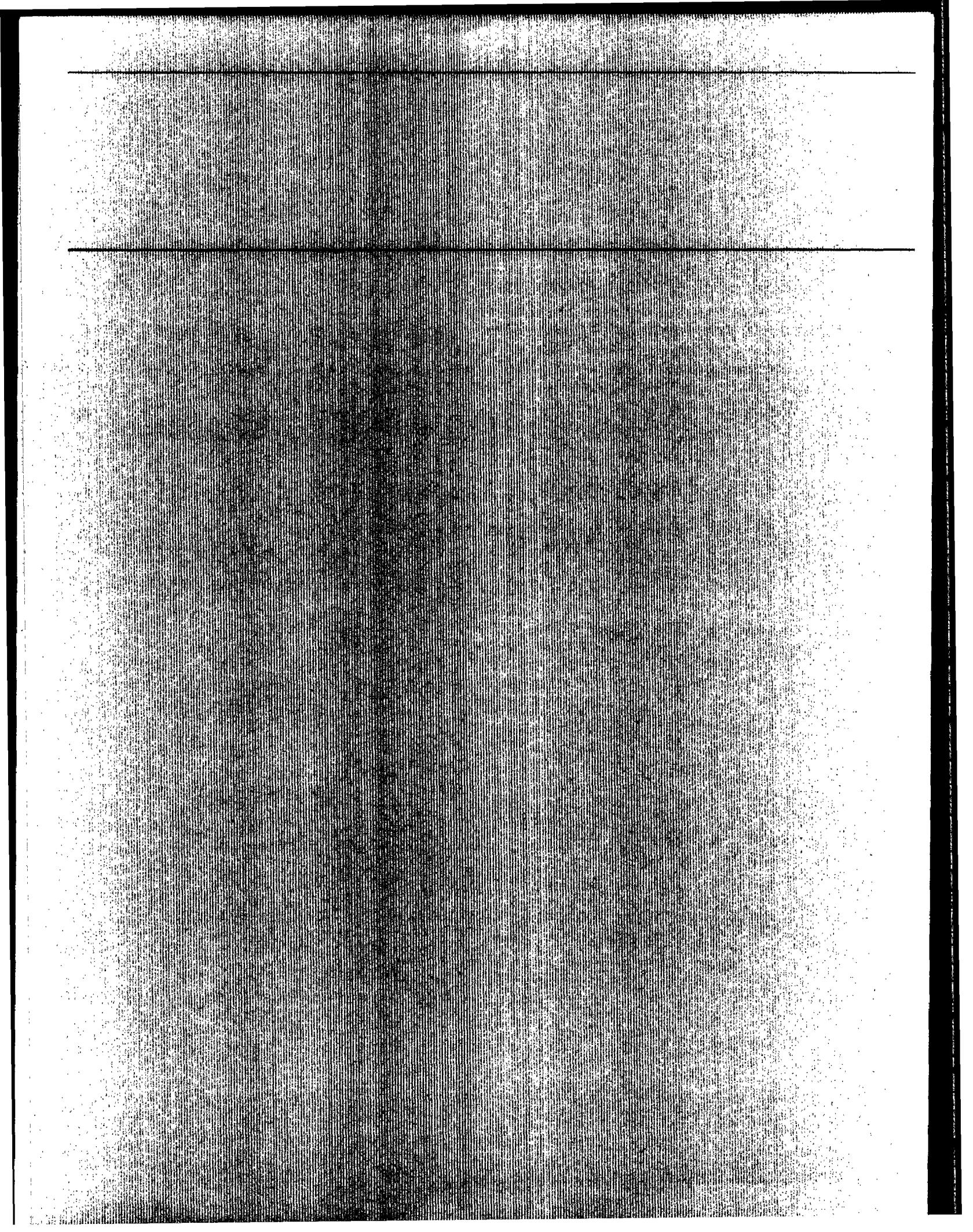


June 1994

**LOS ANGELES
EARTHQUAKE**

**Opinions of Officials
on Federal
Impediments to
Rebuilding**





**Comptroller General
of the United States**

B-256606

June 17, 1994

**To the President of the Senate and the
Speaker of the House of Representatives**

On January 17, 1994, an earthquake measuring 6.8 on the Richter scale caused heavy damage in the Los Angeles area. This earthquake, referred to as the Northridge earthquake, left 61 people dead, 18,480 injured, and 25,000 homeless. More than 55,000 structures were damaged, of which 1,600 were left uninhabitable. The earthquake also caused significant damage to the area's extensive freeway system, resulting in closures at seven locations. According to the Federal Emergency Management Agency (FEMA), the earthquake, causing estimated damage totaling \$13 billion to \$15 billion, was the nation's second largest disaster ever in these terms and resulted in the largest number of applications for disaster relief in the agency's history.

Section 404 of the Emergency Supplemental Appropriations Act of 1994 (P.L. 103-211) required us to report to the Congress within 30 days on federal laws, unfunded mandates, and regulatory requirements that may prevent or hinder state and local authorities from expeditiously rebuilding the areas in Southern California devastated by the earthquake. To meet the act's requirement, we interviewed federal, state, and local officials and summarized their views about such barriers. Because of time constraints, we did not independently verify the information provided to us. During the week of March 14, 1994, we briefed staff from the House and Senate Appropriations Committees, the Office of the House Minority Whip, and the Information, Justice, and Transportation Subcommittee of the House Committee on Government Operations on the results of this work. This report serves to expand on and formalize the information we provided in those briefings.

Over the years, we have assessed actions by federal agencies in many different disasters, including Hurricanes Andrew and Iniki and the 1990 flooding in the Arkansas, Red, and White River basins. (Our most relevant reports on disaster response and recovery are listed on the last page of this report.) Building on this work, we have begun a broader effort to assess federal barriers to recovery from a range of natural disasters and to more thoroughly explore the complexity and breadth of issues that are relevant to the federal role in disaster recovery. This work will take about a year to complete and will provide information that should assist the Congress and relevant agencies in knowing how to remove these barriers.

In addition, we are providing information and support to the Congressional Natural Disasters Task Force that was established in February 1994 by the House of Representatives to recommend ways to provide speedy and effective disaster relief, improve coordination between all levels of government, and address the budgetary impact of federal disaster relief.

