

# Continuity of Operations for Government and the Pandemic Flu Threat

By Katherine Mikkelson

**H**urricanes. Fires. Floods. Terrorist activity. A host of situations could arise in which your office would need to continue operations under severe and disruptive conditions. Perhaps media reports of the last few months have hammered home the message of preparation, your best defense in a time of crisis. If not, the threat of the pandemic flu might make you think twice about leaving continuity planning to chance.

First, a little bit about the threat of a pandemic flu. What is causing so much concern is a highly contagious form of avian flu, H5N1, that is infecting poultry flocks in Asia. While most forms of the bird flu are species specific, the current strain is capable of crossing over to mammals. Since 2003, 192 people have been infected with H5N1 from close contact with infected domesticated birds, according to the World Health Organization. More than half of those infected died.

Experts are concerned about a pandemic — defined as a disease that affects persons worldwide — developing because two of the three conditions that constitute a pandemic have already been met: (1) the H5N1 is a new flu strain, and (2) that strain can infect humans and cause serious illness. The third condition is currently lacking: (3) the ability to spread easily among humans. Because this is primarily a bird disease and the individuals who have died have almost all had direct exposure to poultry or contaminated poultry materials, experts are unsure if the final condition will be met.<sup>1</sup>

The conditions that may occur in the wake of a pandemic flu are not so different from what happens during any other disaster. Key personnel may be unavailable for a lengthy amount of time. Offices may be shut down either voluntarily or by order of health authorities. Transportation systems may be disrupted, making commuting difficult or impossible. Schools and other businesses like shopping malls,

where people congregate in groups, may close, forcing parents and workers to stay at home. People may be quarantined. Health authorities might not be equipped to handle the massive numbers of sick and dying people. In the worst-case scenario, mass panic would erupt, requiring law enforcement to step in.

According to the Centers for Disease Control and Prevention, a medium-level pandemic could cause 89,000 to 207,000 deaths, 314,000 to 734,000 hospitalizations, 18 million to 42 million outpatient visits, and another 20 million to 47 million illnesses (but not severe enough for treatment). An astounding 15 percent to 35 percent of the U.S. population could be affected by a pandemic. The federal government estimates that at the height of a pandemic, absenteeism might reach 40 percent during the peak weeks and multiple waves could occur, with each wave lasting two to three months.<sup>2</sup>

With these sobering projections in mind, what can government agencies do to ensure that the business of government will continue?

## Federal and State Models

As early as the Eisenhower Administration, during the height of the Cold War, the federal government engaged in what was then known as COG (continuity of government) which at that time focused on preserving the line of presidential succession.<sup>3</sup> COG evolved to incorporate situations in which lack of support elements such as personnel, alternative facilities and records would threaten the functioning of the agency.<sup>4</sup>

Now known as COOP (continuity of operations), it was, until quite recently, the responsibility of individual agencies to draft continuity plans, without any federal oversight. That changed in 1998 with the signing of Presidential Decision Directive (PDD) 67. PDD 67 is a classified document that

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identified the Federal Emergency Management Agency (FEMA) as the agency charged with formulating guidance, coordinating interagency exercises and overseeing and assessing COOP capabilities across the executive branch. FEMA issued Federal Preparedness Circular (FPC) 65, first in July 1999 and then, revised in June of 2004. This document provides guidance to federal executive branch departments and agencies in developing their COOP plans.

PDD 67 also reportedly required agencies to have COOP plans in place by October 1999.<sup>5</sup>

In terms of state efforts, Maryland is one of the states at the forefront of COOP planning. In July of 2005, the Center for Health and Homeland Security (the center) at the University of Maryland, Baltimore, in cooperation with the Maryland Emergency Management Agency (MEMA), developed a comprehensive COOP planning manual.<sup>6</sup> This 150 page step-by-step manual contains examples, checklists and worksheets and has been adopted and adapted by other states, federal agencies and even private industries. Since 2003, when Maryland Governor Robert Ehrlich wrote to his cabinet agencies urging them to develop COOP plans, 13 agencies have completed plans with the other seven under way. In October of 2005, the center received a \$1.4 million grant from the U.S. Department of Homeland Security to run federal COOP training in partnership with MEMA in each of the 10 FEMA regions. The workshops are tentatively scheduled to begin in December 2006 and conclude in September 2007.

