

# FLOOD INSURANCE FOR BUSINESSES: IMPACTS OF RECENT LEGISLATION >>>



FEMA



The National Flood Insurance Program (NFIP) is in the process of implementing reforms required by the Homeowner Flood Insurance Affordability Act of 2014 and the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters). The 2014 law repeals or modifies some provisions of Biggert-Waters. However, it maintains the requirement that flood insurance rates for business properties in high-risk areas reflect true risk. This means that the subsidized rates that previously applied to some older business buildings will continue to be phased out. This fact sheet provides an overview of the changes business owners should expect, including a one-time refund for some policyholders.

## PHASING OUT FLOOD INSURANCE SUBSIDIES

A **flood zone** is a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map (FIRM) that reflects the severity or type of flooding in the area. Prior to Biggert-Waters, many older business buildings in Special Flood Hazard Areas and Zone D, constructed before the effective date of the community's first FIRM and never substantially damaged or improved, were eligible for subsidized rates. On October 1, 2013, the subsidized rates for these pre-FIRM buildings began to phase out. At renewal, non-residential policyholders received a 25 percent rate increase. As required by both the 2012 and 2014 laws, the 25 percent rate increases are set to continue until rates reflect the property's true risk.

From 2008 to 2012, the average National Flood Insurance Program (NFIP) commercial flood claim was more than \$87,000. Flood insurance continues to be an important safeguard and financial planning tool for business continuity and recovery.

However, a provision of the 2014 law temporarily slows that rate of increase. Currently, business properties and other non-residential buildings such as schools, churches, hospitals, and apartment buildings are included within a single non-residential policy rating class. The 2014 law caps increases for these other buildings at 18 percent a year. Until FEMA determines how best to identify and separately classify businesses, all non-residential properties—including businesses—will receive no more than an 18 percent annual increase starting October 1, 2014.

## HOW CHANGES TO SUBSIDIZED RATES AFFECT BUSINESS BUILDINGS IN HIGH-RISK AREAS<sup>1</sup>

POLICY TYPE	IMPACT ON RATES
<b>Policies for post-FIRM buildings, constructed in compliance with NFIP standards</b>	Already pay full-risk rates.
<b>Existing policies for pre-FIRM business buildings</b>	Policies can be renewed at subsidized rates. When FEMA is able to separate businesses from other properties, future rates will increase by 25 percent per year until reaching full-risk rates.
<b>Newly written policies for pre-FIRM business buildings or for newly purchased pre-FIRM buildings</b>	Policies can be issued and renewed at subsidized rates. When FEMA is able to separate businesses from other properties, future rates will increase by 25 percent per year until reaching full-risk rates.
<b>Policies for pre-FIRM buildings re-issued after a lapse</b>	Policies that lapsed due to a late renewal payment (received after the 30-day grace period but less than 90 days after expiration) can be re-issued and renewed at subsidized rates. When FEMA is able to separate businesses from other properties, future rates will increase by 25 percent per year until reaching full-risk rates.  Also note that in the future, the exception allowing policies to be issued using subsidized rates after a lapse will only apply to policies that lapsed because coverage was no longer required by the lender (e.g., the mortgage was paid off). The bottom line: Don't let a policy lapse. It could cost you more when you reinstate it.
<b>Policies for business buildings in moderate- to low-risk areas</b>	Already pay full-risk rates.

<sup>1</sup> Shown on the FIRM as a flood zone beginning with the letter "A" or "V"; in addition, this affects pre-FIRM properties in Zone D.

## REFUNDS

Biggert-Waters required an immediate move to full-risk rates when a pre-FIRM building that had been eligible for subsidized rates was sold or purchased, when a policy was issued for the first time on a pre-FIRM building, or when a pre-FIRM-rated policy was reissued after being allowed to lapse. The new law reinstates subsidized rates under these conditions, and calls for refunds of the difference between the subsidized rates and the higher, full-risk rates that policyholders first paid. The new 18 percent cap on increases for non-residential policies will also result in refunds for some policyholders who experienced a 25 percent increase. Insurance companies will begin issuing the one-time refunds in October 2014.

## SURCHARGES

A Congressionally mandated surcharge will be added to all policies to offset the subsidized policies and achieve the financial sustainability goals of Biggert-Waters. A policy for a business property will include a \$250 surcharge. The fee will be included each year on all policies, including full-risk-rated policies and those in moderate- to low-risk areas, until all pre-FIRM subsidies are eliminated. The surcharge is not considered part of the premium and is not included in the annual caps on premium increases. Implementation of this surcharge is expected in 2015.