Background

Immediately after a disaster strikes, local, state, federal, and voluntary relief agencies respond to emergency needs, for such things as food and shelter and the restoration of essential services. Once this response is under way, agencies begin the recovery phase, which is the subject of this report. During the recovery, federal assistance is provided to help repair and rebuild homes (known as individual and family assistance) and public facilities (known as public infrastructure assistance). FEMA is the federal agency primarily responsible for coordinating federal assistance for disaster recovery.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended by P.L. 100-707) governs the terms under which federal agencies provide assistance to disaster-stricken areas. Once the President declares a disaster, FEMA supplements the assistance provided by state and local authorities. In California, FEMA works closely with the Office of Emergency Services (OES), the primary state agency involved in the recovery.

Individuals and families whose homes are damaged can apply to FEMA for a grant, to make repairs to restore habitability. For the Northridge earthquake, applicants could obtain a maximum of \$10,000. People can also apply to FEMA for assistance to obtain temporary housing. Victims whose homes suffer more costly damage can also apply for a low-interest loan from the Small Business Administration's Disaster Loan Program. Those who do not qualify for disaster loans are referred to the Individual and Family Grant Program for assistance. This program, which provided a maximum of \$12,200 for victims of the Northridge earthquake, is administered by the state and funded by federal and state contributions.

FEMA also makes funds available to repair or replace damaged public and nonprofit facilities. The federal share of funding for the Public Infrastructure Support Program is at least 75 percent. For the Northridge earthquake, the President set the federal share at 90 percent. FEMA makes additional funds available to communities for "hazard mitigation," to

reduce the risk of damage in future disasters. A recent amendment to the Stafford Act raised hazard mitigation funding to 15 percent of the federal funds provided for individual and public assistance for a specific disaster.

Other federal agencies are also involved in providing federal assistance for earthquake recovery. For example, the Federal Highway Administration (FHWA) provides funds for repairing roads and bridges that are part of the federal highway system, the Department of Housing and Urban Development (HUD) may provide housing assistance funds, and the Department of Education may provide aid to school districts. In addition, FEMA may ask other federal agencies, such as the U.S. Army Corps of Engineers, to assist in such tasks as removing debris and inspecting damage.

Summary of Observations

The views of the state and local officials we interviewed ranged from cautious optimism to concern about the federal role in the recovery from the earthquake in Los Angeles. Many state and local officials said that the emergency response immediately following the earthquake went very well, but they were concerned about the long-term recovery phase, given the problems associated with federal laws and regulations that occurred after the 1989 Loma Prieta earthquake in northern California.¹ State and local officials said that they felt encouraged by recent policy and regulatory changes made by FEMA and believed that the changes could improve the agency's assistance efforts. At the same time, some of these officials cited other barriers to recovery, despite the changes. For example, state officials consider the process for appealing FEMA's decisions inappropriate because there is no review by an outside arbitrator.

Some federal officials said that many of the issues characterized by state and local officials as barriers are just disagreements over how far the federal government should go towards paying for disaster recovery. While legislation authorizes federal assistance to augment state and local efforts, federal officials said that state and local governments often try to maximize federal contributions. In addition, federal officials note they have taken some important steps to facilitate recovery by waiving requirements within their jurisdictions. Other exclusions have been built into existing laws to provide flexibility in dealing with natural disasters. For example, FHWA has the authority to waive a range of regulations,

¹We reported on these problems and the steps taken to avert their recurrence in *Earthquake Recovery: Staffing and Other Improvements Made Following Loma Prieta Earthquake* (GAO/RCED-92-141, July 30, 1992).

including "Buy American" requirements. (App. I outlines the concerns expressed by state and local officials on barriers to recovery).

State and local officials cited several problems with unfunded federal mandates, including the Americans With Disabilities Act, the Davis-Bacon Act, and the Clean Water Act.² Their primary concern about these mandates was not related to earthquake recovery, but to the general stress on state and local financial and staff resources. However, they pointed out that the tremendous demand on state and local resources during disaster recovery is magnified by the need to also comply with unfunded mandates. (App. II discusses concerns raised by state and local officials regarding unfunded mandates).

Scope, Methodology, and Agency Comments

To respond to the mandate of the Emergency Supplemental Appropriations Act of 1994 (P.L. 103-211), we focused on the recovery process rather than the emergency response to the disaster. Because recovery was just beginning in Los Angeles, we also interviewed officials involved in the recovery from the October 1989 Loma Prieta earthquake that occurred in San Francisco. These officials provided views on the impact of legislative, regulatory, and policy changes that were made after that earthquake.

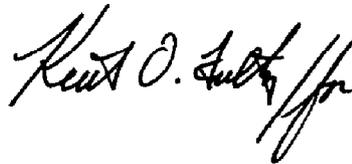
We interviewed over 100 officials from 18 federal agencies, 9 state agencies and offices, 8 local and county governments, and 2 school districts. (See app. III.) We interviewed state and local officials to identify federal barriers they encountered or expected to encounter in the recovery process. Among the officials we interviewed were the Chief of Staff for the Mayor of Los Angeles and the Disaster Coordinator with the Governor's office. In most cases, we followed up with officials from the federal agencies cited to get their views on the concerns expressed by state and local officials. We also discussed with the federal officials any barriers that they see to their involvement in a recovery and requested information on legislative changes or actions that agencies have taken to facilitate recovery.

To ensure that we correctly characterized the opinions of the major agencies involved in earthquake recovery, we discussed a draft of this report with FEMA and OES officials, including the Associate Director of FEMA's Response and Recovery Directorate and the Director of OES.

²In a letter to Representatives John Conyers, Jr., and Edolphus Towns—Federal Mandates (GAO/HEHS-94-110, Apr. 5, 1994)—we summarized state and local views on the impact of unfunded federal mandates.

Officials from both agencies generally agreed with the information presented. We have incorporated their specific comments where appropriate.

This report was prepared under the direction of Thomas P. McCormick, Regional Manager, San Francisco, who can be reached at (415) 904-2200 if you or your staff have any questions. Major contributors to this report are listed in Appendix IV.

