

(3) assist State governments, Indian tribal governments, local governments, and non-profit organizations in developing emergency management and evacuation plans that account for the care and rescue of animals and in improving local readiness for providing veterinary medical response during an emergency or major disaster; and

(4) coordinate with the Department of Homeland Security, the Department of Health and Human Services, the Department of Agriculture, State, local, and Indian tribal governments (including departments of animal and human health), veterinary and health care professionals, and volunteers.

(Pub. L. 115-254, div. D, §1218, Oct. 5, 2018, 132 Stat. 3452.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115-254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93-288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115-254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definition of “State” as used in this section, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

§ 5170. Procedure for declaration

(a) In general

All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this chapter, the Governor shall take appropriate response action under State law and direct execution of the State’s emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements of this chapter. Based on the request of a Governor under this section, the President may declare under this chapter that a major disaster or emergency exists.

(b) Indian tribal government requests

(1) In general

The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that a major disaster exists consistent with the requirements of subsection (a).

(2) References

In implementing assistance authorized by the President under this chapter in response to a request of the Chief Executive of an affected Indian tribal government for a major disaster declaration, any reference in this subchapter or subchapter III (except sections 5153 and 5165d of this title) to a State or the Governor of a State is deemed to refer to an affected Indian tribal government or the Chief Executive of an affected Indian tribal government, as appropriate.

(3) Savings provision

Nothing in this subsection shall prohibit an Indian tribal government from receiving assistance under this subchapter through a declaration made by the President at the request of a State under subsection (a) if the President does not make a declaration under this subsection for the same incident.

(c) Cost share adjustments for Indian tribal governments

(1) In general

In providing assistance to an Indian tribal government under this subchapter, the President may waive or adjust any payment of a non-Federal contribution with respect to the assistance if—

(A) the President has the authority to waive or adjust the payment under another provision of this subchapter; and

(B) the President determines that the waiver or adjustment is necessary and appropriate.

(2) Criteria for making determinations

The President shall establish criteria for making determinations under paragraph (1)(B).

(Pub. L. 93-288, title IV, §401, as added Pub. L. 100-707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4696; amended Pub. L. 113-2, div. B, §1110(a), Jan. 29, 2013, 127 Stat. 47.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 401 of Pub. L. 93-288 was renumbered section 405 by Pub. L. 100-707 and is classified to section 5171 of this title.

AMENDMENTS

2013—Pub. L. 113-2 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

Statutory Notes and Related Subsidiaries**PRELIMINARY DAMAGE ASSESSMENT**

Pub. L. 117-263, div. E, title LVI, §5603, Dec. 23, 2022, 136 Stat. 3405, provided that:

“(a) FINDINGS.—Congress finds the following:

“(1) Preliminary damage assessments play a critical role in assessing and validating the impact and magnitude of a disaster.

“(2) Through the preliminary damage assessment process, representatives from the Federal Emergency Management Agency validate information gathered by State and local officials that serves as the basis for disaster assistance requests.

“(3) Various factors can impact the duration of a preliminary damage assessment and the corresponding submission of a major disaster request, however, the average time between when a disaster occurs, and the submission of a corresponding disaster request has been found to be approximately twenty days longer for flooding disasters.

“(4) With communities across the country facing increased instances of catastrophic flooding and other extreme weather events, accurate and efficient preliminary damage assessments have become critically important to the relief process for impacted States and municipalities.

“(b) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 23, 2022], the Administrator of the Federal Emergency Management Agency shall submit to Congress a report describing the preliminary damage assessment process, as supported by the Federal Emergency Management Agency in the 5 years before the date of enactment of this Act.

“(2) CONTENTS.—The report described in paragraph (1) shall contain the following:

“(A) The process of the Federal Emergency Management Agency for deploying personnel to support preliminary damage assessments.

“(B) The number of Agency staff participating on disaster assessment teams.

“(C) The training and experience of such staff described in subparagraph (B).

“(D) A calculation of the average amount of time disaster assessment teams described in subparagraph (A) are deployed to a disaster area.

“(E) The efforts of the Agency to maintain a consistent liaison between the Agency and State, local, tribal, and territorial officials within a disaster area.

“(c) PRELIMINARY DAMAGE ASSESSMENT.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall convene an advisory panel consisting of emergency management personnel employed by State, local, territorial, or tribal authorities, and the representative organizations of such personnel to assist the Agency in improving critical components of the preliminary damage assessment process.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—This advisory panel shall consist of at least 2 representatives from national emergency management organizations and at least 1 representative from each of the 10 regions of the Federal Emergency Management Agency, selected from emergency management personnel employed by State, local, territorial, or tribal authorities within each region.

“(B) INCLUSION ON PANEL.—To the furthest extent practicable, representation on the advisory panel shall include emergency management personnel from both rural and urban jurisdictions.

“(3) CONSIDERATIONS.—The advisory panel convened under paragraph (1) shall—

“(A) consider—

“(i) establishing a training regime to ensure preliminary damage assessments are conducted and reviewed under consistent guidelines;

“(ii) utilizing a common technological platform to integrate data collected by State and local governments with data collected by the Agency; and

“(iii) assessing instruction materials provided by the Agency for omissions of pertinent information or language that conflicts with other statutory requirements; and

“(B) identify opportunities for streamlining the consideration of preliminary damage assessments by the Agency, including eliminating duplicative paperwork requirements and ensuring consistent communication and decision making among Agency staff.

“(4) INTERIM REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to Congress a report regarding the findings of the advisory panel, steps that will be undertaken by the Agency to implement the findings of the advisory panel, and additional legislation that may be necessary to implement the findings of the advisory panel.

“(5) RULEMAKING AND FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall issue such regulations as are necessary to implement the recommendations of the advisory panel and submit to Congress a report discussing—

“(A) the implementation of recommendations from the advisory panel;

“(B) the identification of any additional challenges to the preliminary damage assessment process, including whether specific disasters result in longer preliminary damage assessments; and

“(C) any additional legislative recommendations necessary to improve the preliminary damage assessment process.”

LOCAL IMPACT

Pub. L. 115-254, div. D, §1232, Oct. 5, 2018, 132 Stat. 3460, provided that:

“(a) IN GENERAL.—In making recommendations to the President regarding a major disaster declaration, the Administrator of the Federal Emergency Management Agency shall give greater consideration to severe local impact or recent multiple disasters. Further, the Administrator shall make corresponding adjustments to the [Federal Emergency Management] Agency’s policies and regulations regarding such consideration. Not later than 1 year after the date of enactment of this section [Oct. 5, 2018], the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the changes made to regulations and policies and the number of declarations that have been declared based on the new criteria.

“(b) EFFECTIVE DATE.—This section shall be effective on the date of enactment of this Act [Oct. 5, 2018].”

COST OF ASSISTANCE ESTIMATES

Pub. L. 115-254, div. D, §1239, Oct. 5, 2018, 132 Stat. 3466, provided that:

“(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Emergency Management Agency] shall review the factors considered when evaluating a request for a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), specifically the estimated cost of the assistance, and provide a report and briefing to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(b) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Administrator shall review and initiate a rulemaking to update the factors considered when evaluating a Governor’s request for a

major disaster declaration, including reviewing how the [Federal Emergency Management] Agency estimates the cost of major disaster assistance, and consider other impacts on the capacity of a jurisdiction to respond to disasters. In determining the capacity of a jurisdiction to respond to disasters, and prior to the issuance of such a rule, the Administrator shall engage in meaningful consultation with relevant representatives of State, regional, local, and Indian tribal government stakeholders.”

[For definition of “State” as used in section 1239 of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.]

INDIVIDUAL ASSISTANCE FACTORS

Pub. L. 113-2, div. B, §1109, Jan. 29, 2013, 127 Stat. 47, provided that: “In order to provide more objective criteria for evaluating the need for assistance to individuals, to clarify the threshold for eligibility and to speed a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), not later than 1 year after the date of enactment of this division [Jan. 29, 2013], the Administrator of the Federal Emergency Management Agency, in cooperation with representatives of State, tribal, and local emergency management agencies, shall review, update, and revise through rule-making the factors considered under section 206.48 of title 44, Code of Federal Regulations (including section 206.48(b)(2) of such title relating to trauma and the specific conditions or losses that contribute to trauma), to measure the severity, magnitude, and impact of a disaster.”

§ 5170a. General Federal assistance

In any major disaster, the President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance response or recovery efforts, including precautionary evacuations;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments, including precautionary evacuations and recovery;

(3) provide technical and advisory assistance to affected State and local governments for—

(A) the performance of essential community services;

(B) issuance of warnings of risks and hazards;

(C) public health and safety information, including dissemination of such information;

(D) provision of health and safety measures;

(E) management, control, and reduction of immediate threats to public health and safety; and

(F) recovery activities, including disaster impact assessments and planning;

(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance;

(5) provide assistance to State and local governments for building code and floodplain management ordinance administration and enforcement, including inspections for substantial damage compliance; and

(6) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.

(Pub. L. 93-288, title IV, §402, as added Pub. L. 100-707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4696; amended Pub. L. 109-295, title VI, §681(a), Oct. 4, 2006, 120 Stat. 1444; Pub. L. 115-254, div. D, §1206(a), Oct. 5, 2018, 132 Stat. 3440.)

Editorial Notes

PRIOR PROVISIONS

A prior section 402 of Pub. L. 93-288 was classified to section 5172 of this title prior to repeal by Pub. L. 100-707.

AMENDMENTS

2018—Pars. (5), (6). Pub. L. 115-254 added par. (5) and redesignated former par. (5) as (6).

2006—Par. (1). Pub. L. 109-295, §681(a)(1), substituted “response or recovery efforts, including precautionary evacuations” for “efforts”.

Par. (2). Pub. L. 109-295, §681(a)(2), substituted “, including precautionary evacuations and recovery;” for semicolon at end.

Par. (3)(F). Pub. L. 109-295, §681(a)(3), added subpar. (F).

Par. (5). Pub. L. 109-295, §681(a)(4), (5), added par. (5).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

§ 5170b. Essential assistance

(a) In general

Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

(1) Federal resources, generally

Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this chapter.

(2) Medicine, food, and other consumables

Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster

assistance organizations medicine durable medical equipment,¹ food, and other consumable supplies, and other services and assistance to disaster victims.

(3) Work and services to save lives and protect property

Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including—

- (A) debris removal;
- (B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine durable medical equipment,¹ and other essential needs, including movement of supplies or persons;
- (C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;
- (D) provision of temporary facilities for schools and other essential community services;
- (E) demolition of unsafe structures which endanger the public;
- (F) warning of further risks and hazards;
- (G) dissemination of public information and assistance regarding health and safety measures;
- (H) provision of technical advice to State and local governments on disaster management and control;
- (I) reduction of immediate threats to life, property, and public health and safety; and
- (J) provision of rescue, care, shelter, and essential needs—
 - (i) to individuals with household pets and service animals; and
 - (ii) to such pets and animals.