## AFFORDABILITY

The 2014 law (Section 29) requires FEMA, within 18 months and then semi-annually, to report to Congress on the effects the pre-FIRM subsidy phase-outs and surcharge are having on small businesses, non-profits, houses of worship, and certain residences. If FEMA determines the rate increases and surcharges are having a detrimental effect on affordability, FEMA must submit appropriate affordability recommendations to Congress.

## REDUCE YOUR RISK, REDUCE YOUR RATE

Flood risk and associated flood insurance rates vary by property, based on a number of factors. Two important factors that could affect your flood risk and business building rates are elevation and floodproofing.

## KEY FACTORS INFLUENCING FULL-RISK RATES

FACTOR	EFFECT ON RATES
<b>ELEVATION</b> used for rating is the building's Lowest Floor Elevation compared to the Base Flood Elevation (BFE; the elevation reached by a flood with a 1 percent annual chance of occurring, known also as the "100-year" flood)	<p>The higher the Lowest Floor Elevation (LFE) is above the BFE, the lower the risk and typically lower the rate, which may be lower than the subsidized pre-FIRM rate. However, a building whose lowest floor is <i>below</i> the BFE is at higher risk, and full-risk rates can be substantially higher than the subsidized rates.</p> <p>To learn the building's elevation, the owner will need to obtain an Elevation Certificate. To learn more about Elevation Certificates, go to <a href="http://fema.gov/national-flood-insurance-program-2/elevation-certificate">fema.gov/national-flood-insurance-program-2/elevation-certificate</a>, or talk to an insurance agent. With an Elevation Certificate, the agent can calculate the full-risk rate.</p>
<b>FLOODPROOFING</b> to make a building watertight also influences flood insurance rates for businesses	<p>Dry-floodproofing a building can lead to lower rates, if an engineer certifies that the design, construction methods, and materials make the building watertight to at least one foot above the BFE. The higher above BFE it can be certified, the lower the rates.</p> <p>To obtain the rating credit, the design professional must complete a Floodproofing Certificate form. To learn more, information can be found in the NFIP Technical Bulletin 3, Non-Residential Floodproofing – Requirements and Certification found at: <a href="http://fema.gov/media-library/resources-documents/collections">fema.gov/media-library/resources-documents/collections</a></p>

## FOR MORE INFORMATION

Learn more about flood risk and find an agent at [FloodSmart.gov](http://FloodSmart.gov)

To keep current as FEMA implements changes to the NFIP based on recent legislation, visit [fema.gov/flood-insurance-reform](http://fema.gov/flood-insurance-reform)

Policyholders who have questions about their flood insurance policies should contact their insurance agents.



# Changes to the National Flood Insurance Program – What to Expect

**Impact of changes to the NFIP under Homeowner Flood Insurance Affordability Act of 2014**



# Executive Summary – HFIAA

## HFIAA-14 Sections

Listed by FEMA division responsible, in processing order, by bundle

### Front Office

§24: Designation of Flood Insurance Advocate (10% Complete) Priority - 4

### Risk Insurance Division (RID) Policy & Rate Reforms

§3: Repeal of Certain Rate Increases (100% Complete)

§5: Requirements Regarding Annual Rate Increases (100% Complete)

§6: Clarification of Rates for Properties Newly Mapped into Areas with Special Flood Hazards (5% Complete) Priority - 2

§4: Restoration of Grandfathered Rates (5% Complete) Priority - 2

§28: Clear Communications (5% Complete) Priority - 2

§11: Monthly Installments for Premiums (50% Complete) Priority - 5

§8: Annual Premium Surcharge (5% Complete) Priority - 6

§12: Optional High-deductible Policies for Residential Properties (50% Complete) Priority - 6

§14: Accounting for Flood Mitigation Activities in Estimates of Premium rates (5% Complete) Priority - 8

§29: Protection of Small Businesses, Non-profits, Houses of Worship, and Residences (5% Complete) Priority - 12

§31(b): Disclosures (70% Complete) Priority - 13

§16: Affordability Study and Report (30% Complete) Priority - 14

§9: Draft Affordability Framework (5% Complete) Priority - 14

§20: Quarterly Reports Regarding Reserve Fund Ratio (95% Complete) Priority - 15

§7: Premiums and Reports (50% Complete) Priority - 16

§15: Home Improvement Fairness (100% Complete)

