



# The Disaster Recovery Reform Act of 2018

## Challenges and opportunities for state and local governments



Deemed one of the most comprehensive reforms to federal disaster recovery aid in decades, the Disaster Recovery Reform Act of 2018 (DRRA) positions state and local governments to streamline their postdisaster rebuilding processes and invest in mitigating hazards and long-term community resiliency.

In its implementation of DRRA, the Federal Emergency Management Agency (FEMA) aims to “acknowledge the shared responsibility of disaster response and recovery” and “reduce the complexity of FEMA and build the nation’s capacity for the next catastrophic event.”<sup>1</sup>

Accordingly, dozens of existing FEMA policies and regulations are being changed to:

- Enable sizable local investment in predisaster mitigation and resiliency
- Increase reimbursement caps and management costs on a range of disaster costs and
- Allow state and local governments to directly administer FEMA-funded postdisaster housing assistance programs, among other significant changes.

State and local entities should now consider how to leverage these opportunities while ensuring compliance with related new rules and policies.

### DRRA at a glance:

- Requires states to invest a percentage of assistance received into predisaster mitigation and enables the use of assistance to build to and enforce updated building codes and floodplain management ordinances
- Adds assistance to states for wildfire prevention
- Allows states to use federal disaster assistance to directly administer temporary and permanent housing assistance
- Allows FEMA to develop incentives and penalties to encourage states to have timely closeouts of recovery expenditures
- Requires FEMA to coordinate emergency plans with state, tribal, and local governments
- Clarifies the state and local shares of reimbursable “management costs” for hazard mitigation and public assistance grants
- Enables reimbursement of base and overtime wages related to implementing and enforcing adopted building codes for up to six months after a major disaster is declared
- Provides a review process for restoring previously withdrawn or deobligated funding related to contract procurement and assistance utilization.

<sup>1</sup><https://www.fema.gov/disaster-recovery-reform-act-2018>

## Key changes and impacts of DRRRA

DRRA's changes to federal disaster policy and related impacts to state and local government center on three broad areas:



### Greater proactivity to invest in local recovery, mitigation, and resilience

**Change:** DRRRA authorizes FEMA to provide grants to states and other entities to directly administer temporary and permanent postdisaster housing construction. It also allows some reimbursement of cost-effective housing solutions (Sections 1211 and 1212).

**Impact:** While states and other eligible entities can self-administer FEMA-funded postdisaster housing assistance programs, DRRRA places caps on certain grant amounts and requires those implementing the grants have an approved housing strategy demonstrating they can meet disaster-related sheltering and housing needs and comply with applicable rules.

**Change:** DRRRA establishes a dedicated and regularly replenished fund for predisaster mitigation efforts (Section 1234), along with authorizing an increase in federal reimbursement of public infrastructure projects that increase community resilience before a disaster occurs (Section 1235a). DRRRA also expands funding to activities aimed at mitigating risk from wildfire (Sections 1204–1205) and earthquakes (Section 1233) as well as water resource development projects (Section 1210b).

**Change:** DRRRA enables FEMA to provide funding to state and local governments to craft, enact, and administer modern building codes and floodplain management ordinances (Section 1206) and to ensure that public assistance grants allow damaged assets to be brought up to the most recent relevant building codes and standards (Section 1235b).

**Impact:** State and local governments will need to institute hazard mitigation and resiliency planning, programs, infrastructure investment, and private sector incentive strategies to fully avail themselves of DRRRA's expanded pre- and postdisaster funding and code-compliance support.





## Increased project administration and delivery efficiencies

**Change:** DRRR authorizes FEMA to develop “incentives and penalties” to ensure timely closeouts of disaster grant programs (Section 1221).

**Impact:** This provision is intended to streamline processes and ease interactions between FEMA and the state and local municipalities and agencies that receive and distribute federal emergency funding. DRRR does not define “incentives and penalties,” but the expectation is that FEMA will reward innovative grant management processes and multiple project coordination while increasing scrutiny of state and local government project design, scoping, and approval processes.

**Change:** DRRR stipulates that FEMA’s Alternatives Procedures Pilot Program for Permanent Work is voluntary and now allows unused awarded funds to be used for other eligible purposes in lieu of repayment (Section 1207).

**Impact:** State and local governmental entities retain the ability to seek lump-sum funding for an aggregate of replacement or restoration projects through the Alternatives Procedures Program, with the added benefit of using any cost savings for other eligible needs. Nonetheless, awardees cannot seek additional funds upon FEMA’s approval of the applicant’s fixed-cost estimate.