(4) Contributions

Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

(b) Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

(c) Utilization of DOD resources

(1) General rule

During the immediate aftermath of an incident which may ultimately qualify for assistance under this subchapter or subchapter IV-A of this chapter, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant

such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) Rules applicable to debris removal

Any removal of debris and wreckage carried out under this subsection shall be subject to section 5173(b) of this title, relating to unconditional authorization and indemnification for debris removal.

(3) Expenditures out of disaster relief funds

The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this chapter.

(4) Federal share

The Federal share of assistance under this subsection shall be not less than 75 percent.

(5) Guidelines

Not later than 180 days after November 23, 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this chapter.

(6) Definitions

For purposes of this section—

(A) Department of Defense

The term “Department of Defense” has the meaning the term “department” has under section 101 of title 10.

(B) Emergency work

The term “emergency work” includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

(d) Salaries and benefits

(1) In general

If the President declares a major disaster or emergency for an area within the jurisdiction of a State, tribal, or local government, the President may reimburse the State, tribal, or local government for costs relating to—

(A) basic pay and benefits for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section, if—

- (i) the work is not typically performed by the employees; and
- (ii) the type of work may otherwise be carried out by contract or agreement with private organizations, firms, or individuals;² or

(B) overtime and hazardous duty compensation for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section.

(2) Overtime

The guidelines for reimbursement for costs under paragraph (1) shall ensure that no State,

¹So in original. The extra comma probably should follow “medicine”.

²So in original.

tribal, or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) No effect on mutual aid pacts

Nothing in this subsection shall affect the ability of the President to reimburse labor force expenses provided pursuant to an authorized mutual aid pact.

(Pub. L. 93-288, title IV, § 403, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4697; amended Pub. L. 109-295, title VI, § 689(b), Oct. 4, 2006, 120 Stat. 1449; Pub. L. 109-308, § 4, Oct. 6, 2006, 120 Stat. 1726; Pub. L. 113-2, div. B, § 1108(b), Jan. 29, 2013, 127 Stat. 47; Pub. L. 115-254, div. D, § 1217(d), Oct. 5, 2018, 132 Stat. 3452.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c)(1), (3), (5), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (d)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 403 of Pub. L. 93-288 was renumbered section 407 by Pub. L. 100-707 and is classified to section 5173 of this title.

AMENDMENTS

2018—Subsec. (a)(3)(J). Pub. L. 115-254 struck out subpar. (J) added by Pub. L. 109-308, which was identical to subpar. (J) added by Pub. L. 109-295. See 2006 Amendment note below.

2013—Subsec. (d). Pub. L. 113-2 added subsec. (d).

2006—Subsec. (a)(2), (3)(B). Pub. L. 109-295, § 689(b)(1), (2)(A), inserted “durable medical equipment,” after “medicine”.

Subsec. (a)(3)(J). Pub. L. 109-295, § 689(b)(2)(B)–(D), and Pub. L. 109-308 amended par. (3) by adding identical subpars. (J).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

Executive Documents

MAXIMIZING ASSISTANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO RESPOND TO COVID-19

Memorandum of President of the United States, Mar. 1, 2022, 87 F.R. 12391, provided:

Memorandum for the Secretary of Homeland Security [and] the Administrator of the Federal Emergency Management Agency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Re-

lief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”), I hereby order as follows:

SECTION 1. Policy. It is the policy of my Administration to combat and respond to the coronavirus disease 2019 (COVID-19) pandemic with the full capacity and capability of the Federal Government to protect and support our families, schools, and businesses, and to assist State, local, Tribal, and territorial governments to do the same, including through emergency and disaster assistance available from the Federal Emergency Management Agency (FEMA) and through Federal support of the Governors’ use of the National Guard.

SEC. 2. Assistance for Category B COVID-19 Emergency Protective Measures. FEMA shall provide a 100 percent Federal cost share for all work eligible for assistance under Public Assistance Category B, pursuant to sections 403 (42 U.S.C. 5170b), 502 (42 U.S.C. 5192), and 503 (42 U.S.C. 5193) of the Stafford Act, including work described in section 3(a) of the Presidential Memorandum of January 21, 2021 (Memorandum to Extend Federal Support to Governors’ Use of the National Guard to Respond to COVID-19 and to Increase Reimbursement and Other Assistance Provided to States) [32 U.S.C. 502 note], and in section 2 of that memorandum on the Governors’ use of the National Guard, performed from January 20, 2020, through July 1, 2022.

SEC. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Administrator of FEMA is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

Prior provisions related to maximizing assistance from the Federal Emergency Management Agency to respond to COVID-19 were contained in the following:

Memorandum of President of the United States, Dec. 27, 2021, 87 F.R. 27.

Memorandum of President of the United States, Nov. 9, 2021, 86 F.R. 64055.

Memorandum of President of the United States, Aug. 17, 2021, 86 F.R. 46759.

Memorandum of President of the United States, Feb. 2, 2021, 86 F.R. 8281.

§ 5170c. Hazard mitigation

(a) In general

The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, or increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster, or any area affected by a fire for which assistance was provided under section 5187 of this title. Such measures shall be identified following the evaluation of natural hazards under section 5165 of this title and shall be subject to approval by the President. Subject to section 5165 of this title, the total of contributions under this section for a major disaster or event under section 5187 of this title shall not exceed

15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster or event under section 5187 of this title.

(b) Property acquisition and relocation assistance

(1) General authority

In providing hazard mitigation assistance under this section in connection with flooding, the Administrator of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

(2) Terms and conditions

An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

(B) on or after December 3, 1993, the applicant for the assistance enters into an agreement with the Administrator that provides assurances that—

(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

(I) a public facility that is open on all sides and functionally related to a designated open space;

(II) a rest room; or

(III) a structure that the Administrator approves in writing before the commencement of the construction of the structure; and

(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

(3) Statutory construction

Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before December 3, 1993.

(c) Program administration by States

(1) In general

A State desiring to administer the hazard mitigation grant program established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority to administer the program.

(2) Criteria

The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program. The criteria shall include, at a minimum—

(A) the demonstrated ability of the State to manage the grant program under this section;

(B) there being in effect an approved mitigation plan under section 5165 of this title; and

(C) a demonstrated commitment to mitigation activities.

(3) Approval

The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).

(4) Withdrawal of approval

If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

(5) Audits

The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.

(d) Streamlined procedures

(1) In general

For the purpose of providing assistance under this section, the President shall ensure that—

(A) adequate resources are devoted to ensure that applicable environmental reviews under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and historic preservation reviews under the National Historic Preservation Act¹ are completed on an expeditious basis; and

(B) the shortest existing applicable process under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and the National Historic Preservation Act¹ is utilized.

(2) Authority for other expedited procedures

The President may utilize expedited procedures in addition to those required under para-

¹ See References in Text note below.

graph (1) for the purpose of providing assistance under this section, such as procedures under the Prototype Programmatic Agreement of the Federal Emergency Management Agency, for the consideration of multiple structures as a group and for an analysis of the cost-effectiveness and fulfillment of cost-share requirements for proposed hazard mitigation measures.

(e) Advance assistance

The President may provide not more than 25 percent of the amount of the estimated cost of hazard mitigation measures to a State grantee eligible for a grant under this section before eligible costs are incurred.

(f) Use of assistance

Recipients of hazard mitigation assistance provided under this section and section 5133 of this title may use the assistance to conduct activities to help reduce the risk of future damage, hardship, loss, or suffering in any area affected by a wildfire or windstorm, such as—

- (1) reseeding ground cover with quick-growing or native species;
- (2) mulching with straw or chipped wood;
- (3) constructing straw, rock, or log dams in small tributaries to prevent flooding;
- (4) placing logs and other erosion barriers to catch sediment on hill slopes;
- (5) installing debris traps to modify road and trail drainage mechanisms;
- (6) modifying or removing culverts to allow drainage to flow freely;
- (7) adding drainage dips and constructing emergency spillways to keep roads and bridges from washing out during floods;
- (8) planting grass to prevent the spread of noxious weeds;
- (9) installing warning signs;
- (10) establishing defensible space measures;
- (11) reducing hazardous fuels;
- (12) mitigating windstorm and wildfire damage, including—
 - (A) replacing or installing electrical transmission or distribution utility pole structures with poles that are resilient to extreme wind, wildfire, and combined ice and wind loadings for the basic wind speeds and ice conditions associated with the relevant location; and
 - (B) the installation of fire-resistant wires and infrastructure and the undergrounding of wires;
- (13) removing standing burned trees; and
- (14) replacing water systems that have been burned and have caused contamination.

(g) Use of assistance for earthquake hazards

Recipients of hazard mitigation assistance provided under this section and section 5133 of this title may use the assistance to conduct activities to help reduce the risk of future damage, hardship, loss, or suffering in any area affected by earthquake hazards, including—

- (1) improvements to regional seismic networks in support of building a capability for earthquake early warning;
- (2) improvements to geodetic networks in support of building a capability for earthquake early warning; and

(3) improvements to seismometers, Global Positioning System receivers, and associated infrastructure in support of building a capability for earthquake early warning.

(Pub. L. 93-288, title IV, §404, as added Pub. L. 100-707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4698; amended Pub. L. 103-181, §§2(a), 3, Dec. 3, 1993, 107 Stat. 2054; Pub. L. 106-390, title I, §104(c)(1), title II, §204, Oct. 30, 2000, 114 Stat. 1559, 1561; Pub. L. 108-7, div. K, title IV, §417, Feb. 20, 2003, 117 Stat. 525; Pub. L. 109-295, title VI, §684, Oct. 4, 2006, 120 Stat. 1447; Pub. L. 111-351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864; Pub. L. 113-2, div. B, §1104(a), (b), Jan. 29, 2013, 127 Stat. 43; Pub. L. 115-254, div. D, §§1204(b)(1), 1205, 1233, 1235(a), Oct. 5, 2018, 132 Stat. 3439, 3460, 3463; Pub. L. 117-58, div. D, title I, §40102, Nov. 15, 2021, 135 Stat. 928.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The National Historic Preservation Act, referred to in subsec. (d)(1), is Pub. L. 89-665, Oct. 15, 1966, 80 Stat. 915, which was classified generally to subchapter II (§470 et seq.) of chapter 1A of Title 16, Conservation. The Act, except for section 1, was repealed and restated in division A (§300101 et seq.) of subtitle III of Title 54, National Park Service and Related Programs, by Pub. L. 113-287, §§3, 7, Dec. 19, 2014, 128 Stat. 3094, 3272. For complete classification of this Act to the Code, see Tables. For disposition of former sections of Title 16, see Disposition Table preceding section 100101 of Title 54.

PRIOR PROVISIONS

A prior section 404 of Pub. L. 93-288 was classified to section 5174 of this title prior to repeal by Pub. L. 100-707.