### Risk Analysis Division (RAD) Map Program Updates

§30: Mapping (45% Complete) Priority - 3

§17: Flood Insurance Rate Map Certifications (5% Complete) Priority - 7

§19: Flood Protection Systems (25% Complete) Priority - 10

§18: Funds to Reimburse Homeowners for Successful Map Appeals (5% Complete) Priority - 11

§22: Exemption from Fees for Certain Map Change Requests (40% Complete) Priority - 17

§27: Mapping of Non-Structural Flood Mitigation Features (60% Complete) Priority - 18

### Risk Reduction Division (RRD) Action in Progress

§26: Flood Mitigation Methods for Buildings (10% Complete) Priority - 8

§23: Study of Voluntary Community-based Flood Insurance Options (15% Complete) Priority - 9

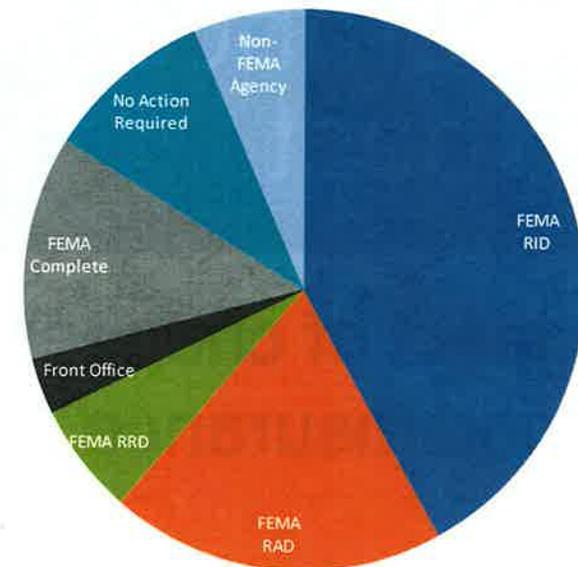
§21: Treatment of Floodproofed Residential Basements (100% Complete)

The grey box groupings show how sections are bundled (for regulatory processing, WYO announcement, consolidated report or due to interdependencies)

## FEMA HFIAA-14 IMPLEMENTATION STATUS

As of July 2014, FEMA has met requirements to complete 4 of the 26 HFIAA-14 sections that require its action. To date, FEMA has met 15% of its total HFIAA-14 section completion responsibility.

HFIAA-14 Responsibility  
By Section



- Sections in Progress with FEMA Risk Insurance Division [RID] (13)
- Sections in Progress with FEMA Risk Analysis Division [RAD] (6)
- Sections in Progress with FEMA Risk Reduction Division [RRD] (2)
- Sections in Progress with FEMA Front Office (1)
- Sections Completed by FEMA to Date (4)
- No Action Required (3)
- Non-FEMA Agency Responsible (2)

# More Changes are Coming to the NFIP

- **On March 21, 2014, President Obama signed the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) into law.**

- Repeals and modifies certain provisions of Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters)
- Makes additional program changes
- Leaves some parts of Biggert-Waters intact.

- **FEMA continues to work with Write Your Own (WYO) insurance company partners, Congress, others to implement.**

- Prior to restoring and refunding premiums, the law requires FEMA to consult with its WYO insurance companies to develop implementation guidance.
- As a result, FEMA has already issued HFIAA compliant rate tables and issued the required refund guidance.