A handwritten signature in black ink, appearing to read "Kent O. Fultz for".

Charles A. Bowsher
Comptroller General
of the United States

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Abbreviations

CalTrans	California Department of Transportation
DOT	Department of Transportation
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
HUD	Department of Housing and Urban Development
OES	Office of Emergency Services
SBA	Small Business Administration

Concerns Regarding Federal Laws and Regulations

Many of the concerns raised by state and local government officials related to the role of the Federal Emergency Management Agency (FEMA). State and local officials said that they felt encouraged by recent policy and regulatory changes made by the agency and believed that the changes could improve its assistance efforts. At the same time, some of these officials cited other barriers to recovery, despite the changes.

Other concerns were raised about barriers related to the roles of the Departments of Transportation (DOT), Education, Housing and Urban Development (HUD), and Health and Human Services; bank regulatory agencies; the Small Business Administration (SBA); the Internal Revenue Service; and the Environmental Protection Agency.

Federal Emergency Management Agency

State and local officials are concerned that the problems experienced during the recovery from the Loma Prieta earthquake might recur. For example, a primary concern is whether FEMA has settled the question of when the federal government pays for hazard mitigation for damaged buildings. Officials from FEMA and the California's Office of Emergency Services (OES) acknowledged that, before the Loma Prieta earthquake, there was no clear guidance for determining when measures undertaken for hazard mitigation were eligible for funding. As a result, the disputes about repairs of Stanford University and Oakland City Hall have only recently been resolved.

In a March 1994 memorandum of understanding between FEMA and OES, criteria were set forth to clarify FEMA's regulations. If at least 50 percent of a building is damaged, FEMA will authorize federal funding to bring the entire building up to current local building codes. Lesser damage normally would warrant funding for bringing only the damaged portion of a building "up to code." However, according to an OES official, when less than 50 percent of a building is damaged, local governments may submit a hazard mitigation plan to FEMA. The agency will then conduct a cost-benefit analysis to determine whether it will fund additional mitigation activities. The official was concerned that because the assumptions involved in a cost-benefit analysis are subjective, additional disputes could ensue.

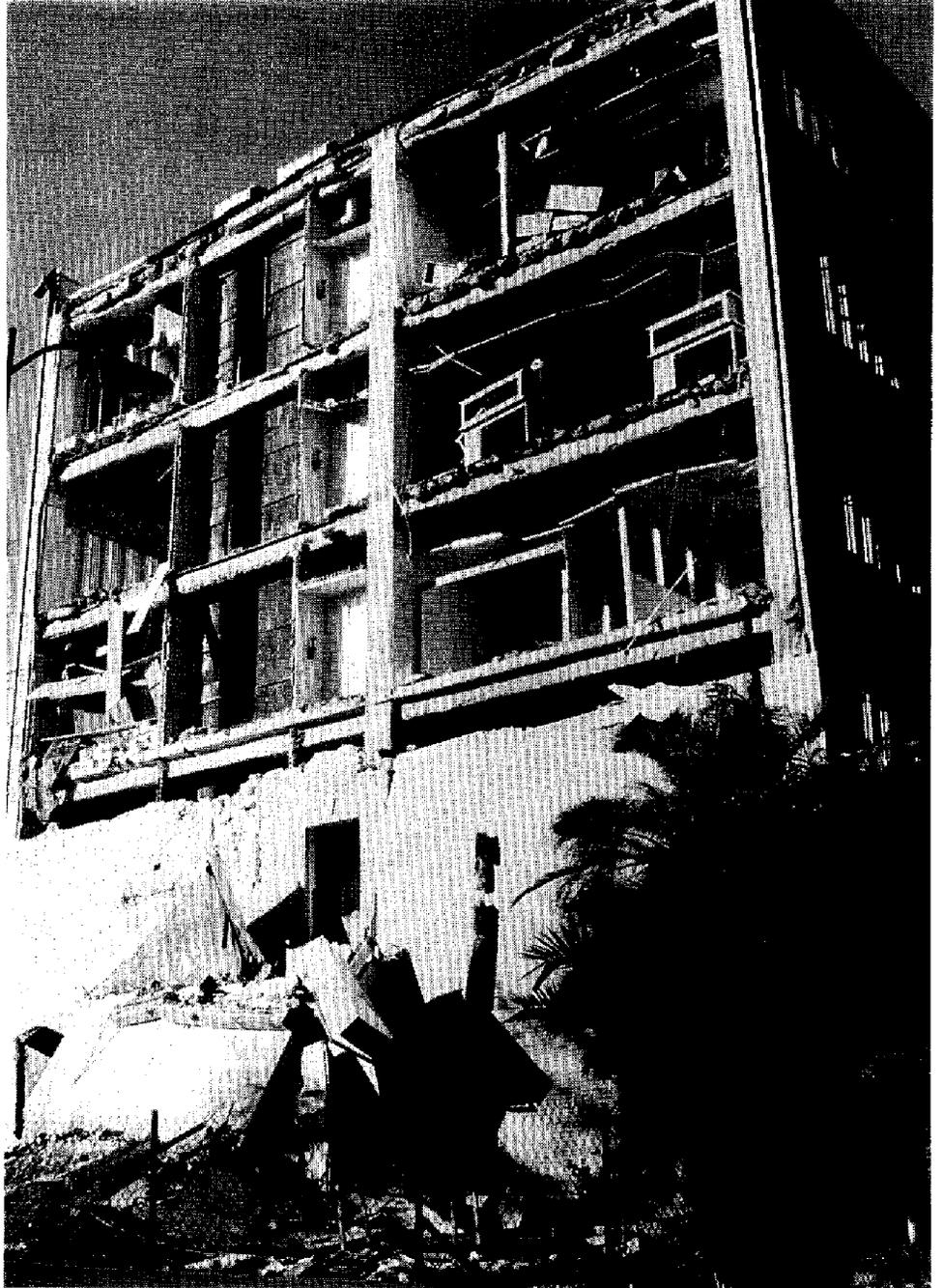
Damage survey reports provide estimates of the extent of damage and the cost of repairs and are necessary to receive federal assistance. Historically, these reports had to be provided for all phases of the repair before work could begin. OES officials said that the recent memorandum of

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understanding facilitated the rebuilding process by allowing local officials to obtain damage survey reports for each step of the rebuilding process as it progresses.