AMENDMENTS

2021—Subsec. (f)(12). Pub. L. 117-58 inserted “and wildfire” after “windstorm” and substituted “including—” for “including”, inserted subpar. (A) designation before “replacing” and “, wildfire,” after “extreme wind”, and added subpar. (B).

2018—Subsec. (a). Pub. L. 115-254, §1204(b)(1), inserted “, or any area affected by a fire for which assistance was provided under section 5187 of this title” after “affected by a major disaster” in first sentence as inserted by section 1235(a) of Pub. L. 115-254, and inserted “or event under section 5187 of this title” after “major disaster” in two places in third sentence.

Pub. L. 115-254, §1235(a), substituted “The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, or increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster.” for “The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster.”

Subsec. (f). Pub. L. 115-254, §1205, added subsec. (f).

Subsec. (g). Pub. L. 115-254, §1233, added subsec. (g).

2013—Subsec. (c)(2). Pub. L. 113-2, §1104(b), inserted “Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program.” after “applications submitted under paragraph (1).” in introductory provisions.

Subsecs. (d), (e). Pub. L. 113-2, §1104(a), added subsecs. (d) and (e).

2011—Subsec. (b)(1), (2). Pub. L. 111-351 substituted “Administrator” for “Director” wherever appearing.

2006—Subsec. (a). Pub. L. 109-295, in last sentence, substituted “15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000” for “7.5 percent”.

2003—Subsec. (a). Pub. L. 108-7 substituted “7.5 percent” for “15 percent”.

2000—Subsec. (a). Pub. L. 106-390, §104(c)(1), substituted “section 5165” for “section 5176” in second sentence and “Subject to section 5165 of this title, the total” for “The total” in third sentence.

Subsec. (c). Pub. L. 106-390, §204, added subsec. (c).

1993—Pub. L. 103-181 designated existing provisions as subsec. (a), inserted heading, substituted “75 percent” for “50 percent” in first sentence, substituted “15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster” for “10 percent of the estimated aggregate amounts of grants to be made under section 5172 of this title with respect to such major disaster” in last sentence, and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-2, div. B, §1104(c), Jan. 29, 2013, 127 Stat. 43, provided that: “The authority under the amendments made by this section [amending this section] shall apply to—

“(1) any major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after the date of enactment of this division [Jan. 29, 2013]; and

“(2) a major disaster or emergency declared under that Act before the date of enactment of this division for which the period for processing requests for assistance has not ended as of the date of enactment of this division.”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-181, §2(b), Dec. 3, 1993, 107 Stat. 2054, provided that: “The amendments made by this section [amending this section] shall apply to any major disaster declared by the President pursuant to The [the] Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including

the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

HAZARD ELIGIBILITY AND LOCAL PROJECTS

Pub. L. 117-332, Jan. 5, 2023, 136 Stat. 6119, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Hazard Eligibility and Local Projects Act’.

“SEC. 2. AUTHORITY TO BEGIN IMPLEMENTATION OF ACQUISITION AND DEMOLITION ASSISTANCE PROJECTS.

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

“(2) COVERED PROJECT.—The term ‘covered project’ means a project that—

“(A) is an acquisition and demolition project for which an entity began implementation, including planning or construction, before or after requesting assistance for the project under a hazard mitigation assistance program; and

“(B) qualifies for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(3) HAZARD MITIGATION ASSISTANCE PROGRAM.—The term ‘hazard mitigation assistance program’ means—

“(A) any grant program authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133);

“(B) the hazard mitigation grant program authorized under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c); and

“(C) the flood mitigation assistance program authorized under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c).

“(b) ELIGIBILITY FOR ASSISTANCE FOR COVERED PROJECTS.—

“(1) IN GENERAL.—An entity seeking assistance under a hazard mitigation assistance program may be eligible to receive that assistance for a covered project if—

“(A) the entity—

“(i) complies with all other eligibility requirements of the hazard mitigation assistance program for acquisition or demolition projects, including extinguishing all incompatible encumbrances; and

“(ii) complies with all Federal requirements for the covered project; and

“(B) the Administrator determines that the covered project—

“(i) qualifies for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(ii) is compliant with applicable floodplain management and protection of wetland regulations and criteria; and

“(iii) does not require consultation under any other environmental or historic preservation law or regulation or involve any extraordinary circumstances.

“(2) COSTS INCURRED.—An entity seeking assistance under a hazard mitigation assistance program shall

be responsible for any project costs incurred by the entity for a covered project if the covered project is not awarded, or is determined to be ineligible for, assistance.

“(c) APPLICABILITY.—This Act shall apply to covered projects started on or after the date of enactment of this Act [Jan. 5, 2023].

“(d) REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter for 3 years, the Administrator shall submit to Congress a report on use of the authority under this Act, including—

- “(1) how many applicants used the authority;
- “(2) how many applicants using the authority successfully obtained a grant;
- “(3) how many applicants were not able to successfully obtain a grant;
- “(4) the reasons applicants were not able to obtain a grant; and
- “(5) the extent to which applicants using the authority were able to comply with all necessary Federal environmental, historic preservation, and other related laws and regulations.

“(e) TERMINATION.—The authority provided under this Act shall cease to be effective on the date that is 3 years after the date of enactment of this Act.”

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of this title.

FUNDING OF A FEDERALLY AUTHORIZED WATER RESOURCES DEVELOPMENT PROJECT

Pub. L. 115-254, div. D, §1210(b), Oct. 5, 2018, 132 Stat. 3444, provided that:

“(1) ELIGIBLE ACTIVITIES.—Notwithstanding section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and its implementing regulations, assistance provided pursuant to section 404 of such Act [42 U.S.C. 5170c] may be used to fund activities authorized for construction within the scope of a federally authorized water resources development project of the Army Corps of Engineers if such activities are also eligible activities under such section.

“(2) FEDERAL FUNDING.—All Federal funding provided under section 404 pursuant to this section shall be applied toward the Federal share of such project.

“(3) NON-FEDERAL MATCH.—All non-Federal matching funds required under section 404 pursuant to this section shall be applied toward the non-Federal share of such project.

“(4) TOTAL FEDERAL SHARE.—Funding provided under section 404 pursuant to this section may not exceed the total Federal share for such project.

“(5) NO EFFECT.—Nothing in this section shall—

- “(A) affect the cost-share requirement of a hazard mitigation measure under section 404;
- “(B) affect the eligibility criteria for a hazard mitigation measure under section 404;
- “(C) affect the cost share requirements of a federally authorized water resources development project; and
- “(D) affect the responsibilities of a non-Federal interest with respect to the project, including those related to the provision of lands, easements, rights-of-way, dredge material disposal areas, and necessary relocations.

“(6) LIMITATION.—If a federally authorized water resources development project of the Army Corps of Engineers is constructed with funding provided under section 404 pursuant to this subsection, no further Federal funding shall be provided for construction of such project.”

GUIDANCE ON HAZARD MITIGATION ASSISTANCE

Pub. L. 115-254, div. D, §1231, Oct. 5, 2018, 132 Stat. 3459, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Emergency Management Agency] shall issue guidance regarding the acquisition of property for open space as a mitigation measure under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) that includes—

- “(1) a process by which the State hazard mitigation officer appointed for such an acquisition shall, not later than 60 days after the applicant for assistance enters into an agreement with the Administrator regarding the acquisition, provide written notification to each affected unit of local government for such acquisition that includes—

- “(A) the location of the acquisition;
- “(B) the State-local assistance agreement for the hazard mitigation grant program;
- “(C) a description of the acquisition; and
- “(D) a copy of the deed restriction; and

- “(2) recommendations for entering into and implementing a memorandum of understanding between units of local government and covered entities that includes provisions to allow an affected unit of local government notified under paragraph (1) to—

- “(A) use and maintain the open space created by such a project, consistent with section 404 [42 U.S.C. 5170c] (including related regulations, standards, and guidance) and consistent with all adjoining property, subject to the notification of the adjoining property, so long as the cost of the maintenance is borne by the local government; and
- “(B) maintain the open space pursuant to standards exceeding any local government standards defined in the agreement with the Administrator described under paragraph (1).

“(b) DEFINITIONS.—In this section:

“(1) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term ‘affected unit of local government’ means any entity covered by the definition of local government in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), that has jurisdiction over the property subject to the acquisition described in subsection (a).

“(2) COVERED ENTITY.—The term ‘covered entity’ means—

- “(A) the grantee or subgrantee receiving assistance for an open space project described in subsection (a);
- “(B) the State in which such project is located; and
- “(C) the applicable Regional Administrator of the Agency.”

[For definition of “State” as used in section 1231 of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a Definitions note under section 5122 of this title.]

§ 5171. Federal facilities

(a) Repair, reconstruction, restoration, or replacement of United States facilities

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) Availability of funds appropriated to agency for repair, reconstruction, restoration, or replacement of agency facilities

In order to carry out the provisions of this section, such repair, reconstruction, restoration, or

replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) Steps for mitigation of hazards

In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

(Pub. L. 93-288, title IV, § 405, formerly § 401, May 22, 1974, 88 Stat. 153; renumbered § 405, Pub. L. 100-707, title I, § 106(a)(2), Nov. 23, 1988, 102 Stat. 4696.)

Editorial Notes

PRIOR PROVISIONS

A prior section 405 of Pub. L. 93-288 was classified to section 5175 of this title prior to repeal by Pub. L. 100-707.

§ 5172. Repair, restoration, and replacement of damaged facilities

(a) Contributions

(1) In general

The President may make contributions—

(A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and

(B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

(2) Associated expenses

For the purposes of this section, associated expenses shall include—

(A) the costs of mobilizing and employing the National Guard for performance of eligible work;

(B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging;

(C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster; and

(D) base and overtime wages for extra hires to facilitate the implementation and enforcement of adopted building codes for a period of not more than 180 days after the major disaster is declared.

(3) Conditions for assistance to private nonprofit facilities

(A) In general

The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—

(i) the facility provides critical services (as defined by the President) in the event of a major disaster; or

(ii) the owner or operator of the facility—

(I) has applied for a disaster loan under section 636(b) of title 15; and

(II)(aa) has been determined to be ineligible for such a loan; or

(bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.

(B) Definition of critical services

In this paragraph, the term “critical services” includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications (including broadcast and telecommunications), education, and emergency medical care.

(C) Religious facilities

A church, synagogue, mosque, temple, or other house of worship, educational facility, or any other private nonprofit facility, shall be eligible for contributions under paragraph (1)(B), without regard to the religious character of the facility or the primary religious use of the facility. No house of worship, educational facility, or any other private nonprofit facility may be excluded from receiving contributions under paragraph (1)(B) because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice.

