



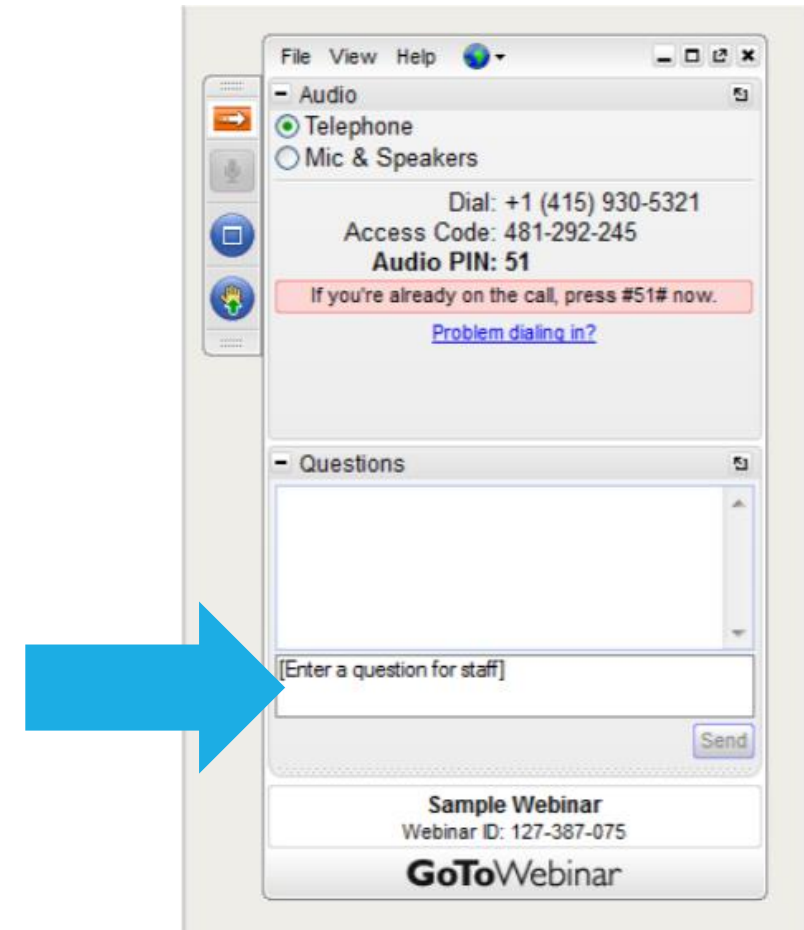
**THE DISASTER RECOVERY REFORM ACT OF  
2018: WHAT LEGAL AID PROVIDERS  
SHOULD KNOW**

April 10, 2019

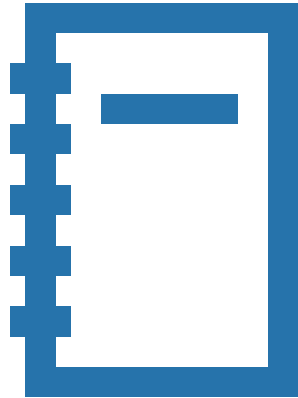
# WELCOME!



- ❑ Attendees are muted by default, but we want to hear from you! Ask a question or tell us something in the **Questions box**.
- ❑ **This webinar is being recorded.** Registered attendees will receive an email with a link to webinar materials once they have been posted.
- ❑ Slides – You can download them now via the **Handouts box** or check [www.disasterlegalaid.org/trainings](http://www.disasterlegalaid.org/trainings).



# TODAY'S AGENDA



- ☐ Introductions & National Disaster Legal Aid
- ☐ Disaster Recovery Reform Act of 2018
- ☐ Questions & Answers

WELCOME!

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Pro Bono Net

**probono.net**  
*bridging the justice gap*

legal aid organizations, bar associations, pro bono counsel from law firms and corporations, law school students and faculty, and allied nonprofits working on disaster legal aid.