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**Figure I.1: Office Building With
Collapsed Side Wall**



Source: U.S. Army Corps of Engineers.

Another concern stemming from experiences after the Loma Prieta earthquake is FEMA's process for appealing its decisions concerning public infrastructure assistance. OES officials said that FEMA's process is not really an appeals process because no outside arbitrator objectively reviews the facts. Instead, each level of review is another FEMA official. In addition, OES officials maintain that FEMA does not abide by timetables established for the appeals process. In response, FEMA officials said that the process allows timetables to be reset whenever new information is submitted and that California has sometimes delayed the process by not being diligent in submitting information and deciding what it wants done. However, the officials continued, the agency may reexamine the process.

Figure I.2: Worker Surveying Damage to Car and Building



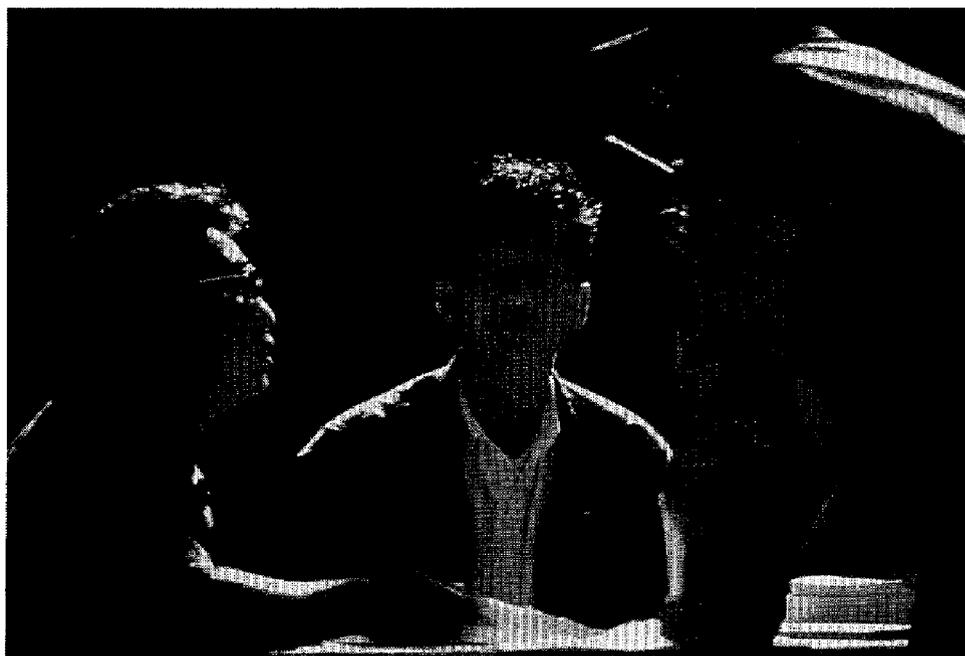
Source: FEMA.

OES officials also raised a concern about how FEMA determines the amount of administrative expenses that states will be reimbursed. According to FEMA officials, the agency uses a formula that reimburses states \$61,000 plus 0.5 percent of the eligible costs over \$5 million. OES officials maintain that this formula does not provide enough money to cover administrative costs. Los Angeles Unified School District officials pointed out that

administrative costs are related to the number of damaged sites, not the amount of assistance. OES suggested that since earthquake recovery is lengthy and complicated, FEMA should establish categories of eligible costs rather than base reimbursement on a percentage of the grants. FEMA officials said that the grants only cover a few expenses, for such things as overtime and travel, and that the agency reimburses other, more costly expenses under the Public Infrastructure Support Program.

OES officials are concerned about a provision in the Emergency Supplemental Appropriations Act of 1994 that generally allows assistance to be provided only to legal residents of the United States. According to OES officials, FEMA has interpreted this law not to apply to the Individual and Family Grant Program. FEMA's position is that the law does not apply to this program because it is administered by the state; that is, assistance is not distributed directly to victims by the federal government. OES officials question this interpretation because, although the state administers the program, FEMA determines the eligibility standards by which the states must administer the program. OES officials are concerned that if they follow FEMA's interpretation, a future federal audit could find them at fault and the state would be penalized. Further, the officials said that the federal government should be responsible for verifying the residency status of applicants because the program is a federal one.

Figure I.3: Disaster Assistance
Application Center



Source: FEMA.

Another concern raised by OES officials is that FEMA's contracting requirements are inflexible. They said that unlike the Federal Highway Administration (FHWA), FEMA does not allow local governments to offer special incentives for the prompt completion of work. In addition, they said that FEMA requires them to issue fixed-price contracts, which are not always appropriate. For example, OES officials have tried for several weeks to get bids from contractors to restore thousands of mobile homes to their foundations and install seismic braces, but because this type of work has never been done on such a large scale and its cost is uncertain, contractors were reluctant to bid on a fixed-price contract, the officials explained. According to FEMA officials, fixed-price contracts are required because they are more cost-effective.

Finally, several of the state and local officials we interviewed raised a concern about FEMA's policy for reimbursing the salaries of state and local employees who are involved in debris removal and cleanup. After the Loma Prieta earthquake, FEMA changed its regulations governing salary reimbursement. Under the new regulations, FEMA will no longer pay for the regular time of city employees involved in these activities, only for

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overtime or for contractors hired specifically for recovery work. FEMA's policy change was based on the fact that regular-time labor costs are a fixed commitment made by governments before the disaster and are not an additional expense.

