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Why Block Grants Could be the Future of FEMA Public Assistance

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Since publishing the Disaster Recovery Brief "Are Block Grants the Future of FEMA Public Assistance?" we received several inquiries seeking additional information. In response, this brief explains what a block grant is in the context of disaster assistance and the practical effect a block grant model could have on FEMA infrastructure grants to states, tribes, territories, local governments, and private nonprofits. Legislation would be needed to make such a major change to the delivery of FEMA Public Assistance, but if passed, such a shift could allow the Executive Branch to move away from its current project-based system and improve program efficacy.

FEMA's current Public Assistance grant program is run as a project-based grant where the initial grant to the recipient state or tribe is \$0, and FEMA amends the scope and amount of the grant each time the agency approves a subrecipient's project. The scope and cost of each project is developed consistent with strict eligibility requirements. In contrast, under a block grant model, the agency establishes the purpose, time, and amount of the grant based on a broad scope and then relinquishes control over the way the recipient accomplishes that scope. The federal agency does not micro-manage the implementation of a block grant, but the funds must be used for the authorized purpose and comply with any restrictions set by the authorizing statute or appropriation and terms imposed by the grant agreement. In addition, FEMA's current Public Assistance Program is reimbursement-based – meaning the applicant does the work, pays, and then seeks reimbursement from FEMA. Under a block grant model, the agency could move away from that system – providing funds up front for the provision of eligible work.

In the disaster context, a block grant model is seen as a way to shift focus from completing defined damage repairs to expending a fixed amount of funds to help a community recover in the most appropriate way for that community.

A High-Level Glimpse Into What FEMA Funding Could Look Like Under a Block Grant Model **Current Public Assistance Program:**

Under the traditional Public Assistance program governed by section 406 of the Stafford Act, FEMA determines if the applicant is eligible, if the damaged facility is eligible, and FEMA and the applicant agree to the damage and amount. Then, FEMA and the applicant determine whether the damaged facility is to be repaired or eligible for replacement and determine the exact scope and cost of that repair/replacement. After addressing any duplication of benefits (including insurance), completing environmental and historic preservation (EHP), and mitigation reviews, FEMA approves the scope of the disaster repair or replacement work and estimated cost to complete that work. When approving the scope and cost of the applicant's project, FEMA amends the scope and cost of its grant to the recipient. The subrecipient then complies with all the procurement, permitting, and documentation requirements necessary to complete the approved scope of work, and when work is complete, provides all the supporting documentation to FEMA for reimbursement of actual, reasonable costs to complete the approved scope.

Under the Stafford Act section 428 version of the Public Assistance Program, FEMA determines if the applicant is eligible, if the damaged facility is eligible, and FEMA and the applicant agree on the damage and estimated

amount to repair that damage. The estimated cost to repair all of an applicant's disaster-damaged facilities may be combined and obligated as one or more large projects. The use of funds are not limited to repairing or replacing disaster damage like in the traditional program, and may be spread across a subrecipient's eligible facilities, but the scopes of work still must be approved by FEMA consistent with strict program rules, and the amount of funding from FEMA is fixed. Once FEMA agrees on the approved scope of work, the subrecipient must complete the entire scope. The subrecipient complies with all the procurement, permitting, and documentation requirements necessary to prove to FEMA that it used every penny for the authorized purpose consistent with all applicable rules and policy, and when work is complete, provides supporting documentation to FEMA for reimbursement. If the project exceeds the estimated cost – due to inflation, increased tax, unidentified damage, or any other reason, the amount of the grant is fixed and will not increase but the applicant still must complete the entire scope of work.

The Vision Under a Block Grant Model:

The FEMA Act 2025 proposes a new Stafford Act 409, under which FEMA would issue a grant award to the recipient to perform the following scope:

1. to repair, restore, reconstruct, or replace the public or private nonprofit facility damaged or destroyed by a major disaster to applicable building codes as of the time of repair, restoration, reconstruction, or replacement, including incorporating mitigation measures consistent with disaster risks for the geographical area;
2. to repair, restore, incorporate mitigation measures, or expand other selected public facilities;
3. to construct new facilities;
4. and combined to construct a consolidated facility or facilities of a State, local government, or owner or operator of a private nonprofit facility; or
5. to fund hazard mitigation measures that the State or local government determines necessary to meet a need for governmental services and functions in the area affected by the major disaster.

FEMA would determine if a subrecipient is eligible, if the damaged facilities are eligible, and the damage description. FEMA would then agree to the estimated amount to repair that damage. As currently proposed, the cost estimate would be provided by the subrecipient, and if developed by an appropriately licensed professional and included certain required costs and considerations, it would be presumed accurate and reasonable unless there is evidence of criminal fraud. FEMA would then amend the amount of the grant to the recipient, in the amount of the estimated cost to repair all the subrecipient's eligible damaged facilities, without narrowing the scope of the recipient's grant other than to limit expenditure of the newly-obligated funds to this new subrecipient.

