

May 1, 2020

The Honorable Peter T. Gaynor  
Administrator  
Federal Emergency Management Agency  
500 C St SW  
Washington, DC 20024

Mr. Robert C. O'Brien  
National Security Advisor  
The White House  
1600 Pennsylvania Ave NW  
Washington DC 20500

Dear Administrator Gaynor and Mr. O'Brien:

As the Federal Emergency Management Agency (FEMA) continues its leadership of our nation's response to the COVID-19 pandemic, the undersigned organizations and businesses request that it direct resources, through Hazard Mitigation Grant Program (HMGP) advanced assistance and Stafford Act section 402 (General Federal Assistance), to assist state, local, tribal, and territorial building and fire prevention departments in continuing their essential functions through virtual solutions. The U.S. Department of Homeland Security (DHS) has determined code officials to be essential to the nation's response to the coronavirus pandemic and no state has made a contrary determination. Yet, while two-thirds of departments report personnel are working remotely, six in ten building and fire prevention departments do not possess the capability to remotely carry out critical aspects of their work.<sup>1</sup>

These departments, and the building, fire, plumbing, electrical, fuel gas, and mechanical officials and inspectors that comprise them, along with planning/zoning and public works offices, conduct critical work. They enforce regulations that require disinfection of ventilation through mechanical systems in hospitals, adequate facilities to ensure handwashing, and safe and sanitary plumbing systems that mitigate the spread of contagions, including water, sanitary, drainage, and medical gas systems. They also ensure healthcare centers are structurally sound, a critical function given reports of a facility collapsing and the call for temporary healthcare facilities to create additional medical surge capacity.

Code officials and property maintenance officials inspect existing infrastructure, including plumbing, mechanical, electrical, ancillary, and fire and life safety systems to verify that they are being maintained in a safe and sanitary condition within their original design parameters. More broadly, code officials protect the health and welfare of building occupants by identifying dangerous or unsafe sanitary, air quality, structural, or electrical hazards. Code officials also have responsibility for addressing other national, state, and community priorities, including the implementation of energy efficiency requirements and the safe deployment of renewable energy technologies.

With hurricane, tornado, and wildfire season rapidly approaching, functioning code departments are vital. According to FEMA, modern and well enforced building codes are one of the most effective means to mitigate communities against natural hazards.<sup>2</sup> Strong code enforcement also plays a critical role, capable of reducing losses 15 to 25 percent.<sup>3</sup>

Effective building and fire prevention departments enable ongoing construction activity that is essential to our pandemic response and maintaining economic activity. That's why a recent letter to DHS, spearheaded by the National Association of Home Builders (NAHB) with 90 company and organizational signatories, stressed that "[t]o keep the housing sector running during this economic crisis caused by the COVID-19 pandemic, DHS should . . . [p]ermit government functions related to the building and development process, such as inspections,

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<sup>1</sup> <https://www.iccsafe.org/about/periodicals-and-newsroom/survey-of-u-s-code-officials-shows-trends-in-code-compliance-during-covid-19/>.

<sup>2</sup> See FEMA's 2018-2022 Strategic Plan (2018).

<sup>3</sup> Czajkowski, J. et. al., *Demonstrating the Intensive Benefit to the Local Implementation of a Statewide Building Code* (2017).

permitting and plan review services, to be modified to protect the public health. This can be done in a way that allows these functions to continue and serve the construction of housing.”<sup>4</sup>

DHS agrees. The Department’s Cybersecurity and Infrastructure Security Agency’s (CISA) latest list of “Essential Critical Infrastructure Workers,” which determines critical functions that should continue normal operations in light of the COVID-19 pandemic, expressly recognizes as essential code officials who administer building inspection, plan review, and permitting work.<sup>5</sup>

Given DHS and states across the country have determined the work of building and fire prevention departments to be essential, according to more than 1150 building and fire prevention department respondents to a survey conducted by the International Code Council between March 22 and April 1, 2020, 93 percent of offices are still performing inspections. Yet, with employees in two-thirds of departments working remotely, nearly a quarter of departments lack needed hard copy code books, 4 in 10 departments do not have the capability to conduct electronic/remote plan review, 3 in 10 departments do not have the capability to conduct electronic/remote permitting, and 6 in 10 departments do not have the capability for electronic/remote inspections.<sup>6</sup>

These results are consistent with construction industry reporting. According to survey data from NAHB collected between March 31<sup>st</sup> and April 6<sup>th</sup>, 86% of builders have noted delays with obtaining plan review and 82% have cited delays with inspections.<sup>7</sup> Of the respondents to a National Multifamily Housing Council survey conducted April 9<sup>th</sup> to April 14<sup>th</sup>, 56% reported construction delays in their jurisdiction, with 77% of those who reported experiencing construction delays experiencing delays in permitting.<sup>8</sup>

The recently enacted Coronavirus Aid, Relief, and Economic Security (CARES) Act provides \$45.4 billion to FEMA’s Disaster Relief Fund (DRF). The DRF funds the HMGP program, which can allocate funds in advance of incurred costs through HMGP advanced assistance. FEMA has provided HMGP advanced assistance previously to help code departments incorporate electronic permitting solutions.<sup>9</sup> FEMA’s mitigation directorate can also allocate DRF funding for code department electronic permitting solutions through Stafford Act section 402(5)<sup>10</sup> which, importantly, does not require the 25 percent local match HMGP would otherwise require.

