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Are Block Grants the Future of FEMA Public Assistance?

Authors: Erin J. Greten

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The block grant model has long been eyed as a potential solution to the complexity, frustration, and delay often experienced by FEMA Public Assistance program recipients and subrecipients after a disaster. House Resolution 4669, known as the *FEMA Act of 2025*, proposes to create a new Small Disaster Block Grant Program under the Stafford Act that seeks to increase the effectiveness and efficiency of disaster recovery programs. As stakeholders continue to review the proposed program and assess options, it is important to thoughtfully consider areas where implementation could be further strengthened to maximize its benefits. This brief highlights potential challenges and offers practical suggestions to help ensure the program delivers rapid, flexible funding as intended to support the most effective and efficient recovery.

Earlier this year, Congressmen Graves and Larsen, in a bipartisan effort led by the House Transportation and Infrastructure Committee, introduced H.R. 4669, the *Fixing Emergency Management for Americans Act of 2025*, or the *FEMA Act of 2025*. If enacted, the legislation would, among other things, seek to replace Section 406 of the Stafford Act with a new Section 409, including grants based on estimates, with faster timelines, and environmental and historic preservation (EHP) waivers. (A high-level summary of the broader PA portions of the Act is available here: [The "FEMA Act of 2025" – Spotlight on Proposed FEMA Public Assistance Program Reforms](#).) It also would create a new Small Disaster Block Grant Program (SDBG) in a new Section 801 of the Stafford Act.

The new SDBG program would be available for those declared emergencies and major disasters with damage less than or equal to 125 percent of a state's or tribe's per capita indicator. States and tribes interested in receiving a block grant in lieu of Public Assistance would indicate their interest in their request for a presidential major disaster declaration. If approved, they would work with FEMA to identify the estimated cost of their emergency and the permanent work needed to recover from the event. The damage estimate must be agreed upon by FEMA and the state or tribe within 90 days of the date of the incident. The amount of assistance available from FEMA would be 80 percent of the federal cost share established in the relevant disaster declaration (the minimum federal share under the existing program is 75 percent, but presidents have often increased it to 90 percent or even 100 percent for the worst disasters). This funding could be used in any manner determined appropriate by the governor or tribal executive that addresses impacts and needs resulting from the declared incident, but it must comply with EHP, civil rights, and code and standard requirements.

If the state or tribe and FEMA are unable to agree on the amount of assistance within 90 days from the date of the incident, the grant will automatically transition back to Public Assistance procedures. If the state or tribe and FEMA timely agree upon the amount of funding, the state or tribe must then submit a complete application, including cost estimates and supporting documentation, which FEMA would have 90 days to review for accuracy and reasonableness and approve. After approving the lump-sum award, FEMA must make the funds available within 30 days.

This 210-day disaster-to-funding timeline would, at least for small disasters, improve the speed and access to funding over the current bureaucratic quagmire that is the Public Assistance program. Under the existing process, funding is awarded on a project-by-project, actual-cost, reimbursement basis that requires applicants

for funding to develop project scope and cost to FEMA's satisfaction, to complete the work, and to provide adequate documentation before funds are disbursed. This process often takes years. The *FEMA Act's* rapid, advance-funding mechanism, if it works in practice, would no doubt be a welcome change to communities whose recoveries are often delayed by bureaucratic hurdles.

As the proposed new program continues through the review and consideration processes, we offer the points and recommendations below based on our experience with FEMA's standard funding mechanisms and other block grant models managed by sister agencies.

1. proposed legislation contemplates that FEMA and the state or tribe seeking funding will be able to determine the amount of assistance in 90 days, based on the estimated federal share of Public Assistance – but it seems to assume that FEMA will not question eligibility. FEMA's determinations regarding the eligibility of subrecipients, facilities, and work, including construction upgrades required by codes and standards, are frequently the cause of delay under the current program. To determine the amount of funding, a state or tribe would need to assess the Public Assistance eligibility of thousands of potential subrecipients and their projects. This may be difficult to do in 90 days, leading to inaccurate estimates. It may be wise to include programmatic flexibilities to speed the development of accurate estimates or identify a different basis to determine the amount of funding to provide.
2. By limiting the amount of the grant to 80 percent of the federal cost share established for the relevant disaster declaration, the provision contains a 20 percent penalty for its use. Applicants who apply for Public Assistance must provide the non-federal share of the costs. At present, the non-federal share is no more than 25 percent. As written, an applicant who seeks a block grant would have to pay that 25 percent but also provide an additional 20 percent of the remaining federal share. In other words, for every \$100 in damage, an applicant who seeks a block grant would receive \$60 in assistance, while an applicant who proceeds with Public Assistance would receive \$75. The tradeoff is, theoretically, efficiency – more speed, less paperwork. If these benefits don't materialize in practice, applicants may be unwilling to take the financial hit.

