunnel](http://www.austintexas.gov/department/waller-creek-tunnel)<sup>3</sup> in downtown Austin. For years, severe flooding, erosion and water quality problems have beset Waller Creek. The Project consists of a stormwater bypass tunnel that will address high priority flooding, erosion, and water quality problems along lower Waller Creek. The mile-long tunnel will safely convey floodwaters by capturing and redirecting floodwater, creating an opportunity to restore the creek and revitalize the Waller Creek District. The Waller Creek Tunnel

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<sup>3</sup> <http://www.austintexas.gov/department/waller-creek-tunnel>

protects lives from the dangers of flash flooding, removed more than 28 acres of downtown from the floodplain, protects 42 structures, 12 roadways and creates an environment suitable for redevelopment in the heart of downtown Austin, a centrally located area that is well served by existing infrastructure and provides easy and sustainable access (pedestrian, bicycle, and transit) to jobs, education, services, and other opportunities.

However, the City has been unsuccessful in obtaining much-needed BRIC funding for mitigation projects, despite the strong benefit cost analysis addressing an area that has been impacted multiple times, and where power and water plants are cut off from access. We feel this may be due in part because the State of Texas does not facilitate the adoption and enforcement of the latest published editions of Building Codes (IBC/ IRC 2015/ 2018). However, this reduction in points does not factor in the higher building standards at the local level, and this points system denies funding opportunities for worthy mitigation projects.

### **Recent Austin Experience & How it Can Inform Efforts to Improve the Federal-State-Local Partnership**

As mentioned above, in 2020, HSEM added nearly 50 temporary staff to help us respond to COVID-19, logged 1.1 million response hours, sheltered thousands of Gulf Coast residents displaced by category 4 Hurricane Laura, coordinated the regional response to record breaking cold that crippled our state's power grid, distributed 71,676 units of hand sanitizer, distributed nearly 12 million pieces of personal protective equipment, housed 536 severely at-risk individuals in temporary protective shelter, housed more than 2,000 people in an isolation facility for COVID-19, established an alternate care site for COVID-19 patients, and launched a mobile phone application to help residents be better prepared for disasters.

Providing temporary protective shelter for the most vulnerable and at-risk residents of Austin proved to be one of our most difficult and most expensive challenges. In the wake of an early COVID-19 outbreak at our congregate shelter facility, the City acted, fearing that future outbreaks among people experiencing homelessness would pose a risk to those people and to the larger community, especially in terms of hospital capacity. Specifically, the City leased six hotels to provide protective shelter and isolation facilities to provide non-congregate shelter for people at high-risk of contracting COVID-19, including people experiencing homelessness.

The Austin-Travis County Interim Health Authority established the non-congregate shelter program to provide quarantining and isolation to individuals exposed to, carrying, or at high-risk for severe illness from COVID-19. The City's actions were in accordance with FEMA policy allowing reimbursement for non-congregate shelter and support services on a case-by-case basis. In addition, the City closely consulted with FEMA Region VI and the State and hewed closely to CDC guidance.

The COVID-19 pandemic represents the first time in U.S. history that every County, State and Territory is under identical and concurrent major disaster declarations. This unprecedented dynamic has FEMA regions making eligibility determination on similar issues, which has unfortunately resulted in inconsistent and non-uniform application of policy across the different regions. Public Assistance (PA) funding requests funnel through a series of reviews at the regional, Consolidated Resource Center (CRC) and headquarter levels. Given the complexity in program and policy, each region is given the latitude to apply certain discretionary interpretations of eligibility. For COVID-19, this has resulted in certain FEMA Regions applying a more flexible eligibility interpretation than others. For the City of Austin within FEMA Region VI, this has resulted in an unfavorable situation where FEMA Region VI has indicated in writing that

certain significant non-congregate sheltering costs are ineligible for PA. Within FEMA Region IV and Region III similar costs have been approved and obligated.

The City is incurring costs of approximately \$3 million per month to lease six hotels to provide these services: one Isolation Facility (ISOFAC) for individuals who have been exposed to or tested positive for COVID-19 that do not require hospitalization but require quarantine or isolation; and five facilities that provide temporary protective sheltering facilities for asymptomatic, high-risk individuals who require emergency non-congregate sheltering as a social distancing measure (PROLODGE).

FEMA has only approved the City's non-congregate sheltering request for June, citing the following concerns in response to requests for additional months:

1. Sheltering of individuals identified as homeless, "high-risk," or "at-risk" because they do not have secure housing arrangements would not be eligible for PA.