With many departments already under resourced and many state and local governments facing severe revenue downturns, it is critical that federal coronavirus response funding be directed to building and fire prevention departments that need it to continue their essential functions. According to ISO/Verisk, which evaluates the effectiveness of building code implementation in close to 28,000 communities across the U.S., communities with ratings in the top quarter are investing three times more per capita in their building departments. Communities with ratings in the bottom eighth, have allocated a quarter of the national average investment per capita in their building departments and a sixth of what the top quarter of communities are investing. Well-resourced, higher performing, departments tend to be the same departments with the most sophisticated virtual capabilities, while departments that are under resourced tend to have no or limited virtual capabilities.

Investments that establish virtual capabilities, including the deployment of technology that enables remote plan review, permitting, and inspections, as well as online access to codes and standards, will allow departments to

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<sup>4</sup> <http://nahbnow.com/2020/03/90-organizations-urge-dhs-to-designate-residential-construction-essential/>.

<sup>5</sup> See CISA, Memorandum on Identification of Essential Critical Infrastructure Workers during COVID-19 Response (Apr. 17, 2020).

<sup>6</sup> <https://www.iccsafe.org/about/periodicals-and-newsroom/survey-of-u-s-code-officials-shows-trends-in-code-compliance-during-covid-19/>.

<sup>7</sup> <http://nahbnow.com/2020/04/nearly-all-builders-in-recent-survey-say-buyer-traffic-is-down/>.

<sup>8</sup> <https://www.bdcnetwork.com/nmhc-multifamily-construction-survey-shows-significant-delays-apartment-construction>.

<sup>9</sup> See <https://www.fema.gov/openfema-dataset-hazard-mitigation-assistance-projects-v1>.

<sup>10</sup> 42 U.S.C. § 5170a (Stafford Section 402) provides that “In any major disaster, the President may . . . provide assistance to State and local governments for building code and floodplain management ordinance administration and enforcement.”

continue their necessary functions, while protecting both code officials and the public, and mitigate permitting challenges for ongoing and future construction—speeding the restart of the economy and producing lasting reductions in departmental operation costs and permitting timelines. Delays associated with permitting and plan review because of the lack of virtual capabilities will obviously delay construction and renovation, including getting people back to work. As a Nation, we cannot afford that.

Thank you for your consideration.

Sincerely,

AEC Science & Technology, LLC  
Air Conditioning Contractors of America  
Alliance for National and Community Resilience  
American Chemistry Council  
American Gas Association  
American Institute of Architects  
American Public Gas Association  
American Public Works Association  
American Society of Civil Engineers  
American Society of Interior Designers  
American Wood Council  
Asphalt Roofing Manufacturers Association  
Building Owners and Managers Association  
BuildStrong Coalition  
California Solar & Storage Association  
EPDM Roofing Association  
Extruded Polystyrene Foam Association  
Fair Share Housing Center of New Jersey  
Illuminating Engineering Society  
Institute for Market Transformation  
International City/County Management Association  
International Code Council  
International Door Association  
Katerra  
Knauf Insulation  
Leading Builders of America  
Modular Building Institute  
Modular Home Builders Association  
NAIOP, the Commercial Real Estate Development Association

National Association of Counties  
National Association of Energy Service Companies  
National Association of Home Builders  
National Association of State Energy Officials  
National Association of State Fire Marshals  
National Concrete Masonry Association  
National Council of Structural Engineers Associations  
National Electrical Contractors Association  
National Electrical Manufacturers Association  
National Institute of Building Sciences  
National Insulation Association  
National League of Cities  
National Ready Mixed Concrete Association  
North American Insulation Manufacturers Association  
Owens Corning  
Plumbing Manufacturers International  
Polyisocyanurate Insulation Manufacturers Association  
Reinsurance Association of America  
Residential Energy Services Network  
Solar Energy Industries Association  
SPRI  
Structural Insulated Panel Association  
Sunrun, Inc.  
U.S. Green Building Council  
Underwriters Laboratories

Cc: Members of the House Transportation and Infrastructure Committee  
Members of the Senate Homeland Security and Government Affairs Committee  
Members of the House Appropriations Subcommittee on Homeland Security  
Members of the Senate Appropriations Subcommittee on Homeland Security