(4) Notification to Congress

Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(b) Federal share

(1) Minimum Federal share

Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

(2) Reduced Federal share

The President shall promulgate regulations to reduce the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, recon-

struction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster—

(A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and

(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

(3) Increased Federal share

(A) Incentive measures

The President may provide incentives to a State or Tribal government to invest in measures that increase readiness for, and resilience from, a major disaster by recognizing such investments through a sliding scale that increases the minimum Federal share to 85 percent. Such measures may include—

(i) the adoption of a mitigation plan approved under section 5165 of this title;

(ii) investments in disaster relief, insurance, and emergency management programs;

(iii) encouraging the adoption and enforcement of the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purpose of protecting the health, safety, and general welfare of the buildings' users against disasters;

(iv) facilitating participation in the community rating system; and

(v) funding mitigation projects or granting tax incentives for projects that reduce risk.

(B) Comprehensive guidance

Not later than 1 year after February 9, 2018, the President, acting through the Administrator, shall issue comprehensive guidance to State and Tribal governments regarding the measures and investments, weighted appropriately based on actuarial assessments of eligible actions, that will be recognized for the purpose of increasing the Federal share under this section. Guidance shall ensure that the agency's review of eligible measures and investments does not unduly delay determining the appropriate Federal cost share.

(C) Report

One year after the issuance of the guidance required by subparagraph (B), the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the analysis of the Federal cost shares paid under this section.

(D) Savings clause

Nothing in this paragraph prevents the President from increasing the Federal cost share above 85 percent.

(c) Large in-lieu contributions

(1) For public facilities

(A) In general

In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Use of funds

Funds contributed to a State or local government under this paragraph may be used—

(i) to repair, restore, or expand other selected public facilities;

(ii) to construct new facilities; or

(iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

(C) Limitations

Funds made available to a State or local government under this paragraph may not be used for—

(i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

(ii) any uninsured public facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) For private nonprofit facilities

(A) In general

In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Use of funds

Funds contributed to a person under this paragraph may be used—

(i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;

(ii) to construct new private nonprofit facilities to be owned or operated by the person; or

(iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.

(C) Limitations

Funds made available to a person under this paragraph may not be used for—

(i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) Flood insurance

(1) Reduction of Federal assistance

If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2). This section shall not apply to more than one building of a multi-structure educational, law enforcement, correctional, fire, or medical campus, for any major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after January 1, 2016, through December 31, 2018.

(2) Amount of reduction

The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

(A) the value of such facility on the date of the flood damage or destruction, or

(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

(3) Exception

Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

(4) Dissemination of information

The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

(e) Eligible cost

(1) Determination

(A) In general

For the purposes of this section, for disasters declared on or after August 1, 2017, or a disaster in which a cost estimate has not yet been finalized for a project, or for any project for which the finalized cost estimate is on appeal, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

(i) on the basis of the design of the facility as the facility existed immediately before the major disaster;

(ii) in conformity with the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purposes of protecting the health, safety, and general welfare of a facility's users against disasters (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)); and

(iii) in a manner that allows the facility to meet the definition of resilient developed pursuant to this subsection.

(B) Cost estimation procedures

(i) In general

Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.

(ii) Applicability

The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 5189 of this title.

(C) Contributions

Contributions for the eligible cost made under this section may be provided on an actual cost basis or on cost-estimation procedures.

(2) Modification of eligible cost

(A) Actual cost greater than ceiling percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).

(B) Actual cost less than estimated cost**(i) Greater than or equal to floor percentage of estimated cost**

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.

(ii) Less than floor percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.

(C) No effect on appeals process

Nothing in this paragraph affects any right of appeal under section 5189a of this title.

(3) Expert panel**(A) Establishment**

Not later than 18 months after October 30, 2000, the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

(B) Duties

The expert panel shall develop recommendations concerning—

- (i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and
- (ii) the ceiling and floor percentages referred to in paragraph (2).

(C) Regulations

Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish—

- (i) cost estimation procedures described in subparagraph (B)(i); and
- (ii) the ceiling and floor percentages referred to in paragraph (2).

(D) Review by President

Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.

(E) Report to Congress

Not later than 1 year after the date of promulgation of regulations under subpara-

graph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

(4) Special rule

In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

(5) New rules**(A) In general**

Not later than 18 months after October 5, 2018, the President, acting through the Administrator of the Federal Emergency Management Agency, and in consultation with the heads of relevant Federal departments and agencies, shall issue a final rulemaking that defines the terms “resilient” and “resiliency” for purposes of this subsection.

(B) Interim guidance

Not later than 60 days after October 5, 2018, the Administrator shall issue interim guidance to implement this subsection. Such interim guidance shall expire 18 months after October 5, 2018, or upon issuance of final regulations pursuant to subparagraph (A), whichever occurs first.

(C) Guidance

Not later than 90 days after the date on which the Administrator issues the final rulemaking under this paragraph, the Administrator shall issue any necessary guidance related to the rulemaking.

(D) Report

Not later than 2 years after October 5, 2018, the Administrator shall submit to Congress a report summarizing the regulations and guidance issued pursuant to this paragraph.

(Pub. L. 93-288, title IV, § 406, as added Pub. L. 100-707, title I, § 106(b), Nov. 23, 1988, 102 Stat. 4699; amended Pub. L. 106-390, title II, § 205(a)-(d)(1), (e), Oct. 30, 2000, 114 Stat. 1562-1564, 1566; Pub. L. 109-295, title VI, § 689h, Oct. 4, 2006, 120 Stat. 1453; Pub. L. 109-347, title VI, § 609, Oct. 13, 2006, 120 Stat. 1942; Pub. L. 111-351, § 3(c)(2), Jan. 4, 2011, 124 Stat. 3864; Pub. L. 114-111, § 2(b), Dec. 18, 2015, 129 Stat. 2240; Pub. L. 115-123, div. B, title VI, §§ 20604(b), 20606, Feb. 9, 2018, 132 Stat. 86; Pub. L. 115-254, div. D, §§ 1206(b), 1207(a), (b), 1235(b)-(d), Oct. 5, 2018, 132 Stat. 3440, 3463, 3464.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(3)(A)(iii) and (e)(1)(A)(ii), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in subsecs. (c)(1)(C)(ii), (2)(C)(ii) and (d)(1), (2)(B), is title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to chapter 50 (§ 4001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The National Flood Insurance Act, referred to in subsec. (d)(3), probably means the National Flood Insurance Act of 1968. See above.

The Coastal Barrier Resources Act, referred to in subsec. (e)(1)(A)(ii), is Pub. L. 97-348, Oct. 18, 1982, 96 Stat. 1653, which is classified principally to chapter 55 (§ 3501 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 3501 of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 5172, Pub. L. 93-288, title IV, § 402, May 22, 1974, 88 Stat. 153, related to repair and restoration of damaged facilities, prior to repeal by Pub. L. 100-707, § 106(b).

A prior section 406 of Pub. L. 93-288 was renumbered section 409 by Pub. L. 100-707 and is classified to section 5176 of this title.

AMENDMENTS

2018—Subsec. (a)(2)(D). Pub. L. 115-254, § 1206(b), added subpar. (D).

Subsec. (a)(3)(C). Pub. L. 115-123, § 20604(b), added subpar. (C).

Subsec. (b)(3). Pub. L. 115-123, § 20606, added par. (3).

Subsec. (c)(1)(A). Pub. L. 115-254, § 1207(a)(1), struck out “90 percent of” before “the Federal share”.

Subsec. (c)(2)(A). Pub. L. 115-254, § 1207(a)(2), struck out “75 percent of” before “the Federal share”.

Subsec. (d)(1). Pub. L. 115-254, § 1207(b), inserted at end “This section shall not apply to more than one building of a multi-structure educational, law enforcement, correctional, fire, or medical campus, for any major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after January 1, 2016, through December 31, 2018.”

Subsec. (e)(1)(A). Pub. L. 115-254, § 1235(b)(1), inserted “for disasters declared on or after August 1, 2017, or a disaster in which a cost estimate has not yet been finalized for a project, or for any project for which the finalized cost estimate is on appeal,” after “section,” in introductory provisions.

Subsec. (e)(1)(A)(i). Pub. L. 115-254, § 1235(b)(2), struck out “and” at end.

Subsec. (e)(1)(A)(ii). Pub. L. 115-254, § 1235(b)(3), substituted “the latest published editions of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs and establish minimum acceptable criteria for the design, construction, and maintenance of residential structures and facilities that may be eligible for assistance under this chapter for the purposes of protecting the health, safety, and general welfare of a facility’s users against disasters” for “codes, specifications, and standards” and “(16 U.S.C. 3501 et seq.); and” for “(16 U.S.C. 3501 et seq.) applicable at the time at which the disaster occurred.”

Subsec. (e)(1)(A)(iii). Pub. L. 115-254, § 1235(b)(4), added cl. (iii).

Subsec. (e)(1)(C). Pub. L. 115-254, § 1235(c), added subpar. (C).

Subsec. (e)(5). Pub. L. 115-254, § 1235(d), added par. (5).

2015—Subsec. (a)(3)(B). Pub. L. 114-111 substituted “communications (including broadcast and telecommunications),” for “communications.”

2011—Subsecs. (c)(1)(C)(ii), (2)(C)(ii), (d)(1), (e)(3)(A). Pub. L. 111-351 substituted “Administrator” for “Director”.

2006—Subsec. (a)(3)(B). Pub. L. 109-295 inserted “education,” after “communications.”

Subsec. (c)(1)(A). Pub. L. 109-347, § 609(1), substituted “90” for “75”.

Subsec. (e)(1)(B) to (D). Pub. L. 109-347, § 609(2), (3), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government because soil instability in the disaster area makes repair, restoration, reconstruction, or replacement infeasible, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A) of this section, a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.”

2000—Subsec. (a). Pub. L. 106-390, § 205(a), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “The President may make contributions—

“(1) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility which is damaged or destroyed by a major disaster and for associated expenses incurred by such government; and

“(2) to a person who owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of such facility and for associated expenses incurred by such person.”

Subsec. (b). Pub. L. 106-390, § 205(b), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “The Federal share of assistance under this section shall be not less than—

“(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;

“(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2) of this section; and

“(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5) of this section.”

Subsec. (c). Pub. L. 106-390, § 205(c), added subsec. (c) and struck out heading and text of former subsec. (c) which provided that, upon a determination that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing either a public facility or a private nonprofit facility, an election could be made to receive, in lieu of a contribution under subsec. (a), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of associated expenses, with the restriction that such funds not be used for any State or local government cost-sharing contribution required under this chapter.

Subsec. (e). Pub. L. 106-390, § 205(d)(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

“(1) GENERAL RULE.—For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.

“(2) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner’s responsibility and not the contractor’s responsibility.”