Once the funds are obligated, the recipient would work with the subrecipient to help them recover, consistent with the terms of the grant. As proposed in the new Section 409, the recipient would assume EHP responsibilities along with several flexibilities and waivers built into the law. If the terms of the grant require compliance with all or a part of the uniform rules at 2 C.F.R. Part 200, the subrecipient would also need to comply with those rules. The subrecipient would then use the obligated funds for any authorized purpose and, upon completion of work, produce documentation to the recipient, who could then produce documentation to FEMA, proving that all funds were used for authorized purposes.

Example: Firehouse and Fire Trucks

A storm damages a community's firehouse and floods its two fire trucks, leaving the community without the necessary resources to protect public health and safety.

Today, if the President declares the storm a Major Disaster under the Stafford Act and authorizes Public Assistance Category E (Public Buildings and Contents), FEMA may cover at least 75 percent of the cost to repair disaster damage to the firehouse and fire trucks.

First, FEMA will require proof that the firehouse and trucks were properly maintained and in good condition before the storm. If the applicant is unable to prove that the damage was caused by the storm, the claim will be denied. Next, the applicant must prove that the cost to repair the disaster damage to the firehouse exceeds 50 percent of the cost to replace it. If the repair is only 49 percent of the cost to replace, FEMA will only approve the cost of repair. If approved for repair, the community may still choose to replace the firehouse instead. But if it does so, FEMA has to approve it in advance, and the grant will be capped at the cost to repair plus any additional hazard mitigation work FEMA may approve to reduce the risk of damage to that facility from the same type of event in the future. The community must self-fund the remaining cost of the construction. Applicants and FEMA often get into time-consuming battles over pre-disaster condition, estimated costs, and whether a facility can be cost-effectively repaired or should be replaced.

A similar process will occur with the fire trucks, except that even if the trucks cannot be repaired and must be replaced, FEMA will only replace the damaged truck. Meaning, if the community had been lovingly maintaining its trucks that were purchased new in 2010, FEMA will only fund the present value of a 2010 fire truck, even though the community would pay far more for a new truck in 2026. The excess cost of the 2026 fire truck to perform the same function is the applicant's responsibility.

FEMA then reduces the eligible cost by available insurance, performs EHP reviews, and approves the scope and cost, simultaneously obligating the funds to the state. The community complies with the terms of the grant, including EHP requirements and the procurement and documentation requirements in 2 CFR Part 200. The community then submits its actual cost documentation together with proof that it completed the scope, and requests reimbursement. FEMA reviews the request and, under the traditional procedures, may reimburse actual reasonable costs to complete the approved scope of work; and under the 428 procedures, would reimburse up to the amount of the fixed cost estimate.

Under a block grant that results from the same disaster declaration, the community would have a licensed mechanic/appraiser assess the fire trucks without consideration of pre-disaster condition to determine if they can be repaired or must be replaced, and the estimated cost to do so. The community would also have a licensed construction company estimate the cost to repair or replace the damaged firehouse without consideration of pre-disaster condition. FEMA would then obligate funding in the cumulative amount of the estimates to be used by the community to perform the five purposes (listed above) in the scope of work of the recipient's grant.

The community then decides how to best use those funds for its disaster recovery – within the bounds of the broad five purposes of the grant. It would then work with the state to make sure that it complies with any applicable EHP, procurement, and documentation requirements when it spends the funds. It could, for example, decide to team its fire station with its police station to build a fire truck bay onto the police station to house its new 2026 fire truck. If so, the community would provide the state with the receipts proving that it used 100 percent of the obligated funds for an authorized purpose. The state can then produce those documents to FEMA for audit and to close its grant.

Existing Legislation to Adopt the Block Grant Model for FEMA Public Funding

House Resolution 4669, the *Fixing Emergency Management for Americans Act of 2025* (FEMA Act of 2025), contains two Public Assistance reform provisions that are designed to give state and tribal governments more control over disaster recovery. If enacted, section 101 "Rebuilding public infrastructure" would create a new Stafford Act section 409 to replace the existing Public Assistance grant program for public infrastructure. The

improved provisions for public infrastructure include rapid timelines for the obligation of grants without regard to preexisting condition, in the amount of the estimated cost to repair, restore, reconstruct, or replace eligible facilities to code, and based on applicant-provided estimates that are presumed to be accurate. Once obligated, state and local governments and private nonprofits could use the funds for the 5 broad community recovery purposes listed above, while using EHP flexibilities to expedite planning and project completion.

Similar to the proposed improvements for repairs to public infrastructure, if enacted, section 106 of the FEMA Act of 2025 would create a new block grant program for small disasters which are defined as declared events with estimated eligible Public Assistance damage of less than or equal to 125 percent of the state's per capita indicator. Providing a limited set of the flexibilities offered in the proposed changes for public infrastructure, capped at 80 percent of the federal share of assistance a recipient could have gotten under the Public Assistance program, and administered under the procedures and authorities for the Public Assistance Program, the new section 801 block grant program would provide an alternative grant program to Public Assistance in an amount based on estimated damages with a scope that allows recipients to broadly "address impacts and needs resulting from the declared disaster incident."

These new provisions, collectively or independently, could begin moving FEMA away from project-based grants and could allow the agency to break away from reimbursement-type grantmaking, giving states and tribes broader discretion as to how disaster recovery funds are best used to serve their communities, relaxing federal control, and improving the speed of recovery.

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