Both the FEMA and the Maryland plans concur that the goals of COOP planning include:

1. ensuring the continuous performance of an agency's essential functions;
2. protecting essential facilities, equipment and records;
3. reducing or mitigating disruptions to operations;
4. minimizing loss of life, injury and property damage;
5. achieving a timely and orderly recovery from an emergency and resuming normal service to customers; and
6. reconstitution.

Although government lawyers normally will not be at the forefront in drafting these plans, they will be involved because of the host of policy and legal questions that will arise. Let's take a look at the

elements of a COOP plan.

### Plans and Procedures

Without a doubt, COOP planning is a major undertaking. According to Teresa A. Chapman, acting manager, recovery and mitigation branch of the MEMA, some state agency plans took as long as two years to develop, while others were drafted over several months. "It certainly is not an overnight process," says Chapman. "It just depends on the amount of time and resources you put into it." The FEMA circular recommends that agencies develop a written and comprehensive COOP plan that addresses actions for each stage of COOP implementation (activation, alternative facilities, termination and return to normal operations). At a minimum the plan must:

- a. outline the essential functions of an agency and the resources needed to perform them;
- b. establish orders of succession to key agency positions;
- c. provide for an alternative site to continue operations;
- d. outline a decision process for implementing a COOP plan;
- e. provide procedures for notifying and relocating COOP personnel to alternative sites;
- f. provide procedures for the orientation of COOP personnel and for conducting operations at the alternative site;
- g. provide for operational capability as soon as possible at the alternative site, but in all cases within 12 hours of activation;
- h. establish reliable operational processes so that essential functions can be sustained for up to 30 days;
- i. provide for the ability to coordinate with non-COOP personnel; and
- j. provide for the return to normal operations.

### Essential Functions

The first step in COOP planning is determining essential functions, that is, what functions must be performed under all circumstances. "Determining essential functions is key; in fact, everything else builds off of this," says Chapman. Consider if a function is documented as essential by statute, if the head of the agency determines that the function is essential or is implicit in complying with a law, or if it provides vital support to the necessary functioning of another agency. Identifying as es-

**Katherine Mikkelson**  
is the division's associate director.

### **Pandemic Flu Resources**

[www.cdc.gov/flu/avian](http://www.cdc.gov/flu/avian) and [www.cdc.gov/h1n1flu/](http://www.cdc.gov/h1n1flu/)

The Centers for Disease Control's sites on both the avian and swine flu contain key facts, Q and As and vaccine development information.

[www.pandemicflu.gov](http://www.pandemicflu.gov)

Managed by the U.S. Department of Health and Human Services (HHS), this excellent site contains checklists, state pandemic plans, news items and more.

[www.umaryland.edu/healthsecurity](http://www.umaryland.edu/healthsecurity)

University of Maryland Center for Health and Homeland Security, contains a wealth of information related to counterterrorism and consequence management issues including the *Maryland Public Health Emergency Preparedness Legal Handbook* as well as Maryland State Agencies COOP Planning Manual (for more information, see "State COOP Resources").

[www.hhs.gov/pandemicflu/plan](http://www.hhs.gov/pandemicflu/plan)

This site contains HHS's pandemic influenza plan with a lengthy list of appendices and public health guidance.

[www.idsociety.org](http://www.idsociety.org)

The Infectious Disease Society of America provides medical summaries, flu policy, advocacy, and new releases.

[www.who.int/csr/disease/avian\\_influenza](http://www.who.int/csr/disease/avian_influenza) and [www.who.int/csr/disease/swineflu/en/index.html](http://www.who.int/csr/disease/swineflu/en/index.html)

The World Health Organization's sites contain fact sheets, advice for travelers, FAQs, and more.