Who We Are

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## HIGHLIGHTS



### Alerts & New Resources

- Please join us on Wednesday, **April 10, 2019** at 2 pm ET for **The Disaster Recovery Reform Act of 2018: What Legal Aid Providers Should Know**, co-hosted by Pro Bono Net and Lone Star Legal Aid.

## UPCOMING EVENTS

**The Disaster Recovery Reform Act of 2018: What Legal Aid Providers Should Know**, Online, *Apr 10*

**2019 Mid Coast Hurricane & Disaster Conference**, Victoria, *Apr 11*

**We All Want Disability Inclusion in Emergency Management**, Webinar, *Apr 11*

**Another Hurricane Sandy? NYC's Strategic Plan to Protect Residents Against Natural Disasters**, New York, *Apr 16*

**Florida Disaster Umbrella Group Call**, Call, *Apr 22*

**2019 New Jersey Emergency Preparedness Conference**, Atlantic City, *Apr 29 - May 03*

**Disaster: The Jones Act's Impact on Puerto Rico**, In-Person and Online, *Apr 30*

**FEMA Divisions: Lessons from Hurricane Maria**, Atlantic City, *May 3*

**National VOAD Conference**, Nashville, *May 6 - May 09*

# NATIONAL DISASTER LEGAL AID ADVOCACY CENTER

Wednesday, April 10, 2019  
2:00 - 3:00 pm ET  
https://www.dlaid.org/act19

[www.disasterlegalaid.org/act19](http://www.disasterlegalaid.org/act19)

# OUR PANELISTS

**Tracy Odvody Figueroa**

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**Danielle M. Aymond**

Of Counsel  
Baker Donelson

**BAKER DONELSON**

# OVERVIEW OF DRRRA CHANGES

Funding...	Guidance...
Authorizes funding for Code Enforcement	Evacuation routes
Improvements to Public Assistance	Prioritizes Power restoration for hospitals and nursing homes
Prioritizes Power restoration for hospitals and nursing homes	Unified Environmental and Historic Preservation
Expands HMGP for wildfire prevention, Water Resources Development, <u>Duplication of Benefits</u> (1210a)	<u>Streamline and Consolidate Information Collection</u>
<u>State Administered Housing</u>	Coordination with LTR and domestic hunger relief
<u>Expands Individual Assistance</u>	Inundated and submerged roads
<u>Food Banks and Child-care facilities eligible PNP</u>	Technical Assistance to common interest communities
	Acquisitions for HMGP

# OVERVIEW CONTINUED...

Funding...	Guidance...
Management Costs in PA and HMGP	Coordination of Emergency Response Plans
<u>IA debt</u>	Insurance shortfalls
Establish Veterinary Emergency Teams	Post-disaster Building Safety Assessment
Right of Arbitration for PA	National Preparedness Assessment
HMGP for Earthquakes	Damage to Underground Water Infrastructure
Pre-disaster Hazard Mitigation	Disaster Mortality
HMGP for Resilience	
Limits FEMA recoupment of PA	
<u>Waiver of Fees for Individuals and Nonprofits</u>	
<u>Multifamily Lease and Repair expansion</u>	



# DISASTER RECOVERY REFORM ACT DATES

Generally, all of the DRRRA changes are effective for disasters declared on or after **August 1, 2017**.

Exceptions throughout, including:

- NFIP Penalty Jan. 1, 16- Dec. 31, 2018
- Duplication of Benefits
- Arbitration – Jan. 1, 2016