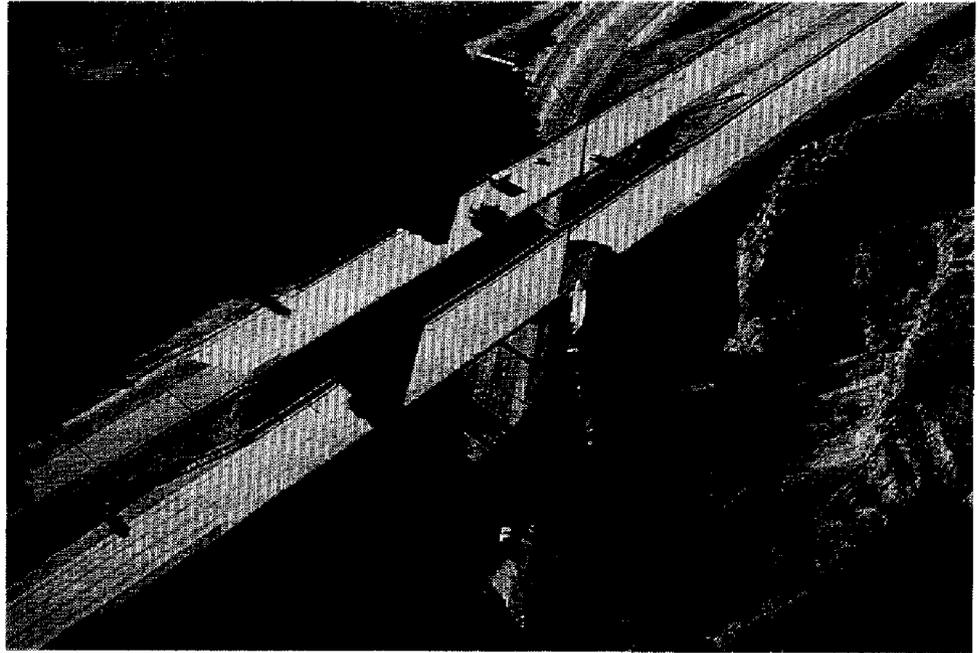
Officials from the city of Santa Monica maintained that if they contract for debris removal and cleanup, FEMA pays more than it would pay for city employees to do the work. In fact, FEMA waived this provision for the city of Los Angeles because estimates indicated that the city could save \$6 million by using its own staff rather than contractors. Los Angeles County has requested but has not yet been granted a waiver.

In addition to this waiver and the regulatory changes following the Loma Prieta earthquake, FEMA officials noted several actions they have taken to expedite the recovery in Los Angeles. They immediately distributed checks for temporary housing to residents of the damaged area, rather than going through the usual process of verifying the habitability of homes. In addition, FEMA immediately distributed \$200 million to expedite repairs, rather than following the normal procedure that requires repairs to be made before reimbursement.

**Department of
Transportation**

Officials we interviewed at the California Department of Transportation (CalTrans) were very pleased with the efforts made by DOT to expedite the recovery. They noted several instances in which DOT adopted a flexible approach. For example, within a week of the earthquake, FHWA and CalTrans had agreed to an expedited contracting process that permitted state highway officials to advertise and award construction contracts in 3 to 5 days. Under normal contracting procedures, the process could take 26 to 40 weeks to complete.

Figure I.4: Aerial View of Highway
Damage



Source: FEMA.

Other measures granting flexibility to facilitate recovery are included in FHWA's regulations. One example is the Emergency Relief Program (23 C.F.R. part 668). This program establishes policies, procedures, and program guidance for the administration of emergency relief by FHWA for repairing or reconstructing federal-aid highways that suffer serious damage from natural disasters. FHWA's regulations provide that such repairs may be eligible for a categorical exclusion from the National Environmental Policy Act, allowing them to proceed without environmental impact statements or assessments, except in unusual circumstances (e.g., when a roadway is relocated). Certain emergency relief projects are also exempt from (1) the Clean Air Act's requirement for a study of whether a project will contribute to noncompliance with clean air standards and (2) DOT's regulations on transportation project planning by state and local governments.

FHWA's regional offices are also authorized, in emergency situations, to exempt truck drivers from certain safety regulations, including requirements that limit their hours of service. According to an FHWA official, such an exemption was granted by the agency's regional office in

San Francisco. Finally, DOT's "Buy American" regulations can be waived by FHWA's regional administrators.

CalTrans officials expressed one concern that they characterized as "minor" regarding federal funding for public transportation and other systems to reduce the needed capacity of highways, or "replace highway capacity." They noted that it was unclear which activities were eligible and whether the money would come from FEMA or from FHWA.

Officials from FHWA and the Los Angeles Metropolitan Transit Authority related one example of this problem. The Authority asked FHWA for funding to upgrade tracks and communication systems to increase trains' speed and reduce travel time. FHWA declined, saying that the project was a long-term capital improvement and not primarily intended to replace highway capacity. According to the FHWA officials, the Authority then requested payment from FEMA, which agreed. FEMA officials said this project was one of a number that FHWA had declined to fund which they determined FEMA could pay for under section 419 of the Stafford Act.

In the Emergency Supplemental Appropriations Act of 1994, the Congress also took actions to facilitate FHWA's assistance. It removed the \$100 million per-state, per-disaster limit on assistance for repairing and reconstructing federal highways. In addition, although normally FHWA has discretion over the federally funded percentage of emergency repairs and reconstruction costs for certain highway projects accomplished within 180 days of a natural disaster, for the Northridge earthquake the Congress provided that all qualifying projects would receive the maximum of 100-percent federal funding.

Department of Education

The state and local school officials we interviewed raised several concerns about federal barriers to earthquake recovery. One university that was heavily damaged during the earthquake, the University of California at Northridge, reported no federal barriers to recovery.

An official at the California Department of Education cited several federal barriers to recovery that he considers significant, including FEMA's policy of not reimbursing the payment of employees working regular hours on debris removal and cleanup. Another concern he expressed was the need to change the law to ensure that schools would receive advance funding to recover from a disaster because schools cannot afford to initiate repairs without federal money. FEMA officials said that a change in the law was

unnecessary, noting that although they provided \$200 million of advance funding, most of the money had not been spent yet.

One state education official we interviewed also expressed concern about the statutory requirement that schools have earthquake insurance in order to qualify for federal assistance. School districts can get a waiver from the requirement if the state's insurance commissioner declares that the insurance was unavailable. In fact, the official said that the requirement is waived each time but that the time required to get the waiver delays federal assistance. He suggested that the statute should be revised to provide schools a permanent exemption from this requirement because schools cannot afford the insurance.