[www.acsh.org](http://www.acsh.org)

The American Council on Science and Health (ACSH) site contains news articles on a host of health issues including ACSH's March 2006 downloadable publication, *Avian Influenza, or "Bird Flu": What You Need to Know*.

### **Federal COOP Resources**

[www.fema.gov/government/coop/index.shtm](http://www.fema.gov/government/coop/index.shtm)

FEMA COOP resources

**HOMELAND SECURITY PRESIDENTIAL DIRECTIVE 20: NATIONAL CONTINUITY POLICY**, May 2007, available at [www.dhs.gov/xabout/laws/gc\\_1219245380392.shtm](http://www.dhs.gov/xabout/laws/gc_1219245380392.shtm)

**R. ERIC PETERSEN, CONTINUITY OF OPERATIONS IN THE EXECUTIVE BRANCH: BACKGROUND AND ISSUES FOR CONGRESS** (Cong. Research Serv. Nov. 8, 2004), available at [www.fas.org/sgp/crs/RL31857.pdf](http://www.fas.org/sgp/crs/RL31857.pdf)

### **State COOP Resources**

[www.mema.state.md.us/MEMA/content\\_page.jsp?TOPICID=coop](http://www.mema.state.md.us/MEMA/content_page.jsp?TOPICID=coop)

Maryland's Emergency Management Agency's COOP Manual and worksheets

[www.oa.state.pa.us](http://www.oa.state.pa.us)

Pennsylvania Office of Administration (click "continuity of government" tab), includes COOP manual, toolkit and worksheets and planning guide

[www.vaemergency.com/library/coop/resources/index.cfm](http://www.vaemergency.com/library/coop/resources/index.cfm)

Virginia Department of Emergency Management's COOP planning toolkit

[www.ncsconline.org/D\\_Research/coop/](http://www.ncsconline.org/D_Research/coop/)

National Center for State Courts, *Continuity of Court Operations* online guide

essential functions those functions and services performed every day is one error in thinking that Chapman sees. "Not everything you do every day is essential. Think about what you would have to do in an emergency."

Once the essential functions are identified, you must prioritize the functions based on how critical and time-sensitive each is. After this, you can determine what staff and other resources are needed, as well as what data, records and supplies will be required.

### Delegations of Authority

Delegations of authority outline who is authorized to act on behalf of the agency head for a specified purpose. You should identify these authorities before a crisis occurs, and those authorities should be identified by title, not name. You should document the legal authority for each delegation, identify the programs and the authorities needed for effective operations, and document the necessary authorities. You must also make sure that officials who are expected to assume additional authorities will be trained to carry out those duties.

### Orders of Succession

Succession of office is vital in the event that agency leaders are debilitated or incapable of performing their jobs, a likely scenario in a pandemic. Again, this should be predefined before a COOP situation and identified by titles rather than names of individuals. The agency should establish rules and procedures that officials must follow when facing the issue of succession and the conditions under which succession will take place, including how personnel will be notified.

### Alternate Facilities

Certain naturally occurring (fires, tornadoes, blizzards, earthquake) and human-induced disasters (bioterrorism, bomb threats, riots) can render work sites dangerous and unusable. Agencies need to be prepared for the event that they will be required to continue operations at an alternative facility.

When considering location, agencies should perform a risk-assessment. Is the facility remote enough so that the threat of flu spreading is minimal? Is it secure enough against crime, sabotage or looting? The facility must have the ability to be operational as soon as possible with a minimum of disruption to essential functions.

As for options, think about existing agency space

such as remote training facilities or field offices, or facilities shared with another agency. Smaller agencies with limited resources, especially, should consider virtual offices, telecommuting locations, work-at-home agreements, and mobile offices (such as a specially equipped vehicle with wireless technology). For smaller agencies, Chapman recommends finding similar facilities in neighboring towns and having each organization sign mutual aid agreements or cooperative agreements. "You should be thinking about 'Who can I beg, borrow or steal from?'" jokes Chapman.