# FEMA DRRA GUIDANCE PUBLISHED TO DATE

Section 1215: Management Costs

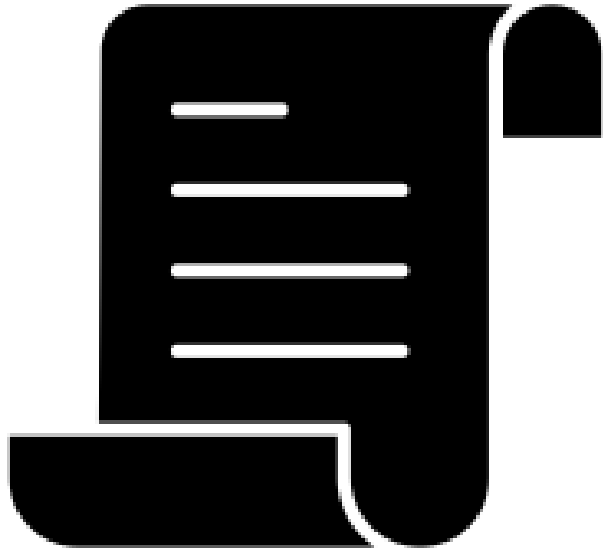
Section 1219: Right of Arbitration

Section 1210: Waiver of Duplication

[www.fema.gov/DRRA](http://www.fema.gov/DRRA)

**FEMA-DRRA-Implementation-Action-Office@fema.dhs.gov**

# FEMA RULE MAKING PROCESS



- Sandy Improvement Recovery Act (SIRA)- signed into law January 29, 2013
- Section 1109 required FEMA, to review, update, and revise through rulemaking the factors found at 44 CFR 206.48(b) that FEMA uses to determine whether to recommend provision of Individual Assistance during a major disaster.
- On March 21, 2019, FEMA published the final notice which will be effective June 1, 2019.

# DRRA SECTION 1238: WAIVER OF FEES

As a result of the disaster, a survivor loses certain documentation, the following document replacement fees are waived:

- Passport
- Form I-193 (application for passport/Visa)
- Form I-90 (Permanent Resident Card)
- Form N-300 (Declaration of Intention)
- Form N-565 (Naturalization/Citizenship)
- Form I-765 (Employment Authorization)
- Biometric Service Fee



# EXPANDED FINANCIAL ASSISTANCE UNDER FEMA IHP, SECTION 1212

## Before DRRA

- All categories of financial assistance available through FEMA's Individuals and Households Program (IHP) were subject to a single cap.
- Example: For Hurricane Harvey in August 2017,

Max FEMA IHP award was

**\$33,300**

Including all IHP subcategories of Housing Assistance (HA) +

all subcategories of Other Needs Assistance (ONA)

## After DRRA

- HA and ONA have separate caps, equal amounts.
  - HA up to \$34,900 for FY 2019
  - ONA up to \$34,900 for FY 2019
- Exclusions from HA cap:
  - Rental Assistance
  - Certain expenses related to accessibility
- Exclusions from ONA cap:
  - Certain expenses related to accessibility

# TRIGGERED

## \*\*RETROACTIVE PAYMENTS\*\*

From FEMA Bulletin Week of 03/18/19

“FEMA is processing retroactive payments to roughly 12,000 applicants who reached or exceeded the IHP financial limit for all declared disasters on or after August 1, 2017. Eligible applicants may receive additional funds due to the increased amount of assistance under the new law, which includes additional Home Repair, Personal Property, and Transportation funds.

Beginning April 2019, FEMA will evaluate survivor application files, and some survivors may be eligible for additional Rental Assistance because of the change in the law.”

**Upshot:** If you worked with survivors of a disaster occurring between 8/1/17 and present, any who received the OLD max may be eligible to receive more now.

# POTENTIAL FOR STATE CONTROL OF SOME FEMA IHP HOUSING PROGRAMS

## OLD (Generally)

- HA: all programs administered by FEMA
- ONA: state could administer or leave to FEMA
  - Most states leave to FEMA
  - But, as example: Texas agency administers ONA

## NEW

- HA:
  - state can administer some categories of HA or leave them to FEMA
  - other HA programs must always be administered by FEMA
- ONA: as before, state can administer or leave to FEMA

# HA THAT MAY BE ADMINISTERED BY STATE, SEC. 1211

- ❑ Categories: Direct Housing and Permanent Housing Construction
- ❑ Option – not mandatory
- ❑ Quality Assurance:
  - if not administering program in “satisfactory” manner, approval may be withdrawn
- ❑ Can be run as “Pilot Program”
  - Before DRRA, but as example: Texas agency administered several direct housing programs post-Harvey
- ❑ Final Regulations – due early Oct. 2020
- ❑ OIG report about effectiveness – by April 2020



# POTENTIAL CHALLENGES FOR ADVOCATES

## □ Identifying the players in a pilot program

- Even if State administering HA, ONA programs – what role does FEMA still play?
  - inspections?
  - eligibility determinations?
  - threshold for FEMA to refer someone to state?
- One or more state agencies involved?
  - Following Hurricane Harvey, one state agency addressed housing programs while a different one addressed ONA
- Other, local players involved?

