CALIFORNIA STATE ASSOCIATION OF COUNTIES

RURAL COUNTY REPRESENTATIVES OF CALIFORNIA

URBAN COUNTIES OF CALIFORNIA

March 21, 2016

Federal Emergency Management Agency
Regulatory Affairs Division
Office of Chief Counsel
8 NE, 500 C Street SW
Washington, DC 20472-3100

RE: Federal Emergency Management Agency (FEMA) Proposed Rule -- Disaster Deductible for Public Assistance Program
Docket ID FEMA-2016-0003

To Whom It May Concern:

The California State Association of Counties (CSAC), the Rural County Representatives of California (RCRC) and the Urban Counties of California (UCC) appreciate this opportunity to offer comments on the advance notice of proposed rulemaking on the establishment of a deductible for FEMA's Public Assistance Program.

Together CSAC, RCRC and UCC represent county governments before the California Legislature, administrative agencies and the federal government. Our members, all 58 of California's counties, have encouraged us to support legislative and regulatory proposals that will maximize California counties' ability to effectively mitigate, prepare for, respond to, and recover from natural and man-made disasters and public health emergencies, protecting both physical and fiscal health. Such proposals must also recognize that California counties have unique characteristics, differing capacities, and diverse environments.

While we understand your interest in reducing the federal burden of disaster costs, we are very concerned that any deductible will be designed at the expense of the states, cities, counties, and taxpayers. We believe that the current cost share formula (75%/25%) for Public Assistance (PA) already serves as a true motivator (and a de facto deductible) for promoting disaster planning, mitigation, and preparedness.

The following comments are based upon feedback provided by our member counties. We urge you to consider these in conjunction with those comments submitted by individual counties, the California Emergency Services Association (CESA), and the National Association of Counties (NACo).

- The proposed deductible conflicts with the cost-sharing requirements of the Stafford Act, which requires the federal share of assistance "not be less than 75 percent" of the eligible cost of damaged facilities, after a state has surpassed its calculated cost threshold, which in itself is already a deductible. We believe any type of PA program deductible that falls below the 75 percent requirement is contrary to the statute and would require Congressional action.

- State participation in the existing cost share program creates an incentive for a commitment to disaster planning, mitigation, and preparedness to reduce risks and increase resiliency from disasters.

- All states do not have the same relationship with their local governments. If FEMA applies their criteria only to the Recipient (state), friction will occur between states and their local governments to meet the deductible calculations. For example, states could impose unfunded mandates related to the deductible on localities, without any funding or support in carrying out those programs.

- Developing standards to establish credit toward the "deductible" would very likely result in a "one size fits all" approach. This would preclude individual States from identifying activities that best suit State and local needs. Such a standard set of credits across the nation would not be fair, as risk and need varies.

- A deductible system for the PA program becomes in practicality, an increased threshold to receive full federal assistance. While the intent may be to reduce federal costs, we are concerned that no real savings will be realized as the administrative costs of the new requirements will exceed any presumed savings.

- The staff and time involved for both FEMA and the states in policy development and any verification process of the eligible deductible payment contributions and credits would far surpass the more effective existing cost share program. The existing program is more effective at cost control and simpler for the FEMA and the states to administer. The deductible concept could also potentially delay the distribution of disaster relief.

- The proposal assumes that states and local governments are not building resilience strategies into their current projects. While much of the infrastructure in place was designed and built decades ago, the state and local governments are constantly identifying improvement projects to incorporate resilience strategies.

Given these comments, CSAC, RCRC and UCC encourage you to consider other positive solutions in collaboration with individual states, cities, counties, and the organizations that represent their interests. We also agree with the suggestion offered by the California Department of Water Resources to extend the comment period and convene regional discussions with state and local partners, including state and county emergency management agencies, as was done with the Federal Flood Risk Management Standard Guidelines. Such an approach would foster the development of positive emergency management programs and working relationships.

Thank you again for considering our comments.

Sincerely,

Karen Keene

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cc: California Congressional Delegation