Of course, any alternative facility should have access to basic resources such as food, water, fuel, medical facilities, and municipal services (e.g., fire, police). If the alternate site is located some distance away from the primary site, you need to think about housing for COOP personnel as well as transportation to the site, especially if mass transportation is unavailable.

### Communications

According to Chapman, communications is the most overlooked component of COOP plans. "It's the first thing to fail and the hardest thing to get back up," she says. She stresses that even something as simple as getting mail delivered to an alternative site is impossible unless you can communicate with the postal service.

When an agency identifies communications requirements, it should take into account all of the methods of communication, including internet, video, fax, voice, mail, and data connectivity. Agency personnel need to be able to communicate with other COOP personnel, non-COOP employees, field offices, other federal (and/or state and local) agencies and critical clients. Systems need to be redundant in case of the failure of one form of communication. Of course, systems must be able to access data and systems necessary to perform essential functions.

The centerpiece of a communications plan is a rapid recall list or telephone tree that should contain the business, home, cell and pager numbers of all key personnel, including the organization head, COOP team members, emergency personnel and management. This list should also include an alternate means of communications including two-way radios and email addresses.

Think also about media relations and designating one person as the contact with media. One poorly

worded message to the media can create misinformation and unfounded rumors.

### Vital Records

Any COOP plan hinges on the staff's ability to access vital files, records and databases. If you can't access it, you can't perform essential functions. If your office does not already have one, consider establishing a vital records program assigned to a specific group with the appropriate authority. Staff must have access to a local area network (LAN), vital electronic records, information systems, internal and external email and archives of email, and vital hard-copy records. An inventory of these records needs to be maintained, preferably at a number of different sites.

Perform a risk assessment to determine the risks involved in retaining the records at their current locations and how difficult it would be to recreate them if they were destroyed. Then you can determine appropriate protection methods for the storage of these records. Consider microforms, paper photographs, and computer disks, tapes and drives, all of which have different protection requirements and some of which require special equipment to access.

Develop procedures to ensure that records are routinely updated so that you have the most current information. Also maintain a vital records packet that includes a list of key personnel the storage of these records.

Develop procedures to ensure that records are routinely updated so that you have the most current information. Also maintain a vital records packet that includes a list of key personnel, the records inventory and the location of vital records, the necessary keys or codes and access requirements, a list of records recovery experts and vendors, and the agency's COOP plan.

Implementation of the procedures will only work if proper training is provided — staff must be trained so that they can identify, protect, store, access and update records. Any records program should periodically be reviewed and tested to assess new security issues and to determine if new programs or changes have resulted in additional records.

### Human Capital

Without a doubt, each agency's most vital asset is its human capital — in other words, staff. In the case of a pandemic, managers need to be familiar

with all of the resources and flexible staffing arrangements that are available (in the federal system, most agency authorities can be found in title 5 of the U.S. Code). Agency heads normally have the authority to designate COOP or essential personnel and the status of non-essential personnel during an emergency, as well as when an agency can close early or entirely.

Managers should consider policies for compensation and sick leave (i.e. non-punitive and liberal leave), flexible work sites (telecommuting), and flexible work hours (staggered shifts to account for a decrease in personnel). Managers should also consider additional pay for beyond duty situations, compressed work schedules, and staffing flexibilities — like hiring temporary personnel — to fill emergency needs. You should establish and distribute written procedures for each of these circumstances.

Because human capital is so critical to the functioning of an agency, you should think about protecting this vital asset. Some simple and cost-effective measures can be taken. For example, during a pandemic, gatherings of people with close contact would not be advisable. Your office might consider modifications to operations where face-to-face contact and close contact is the norm. Perhaps seating at meetings will need to be modified: classroom-style seating with every other seat open can replace the closed-square configuration. The office layout might be changed so that the reception area will not require people to be in close proximity with one another. Shared workstations or offices might have to be discontinued at least temporarily.