Subsec. (f). Pub. L. 106-390, §205(e), struck out subsec. (f) which set out various associated expenses, including necessary and extraordinary costs, and costs of using the National Guard and prison labor.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

Amendment by section 20604(b) of Pub. L. 115-123 applicable to provision of assistance in response to major disaster or emergency declared on or after Aug. 23, 2017, or, with respect to any application for assistance that, as of Feb. 9, 2018, is pending before Federal Emergency Management Agency, and any application for assistance that has been denied, where a challenge to that denial is not yet finally resolved as of Feb. 9, 2018, see section 20604(c) of Pub. L. 115-123, set out as a note under section 5122 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-390, title II, §205(d)(2), Oct. 30, 2000, 114 Stat. 1566, as amended by Pub. L. 115-254, div. D, §1235(e), Oct. 5, 2018, 132 Stat. 3464, provided that: “The amendment made by paragraph (1) [amending this section] takes effect on the date of the enactment of this Act [Oct. 30, 2000] and applies to funds appropriated after the date of the enactment of this Act, except that paragraph (1)(B) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [subsec. (e)(1) of this section] (as amended by paragraph (1)) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

GUIDANCE ON INUNDATED AND SUBMERGED ROADS

Pub. L. 115-254, div. D, §1228, Oct. 5, 2018, 132 Stat. 3459, provided that: “The Administrator of the Federal Emergency Management Agency, in coordination with the Administrator of the Federal Highway Administration, shall develop and issue guidance for State, local, and Indian tribal governments regarding repair, restoration, and replacement of inundated and submerged roads damaged or destroyed by a major disaster, and for associated expenses incurred by the Government, with respect to roads eligible for assistance under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172).”

[For definition of “State” as used in section 1228 of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.]

GUIDANCE AND RECOMMENDATIONS

Pub. L. 115-254, div. D, §1230, Oct. 5, 2018, 132 Stat. 3459, provided that:

“(a) GUIDANCE.—The Administrator [of the Federal Emergency Management Agency] shall provide guidance to a common interest community that provides essential services of a governmental nature on actions that a common interest community may take in order to be eligible to receive reimbursement from a grantee that receives funds from the [Federal Emergency Management Agency] for certain activities performed after an event that results in a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

“(b) RECOMMENDATIONS.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a legislative proposal on how to provide eligibility for disaster assistance with respect to common areas of condominiums and housing cooperatives.

“(c) EFFECTIVE DATE.—This section shall be effective on the date of enactment of this Act.”

POST-DISASTER BUILDING SAFETY ASSESSMENT

Pub. L. 115-254, div. D, §1241, Oct. 5, 2018, 132 Stat. 3466, provided that:

“(a) BUILDING SAFETY ASSESSMENT TEAM.—

“(1) IN GENERAL.—The Administrator [of the Federal Emergency Management Agency] shall coordinate with State and local governments and organizations representing design professionals, such as architects and engineers, to develop guidance, including best practices, for post-disaster assessment of buildings by licensed architects and engineers to ensure the design professionals properly analyze the structural integrity and livability of buildings and structures.

“(2) PUBLICATION.—The Administrator shall publish the guidance required to be developed under paragraph (1) not later than 1 year after the date of enactment of this Act [Oct. 5, 2018].

“(b) NATIONAL INCIDENT MANAGEMENT SYSTEM.—The Administrator shall revise or issue guidance as required to the National Incident Management System Resource Management component to ensure the functions of post-disaster building safety assessment, such as those functions performed by design professionals are accurately resource typed within the National Incident Management System.

“(c) EFFECTIVE DATE.—This section shall be effective on the date of enactment of this Act.”

[For definition of “State” as used in section 1241 of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.]

REVIEW OF ASSISTANCE FOR DAMAGED UNDERGROUND WATER INFRASTRUCTURE

Pub. L. 115-254, div. D, §1245, Oct. 5, 2018, 132 Stat. 3468, provided that:

“(a) DEFINITION OF PUBLIC ASSISTANCE GRANT PROGRAM.—The term ‘public assistance grant program’ means the public assistance grant program authorized under sections 403, 406, 407, 428, and 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173, [5189f.] 5192(a)).

“(b) REVIEW AND BRIEFING.—Not later than 60 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Emergency Management Agency] shall—

“(1) conduct a review of the assessment and eligibility process under the public assistance grant program with respect to assistance provided for damaged underground water infrastructure as a result of a major disaster declared under section 401 of such Act

(42 U.S.C. 5170), including wildfires, and shall include the extent to which local technical memoranda, prepared by a local unit of government in consultation with the relevant State or Federal agencies, identified damaged underground water infrastructure that should be eligible for the public assistance grant program; and

“(2) provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a briefing on the review conducted under paragraph (1).

“(c) REPORT AND RECOMMENDATIONS.—The Administrator shall—

“(1) not later than 180 days after the date of enactment of this Act, issue a report on the review conducted under subsection (b)(1); and

“(2) not later than 180 days after the date on which the Administrator issues the report required under paragraph (1), initiate a rulemaking, if appropriate, to address any recommendations contained in the report.”

[For definition of “State” as used in section 1245 of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.]

§ 5173. Debris removal

(a) Presidential authority

The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government or owner or operator of a private nonprofit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) Authorization by State or local government; indemnification agreement

No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

(c) Rules relating to large lots

The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.

(d) Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.

(e) Expedited payments

(1) Grant assistance

In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President's initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).

(2) Date of payment

Not later than 60 days after the date of the estimate described in paragraph (1) and not later than 90 days after the date on which the State or local government or owner or operator of a private nonprofit facility applies for assistance under this section, an initial payment described in paragraph (1) shall be paid.

(Pub. L. 93-288, title IV, § 407, formerly § 403, May 22, 1974, 88 Stat. 154; renumbered § 407 and amended Pub. L. 100-707, title I, § 106(c), Nov. 23, 1988, 102 Stat. 4701; Pub. L. 109-347, title VI, § 610, Oct. 13, 2006, 120 Stat. 1942.)

Editorial Notes

PRIOR PROVISIONS

A prior section 407 of Pub. L. 93-288 was renumbered section 410 by Pub. L. 100-707 and is classified to section 5177 of this title.

AMENDMENTS

2006—Subsec. (e). Pub. L. 109-347 added subsec. (e).

1988—Subsec. (a)(2). Pub. L. 100-707, § 106(c)(2), inserted “or owner or operator of a private nonprofit facility” after “local government”.

Subsecs. (c), (d). Pub. L. 100-707, § 106(c)(3), added subsecs. (c) and (d).

§ 5174. Federal assistance to individuals and households

(a) In general

(1) Provision of assistance

In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.

(2) Relationship to other assistance

Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.

(b) Housing assistance

(1) Eligibility

The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, as a result of damage caused by a major disaster.

(2) Determination of appropriate types of assistance

(A) In general

The President shall determine appropriate types of housing assistance to be provided

under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.

(B) Multiple types of assistance

One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.

(c) Types of housing assistance

(1) Temporary housing

(A) Financial assistance

(i) In general

The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. Such assistance may include the payment of the cost of utilities, excluding telephone service.

(ii) Amount

The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hook-ups, security deposits, or unit installation not provided directly by the President.

(B) Direct assistance

(i) In general

The President may provide temporary housing units, acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

(ii) Lease and repair of rental units for temporary housing

(I) In general

The President, to the extent the President determines it would be a cost-effective alternative to other temporary housing options, may—

(aa) enter into lease agreements with owners of multifamily rental property impacted by a major disaster or located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under this section; and

(bb) make repairs or improvements to properties under such lease agreements, to the extent necessary to serve as safe and adequate temporary housing.

(II) Improvements or repairs

Under the terms of any lease agreement for property entered into under this subsection, the value of the improvements or repairs shall be deducted from the value of the lease agreement.

(iii) Period of assistance

The President may not provide direct assistance under clause (i) with respect to a major disaster after the end of the 18-month period beginning on the date of the declaration of the major disaster by the President, except that the President may extend that period if the President determines that due to extraordinary circumstances an extension would be in the public interest.

(iv) Collection of rental charges

After the end of the 18-month period referred to in clause (iii), the President may charge fair market rent for each temporary housing unit provided.

(2) Repairs

(A) In general

The President may provide financial assistance for—

(i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and

(ii) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure.

(B) Relationship to other assistance

A recipient of assistance provided under this paragraph shall not be required to show that the assistance can be met through other means, except insurance proceeds.

(3) Replacement

(A) In general

The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.

(B) Applicability of flood insurance requirement

With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.

(4) Permanent housing construction

The President may provide financial assistance or direct assistance to individuals or households to construct permanent or semi-permanent housing in insular areas outside the continental United States and in other locations in cases in which—

(A) no alternative housing resources are available; and

(B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective.

(d) Terms and conditions relating to housing assistance

(1) Sites

(A) In general

Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

- (i) is complete with utilities;
- (ii) meets the physical accessibility requirements for individuals with disabilities; and
- (iii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

(B) Sites provided by the President

A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.

(2) Disposal of units

(A) Sale to occupants

(i) In general

Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.

(ii) Sale price

A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.

(iii) Deposit of proceeds

Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.

(iv) Hazard and flood insurance

A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.

(v) Use of GSA services

The President may use the services of the General Services Administration to accomplish a sale under clause (i).

(B) Other methods of disposal

If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims—

- (i) may be sold to any person; or
- (ii) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees—

(I) to comply with the nondiscrimination provisions of section 5151 of this title; and

(II) to obtain and maintain hazard and flood insurance on the housing unit.

(e) Financial assistance to address other needs

(1) Medical, dental, child care, and funeral expenses

The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, child care, and funeral expenses.

(2) Personal property, transportation, and other expenses

The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

(f) State role

(1) State- or Indian tribal government-administered assistance and other needs assistance

(A) Grant to State

Subject to subsection (g), a Governor may request a grant from the President to provide assistance to individuals and households in the State under subsections (c)(1)(B), (c)(4), and (e) if the President and the State or Indian tribal government comply, as determined by the Administrator, with paragraph (3).

(B) Administrative costs

A State that receives a grant under subparagraph (A) may expend not more than 5 percent of the amount of the grant for the administrative costs of providing assistance to individuals and households in the State under subsections (c)(1)(B), (c)(4), and (e).

(2) Access to records

In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, including by providing to the States access to the electronic records of individuals and households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households.

(3) Requirements

(A) Application

A State or Indian tribal government desiring to provide assistance under subsection (c)(1)(B), (c)(4), or (e) shall submit to the President an application for a grant to provide financial assistance under the program.

(B) Criteria

The President, in consultation and coordination with State and Indian tribal governments, shall establish criteria for the approval of applications submitted under subparagraph (A). The criteria shall include, at a minimum—

- (i) a requirement that the State or Indian tribal government submit a housing strategy under subparagraph (C);

(ii) the demonstrated ability of the State or Indian tribal government to manage the program under this section;

(iii) there being in effect a plan approved by the President as to how the State or Indian tribal government will comply with applicable Federal laws and regulations and how the State or Indian tribal government will provide assistance under its plan;

(iv) a requirement that the State or Indian tribal government comply with rules and regulations established pursuant to subsection (j); and

(v) a requirement that the President, or the designee of the President, comply with subsection (i).