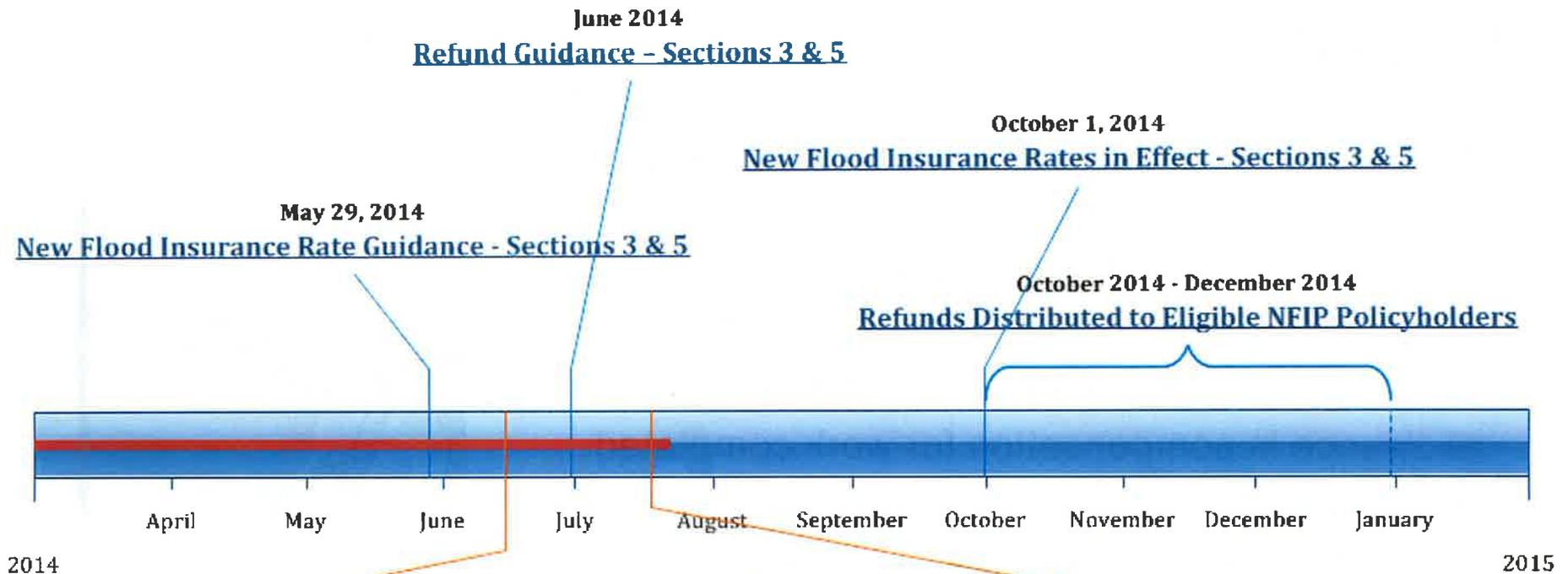
- **Refunds to be issued on or after October 1, 2014 and will be completed by the end of the year.**



# Key Priorities

- FEMA continues to analyze and implement the new Act.
- Initial Priority
  - FEMA's initial priority was to **stop policy increases** for subsidized policyholders as outlined in the Act.
- Key Priorities include:
  - Refunds, Rates, and Surcharges
  - Mapping
  - Promote Mitigation
  - Flood Insurance Advocate

# Key Priority Timeline



**June 2014**  
Enhanced Communications - Section 30  
 FEMA has begun notifying Members of Congress when constituents in their District will be affected by a flood mapping update. The monthly updates are archived on the FEMA website at <http://www/fema.gov/risk-mapping-assessment-planning>.

**July 2014**  
Technical Mapping Advisory Council (TMAC) - Section 30  
 FEMA announced the selection of the TMAC members on July 15, 2014 and will schedule the first administrative meeting of the council for August.

# Refunds, Rates, and Surcharges

## Refunds

- The new Act mandates refunds of the excess premiums for certain flood insurance policies affected by the Pre-Flood Insurance Rate Map (Pre-FIRM) subsidy elimination required by BW-12.
- WYOs will be permitted to retain the expense allowance in compensation for work completed.
- **Refunds to be issued on or after October 1, 2014 and will be completed by the end of the year.**



# Refunds, Rates, and Surcharges

## Premium Rates for Subsidized Policies

- Exceptions to these general rules and limitations:
  - Policies for the following properties will continue to see up to 25 percent annual increases as required by BW-12 until they reach their full-risk rate:
    - Older business properties insured with subsidized rates;
    - Older non-primary residences insured with subsidized rates;
    - Severe Repetitive Loss Properties insured with subsidized rates;
    - Buildings that have been substantially damaged or improved built after the local adoption of a Flood Insurance Rate Map.

# Rates, Refunds and Surcharges

- **New Manual expected to be released in October 2014 and will include implementation of other important provisions including:**
- **Gradual Rate Increases**
  - Section 3 and Section 5 of the HFIAA return premium subsidies to some pre-FIRM policies, but also prohibit increasing premiums by more than **5 to 15 percent for any risk class** and **18 percent for an individual policy** with some exceptions
  - Future rates will be issued in compliance with these gradual increases.
- **Surcharges**
  - A new surcharge will be added to all policies to offset the subsidized policies and increase the solvency of the NFIP program. A policy for a primary residence will include a \$25 surcharge. All other policies will include a \$250 surcharge. These fees will be included on all policies, including full-risk rated policies until all Pre-FIRM subsidies are eliminated

# Mapping

## **Enhanced Communication and Outreach**

- FEMA will continue Mapping activities
- BW-12 requires FEMA to enhance coordination with communities before and during mapping activities and requires FEMA to report certain information to members of Congress for each State and congressional district affected by preliminary maps.
- Sec. 30 of HFIAA requires additional layers of enhanced notification and outreach to congress and other stakeholders.