*The City of Austin contends that its ProLodges are an effective public health measure that is in alignment with FEMA, Center for Disease Control (CDC), and Local Health Authority guidance. Consistent with CDC guidance, and based on the direction the Public Health Authority for Austin-Travis County, the City identifies individuals over the age of 65; individuals of all ages with certain underlying medical conditions; and individuals without the ability to safely self-isolate, including those experiencing unsheltered homelessness, at increased risk for severe illness from COVID-19 and constitutes the designation of "high-risk" category. Providing temporary non-congregate sheltering to high-risk individuals is an*

*effective public health measure that mitigates the transmission of COVID-19 and reduces the threat of inundating our area hospitals.*

2. Individuals that have been identified as needing NCS must remain in the facility full-time. Sheltering costs incurred for individuals leaving the facility periodically during the day or night, and then returning, does not protect those individuals at the facility or the public at large, and, therefore, would not be eligible for PA.

*The City would like to clarify that at the at the IsoFacs, which are for individuals who have been exposed to or tested positive for COVID-19 that require quarantine or isolation, guests are not permitted to enter and leave at-will. At the ProLodges, which are a form of protective sheltering for asymptomatic high-risk individuals who cannot otherwise effectively socially distance, guests are encouraged to remain sequestered in their rooms and avoid other travel, unless deemed essential. The City has taken efforts to incentivize guests to remain in their rooms. However, as these individuals are not confirmed, or suspected carriers of COVID-19, the City does not and cannot legally restrict their movement.*

3. Sheltering of individuals that exceeds 14 calendar days will require justification upon submission of request for reimbursement that identifies that the length of sheltering for individuals is based on health guidance and is limited to what is needed to address the immediate threat to public health and safety. CDC guidance recommends a 14-day isolation or quarantine period for those that test positive or have been in contact with a person that tested positive.

*The City of Austin is in compliance with the CDC's recommended 14-day maximum period for isolation or quarantining at the IsoFacs. Historically, the average length of stay at the IsoFac has been between 6 and 7 days. There is not a specified timeframe for a guest duration at the ProLodges because there continues to be sustained virus transmission within the community and the Local Health Authority has regularly reassessed and ordered protective non-congregate shelters necessary to protect public health and safety. According to FEMA guidance the length of non-congregate sheltering depends on the needs in each area and should be in accordance with the guidance and direction from appropriate health officials. Following this guidance, the ProLodges are a form of protective shelter – not a quarantine or isolation site – meant to shelter high-risk individuals who are unable to social distance as a precautionary measure and deemed appropriate by Austin public health officials. Further, the City is providing case management for these individuals to find alternate housing solutions through a myriad of programs to relocate them from the non-congregate shelters.*

We greatly appreciated President Biden's January 21 and February 2 Presidential Memoranda instructing FEMA to provide 100 percent reimbursement for state and local government emergency protective measures taken for the safe opening and operation of schools, hospitals, shelters, and transit systems. We were especially pleased that the Memoranda included 100 percent reimbursement for provision of non-congregate shelter, which has been a critical component of local prevention and response efforts, helping to contain transmission of COVID-19 among the most vulnerable and at-risk residents of our communities, helping contain community spread and preserving critical health care capacity.

However, Austin is deeply concerned that FEMA has not consistently approved requests for reimbursement for non-congregate shelter, putting many local governments at risk of having

to absorb significant costs. It is therefore critical that FEMA flexibly approve pandemic-related non-congregate shelter reimbursement requests uniformly across all FEMA regions.

Cities, including Austin, established non-congregate shelter programs to specifically prevent and respond to COVID-19. They are not permanent programs and they have not replaced the homeless assistance efforts. They are a well thought out response to a temporary crisis that addresses the stark, on-the-ground reality that failing to shelter high-risk and vulnerable individuals during a pandemic poses a grave threat to public health and to healthcare capacity.

An adverse FEMA decision on reimbursement requests for non-congregate shelter reimbursement pose a serious risk to public health and our budget. The City of Austin has spent \$40 million on non-congregate shelter. The City acted in good faith to protect public health and to serve a very vulnerable population during this crisis. An adverse determination from FEMA would leave the City liable for considerable costs at a time of uncertain budgets.

### **Supply Chain Management**

Supply chain management is another subject that requires improvements to benefit the partnership between federal, state and local governments. As Austin sought out supplies, such as PPE, in response to COVID19, it became clear that adequate levels of critical supplies would be a challenge, and the distribution of those supplies would be difficult as well.

The need for a national strategy for supply chain management during a pandemic quickly became apparent as we found ourselves competing with our state and other cities for the same limited supply of PPE. Further, these limited supplies lead to price increases and unequal distribution patterns that were bad for our recovery efforts and ultimately bad for the taxpayer.

At the outset of the COVID-19 pandemic, Austin needed to gather PPE quickly to provide the necessary supplies for our frontline workers, workforce, and general residency. After Austin was told by multiple of the nation's largest suppliers that orders of PPE for the City of Austin were not large enough, we found it necessary to partner with the City of Houston and the Texas Medical Center in Houston to purchase a massive supply of masks in Florida that would help accommodate our needs. After confirmation of the PPE purchase and as we were about to begin obligation the funds for the purchase, we were told by the supplier that the Texas Department of Emergency Management took possession of the supplies, before we could close the deal. In this situation, we found ourselves competing not only against other cities attempting to mitigate a disaster, but even our own state.