(C) Requirement of housing strategy

(i) In general

A State or Indian tribal government submitting an application under this paragraph shall have an approved housing strategy, which shall be developed and submitted to the President for approval.

(ii) Requirements

The housing strategy required under clause (i) shall—

(I) outline the approach of the State in working with Federal partners, Indian tribal governments, local communities, nongovernmental organizations, and individual disaster survivors to meet disaster-related sheltering and housing needs; and

(II) include the establishment of an activation plan for a State Disaster Housing Task Force, as outlined in the National Disaster Housing Strategy, to bring together State, tribal, local, Federal, nongovernmental, and private sector expertise to evaluate housing requirements, consider potential solutions, recognize special needs populations, and propose recommendations.

(D) Quality assurance

Before approving an application submitted under this section, the President, or the designee of the President, shall institute adequate policies, procedures, and internal controls to prevent waste, fraud, abuse, and program mismanagement for this program and for programs under subsections (c)(1)(B), (c)(4), and (e). The President shall monitor and conduct quality assurance activities on a State or Indian tribal government's implementation of programs under subsections (c)(1)(B), (c)(4), and (e). If, after approving an application of a State or Indian tribal government submitted under this paragraph, the President determines that the State or Indian tribal government is not administering the program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

(E) Audits

The Inspector General of the Department of Homeland Security shall provide for peri-

odic audits of the programs administered by States and Indian tribal governments under this subsection.

(F) Applicable laws

All Federal laws applicable to the management, administration, or contracting of the programs by the Federal Emergency Management Agency under this section shall be applicable to the management, administration, or contracting by a non-Federal entity under this section.

(G) Report on effectiveness

Not later than 18 months after October 5, 2018, the Inspector General of the Department of Homeland Security shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the State or Indian tribal government's role to provide assistance under this section. The report shall contain an assessment of the effectiveness of the State or Indian tribal government's role in providing assistance under this section, including—

(i) whether the State or Indian tribal government's role helped to improve the general speed of disaster recovery;

(ii) whether the State or Indian tribal government providing assistance under this section had the capacity to administer this section; and

(iii) recommendations for changes to improve the program if the State or Indian tribal government's role to administer the programs should be continued.

(H) Report on incentives

Not later than 12 months after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on a potential incentive structure for awards made under this section to encourage participation by eligible States and Indian tribal governments. In developing this report, the Administrator of the Federal Emergency Management Agency shall consult with State, local, and Indian tribal entities to gain their input on any such incentive structure to encourage participation and shall include this information in the report. This report should address, among other options, potential adjustments to the cost-share requirement and management costs to State and Indian tribal governments.

(I) Prohibition

The President may not condition the provision of Federal assistance under this chapter on a State or Indian tribal government requesting a grant under this section.

(J) Miscellaneous

(i) Notice and comment

The Administrator of the Federal Emergency Management Agency may waive no-

tice and comment rulemaking with respect to rules to carry out this section, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program until such regulations are promulgated.

(ii) Final rule

Not later than 2 years after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall issue final regulations to implement this subsection as amended by the Disaster Recovery Reform Act of 2018.

(iii) Waiver and expiration

The authority under clause (i) and any pilot program implemented pursuant to such clause shall expire 2 years after October 5, 2018, or upon issuance of final regulations pursuant to clause (ii), whichever occurs sooner.

(g) Cost sharing

(1) Federal share

Except as provided in paragraph (2), the Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.

(2) Financial assistance to address other needs

In the case of financial assistance provided under subsection (e)—

(A) the Federal share shall be 75 percent; and

(B) the non-Federal share shall be paid from funds made available by the State.

(h) Maximum amount of assistance

(1) In general

No individual or household shall receive financial assistance greater than \$25,000 under this section with respect to a single major disaster, excluding financial assistance to rent alternate housing accommodations under subsection (c)(1)(A)(i) and financial assistance to address other needs under subsection (e).

(2) Other needs assistance

The maximum financial assistance any individual or household may receive under subsection (e) shall be equivalent to the amount set forth in paragraph (1) with respect to a single major disaster.

(3) Adjustment of limit

The limit established under paragraphs (1) and (2) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(4) Exclusion of necessary expenses for individuals with disabilities

(A) In general

The maximum amount of assistance established under paragraph (1) shall exclude expenses to repair or replace damaged accessibility-related improvements under paragraphs (2), (3), and (4) of subsection (c) for individuals with disabilities.

(B) Other needs assistance

The maximum amount of assistance established under paragraph (2) shall exclude ex-

penses to repair or replace accessibility-related personal property under subsection (e)(2) for individuals with disabilities.

(i) Verification measures

In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—

(1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;

(2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;

(3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;

(4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and

(5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.

(j) Rules and regulations

The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

(Pub. L. 93-288, title IV, § 408, as added Pub. L. 100-707, title I, § 106(d), Nov. 23, 1988, 102 Stat. 4702; amended Pub. L. 106-390, title II, § 206(a), Oct. 30, 2000, 114 Stat. 1566; Pub. L. 109-295, title VI, §§ 685, 686, 689(c), 689d, 696(c), Oct. 4, 2006, 120 Stat. 1447-1449, 1452, 1461; Pub. L. 113-2, div. B, §§ 1103, 1108(a), Jan. 29, 2013, 127 Stat. 42, 47; Pub. L. 115-254, div. D, §§ 1211(a), 1212, 1213(a), (b), Oct. 5, 2018, 132 Stat. 3445, 3448.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(3)(I), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Disaster Recovery Reform Act of 2018, referred to in subsec. (f)(3)(J)(ii), is div. D of Pub. L. 115-254, Oct. 5, 2018, 132 Stat. 3438. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5174, Pub. L. 93-288, title IV, § 404, May 22, 1974, 88 Stat. 154, related to temporary housing assistance, prior to repeal by Pub. L. 100-707, § 106(d).

A prior section 408 of Pub. L. 93-288 was classified to section 5178 of this title and to a note set out under section 5178 of this title prior to repeal by Pub. L. 100-707.

AMENDMENTS

2018—Subsec. (c)(1)(B)(ii)(I)(aa). Pub. L. 115-254, § 1213(b), amended item (aa) generally. Prior to amendment, item (aa) read as follows: “enter into lease agreements with owners of multifamily rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under this section; and”.

Subsec. (c)(1)(B)(ii)(II). Pub. L. 115-254, § 1213(a), amended subcl. (II) generally. Prior to amendment, subcl. (II) related to improvements or repairs.

Subsec. (f)(1). Pub. L. 115-254, § 1211(a)(1)(A), substituted “State- or Indian tribal government-administered assistance and other needs assistance” for “Financial assistance to address other needs” in heading.

Subsec. (f)(1)(A). Pub. L. 115-254, § 1211(a)(1)(B), struck out “financial” before “assistance” and substituted “subsections (c)(1)(B), (c)(4), and (e) if the President and the State or Indian tribal government comply, as determined by the Administrator, with paragraph (3)” for “subsection (e)”.

Subsec. (f)(1)(B). Pub. L. 115-254, § 1211(a)(1)(C), struck out “financial” before “assistance” and substituted “subsections (c)(1)(B), (c)(4), and (e)” for “subsection (e)”.

Subsec. (f)(3). Pub. L. 115-254, § 1211(a)(2), added par. (3).

Subsec. (h)(1). Pub. L. 115-254, § 1212(1), inserted “, excluding financial assistance to rent alternate housing accommodations under subsection (c)(1)(A)(i) and financial assistance to address other needs under subsection (e)” after “disaster”.

Subsec. (h)(2), (3). Pub. L. 115-254, § 1212(2)–(4), added par. (2), redesignated former par. (2) as (3), and, in par. (3), substituted “paragraphs (1) and (2)” for “paragraph (1)”.

Subsec. (h)(4). Pub. L. 115-254, § 1212(5), added par. (4). 2013—Subsec. (c)(1)(B)(ii) to (iv). Pub. L. 113-2, § 1103, added cl. (ii), redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively, and, in cl. (iv), substituted “clause (iii)” for “clause (ii)”.

Subsec. (e)(1). Pub. L. 113-2, § 1108(a), inserted “child care,” after “dental,” in heading and text.

2006—Subsec. (b)(1). Pub. L. 109-295, § 689(c)(1), inserted “, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable,” after “uninhabitable”.

Subsec. (c)(1)(A)(i). Pub. L. 109-295, § 689d(1), inserted at end “Such assistance may include the payment of the cost of utilities, excluding telephone service.”

Subsec. (c)(1)(A)(ii). Pub. L. 109-295, § 689d(2), inserted “security deposits,” after “hookups.”

Subsec. (c)(2)(C). Pub. L. 109-295, § 686(1), struck out subpar. (C) which read as follows: “The amount of assistance provided to a household under this paragraph shall not exceed \$5,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.”

Subsec. (c)(3)(B), (C). Pub. L. 109-295, § 686(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “The amount of assistance provided to a household under this paragraph shall not exceed \$10,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.”

Subsec. (c)(4). Pub. L. 109-295, § 685, in introductory provisions, inserted “or semi-permanent” after “permanent” and struck out “remote” before “locations”.

Subsec. (d)(1)(A)(ii), (iii). Pub. L. 109-295, § 689(c)(2), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsecs. (i), (j). Pub. L. 109-295, § 696(c), added subsec. (i) and redesignated former subsec. (i) as (j).

2000—Pub. L. 106-390 amended section catchline and text generally. Prior to amendment, text provided for temporary housing assistance through provision of temporary housing, temporary mortgage and rental payment assistance, expenditures to repair or restore owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly, and transfer of temporary housing to occupants or to States, local governments, and voluntary organizations, required notification to applicants for assistance, and set out location factors to be given consideration in the provision of assistance.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the Presi-

dent on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-390, title II, § 206(d), Oct. 30, 2000, 114 Stat. 1571, provided that: “The amendments made by this section [amending this section and section 5192 of this title and repealing section 5178 of this title] take effect 18 months after the date of the enactment of this Act [Oct. 30, 2000].”

FUNERAL ASSISTANCE

Pub. L. 117-2, title IV, § 4006, Mar. 11, 2021, 135 Stat. 79, provided that:

“(a) IN GENERAL.—For the emergency declaration issued by the President on March 13, 2020 [Proc. No. 9994, 50 U.S.C. 1621 note], pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)), and for any subsequent major disaster declaration that supersedes such emergency declaration, the President shall provide financial assistance to an individual or household to meet disaster-related funeral expenses under section 408(e)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(e)(1)), for which the Federal cost share shall be 100 percent.

“(b) USE OF FUNDS.—Funds appropriated under section 4005 [of Pub. L. 117-2, 135 Stat. 79] may be used to carry out subsection (a) of this section.”