## **Technical Mapping Advisory Council**

- The Technical Mapping Advisory Council (TMAC) has been established and will convene within the next month.
  - The TMAC will review the new national flood mapping program activities authorized under the 2012 and 2014 flood insurance reform laws.
  - FEMA will seek the TMAC 's recommendations on meeting new requirements for the new mapping program including the identification of residual risk areas, coastal flooding information, land subsidence, erosion, expected changes in flood hazards with time, and others.
  - The law requires the Administrator to certify in writing to Congress that FEMA is utilizing “technically credible” data and mapping approaches.

# Technical Mapping Advisory Council (TMAC)

- **Appointments are complete and an informational call has been scheduled with members**
  - A closed administrative call scheduled for September 10, 2014
- **The first in-person public meeting has been scheduled**
  - The first in-person public meeting of the TMAC is currently scheduled for September 30-October 1 at the United States Geological Survey (USGS) Auditorium in Reston, Virginia
  - A Federal Register Notice will be published with agenda and public comment information
  - The TMAC is anticipated to hold 3 virtual and 3 in-person public meetings within its first year (October 2014-October 2015)

# TMAC Appointees

- **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DESIGNEE**
  - Doug Bellomo, P.E. – Director, Risk Analysis Division (RAD), FEMA.
- **NATIONAL OCEANIC AND AIR ATMOSPHERIC (NOAA) / COMMERCE FOR OCEANS AND ATMOSPHERE DESIGNEE**
  - Juliana Blackwell – Director, National Geodetic Survey (NGS), National Oceanic and Atmospheric Administration (NOAA)
- **U.S. ARMY CORPS OF ENGINEERS DESIGNEE**
  - Nancy Blyler, Geospatial Coordinator
- **STATE GEOGRAPHIC INFORMATION SYSTEM (GIS) REPRESENTATIVE**
  - Richard Butgereit, GISP - GIS Administrator, Florida Division of Emergency Management
- **U.S. GEOLOGICAL SURVEY REPRESENTATIVE**
  - Mark DeMulder – Director, National Geospatial Program, U.S. Geological Survey (USGS)

# TMAC Appointees (continued)

- **STATE COOPERATING TECHNICAL PARTNERS (CTP) REPRESENTATIVES (2)**
  - John Dorman - Director, Emergency Management Division, Geospatial and Technology Management Office, North Carolina State Government
  - Leslie Durham, P.E. - Director, Floodplain Management Unit, Alabama Department of Economic and Community Affairs/Office of Water Resources
- **MAPPING MEMBER**
  - Scott Edelman, P.E. - Division Director for North America, AECOM Water Resources
- **STATE MITIGATION OFFICER**
  - Steve Ferryman, CFM - Mitigation and Recovery Administrator, Emergency Management Agency, State Government of Ohio
- **REGIONAL FLOOD AND STORMWATER MEMBER**
  - Gale Wm. Fraser, II - General Manager and Chief Engineer, Clark County Regional Flood Control District

# TMAC Appointees (continued)

- **LOCAL COOPERATING TECHNICAL PARTNER (CTP) REPRESENTATIVES (2)**
  - David Mallory, P.E. - Manager, Urban Drainage & Flood Control District's Floodplain Management Program
  - Carrie Grassi, Senior Policy Advisor, Mayor's Office of Long-Term Planning and Sustainability, New York City
- **ENGINEERING MEMBER**
  - Christopher P. Jones, P.E. - Registered Professional Engineer
- **RISK MANAGEMENT MEMBER**
  - Howard Kunreuther, Professor of Decision Sciences and Public Policy, The Wharton School, University of Pennsylvania
- **SURVEYING MEMBER**
  - Wendy Lathrop, PLS, CFM - President and owner, Cadastral Consulting, LLC
- **CATEGORY: DEPARTMENT OF INTERIOR (DOI) DESIGNEE**
  - Robert Mason - Deputy Chief, Office of Surface Water, Department of Interior

# TMAC Appointees (continued)

- **STATE FLOODPLAIN MANAGEMENT MEMBER**

- Sally Ann McConkey, P.E., CFM, Diplomat, Water Resources Engineer (D.WRE)  
- Illinois State Water Survey (ISWS), Prairie Research Institute, University of Illinois

- **U.S. DEPARTMENT OF AGRICULTURE (USDA) DESIGNEE**

- To be confirmed.