Most government employees have excellent health care benefits but mental health services are often overlooked. Mental health problems such as stress and anxiety are sure to increase during a disaster. "Think about your emotional needs during a crisis. If you know your family is fine, then you are going to be okay relocating 50 miles away so that you can do your job," says Chapman. Evaluate employee access to services such as employee assistance plans; and if your health care plan does not provide adequate coverage, investigate community and faith-based resources.

One of the greatest risks during a pandemic is panic. If a full-blown pandemic occurs, employees will be scared, and rumors and misinformation can quickly spiral out of control. One of the best ways to avoid panic is communication. A government law

office can keep employees aware of developments by providing programs and materials covering pandemic fundamentals. Include information such as how the disease is transmitted, the signs and symptoms, how employees can protect themselves and their families, and basic hygiene facts. Also provide information about your pandemic preparedness plan. You should also establish hotlines, intranet sites and the like for communicating your office's status and actions to employees and clients, along with community sources and accompanying links for employees to obtain timely and accurate pandemic information.

### Testing, Training and Exercises

Chapman stresses that testing and training are essential for a COOP plan to function. "It needs to be institutionalized, just like the budget process or the employee evaluation process," says Chapman. A testing program should include quarterly testing of COOP notification and activation procedures, twice-a-year testing of data and records recovery, quarterly testing of communications, and annual testing of infrastructure systems at alternate facilities.

Training should include an annual briefing for all staff, team training for COOP personnel, and periodic exercises. These exercises may include full-scale exercises (resembling real-life emergencies, usually unannounced), tabletop exercises (scheduled exercises for the entire organization based upon a hypothetical situation), and blue-envelope drills (focusing on one aspect of a COOP plan and generally unannounced, where a staff member is given an envelope with a scenario and is required to carry out a particular task). Debriefings after each of these will pinpoint weaknesses and highlight the need to make any changes.

### Devolution of Control

It is possible that some catastrophic situation would render an agency unable to continue operations. That's where devolution planning, or transferring of authority, comes in. In the best-case scenario, another agency with a similar mission will take over the essential functions for some time. If you have done a thorough job with your COOP planning, devolution is not an insurmountable chore for the acquiring agency since it will have a blueprint to follow. A devolution option should outline the triggers that would activate the devolution, how and when direction and control would be transferred, the resources (people, equipment, materials) that would be required, the procedures to acquire these

resources if they are not available, and the procedures to return or restore agency authority once the agency is able.

### Return to Normal Operations

Just as an agency must make decisions to activate COOP, it must also plan to return to normal operations once a crisis is over. The plan must take into account communicating with all COOP personnel, moving from the alternate facility back to the original facility, verifying that all systems and communications are operational at the original site and debriefing staff upon return to the original site.

### Endnotes

1. AM. COUNCIL OF SCI. & HEALTH, AVIAN INFLUENZA, OR "BIRD FLU": WHAT YOU NEED TO KNOW 3 (Apr. 2006), available at <http://acsh.org>.
2. IMPLEMENTATION PLAN FOR THE NATIONAL STRATEGY FOR PANDEMIC INFLUENZA 25 (May 2006), available at [www.whitehouse.gov/homeland/pandemic-influenza-implementation.html](http://www.whitehouse.gov/homeland/pandemic-influenza-implementation.html).
3. R. ERIC PETERSEN, CONTINUITY OF OPERATIONS (COOP) IN THE EXECUTIVE BRANCH: BACKGROUND AND ISSUES FOR CONGRESS 2 (Cong. Research Serv. Nov. 8, 2004).
4. *Id.* at 3.
5. *Continuity of Operations: Improved Planning Needed to Ensure Delivery of Essential Services: Hearing Before the House Committee on Government Reform* 4 (April 22, 2004) (statement of Linda D. Koontz, Director, Info. Mgmt. Issues).
6. The *Maryland Continuity of Operations Planning Manual* is available at <http://memaportal.mema.state.md.us> (click on "disaster preparedness").