LOST WAGES ASSISTANCE RECOUPMENT FAIRNESS

Pub. L. 116-260, div. N, title II, § 262, Dec. 27, 2020, 134 Stat. 1962, provided that:

“(a) DEFINITIONS.—In this section—

“(1) the term ‘covered assistance’ means assistance provided for supplemental lost wages payments under subsections (e)(2) and (f) of section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), as authorized under the emergency declaration issued by the President on March 13, 2020, pursuant to section 501(b) of such Act (42 U.S.C. 5191(b)) and under any subsequent major disaster declaration under section 401 of such Act (42 U.S.C. 5170) that supersedes such emergency declaration; and

“(2) the term ‘State’ has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

“(b) WAIVER AUTHORITY FOR STATE LIABILITY.—In the case of any individual who has received amounts of covered assistance to which the individual is not entitled, the State shall require the individual to repay the amounts of such assistance to the State agency, except that the State agency may waive such repayment if the State agency determines that—

“(1) the payment of such covered assistance was without fault on the part of the individual; and

“(2) such repayment would be contrary to equity and good conscience.

“(c) WAIVER AUTHORITY FOR FEDERAL LIABILITY.—Any waiver of debt issued by a State under subsection (b) shall also waive the debt owed to the United States.

“(d) REPORTING.—

“(1) STATE REPORTING.—If a State issues a waiver of debt under subsection (b), the State shall report such waiver to the Administrator of the Federal Emergency Management Agency.

“(2) OIG REPORTING.—Not later than 6 months after the date of enactment of this Act [Dec. 27, 2020], the Inspector General of the Department of Homeland Security shall submit a report that assesses the efforts of the States to waive recoupment related to lost wages assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) to—

“(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, and the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate; and

“(B) the Committee on Transportation and Infrastructure, Committee on Ways and Means, and the Subcommittee on Homeland Security of the Committee on Appropriations of the House of Representatives.”

REIMBURSEMENT

Pub. L. 115-254, div. D, §1211(b), Oct. 5, 2018, 132 Stat. 3447, provided that: “The Federal Emergency Management Agency (FEMA) shall reimburse State and local units of government (for requests received within a period of 3 years after the declaration of a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)) upon determination that a locally implemented housing solution, implemented by State or local units of government—

“(1) costs 50 percent of comparable FEMA solution or whatever the locally implemented solution costs, whichever is lower;

“(2) complies with local housing regulations and ordinances; and

“(3) the housing solution was implemented within 90 days of the disaster.”

[For definition of “State” as used in section 1211(b) of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.]

§ 5174a. Flexibility

(a) Waiver authority

(1) Definition

In this subsection, the term “covered assistance” means assistance provided—

(A) under section 5174 of this title; and

(B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after October 28, 2012.

(2) Authority

Notwithstanding section 3716(e) of title 31, the Administrator—

(A) except as provided in subparagraph (B), shall—

(i) waive a debt owed to the United States related to covered assistance provided to an individual or household if the covered assistance was distributed based on an error by the Agency and such debt shall be construed as a hardship; and

(ii) waive a debt owed to the United States related to covered assistance provided to an individual or household if such assistance is subject to a claim or legal action, including in accordance with section¹ of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5160); and

(B) may not waive a debt under subparagraph (A) if the debt involves fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim.

¹ So in original. Probably should be a reference to section 317 of the Act.

(3) Monitoring of covered assistance distributed based on error

(A) In general

The Inspector General of the Department of Homeland Security shall monitor the distribution of covered assistance to individuals and households to determine the percentage of such assistance distributed based on an error.

(B) Report on waiver authority based on excessive error rate

If the Inspector General of the Department of Homeland Security determines, with respect to any 12-month period, that the amount of covered assistance distributed based on an error by the Agency exceeds 4 percent of the total amount of covered assistance distributed—

(i) the Inspector General shall notify the Administrator and publish the determination in the Federal Register; and

(ii) with respect to any major disaster or emergency declared by the President under section 5170 or section 5191, respectively, of this title after the date on which the determination is published under subparagraph (A), the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate actions that the Administrator will take to reduce the error rate.

(b) Recoupment of certain assistance prohibited

(1) In general

Notwithstanding section 3716(e) of title 31, and unless there is evidence of civil or criminal fraud, the Agency may not take any action to recoup covered assistance from the recipient of such assistance if the receipt of such assistance occurred on a date that is more than 3 years before the date on which the Agency first provides to the recipient written notification of an intent to recoup.

(2) Covered assistance defined

In this subsection, the term “covered assistance” means assistance provided—

(A) under section 5174 of this title; and

(B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191 of this title, respectively, on or after January 1, 2012.

(c) Statute of limitations

(1) Omitted

(2) Applicability

(A) In general

With respect to disaster or emergency assistance provided to a State or local government on or after January 1, 2004—

(i) no administrative action may be taken to recover a payment of such assistance after October 5, 2018, if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1); and

(ii) any administrative action to recover a payment of such assistance that is pend-

ing on such date of enactment shall be terminated if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1).

(B) Limitation

This section, including the amendments made by this section, may not be construed to invalidate or otherwise affect any administration action completed before October 5, 2018.

(Pub. L. 115-254, div. D, §1216, Oct. 5, 2018, 132 Stat. 3449; Pub. L. 117-263, div. E, title LVI, §5602(a), Dec. 23, 2022, 136 Stat. 3404.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Section is comprised of section 1216 of Pub. L. 115-254. Subsec. (c)(1) of section 1216 of Pub. L. 115-254 amended section 5205 of this title.

AMENDMENTS

2022—Subsec. (a)(2)(A). Pub. L. 117-263, §5602(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows:

“(A) subject to subparagraph (B), may waive a debt owed to the United States related to covered assistance provided to an individual or household if—

“(i) the covered assistance was distributed based on an error by the Agency;

“(ii) there was no fault on behalf of the debtor; and

“(iii) the collection of the debt would be against equity and good conscience; and”.

Subsec. (a)(3)(B). Pub. L. 117-263, §5602(a)(2)(A), substituted “Report on” for “Removal of” in heading.

Subsec. (a)(3)(B)(ii). Pub. L. 117-263, §5602(a)(2)(B), substituted “the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate actions that the Administrator will take to reduce the error rate” for “the authority of the Administrator to waive debt under paragraph (2) shall no longer be effective”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115-254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93-288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115-254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definitions of terms used in this section, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.

§ 5174b. Critical document fee waiver

(1) In general

Notwithstanding section 214 of title 22 or any other provision of law, the President, in consultation with the Governor of a State, may provide a waiver under this subsection to an individual or household described in section 5174(e)(1) of this title for the following document replacement fees:

(A) The passport application fee for individuals who lost their United States passport in a major disaster within the preceding three calendar years.

(B) The file search fee for a United States passport.

(C) The Application for Waiver of Passport and/or Visa form (Form I-193) fee.

(D) The Permanent Resident Card replacement form (Form I-90) filing fee.

(E) The Declaration of Intention form (Form N-300) filing fee.

(F) The Naturalization/Citizenship Document replacement form (Form N-565) filing fee.

(G) The Employment Authorization form (Form I-765) filing fee.

(H) The biometric service fee.

(2) Exemption from form requirement

The authority of the President to waive fees under subparagraphs (C) through (H) of paragraph (1) applies regardless of whether the individual or household qualifies for a Form I-912 Request for Fee Waiver, or any successor thereto.

(3) Exemption from assistance maximum

The assistance limit in section 5174(h) of this title shall not apply to any fee waived under this subsection.

(4) Report

Not later than 365 days after October 5, 2018, the Administrator and the head of any other agency given critical document fee waiver authority under this subsection shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the costs associated with providing critical document fee waivers as described in paragraph (1).

(Pub. L. 115-254, div. D, §1238(a), Oct. 5, 2018, 132 Stat. 3465.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Section is comprised of subsec. (a) of section 1238 of Pub. L. 115-254. Subsecs. (b) and (c) of section 1238 of Pub. L. 115-254 amended section 5122 of this title and enacted provisions set out as a note under that section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115-254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93-288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115-254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definitions of terms used in this section, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.

Executive Documents

DELEGATION OF FUNCTIONS AND AUTHORITIES UNDER SECTION 1238 OF THE FAA REAUTHORIZATION ACT OF 2018

Memorandum of President of the United States, Dec. 21, 2018, 84 F.R. 3957, provided:

Memorandum for the Secretary of State [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby:

(1) delegate to the Secretary of State the functions and authorities vested in the President by sections 1238(a)(1)(A)–(B) of the FAA Reauthorization Act of 2018 (Public Law 115–254) [42 U.S.C. 5174b(a)(1)(A)–(B)]; and

(2) delegate to the Secretary of Homeland Security the functions and authorities vested in the President by sections 1238(a)(1)(C)–(H) of the FAA Reauthorization Act of 2018.

The delegations in this memorandum shall apply to any provisions of any future public law that are the same or substantially the same as the provisions referenced in this memorandum. The Secretary of State and the Secretary of Homeland Security may redelegate within their departments the functions and authorities delegated by this memorandum to the extent authorized by law.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 5175. Repealed. Pub. L. 100–707, title I, § 105(m)(2), Nov. 23, 1988, 102 Stat. 4696

Section, Pub. L. 93–288, title IV, § 405, May 22, 1974, 88 Stat. 155, related to protection of environment.

§ 5176. Repealed. Pub. L. 106–390, title I, § 104(c)(2), Oct. 30, 2000, 114 Stat. 1559

Section, Pub. L. 93–288, title IV, § 409, formerly § 406, May 22, 1974, 88 Stat. 155; renumbered § 409, Pub. L. 100–707, title I, § 106(e), Nov. 23, 1988, 102 Stat. 4703, related to minimum standards for public and private structures.

A prior section 409 of Pub. L. 93–288 was renumbered section 412 by Pub. L. 100–707 and is classified to section 5179 of this title.

§ 5177. Unemployment assistance**(a) Benefit assistance**

The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) Reemployment assistance**(1) State assistance**

A State shall provide, without reimbursement from any funds provided under this chapter, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

(2) Federal assistance

The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.

(Pub. L. 93–288, title IV, § 410, formerly § 407, May 22, 1974, 88 Stat. 156; renumbered § 410 and amended Pub. L. 100–707, title I, § 106(e), (f), Nov. 23, 1988, 102 Stat. 4703, 4704.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 410 of Pub. L. 93–288 was renumbered section 413 by Pub. L. 100–707 and is classified to section 5180 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–707, § 106(f)(1)–(3), inserted “for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26) or waiting period credit” for “is unemployed” before period at end of first sentence, substituted “26 weeks” for “one year” in second sentence, and substituted “occurred” for “occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment” in third sentence.

Subsec. (b). Pub. L. 100–707, § 106(f)(4), inserted heading and amended text generally. Prior to amendment, text read as follows: “The President is further authorized for the purposes of this chapter to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.”