- **NATIONAL FLOOD INSURANCE COORDINATION OFFICE REPRESENTATIVE**

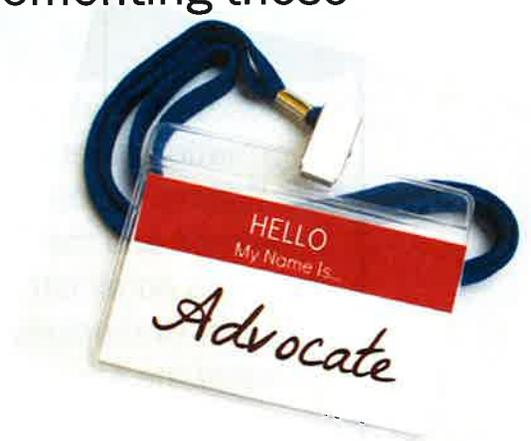
- Christine Shirley – Oregon State NFIP Coordinator, Natural Hazards Program Group Leader

- **FLOOD HAZARD DETERMINATION FIRM MEMBER**

- Cheryl Small - Vice President of Operations, CoreLogic Flood Services

# Flood Insurance Advocate

- FIMA Leadership requested a compilation of options that FEMA could evaluate to determine how best to comply with Section 24 of the HFIAA
- FEMA has identified a broad initial approach for implementing these requirements that involves three main elements:
  - Analysis and Evaluation.
  - Advocacy.
  - Policy.
- Activities to date:
  - Federal Agency interviews and feedback collection
  - Staff perspective and understanding of education and outreach currently happening
  - Data Analytics



# Flood Insurance Advocate Overview

## Investigative Methodology and Activities

### Federal Agency Benchmarks

- Conducted interviews and information meetings with the Federal Office of Insurance and the Small Business Administration's Office of Ombudsman and Office of the Advocate
- Additional meetings planned with the IRS Office of Taxpayer Advocate's office, Fannie Mae/Freddie Mac, Consumer Financial Protection Bureau, and USDA's Federal Crop Insurance Corporation

### Internal and External Stakeholder Engagement

- Met with FEMA- wide leadership and staff through meetings and listening sessions to gather programmatic perspectives on the law and organization expectations
- Meeting private sector stakeholders to understand the wide range of perspectives, expectations and needs relating to Flood Insurance Advocate

### Data Analysis

- Collecting and evaluating leadership, public and partnership data to identify trends, indicators, challenges and best practices to best prepare the advocate for success

# Preliminary Findings

- Over the existing three call centers today, FIMA currently handles more than 800,000 inquiries (calls, emails, online chats) per year assisting policyholders and homeowners, as well as communities and partner organizations
- Advocacy is taking place in FIMA in the form of education and outreach
  - Through the established FIMA programs
  - As mandated by law whether previous legislation or through the Homeowner Flood Insurance Affordability Act
- Stakeholders have an understanding of advocacy driven by the title of Flood Insurance Advocate leading to expectations beyond the roles and responsibilities as outlined in Section 24

# Preliminary Opportunities

- The Flood Insurance Advocate has the opportunity to work with existing FIMA operations to coordinate advocacy in place and establish centralized knowledge bases
- Further evaluation of inquiries not related to general policy questions may identify areas where the Flood Insurance Advocate is able to act as a catalyst for strengthening the public's understanding of the NFIP
- The Flood Insurance Advocate may leverage existing partnerships with internal and external stakeholders to provide policy holders and homeowners additional necessary education and outreach related to mapping, mitigation and insurance information

# Next Steps and Considerations

- The range of views and expectations on advocacy require further discussion to identify the intent of Section 24
- Meetings with private sector stakeholders and federal agencies will continue through the end of August
- Initial options for the stand up of the Flood Insurance Advocate will be delivered to FIMA leadership by Fall 2014, with stand up of the Advocate in FY2015
- Stand up of the Flood Insurance Advocate is subject to allocation of funds, as well as the impact of financial authorizations and disaster activity

# More Information & Updates

- For more information and updates as they become available, visit: <http://www.fema.gov/flood-insurance-reform>.