This is the consequence of inequitable distribution of necessary supplies and a lack of a national strategy for supply chain management. Had there been a prioritization on the supply chain and we had been able to seek out one specific source for our necessary supplies, our efforts to provide PPE could have been much more effective and efficient.

With that said, the City of Austin appreciates that in the wake of Hurricane Katrina, Congress enacted legislation to address supply chain issues, however, the COVID-19 pandemic has illustrated that there is much room for improvement and that empowering and trusting local partners could be an important part of the solution.

### **Resources**

My final plea is likely one you hear from stakeholders on a wide array of issues, but it is one I cannot leave out of my testimony. I recognize that I am addressing an authorizing committee and that annual funding decisions are the domain of the Appropriations Committee, but I must close my testimony with a discussion of funding.

If Congress and FEMA address the concerns raised above, it would significantly improve the federal-state-local partnership and our ability to meet our joint emergency management mission and serve our community. However, sometimes the best answer is also the simplest one. If Congress really wants to bolster local emergency management, I urge you to increase funding for core programs such as Emergency Management Performance Grants (EMPG), the Urban Area Security Initiative (UASI), and the State Homeland Security Grant Program (SHSGP).

Annual appropriations for the FEMA Disaster Assistance Account and emergency supplemental appropriations bills enacted in response to disaster garner the most attention (and money), but EMPG, UASI, and SHSGP are the foundation of local emergency management efforts. Unfortunately, the sequester and budget austerity that followed the 2011 Budget Agreement did not spare these core programs. Funding for these programs has not kept pace with population growth, inflation, and, most importantly, need.

- Congress provided \$350 million for EMPG in FY 2021, barely above its FY 2010 level of \$340 million.
- Congress appropriated \$615 million for UASI in FY 2021, well below its FY 2010 level of \$887 million.
- Congress appropriated for \$610 million for SHSGP, well below its FY 2010 level of \$950 million.

The EMPG program is the primary source of funding available to local communities to support preparedness, response, recovery, and mitigation. Local Emergency Management Programs are understaffed most consisting of just one person and are struggling to keep up with the new demand placed upon them with the pandemic and climate change. EMPG fund flows to local communities through the state as a sub award. There are no requirements for state to

allocate funds to local communities and as a result, access to EMPG funding varies from state to state. Even in my state which is one of the only to have a process to support local programs, we have seen consistent reductions from 30 to 60 %. Enhancement to EMPG should also include mandate on minimum pass through to local governments or a separate process.

On UASI, I know that committee members are fully aware of what it means to serve a community at the margin of participation in the program at the current, reduced funding levels. Austin falls on the wrong side of the participation margin each year. We have not participated in UASI since Congress reduced funding for the program in FY 2011. Even communities, such as Las Vegas and Orlando, that are fortunate to remain on the right side of that margin saw considerable drops in their allocations and face annual uncertainty about whether they will receive federal funds to sustain investments made with UASI funds.

I would be happy to outline the reasons why I think Austin should be a UASI participant. Indeed, my testimony in many ways makes that argument. At the end of the day, every community can do an excellent job of outlining the ways that they are vulnerable and how they would benefit from participation in UASI. For metropolitan areas such as ours, which face real threats and have real needs, the best answer lies not in tweaking the UASI threat risk assessment but in Congress increasing funding for the program to ensure that many more Americans benefit from UASI.

For Committee members who represent large metropolitan areas that face little to no threat to their participation in the UASI program, I discourage you from pursuing or supporting ill-advised attempts to limit participation in the UASI program to the largest metropolitan areas. Such a policy would leave tens of millions of Americans more vulnerable. In addition, it would

significantly reduce support for the program in Congress, especially in the Senate, where the needs of metropolitan areas already struggle for recognition.

The benefits of UASI are considerable. Communities that are fortunate to participate in the program are better able to not only meet their equipment, training, and preparation needs, but they benefit from the regional collaboration and cooperation that the UASI program encourages. The UASI program benefits urban areas by assisting communities to develop regional solutions, creating mission ready capabilities which can make our communities more resilient. An Austin UASI award would allow our region to develop strategies to establish capabilities like alternate care sites, mass care and sheltering, develop evacuation plans and reception centers and regional resource staging strategies.

### **Conclusion**

I am pleased that the Committee is looking at how Congress can improve the federal-state-local emergency management partnership so that state and local emergency managers can better prepare and protect our communities. I am happy to answer questions and to provide any additional information that the Committee might find helpful as you work on this issue. Thank you for the opportunity to testify.