During the Loma Prieta earthquake, FEMA's guidance on nonprofit organizations' eligibility for assistance encouraged a large number of organizations to apply. Although the damage they sustained was small, the time and effort that FEMA staff had to devote to processing applications, inspecting damage, and making eligibility decisions were great. Subsequently, FEMA set criteria that confined eligibility to those organizations that provide a service that would be provided by the government in the absence of a nonprofit organization. A state education official said that the department is concerned that the rules may exclude privately owned day care centers, even those with Head Start programs. FEMA officials said that they have recently issued new guidance to clarify the eligibility of nonprofit agencies and provide more funding flexibility for the agency.

Department of Housing and Urban Development

The Emergency Supplemental Appropriations Act of 1994 provided the authority for HUD to expedite assistance by waiving provisions in several programs, including the Section 8, Community Development Block Grant, and HOME Investment Partnerships programs and certain National Housing Act insurance programs for multifamily housing projects. By the end of January 1994, HUD had expedited nearly \$38 million to California through the HOME Investment Partnerships Program. These funds can be used for the acquisition, rehabilitation, reconstruction, or construction of housing for low-income families, as well as for tenant-based rental subsidies. After the Northridge earthquake, the Secretary of HUD waived many statutory and regulatory requirements of the HOME program to make funds available quickly, including housing standards and the requirement that local agencies contribute 25 to 30 percent of the cost.

At the same time, HUD officials noted some barriers to quickly getting money out to earthquake victims. The officials said that funding can be delayed because the National Historic Preservation Act requires HUD to obtain approval from state officials before providing funding for any undertaking by the department, including Section 8 housing (low-income multifamily projects). HUD officials identified four conditions that must exist to allow an exception to this requirement: (1) the project must be rehabilitation and not new construction; (2) the building must be less than 50 years old; (3) approval for the project must have been received from local officials and other interested parties; and (4) the structure being rehabilitated must not be within or adjacent to a historic district. OES officials said these exceptions are insufficient and that the need to get state approval is burdensome, particularly in towns with a lot of older structures. They suggested that during disaster recovery, the protection of the National Historic Preservation Act should be limited to buildings that have been identified on a list of historic structures.

Another concern expressed by a HUD field official is that multifamily projects may not qualify to receive sufficient loans from HUD for repairs. HUD's regulations limit the amount of such loans to 85 percent of a property's current value. The cost of repairs may exceed this value, especially because the earthquake caused property values to drop. The official suggested increasing the "loan-to-value ratio" to 115 percent to encourage redevelopment. Otherwise, the official fears, owners may abandon damaged properties.

Finally, a HUD official said that the agency can only subsidize rent for people whose income does not exceed 50 percent of the area's median income. If a person's income is over that level, even by a few dollars, he or she gets nothing. One official suggested that the law should allow for a partial subsidy.

Attorneys with Manatt, Phelps & Phillips, a law firm that represents financial institutions in the Los Angeles area, suggested a change to make the recovery easier for homeowners with property affected by the earthquake. Fannie Mae allows 18 months' forbearance on mortgage payments, at the end of which it requires the deferred payments to be made in full. The attorneys suggested that payment should be deferred to the end of the loan term.

Department of Health and Human Services

One primary concern expressed by officials from the Department of Health and Human Services is that the agency was left out of the Emergency Supplemental Appropriations Act of 1994 and had to request \$179 million from the President's Contingency Fund. They maintain that having to seek these contingency funds delayed the distribution of assistance.

In addition, officials of the Department of Health and Human Services said they need broader waiver authority. Currently, laws permit them to waive certain requirements for individual programs. They said that "blanket authority" to waive certain requirements across all programs would allow them to get the assistance out faster.

Bank Regulatory Agencies

State banking officials said their major concern was the slow economy in Southern California, along with its impact on property values and people's ability to borrow to make repairs. The authority for federal bank regulatory agencies to respond to disasters is provided through the Depository Institutions Disaster Relief acts of 1992 and 1993. The acts allow these agencies to, among other things,

- waive appraisal requirements for loans;
- grant exceptions from the Truth in Lending and the Expedited Funds Availability acts, for example, by allowing consumers to waive their right to rescind loans if benefits to the public outweigh possible adverse effects; and
- grant relief from regulations governing leverage capital requirements for lenders whose assets are increasing temporarily because of the influx of insurance proceeds or government assistance funds.

Following the Northridge earthquake, federal regulators encouraged lenders to work constructively with affected borrowers. However, some bankers are concerned about continued forbearance from federal regulators. The concern is that as the crisis "wears off," lenders will be penalized for leniency. A local bank official and an attorney from Manatt, Phelps & Phillips, suggested that regulators should issue specific guidelines on what is acceptable in extending flexible terms to borrowers. Normally, banks are required to reclassify troubled loans in their portfolios and set aside reserves to cover potential losses.

In response, one official at the Office of the Comptroller of the Currency said the agency sees its role as providing general guidance, rather than

getting involved in day-to-day decisions. Also, a recent survey of banks in Los Angeles that had been examined since the Northridge earthquake—conducted by the California Bankers Association—found they had not been penalized for leniency to earthquake victims. Finally, an official with the Office of Thrift Supervision said that many lenders are assigned the same examiners over time, which helps to ensure regulatory consistency.

The federal regulators we interviewed at the Federal Reserve Bank, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency believe they have sufficient flexibility to assist lenders affected by the earthquake. However, a California Bankers Association official suggested that the current piecemeal approach to responding to disasters should be replaced by a disaster relief plan with two phases: short-term response and long-term recovery. The plan would eliminate uncertainty about future regulatory actions. The official suggested that the plan could be administered by the Federal Financial Institutions Examination Council, a five-member board comprising representatives from the Treasury and the four bank regulatory agencies.

Small Business Administration

SBA has taken several actions to facilitate the recovery. It raised its share of disaster assistance to homeowners from \$20,000 to \$40,000 for repairs and from \$100,000 to \$200,000 for replacing a primary residence. In addition, it changed regulations to allow businesses involved in renting real estate to qualify for disaster loans for the earthquake and future disasters. Finally, SBA changed the criteria that determine whether a company is a “major source of employment,” allowing companies with at least 250 employees to meet this definition. The previous minimum had been 1,000 employees. For major employers, SBA can waive the \$1.5 million limit on loan assistance.