## □ Monitoring developments as programs are being created, modified

## □ Communicating to your client how these pieces fit together

# DUPLICATION OF BENEFITS, SEC. 1210

- ❑ Loans - not to be considered duplication of benefits
  - used toward loss suffered as result of major disaster, emergency
- ❑ Potential for waivers of benefits that could be considered duplicative
- ❑ BUT doesn't extend to FEMA IHP – see 1210(a)(2)
- ❑ Report to Congress due by Oct. 2019
  - Goal: “to improve the comprehensive delivery of disaster assistance to individuals . . . ”



# FEMA IHP RECOUPMENT, SEC. 1216

- Authority to waive debts to FEMA if:
  - assistance was distributed based on FEMA error
  - no fault on behalf of debtor
  - collection of debt against equity and good conscience
  - *debt does not involve fraud, presentation of a false claim, or misrepresentation by debtor or party having interest in claim*
- OIG to monitor FEMA's error rate
  - If exceeds 4% for 12-month period, waiver authority may be removed, prospectively
- Limitations period: FEMA cannot recoup if more than 3 years from date debtor received that assistance
  - *Unless evidence of civil, criminal fraud*

# FEMA INDIVIDUAL ASSISTANCE PROGRAM POLICY GUIDE (IAPPG)

- ❑ IAPPG published in final form March 2019
  - Draft published in April 2018
  - Supersedes IHPUG published in 2016
- ❑ DRRA was not signed into law until October 2018
  - Have identified IAPPG provisions that conflict with changes under DRRA

**Upshot: consult IAPPG but keep DRRA changes in mind!**

# THE BIPARTISAN BUDGET ACT

- The BBA elevated **religious facilities** into a new major sub-category of eligible applicants.
- The BBA also made this significant change retroactive for disasters declared **on or after August 23, 2017** and for applications for assistance that were pending with FEMA as of August 23, 2017, including applications on first- or second-level appeal, that had not yet been resolved by FEMA.

# SHELTERING AND TEMPORARY ESSENTIAL POWER ("STEP")

- This program is used in particularly catastrophic housing disasters: Sandy, Louisiana Flood, Harvey, María
- Minimal repairs to make a home (owner-occupied single-family residence) a shelter
- Not part of the Individual Assistance program
- A State Agency sends contractors/VOAD to homes
- Work is typically completed on this program **within 6 months** of the disaster

# STEP DOCUMENT REQUIREMENTS: OWNERSHIP AND OCCUPANCY

## Residence

- Utility Bill
- Driver's License
- Voter Registration card
- W2 or paystub

## Ownership

- Insurance
- Tax Bill
- Deed
- Mortgage bill
- Official government document

# OBTAIN & MAINTAIN

- ❑ With disasters on the rise and continued funding issues, lack of compliance with the FEMA Insurance Obtain and Maintain requirement poses to biggest risk to disaster survivors.
- ❑ FEMA has published in policy that the property owner must obtain and maintain flood insurance coverage for at least the amount of disaster assistance they receive from FEMA. Applicants may satisfy the insurance requirement by purchasing private insurance or a policy through the NFIP.



# QUESTIONS?

Use the Questions Box to submit your question.





THANK YOU

## Exit Survey

Send questions, comments, or ideas to  
[skothari@lonestarlegal.org](mailto:skothari@lonestarlegal.org) or [jortiz@probono.net](mailto:jortiz@probono.net).