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The "FEMA Act of 2025" – Spotlight on Proposed FEMA Public Assistance Program Reforms

Authors: Ernest B. Abbott, Danielle M. Aymond
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Executive Summary
The House Transportation and Infrastructure Committee introduced H.R. 4669, the Fixing Emergency Management for Americans (FEMA) Act of 2025 ("FEMA Act") on July 22, 2025. The bipartisan bill, if passed, would elevate FEMA to Cabinet status and overhaul every phase of the disaster cycle. Title I of Division B – to reform the Public Assistance (PA) Program – represents the most sweeping statutory rewrite of the Stafford Act's infrastructure aid since 1988. If enacted, these provisions will accelerate reconstruction, expand eligible costs, tighten statutory deadlines, and materially shift risk allocations across federal, state, local, tribal, territorial (SLTT), and private-sector partners.

This alert distills the principal PA reforms, evaluates the strategic consequences for the disaster and emergency services industry, and flags operational considerations that warrant immediate planning.

Reforming Public Assistance

Creation of Section 409 – Expedited Repair, Restoration, and Replacement

- **Estimate-Based Grants:** Replaces Stafford § 406's cost-reimbursement model with an engineer-certified cost estimate that becomes the binding grant amount.
- **Presumption of Accuracy and 90-Day FEMA Review Clock:** Absent evidence of criminal fraud or computational error, the estimate "shall be deemed to be approved not later than 90 days after the submission of the estimate." FEMA must obligate within 90 days; dispute litigation is expected to plummet.
- **One-Time Two-Year Adjustment:** Recipients may request a single recalibration to reflect changes in labor, material, or other costs associated with fluctuations in the market, giving limited flexibility while preserving budget certainty.
- **Federal Cost-Share Floor:** Remains at 75 percent, but this federal share may climb to 85 percent for jurisdictions with strong mitigation practices – or fall to 65 percent for those failing to take appropriate mitigation actions to address the causative hazard.
- **Sunset of Section 406:** Traditional force-account, time-and-materials reimbursement for new applications and new disasters will become unavailable 180 days after enactment of the FEMA Act. However, for open disasters, pending applications may either migrate into the new § 409 process or be completed under legacy rules until December 31, 2032.

Large Complex Projects

For megaprojects, FEMA may accept phased estimates submitted within five years of the declaration, allowing owners to advance design while locking in federal cost participation.

Debris Removal (Common Sense Debris Removal)

- Permanently codifies alternative procedures, removes discretionary documentation hurdles, and instructs FEMA to publish best-practice contracting guidance within 12 months – responding to industry concerns over cubic-yard, third-party monitoring, and "price-per-truck" incentives.

Block Grants for Small Disasters (New Stafford Title VIII)

- Governors and Tribal leaders may elect an optional lump-sum grant equal to 80 percent of estimated damages (events ≤ 125 percent of the state per-capita indicator).
- Annual FEMA Inspector General audits will police misuse but otherwise leave allocation decisions to the state, reducing transactional friction for low-dollar events.

Federal Permitting Improvement – Revised § 316

- Like-for-like repairs – perhaps including some expansions for code compliance and mitigation – are excluded from National Environmental Policy Act (NEPA) "major Federal action" review.
- State, local, territorial, and Tribal governments may assume environmental/historic review responsibilities via enforceable MOUs, subject to OIG audit – mirroring FAST-41 and One Federal Decision principles.

Unified Federal Review – Rewritten § 429

FEMA becomes lead agency to synchronize NEPA, ESA, NHPA, and other compliance across the federal family, with one consolidated Environmental Impact Statement or Record of Decision.

Disaster Declaration Damage Thresholds

When advising the president, FEMA must give extra weight to economically distressed or rural counties and must automatically unlock Individual Assistance where PA thresholds are met in such areas – potentially increasing the frequency of declarations.

Management Cost Modernization – § 324

Raises percentage caps and authorizes grantees to pool "excess" management costs across open events – addressing chronic administrative shortfalls.

Expedited Emergency-Work Reimbursement – § 403(e)

Once 90 percent of eligible emergency-work costs are documented, FEMA must disburse within 120 days, improving cash flow for local governments and contractors.

Fairness and Accountability in Appeals and Arbitrations

Attorney fees will be eligible for reimbursement by FEMA when the arbitration panel decides in favor of the applicant or otherwise concludes there is an error.

Procurement Parity

Local governments are now treated as "states" for 2 C.F.R. Part 200 purposes.

Strategic Impact on Disaster-Management Stakeholders

State, Local, Tribal, and Territorial Governments

Opportunities

1. Predictable cash flow and early cost-share certainty under § 409 will facilitate bonding and procurement.
2. Block-grant option empowers governors to tailor assistance portfolios without navigating project worksheets.
3. Maintaining current federal cost share of 75 percent – at least for applicants that pursue mitigation opportunities – reduces direct fiscal burden and encourages more aggressive mitigation add-ons.

Challenges

4. Estimate accuracy is critical; cost overruns are nonreimbursable absent the one-time adjustment for cost inflation. Jurisdictions must invest in qualified cost estimators and robust change management.
5. New accountability clocks – 90-day FEMA obligation, 120-day reimbursement – will compel local data readiness; failure may trigger withholding.

Private Non-Profit and Critical Infrastructure Owners

- Codified eligibility for religious, non-profit, and "other critical facilities" eliminates prior ambiguity and likely expands PA demand.
- Large-scale utilities gain broadened mitigation eligibility and a four-year implementation window, easing grid-hardening projects.

Contractors, Debris Firms, and Consultants

- Shift to estimate-based grants emphasizes pre-award engineering and value engineering services, creating early-phase consulting demand.
- Best-practice debris contracts may discourage inflationary cubic-yard pricing and reward performance-based models.
- Uniform procurement parity should decrease audit risk but may require use of state or local government procurement procedures rather than FEMA templates – with some risk should local government procurement practices be plainly non-competitive.

Insurers and Sureties

- Mandatory insurance integration into § 409 will drive heightened scrutiny of coverage adequacy and could expand demand for parametric or layered programs.
- Surety underwriting will benefit from clearer scope and cost certainty on the front end but will monitor for post-award change-order constraints.

Action Items for Recipients and Subrecipients

- Conduct a gap analysis of current PA estimating, environmental, and procurement practices against H.R. 4669's requirements.
- Evaluate whether to pursue early adoption pilots or migrate legacy § 406 projects into § 409 once enacted.
- Engage state emergency management leadership to shape forthcoming MOUs on NEPA delegation and block grant governance.
- Revisit insurance programs to ensure compliance with updated Stafford Act coverage triggers.

Conclusion

The FEMA Act has been developed and introduced through an extensive public and bipartisan process and stands a reasonable chance of enactment even in the current polarized political environment. Title I of the FEMA Act of 2025, if enacted as introduced, promises to replace decades-old reimbursement mechanics with a modern, performance-driven framework. While the reforms accelerate funding and elevate mitigation, they also transfer significant estimating and compliance risk to recipients and their contractors. Proactive alignment of policies, personnel, and technology in the next six to 12 months will position stakeholders to capitalize on the new regime – and to avoid the pitfalls of underprepared implementation.

For further analysis or assistance in preparing your organization for these changes, please contact any member of our Disaster Recovery & Government Services team.