SBA and local officials outlined several barriers to the recovery related to the agency’s role of providing loans to businesses and individuals. The Small Business Act requires SBA to use six different interest rates for the various types of disaster relief loans, which agency officials maintain is administratively burdensome. The rates depend on such factors as whether the recipient is a business or homeowner, whether the loan is for physical damage or economic injury, and whether the recipient has access to credit elsewhere.

One banking official said that SBA's underwriting standards should be liberalized and that procedures should be established to create incentives for reinvesting in damaged low-income multifamily housing. He was particularly concerned because these units were disproportionately affected by the earthquake. One change he suggested would be for SBA to allow substitute investors in damaged properties. Ordinarily, because it has stringent requirements for investors in housing projects, SBA does not allow new investors to buy in. Another problem for investors in multifamily housing, raised by Santa Monica officials, is that the cost of repairs often exceeds the \$1.5 million limit on loans from SBA.

Officials at OES noted that SBA's program requirements seem to duplicate those of FEMA and state agencies. They maintained that given the integral nature of SBA's and FEMA's programs, particularly SBA's Disaster Loan Program and FEMA's Individual and Family Grant Program, the agencies should use a common data base and application procedures. OES officials said that SBA's procedures are similar to FEMA's (i.e., they both conduct property inspections) and that the duplication of effort delays the assistance process and confuses applicants.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers assisted local governments in the Los Angeles area with a range of emergency response and recovery efforts. For example, it sent engineers to conduct damage inspections of public buildings. State and local officials and representatives from the U.S. Army Corps of Engineers did not see any barriers to the recovery that were associated with the Corps.

Internal Revenue Service

To understand the barriers associated with the tax code and regulations, we interviewed the Executive Director of the California Tax Credit Allocation Committee, a committee comprising the state's Comptroller, Treasurer, and Director of Finance. She cited several barriers to recovery posed by laws that allocate tax credits for investment in affordable rental housing.

According to the Director, tax credits represent the largest incentive program funded by the federal government for the construction and rehabilitation of affordable rental housing. States receive a specific amount of tax credits they can allocate each year to investors in low-income housing projects. States that do not award all their tax credits in a given year cannot use those that remained from their previous year's

allocation. Also, states that do not award all of their tax credits in a given year cannot apply for additional tax credits, those that were turned in by other states and are available in a national pool. During each of the previous 2 years, California has received between \$14 million to \$15 million from this national pool.

According to the Director, the problem for states in the midst of disaster recovery is that they may be unable to complete applications before the deadline of April 15 and so may fail to use up the current year's credits, thereby losing the opportunity to request additional credits from the national pool, as well as forfeiting any carryover credits left from the previous year. In addition, she said that in order to receive tax credits, a project must be placed in service (i.e., be open to tenants) within 24 months of receiving the allocation authority. During disaster recovery, projects that have already received allocation authority may be delayed beyond the 24-month time period and therefore not receive credits, particularly if they were damaged during an earthquake.

Furthermore, the law states that to acquire an existing building, tax credits cannot be used unless the building has been owned by the seller a minimum of 10 years and the seller has made no substantial improvements during the last 10 years. This provision was intended to guard against collusion between project investors and real estate developers in an attempt to increase the price of the property and thereby obtain additional tax credits. However, according to the Director, the provision reduces the number of properties that could replace damaged or destroyed homes.

Environmental Protection Agency

According to an official we interviewed at the California Environmental Protection Agency, federal environmental laws and regulations pose no barriers to recovery. However, he raised one potential concern regarding Superfund sites damaged by natural disasters.³ He said FEMA's regulations do not address whether Superfund sites damaged during earthquakes are eligible for federal funding for repairs. While FEMA officials said that no specific regulations govern the eligibility of Superfund sites, they speculated that there may be circumstances in which FEMA would take action, for example if a publicly or privately owned site posed an immediate threat to public health. Even in such a case, they said FEMA would probably seek reimbursement from the party or parties responsible for cleanup.

³Superfund sites are the nation's most seriously contaminated hazardous waste sites targeted for cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act.

**Appendix I
Concerns Regarding Federal Laws and
Regulations**

At the local level, officials raised some concerns about unfunded environmental mandates. (See app. II.)

Concerns Regarding Unfunded Mandates

The local officials we interviewed are more concerned than the state officials about the effect of unfunded mandates on the recovery process. An official with the California Department of Finance said that most of the unfunded mandates are minor and do not affect the recovery effort.

For the most part, concerns raised by local governments about unfunded mandates were not specifically related to earthquake recovery. The Chief of Staff for the Mayor of Los Angeles was concerned about the general stress on the city's financial and staff resources as a result of unfunded mandates. He was also concerned about the difficulty Los Angeles will have meeting compliance deadlines during earthquake recovery. He said that the tremendous demand on local resources during disaster recovery is magnified by the need to comply with unfunded mandates.

Americans With Disabilities Act

The Americans With Disabilities Act requires all new construction and alterations in public and commercial buildings to meet standards for access by the disabled. Officials in Los Angeles and Los Angeles County raised as a problem the compliance costs associated with the act, irrespective of the earthquake. They estimate that before the earthquake, the annual cost of compliance to the city was \$25 million and the capital cost was \$176 million. These officials and officials from Santa Monica were also concerned that the need to bring damaged buildings into compliance will increase the cost of the recovery, as well as the cost of compliance. Los Angeles officials added that if they do not comply, they will be faced with lawsuits.

"Buy American" Legislation

The Secretary of Transportation may not obligate funds for highway construction unless the steel and manufactured products used in the projects are made in America. CalTrans officials said that if contractors encountered problems purchasing sufficient quantities of American-made steel, these provisions could pose a barrier to recovery.

However, at the time of our fieldwork, none of the contractors had found it difficult to find enough American-made steel. Further, FHWA's regional administrators can waive the Buy American requirements if their application would not be in the public interest or if the products made in this country are not of sufficient quality or available in sufficient quantity.

