U.S. Department of Homeland Security
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FEMA

Public Assistance Deductible Concept – An Overview

FEMA is exploring the introduction of a deductible-type concept to the Public Assistance program to encourage readiness and resilience-building activities. FEMA believes that a deductible might incentivize investments in preparedness and mitigation activities that reduce risk, thereby reducing the impact of future disaster costs nationwide for all levels of government.

Background

The Government Accountability Office (GAO), the Department of Homeland Security's Office of the Inspector General, and Members of Congress have issued critiques of FEMA's current criteria for evaluating the need for supplemental Federal disaster assistance. Specifically, these findings have concluded that the current Public Assistance per capita indicator (44 CFR 206.48) is artificially low and they have recommended that it be increased significantly.

The GAO, for example, suggested that the per capita indicator should be increased to account for the inflation for the years between 1986 and 1999 and then also adjusted by each State's per capita Total Taxable Resources (TTR) (GAO-12-838). TTR is an estimate prepared by the Treasury to calculate each State's access to potentially taxable revenue sources.

FEMA performed a retrospective analysis of the likely impact of the GAO's recommended per capita indicator adjustment over a ten-year period (2005-2014) and found that:

- 70% of declared disasters would not have reached the per capita indicator (>400)
- these disasters account for only 10% of Public Assistance during that period (~$5.5B)
- 49 of the 50 States would have received less Public Assistance
- 21 States would have each received over $100M less in Public Assistance
- 5 States would have each received over $250M less in Public Assistance

While FEMA agrees that changes are warranted to better account for the individual capabilities of each State to manage the costs of a disaster incident, FEMA is exploring whether dramatically increasing the current Public Assistance per capita indicator, thereby significantly decreasing the number of disasters declared, is the most effective way to actually decrease disaster costs. FEMA is concerned that this approach will:

1. <u>transfer</u> disaster costs to State and local governments without actually reducing them;
2. <u>disproportionately impact</u> States that rely on disaster activity to support preparedness and mitigation programs; thereby increasing likely disaster costs in the future;
3. <u>not incentivize</u> additional, and may actually decrease, investments in disaster risk reduction activities; and
4. <u>not significantly decrease</u> the Federal Government's share of disaster costs because most supplemental Federal assistance is provided in catastrophic disasters, which may actually become more likely due to stagnant or decreased investments in risk reduction nationally.

Deductible Concept

One alternative to significantly increasing the current Public Assistance per capita indicator is to introduce a deductible-type concept to the Public Assistance program. Essentially, a deductible would not in any way change the current practice of evaluating requests for major disaster declarations. Instead, a deductible would require a predetermined financial commitment from each State before some types of Public Assistance would be provided. FEMA anticipates that a deductible, if introduced, would only apply to permanent infrastructure and facility projects, but not debris removal, emergency protective measures, Individual Assistance, or any other type of Federal assistance.

Under this initial concept, FEMA would announce each State's upcoming deductible amount a few months prior to the start of the year. Each State would then be able to request credits to reduce their deductible amount. The State would choose from a menu of credits that emphasize investments in best practices that reduce future disaster costs. Such investments may include specific mitigation projects, broad-based preparedness initiatives, or the adoption and enforcement of consensus-based building codes, for example. The menu of credits will be available in advance so that States have time to plan, budget, and receive credits beforehand.

Over time, FEMA believes that a deductible and accompanying credit system will not only acknowledge States for investments already being made, but also incentivize new investments and activities that will further reduce risk. As this increase occurs throughout the country, eventually future disaster costs will be reduced nationwide across all levels of government.

Current Status

FEMA published an Advance Notice of Proposed Rulemaking (ANPRM) in early 2016. The ANPRM contained a brief overview of the concept and a long list of questions that FEMA thought germane to developing the concept. Based on the content of the 150 comments received, it was clear, however, that stakeholders did not have enough information about the concept to formulate an opinion or to provide detailed feedback on its design.

FEMA thoroughly reviewed the ANPRM comments and developed a more complete concept of the deductible program. On January 12, 2017, FEMA published a Supplemental ANPRM that contained a complete notional model of the deductible concept. This version is based on the information that FEMA had available and utilized assumptions and estimates to fill gaps. The intent of the Supplemental ANPRM is not to present a final proposal, but to provide enough detail about how the concept might hypothetically function to allow stakeholders the ability to provide specific recommendations. Comments will be accepted through the deductible docket on Regulations.gov until April 12, 2017.

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