



Greg Abbott's Fair-Weather Federalism

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When he was attorney general of Texas, Greg Abbott liked to describe his job this way: "I go into the office, I sue the federal government, and I go home." It was a joke, but it wasn't far from the truth. During his tenure as the state's top prosecutor, Abbott sued the Obama administration 31 times, bringing Washington to court over everything from immigration to federal limits on red snapper fishing.

When Abbott became governor in 2015, he didn't lose his enthusiasm for states' rights. His Texas Plan, unveiled last year, proposed nine constitutional amendments "to rein in the federal government and restore the balance of power between the States and the United States." When Texas' new attorney general, Ken Paxton, filed a lawsuit against the Environmental Protection Agency's Clean Power Plan, Gov. Abbott offered his full support, denouncing the agency for "treading all over the State of Texas' sovereignty."

But in the aftermath of Hurricane Harvey, Abbott has changed his tune on federal intervention.

"We could not be more appreciative of what the federal government has done, from the president on down, because everything we've asked for, they have given us," Abbott told George Stephanopoulos on August 27. A few days later, Abbott asked for more than \$125 billion in federal aid.

The governor has made his peace with the Environmental Protection Agency (EPA) too, to judge from a September 9 letter to agency head Scott Pruitt requesting federal funds for flood and water infrastructure projects. EPA dollars, Abbott wrote, "could be used as bridge financing to galvanize the recovery process between now and the delivery of federal aid."

Almost immediately, the accusations of hypocrisy started flying. "Conservative Texans Love To Fight The Feds Until They Need Them," announced one *HuffPost* headline. "In Texas, Distrust of Washington Collides With Need for Federal Aid," declared *The New York Times*.

They're not wrong about Abbott: He's a hypocrite. But the problem with the governor's fair-weather federalism is the fair-weather part, not the federalism. Abbott is choosing a path that won't just erode Texas' independence; in some ways it will actually hinder Texas' recovery from Harvey.

Under the 1988 Stafford Act, which governs federal disaster relief efforts, federal aid is permitted only when a disaster "is of such severity and magnitude that effective response is

beyond the capabilities of the state and the affected local governments." That isn't the case here. "The federal government is only supposed to get involved in disasters that are truly beyond states' ability to handle," says Chris Edwards, a tax policy scholar at the Cato Institute. "That's not true of Harvey."

Harvey was undeniably severe and destructive, destroying some 10,000 homes and killing 82 people. But as Edwards points out, Texas has a "country-sized economy" that is more than capable of responding to the hurricane.

Situation reports from the Texas Division of Emergency Management show just how many resources Texas' state government was able to deploy to protect people during the storm. By September 5, for example, officials from Texas Highway Patrol, the Parks and Wildlife Department, and other agencies evacuated 41,054 people. The Texas National Guard had deployed 16,917 personnel, 60 boats, and over 800 land vehicles to assist these civilian first responders, and the state health department had completed over 750 missions, evacuating over 2,875 patients.

Private action was a key component of the Harvey response too. Business owners converted their stores into makeshift shelters, the famed Cajun Navy rescued residents trapped by flood waters, and private companies donated an estimated \$157 million in the days immediately following the storm. These efforts were undertaken largely by local actors, using their on-the-ground knowledge to respond to the area's immediate needs.

The federal response to Harvey, by contrast, has been primarily financial, with an eye toward future rebuilding, not immediate relief. Rather than responding to the needs of local communities, the feds do the reverse: Local communities must respond to the demands of the federal government.

In Edwards' words, "every flow of money from the federal government has regulations attached which limits states' flexibility."

Take the Community Block Development Grants (CBDG). Though not originally designed for disaster relief, these have been increasingly drawn in that direction; this month Congress appropriated \$7.4 billion in CBDG funds to deal with this year's natural disasters. In Texas, that money is administered by the state's General Land Office (GLO); the program provides relocation and reconstruction subsidies to storm-affected homeowners, rental assistance to tenants, and money for economic recovery programs. Because these efforts are federally funded, the GLO notes, "there are a number of laws and regulations that apply to the use of these funds." Indeed there are. Individuals and local governments looking to take advantage of CBDG money must comply with 156 pages of rules from the Department of Housing and Urban Development, which runs the CBDG program. On top of that, there's environmental review standards, prevailing wage requirements, federal procurement rules, and accessibility regulations. Complying with these requirements is taking up more and more of Texas officials' time and effort. As one GLO spokesperson told *The Wall Street Journal*, "We're making sure that across the coast, our local leaders know that their communities need to document, document, document, because that helps with our request to the federal government." Most of the GLO's Texas

Rebuilds page is taken up by a request that citizens send pictures of their damaged properties to the agency so as to expedite the allocation of federal funds.

In the short term, this focus on regulatory compliance means that storm-ravaged communities are setting aside disaster relief efforts to engage in federally mandated paperwork. In the long term, it means that the areas affected by Hurricane Harvey will be rebuilt in accordance with the preferences of policy makers in Washington. That hardly sounds like the sovereign Texas that Greg Abbott spent years defending. But by demanding that the federal government take the lead in rebuilding efforts, it is the Texas he's choosing now.

This is, to be fair, what a lot of voters want. Jon Taylor, a political scientist at the University of St. Thomas in Houston, says Texans tend to support both independence from federal rules and assistance from the federal pocketbook.

"Texas political culture has traditionally been independent of the United States, but at the same time, we pay our taxes too, so you're going to help us out when its necessary," he says. "Texans, we expect the federal government to come in because we can't handle this ourselves." Given the scale of the destruction caused by Hurricane Harvey, Taylor says, there is little appetite for tapping state resources to pay for the rebuilding effort.

This is not to say that Texas lacks the money. The state has stashed about \$10 billion in its Economic Stabilization Fund. By statute, the fund is intended to respond to economic disasters, not natural ones. But it has been repurposed for disaster relief before, and it certainly can be again. Abbott would just need to reconvene Texas' part-time legislature—not scheduled to meet again until January 2019—for a special session.

Abbott has rejected the idea, saying that a special session is not necessary for Harvey relief. Notes Taylor, "It is politically tricky for Abbott, who's running for reelection next year, to all of the sudden starts tapping that money for disaster relief when people would turn around and say, 'Don't we pay federal taxes to FEMA? FEMA should be giving disaster relief.'"

Indeed, it's hard to imagine *any* politician asking a state's citizens to draw down government savings, forgo spending on public services, or pay higher taxes just to replace willingly offered federal dollars. The federalization of disaster response has given state politicians every incentive to shift the burden of local disasters onto national taxpayers. And politicians, including erstwhile federalists like Gov. Abbott, are going to respond to incentives.

Taylor, for his part, does not believe Abbott will lose too many votes over holding out his hand to the feds, "I think that voters are probably more happy that he's taking the money right now.

"But," he adds, "if I saw him show up to campus, I'd tell him to his face he's a hypocrite."