FEMA has tried cost-share adjustments like this in the past, at times increasing the amount of assistance and other times decreasing assistance. For example, it once offered applicants an increased federal cost share for speedy debris removal. The program was intended to be particularly helpful in the worst disasters that created the most debris but proved ineffective in practice. In those instances where the incentive would be most beneficial, the president often increased the federal cost share for debris removal to 100 percent anyway, eliminating the incentive to opt-in to the special program.

Congress also tested an alternate project penalty – where applicants could use their grant to repair or replace something other than the damaged facility – but, in exchange, had to increase their share of the cost. That alternate project penalty was imposed by the *SAFE Port Act* in 2006 (Public Law 109-347) and, while the ability to complete alternate projects remains, the penalty was removed by the *Disaster Recovery Reform Act of 2018* (Public Law 115-254). That penalty for flexible recovery should not be reborn in the new block grant program.

3. FEMA and the applicant must agree on the fixed damage estimates within 90 days from the incident – not the date of the declaration. This could be prohibitive, as a major disaster declaration 90 days after the incident is not uncommon for small events. (See, e.g., DR-4888-ND, storm occurred in June 2025, declaration in September 2025; DR-4887, storm occurred in May 2025, declaration in September 2025; and DR-4882-IN, storm occurred in March 2025, declaration in July 2025.)

4. After agreeing upon the amount of assistance, the applicant must submit a "complete application," including estimates and "supporting documentation," before FEMA can approve the grant. There is no clarity as to what must be in the application and what estimates and documentation are required. If FEMA implements this authority by requiring the applicant to identify all the projects it will perform with the grant and include cost estimates to perform the work before FEMA will approve, it would effectively transform this block grant into a project grant.
5. The SDBG program is in lieu of Public Assistance – meaning it is a separate program. It includes language that expressly conditions funding on EHP compliance, while the *FEMA Act's* proposed changes to Section 316 of the *Stafford Act* would provide much-needed EHP exemptions for Public Assistance projects that repair, restore, reconstruct, or replace facilities in the same location. Section 801 (creating SDBG) is not included among the sections listed in the revised Section 316, making it possible that FEMA would not apply EHP exemptions to a project funded by SDBG but would apply them if the same project were funded by Public Assistance. There is no reason that block grant-funded projects should not also benefit from these EHP exemptions.
6. The *FEMA Act* also provides highly anticipated flexibilities for the expenditure of management cost funding in Section 324 of the *Stafford Act* and extends access to management cost funding for FEMA's Individual Assistance, Crisis Counseling, and Case Management programs. But the draft *FEMA Act* does not amend subsection (b) of Section 324 to include SDBG grants. Also, while the proposed revisions to Section 324 allow for continued availability of excess management funds for Public Assistance, the list of applicable *Stafford Act* sections does not include 801 (SDBG). Management cost funding helps recipients administer subgrants, support the cost to obtain estimates, develop the application, perform EHP requirements, and prepare documentation for audit. Providing grant management cost assistance for Public Assistance and not SDBG may make SDBG prohibitively expensive or inadvertently create a disincentive.

Congress could address these concerns by amending the current version of the *FEMA Act* to:

- Calculate deadlines from the date of the declaration, not the date of the incident.
- Define a simplified formula to estimate the amount of a block grant, such as setting it at 75 percent of the estimated cost of damage identified in the Preliminary Damage Assessment as informed by professionally developed estimates.
- Include an additional amount for management costs, such as 10 percent of the amount of the block grant.
- Expressly direct that the amount of the award include an amount for indirect project costs at the uniform federal de minimis rate.
- Add "Section 801" to the list of applicable grant authorities in the *FEMA Act's* revised Section 316 allowing EHP exemptions.
- Clarify the intended content of the application and agency standard of review. Clearly state whether applications are deemed approved 30 days after agency receipt in the absence of agency action.
- Insert a restriction on recapture consistent with language applicable to HUD's Community Disaster Block Grant program.

For more information on this topic, please contact [Erin J. Greten](#) or any member of Baker Donelson's [Disaster Recovery & Government Services](#) Team.