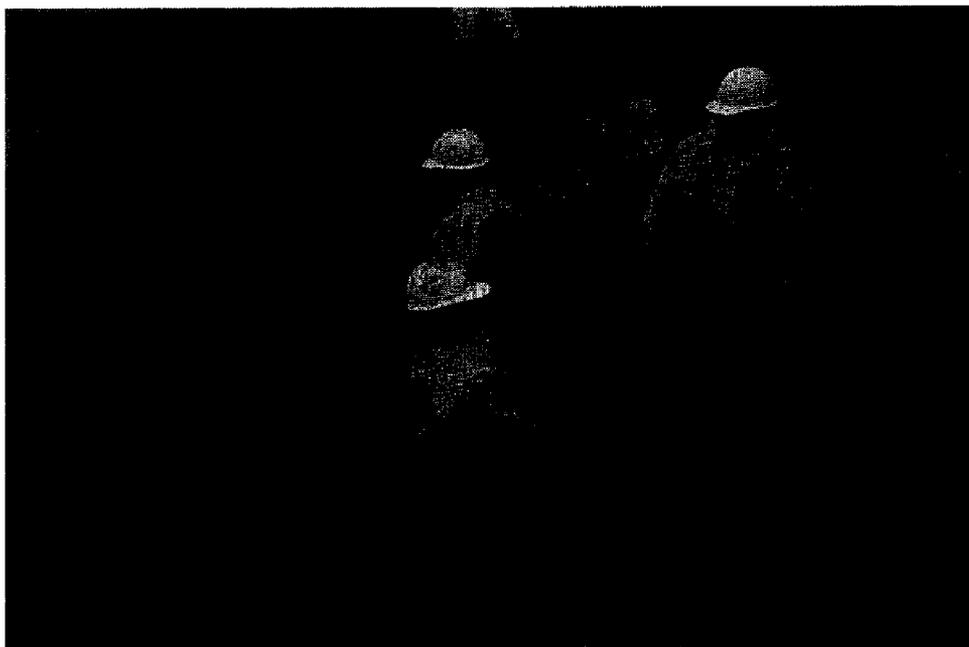
Davis-Bacon Act

The Davis-Bacon Act requires that workers on projects using federal dollars receive the local prevailing wage, as established by the Department of Labor. A CalTrans official said the act poses a minor concern because it requires that wage information be provided to contractors 10 days before bidding begins. However, there is often a delay of 2 weeks between the time when the Department of Labor issues rates and CalTrans receives them. Meanwhile, construction projects cannot begin until the new rates are received. This act cannot be waived except by the President.

Clean Air Act

The Clean Air Act was raised as a problem by Los Angeles officials because of the potential for violation during debris removal and demolition. One Environmental Protection Agency official we interviewed said that the agency has looked for creative ways to resolve concerns about the air pollution from these activities. However, he said that the clean air regulations established by the state of California are more stringent than the federal laws. Officials at the California Environmental Protection Agency said that the state had not waived any of its implementing regulations but that the South Coast Air Quality Management District had adopted new procedures to facilitate debris removal during emergencies. The new procedures require that asbestos clearly evident in debris be handled in accordance with applicable environmental regulations but do not require that the debris be further analyzed for additional sources of asbestos.

Figure II.1: The Environmental Protection Agency's Cleanup of Damaged Road Site



Source: FEMA.

Clean Water Act

Los Angeles raised the Clean Water Act as a problem, irrespective of the earthquake, because of the costs of compliance. The Mayor's Chief of Staff also said that the city has difficulty meeting compliance deadlines during earthquake recovery because the city's engineers are diverted to recovery efforts.

An Environmental Protection Agency official we interviewed said that Los Angeles has received hundreds of millions of dollars in grants and low-interest loans to solve its problems concerning wastewater and has had years to do so. He suggested that the agency may extend the compliance schedule because of the earthquake, but cannot waive requirements.

List of Agencies and Organizations Contacted

Federal

U.S. Army Corps of Engineers
U.S. Department of Education
U.S. Department of Health and Human Services
U.S. Department of Housing and Urban Development
U.S. Department of Transportation
 Federal Highway Administration
 Federal Railroad Administration
 Federal Transit Administration
 Research and Special Programs Administration
U.S. Department of Treasury
Environmental Protection Agency
Federal Emergency Management Agency
Federal Deposit Insurance Corporation
Federal Home Loan Bank
Federal Reserve Bank
Office of the Comptroller of the Currency
Office of Thrift Supervision
Small Business Administration

State

State of California Office of the Governor
Governor's Office of Emergency Services
California Department of Banking, Transportation, and Housing
California Department of Education
California Department of Social Services
California Office of Statewide Health Planning and Development
California Tax Credit Allocation Committee
State Banking Department
California Environmental Protection Agency
California Department of Transportation
California State University, Northridge

Local

Los Angeles County
Orange County
Ventura County
City of Los Angeles
City of San Fernando
City of San Francisco
City of Santa Monica
City of Simi Valley

**Appendix III
List of Agencies and Organizations
Contacted**

**Los Angeles Unified School District
William S. Hart Union High School District**

Other

**Bank of America
California Bankers Association
First Interstate Bank
Manatt, Phelps & Phillips, Attorneys-at-Law**

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Related GAO Products

Disaster Management: Improving the Nation's Response to Catastrophic Disasters (GAO/RCED-93-186, July 23, 1993).

Disaster Assistance: DOD's Support for Hurricanes Andrew and Iniki and Typhoon Omar (GAO/NSIAD-93-180, June 18, 1993).

Disaster Management: Recent Disasters Demonstrate the Need to Improve the Nation's Response Strategy (GAO/T-RCED-93-20, May 18, 1993).

Earthquake Recovery: Staffing and Other Improvements Made Following Loma Prieta Earthquake (GAO/RCED-92-141, July 30, 1992).

Water Resources: Corps' Management of 1990 Flooding in the Arkansas, Red, and White River Basins (GAO/RCED-91-172BR, Aug. 1, 1991).

Disaster Assistance: Federal, State, and Local Responses to Natural Disasters Need Improvement (GAO/RCED-91-43, Mar. 6, 1991).

Loma Prieta Earthquake: Collapse of the Bay Bridge and the Cypress Viaduct (GAO/RCED-90-177, June 19, 1990).

Disaster Assistance: Program Changes Expedited Delivery of Individual and Family Grants (GAO/RCED-89-73, Apr. 4, 1989).

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