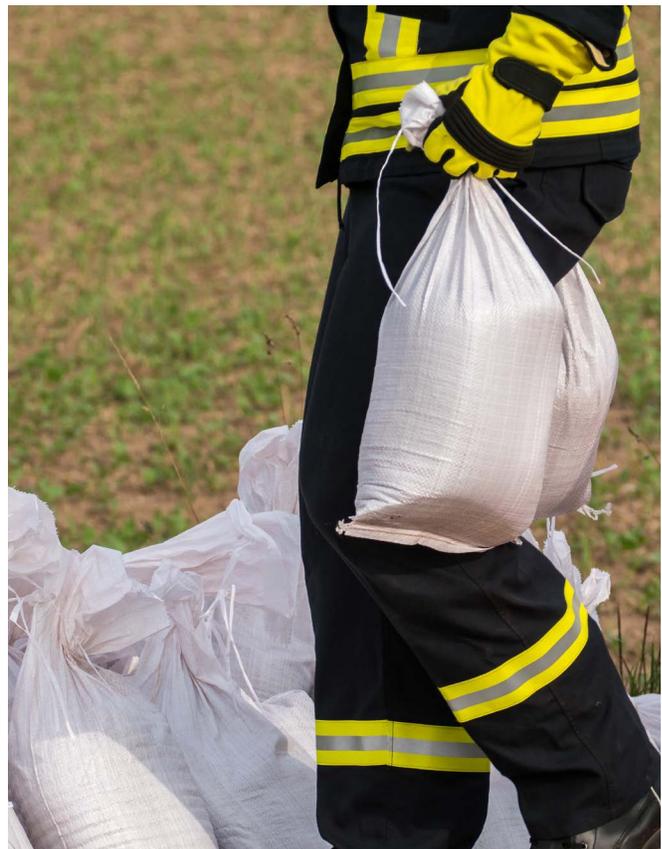
**Change:** For declared disasters between 2016 and 2021, DRRR authorizes the president to waive the general prohibition on duplication of federal disaster aid benefits in extraordinary circumstances where the governor of a state requests a waiver and the president determines that the waiver (1) is in the public interest; (2) will not result in waste, fraud, or abuse; and (3) is cost-effective, equitable, or otherwise consistent with policy aims the president considers appropriate (Section 1210).

**Impact:** Presidential waivers of duplicated benefits do not apply to repair and replacement assistance under the Public Assistance Program or the Individual Assistance Program (Section 408, 42 U.S.C. § 5174) or when insurance proceeds or monies from other programs have already been awarded.

**Change:** DRRR defines “management costs” as both direct and indirect administrative expenses by state, local, and other eligible entities. It establishes the following specific rates for state government recipients and their subrecipients (Section 1215):

- Public Assistance Program: up to 12 percent of total award amount (7 percent for recipient; 5 percent for subrecipients).
- Hazard Mitigation Grant Program: up to 15 percent of total award amount (10 percent for recipient; 5 percent for subrecipients).

**Impact:** DRRR simplifies the administration of management costs by clearly establishing such costs as an allowable blanket expense and assuring that local government subrecipients will receive a share. However, fixed caps on federal contributions increase the administrative burden on state and local government in managing their disaster grants.





## Clarifies funding recipient rights and dispute resolution opportunities

**Change:** DRRR prohibits FEMA from recovering funds from state and local government recipients and requires restoring deobligated public assistance, debris removal assistance, or response assistance funds when a federal audit determines that inaccurate information supplied by FEMA led to the award of ineligible contracts (Section 1237).

**Change:** DRRR confers a right of arbitration to applicants disputing a FEMA decision regarding eligibility or repayment of assistance in excess of \$500,000 (\$100,000 for applicants in rural areas) before a Civilian Board of Contract Appeals (Section 1219). It also prohibits FEMA from initiating actions to recover assistance after “the date that is 3 years after the date of transmission of the final expenditure report for project completion as certified by the grantee” (Section 1216).

**Impact:** Restoring FEMA funding that was deobligated based on erroneous information supplied by FEMA depends in large measure on state and local entities assuring the means for examination of underlying contracting, procurement, and related documentation while synthesizing and presenting a compelling case based on such evidence.

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## How KPMG can help

**KPMG’s Disaster Recovery and Emergency Management practice has extensive hands-on experience in helping state and local entities efficiently and strategically use their funding from FEMA’s Hazard Mitigation and Public Assistance grants programs and understands how DRRR-related regulatory changes underway present both challenges and opportunities ahead. Let’s discuss how we can help you.**

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