§ 5177a. Emergency grants to assist low-income migrant and seasonal farmworkers**(a) In general**

The Secretary of Agriculture may make grants to public agencies or private organizations with tax exempt status under section 501(c)(3) of title 26, that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Ag-

riculture determines to be necessary and appropriate.

(b) “Low-income migrant or seasonal farmworker” defined

For the purposes of this section, the term “low-income migrant or seasonal farmworker” means an individual—

- (1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;
- (2) who has received not less than one-half of such individual’s total income, or been employed at least one-half of total work time in farm work; and
- (3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101–624, title XXII, §2281, Nov. 28, 1990, 104 Stat. 3978; Pub. L. 107–171, title X, §10102, May 13, 2002, 116 Stat. 488.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171 struck out “, not to exceed \$20,000,000 annually,” after “Secretary of Agriculture may make grants”.

§ 5178. Repealed. Pub. L. 106–390, title II, § 206(c), Oct. 30, 2000, 114 Stat. 1571

Section, Pub. L. 93–288, title IV, §411, as added Pub. L. 100–707, title I, §106(g), Nov. 23, 1988, 102 Stat. 4704, related to individual and family grant programs.

Editorial Notes

PRIOR PROVISIONS

A prior section 5178, Pub. L. 93–288, title IV, §408, May 22, 1974, 88 Stat. 156, related to individual and family grant programs, prior to repeal by Pub. L. 100–707, §106(g).

A prior section 411 of Pub. L. 93–288 was renumbered section 414 by Pub. L. 100–707 and is classified to section 5181 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective 18 months after Oct. 30, 2000, see section 206(d) of Pub. L. 106–390, set out as an Effective Date of 2000 Amendment note under section 5174 of this title.

§ 5179. Benefits and distribution

(a) Persons eligible; terms and conditions

Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts

of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies benefit allotments to such households pursuant to the provisions of the Food and Nutrition Act of 2008 of 1964¹ (P.L. 91–671; 84 Stat. 2048) [7 U.S.C. 2011 et seq.] and to make surplus commodities available pursuant to the provisions of this chapter.

(b) Duration of assistance; factors considered

The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such benefit allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Food and Nutrition Act provisions unaffected

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food and Nutrition Act of 2008 of 1964¹ [7 U.S.C. 2011 et seq.] except as they relate to the availability of supplemental nutrition assistance program benefits in an area affected by a major disaster.

(Pub. L. 93–288, title IV, §412, formerly §409, May 22, 1974, 88 Stat. 157; renumbered §412, Pub. L. 100–707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 110–234, title IV, §§4002(b)(1)(C), (E), (2)(DD), 4115(c)(1)(A)(ii), (iv), (B)(v), May 22, 2008, 122 Stat. 1096, 1097, 1109; Pub. L. 110–246, §4(a), title IV, §§4002(b)(1)(C), (E), (2)(DD), 4115(c)(1)(A)(ii), (iv), (B)(v), June 18, 2008, 122 Stat. 1664, 1857, 1859, 1870, 1871.)

Editorial Notes

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsecs. (a) and (c), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 412 of Pub. L. 93–288 was renumbered section 415 by Pub. L. 100–707 and is classified to section 5182 of this title.

AMENDMENTS

2008—Pub. L. 110–246, §4115(c)(1)(A)(iv), (B)(v), substituted “Benefits” for “Food coupons” in section catchline.

Pub. L. 110–246, §4002(b)(1)(C), (2)(DD), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act” in subsecs. (a) and (c).

¹ So in original. See 2008 Amendment note below.

Subsecs. (a), (b). Pub. L. 110-246, §4115(c)(1)(A)(ii), (B)(v), substituted “benefit” for “coupon”.

Subsec. (c). Pub. L. 110-246, §4002(b)(1)(E), (2)(DD), substituted “supplemental nutrition assistance program benefits” for “food stamps”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4002(b)(1)(C), (E), (2)(DD), and 4115(c)(1)(A)(ii), (iv), (B)(v) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

Executive Documents

DELEGATION OF FUNCTIONS

Secretary of Agriculture designated and empowered to exercise, without approval, ratification, or other action of President, all authority vested in President by this section concerning food coupons (benefits) and distribution, see section 3 of Ex. Ord. No. 11795, as amended, set out as a note under section 5121 of this title.

§ 5180. Food commodities

(a) Emergency mass feeding

The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) Funds for purchase of food commodities

The Secretary of Agriculture shall utilize funds appropriated under section 612c of title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

(Pub. L. 93-288, title IV, §413, formerly §410, May 22, 1974, 88 Stat. 157; renumbered §413, Pub. L. 100-707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705.)

Editorial Notes

PRIOR PROVISIONS

A prior section 413 of Pub. L. 93-288 was renumbered section 416 by Pub. L. 100-707 and is classified to section 5183 of this title.

§ 5181. Relocation assistance

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) [42 U.S.C. 4601 et seq.] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

(Pub. L. 93-288, title IV, §414, formerly §411, May 22, 1974, 88 Stat. 157; renumbered §414, Pub. L. 100-707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705.)

Editorial Notes

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in text, is Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 414(a), (b) of Pub. L. 93-288 was renumbered section 417(a), (b) by Pub. L. 100-707 and is classified to section 5184 of this title.

§ 5182. Legal services

Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this chapter, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

(Pub. L. 93-288, title IV, §415, formerly §412, May 22, 1974, 88 Stat. 157; renumbered §415, Pub. L. 100-707, title I, §106(h), Nov. 23, 1988, 102 Stat. 4705.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 415 of Pub. L. 93-288 was renumbered section 418 by Pub. L. 100-707 and is classified to section 5185 of this title.

§ 5183. Crisis counseling assistance and training

(a) In general

The President is authorized to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

(b) Training

Each State, local agency, or private mental health organization providing professional counseling services described in subsection (a) shall ensure that, any individual providing professional counseling services to victims of a major disaster as authorized under subsection (a), including individuals working for nonprofit partners and recovery organizations, is appropriately trained to address impacts from major disasters in communities, and to individuals, with socio-economically disadvantaged backgrounds.

(Pub. L. 93-288, title IV, §416, formerly §413, May 22, 1974, 88 Stat. 157; renumbered §416 and amended Pub. L. 100-707, title I, §106(i), Nov. 23,

1988, 102 Stat. 4705; Pub. L. 117-251, §7(a), Dec. 20, 2022, 136 Stat. 2357.)

Editorial Notes

PRIOR PROVISIONS

A prior section 416 of Pub. L. 93-288 was renumbered section 419 by Pub. L. 100-707 and is classified to section 5186 of this title.

AMENDMENTS

2022—Pub. L. 117-251 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1988—Pub. L. 100-707 struck out “(through the National Institute of Mental Health)” after “authorized”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-251, §7(b), Dec. 20, 2022, 136 Stat. 2357, provided that: “The amendments made by this section [amending this section] shall apply with respect to amounts appropriated on or after the date of enactment of this Act [Dec. 20, 2022].”

§ 5184. Community disaster loans

(a) In general

The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.

(b) Amount

The amount of any such loan shall be based on need, shall not exceed—

(1) 25 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000; or

(2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000.

(c) Repayment

(1) Cancellation

Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(2) Condition on continuing eligibility

A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.

(d) Effect on other assistance

Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this chapter.

(Pub. L. 93-288, title IV, §417, formerly §414(a), (b), May 22, 1974, 88 Stat. 158; renumbered §417, Pub. L. 100-707, title I, §106(j), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 106-390, title II, §207, Oct. 30, 2000, 114 Stat. 1571; Pub. L. 109-347, title VI, §608, Oct. 13, 2006, 120 Stat. 1942.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Prior to renumbering as section 417, section 414 of Pub. L. 93-288 contained a subsec. (c) which was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1082.

PRIOR PROVISIONS

A prior section 417 of Pub. L. 93-288 was renumbered section 420 by Pub. L. 100-707 and is classified to section 5187 of this title.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-347 substituted “exceed—

“(1) 25 percent”

for “exceed 25 per centum” and “; or” for period at end and added par. (2).

2000—Pub. L. 106-390, §207(1)-(3), designated first sentence of subsec. (a) as subsec. (a) and inserted subsec. heading, designated second sentence of subsec. (a) as subsec. (b) and inserted subsec. heading, and designated third sentence of subsec. (a) as subsec. (c)(1) and inserted subsec. and par. headings. Former subsec. (b) redesignated (d).

Subsec. (b). Pub. L. 106-390, §207(5), substituted “shall not exceed” for “and shall not exceed” and inserted before period at end “, and shall not exceed \$5,000,000”.

Subsec. (c)(2). Pub. L. 106-390, §207(6), added par. (2).

Subsec. (d). Pub. L. 106-390, §207(4), redesignated subsec. (b) as (d) and inserted subsec. heading.

Statutory Notes and Related Subsidiaries

CANCELLATION OF REPAYMENTS OF REMAINING LOAN BALANCES

Pub. L. 117-43, div. B, title VI, §1601(a), Sept. 30, 2021, 135 Stat. 365, provided that: “Repayments of the remaining balances of all loans, as of September 30, 2021, by the Federal Emergency Management Agency under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184) are hereby cancelled.”

COMMUNITY EMERGENCY DROUGHT RELIEF

Pub. L. 95-31, title I, May 23, 1977, 91 Stat. 169, provided: “That this Act be cited as the ‘Community Emergency Drought Relief Act of 1977’.

“SEC. 101. (a) Upon the application of any State, political subdivision of a State, Indian tribe, or public or private nonprofit organization, the Secretary of Commerce is authorized to make grants and loans to applicants in drought impacted areas for projects that implement short-term actions to augment community water supplies where there are severe problems due to water shortages. Such assistance may be for the improvement, expansion, or construction of water supplies, and purchase and transportation of water, which in the opinion of the Secretary of Commerce will make a substantial contribution to the relief of an existing or threatened drought condition in a designated area.

“(b) The Secretary of Commerce may designate any area in the United States as an emergency drought im-

pact area if he or she finds that a major and continuing adverse drought condition exists and is expected to continue, and such condition is causing significant hardships on the affected areas.

“(c) Eligible applicants shall be those States or political subdivisions of States with a population of ten thousand or more, Indian tribes, or public or private nonprofit organizations within areas designated pursuant to subsection (b) of this section.

“(d) Projects assisted under this Act shall be only those with respect to which assurances can be given to the satisfaction of the Secretary of Commerce that the work can be completed by April 30, 1978, or within such extended time as the Secretary may approve in exceptional circumstances.

“SEC. 102. Grants hereunder shall be in an amount not to exceed 50 per centum of allowable project costs. Loans shall be for a term not to exceed 40 years at a per annum interest rate of 5 per centum and shall be on such terms and conditions as the Secretary of Commerce shall determine. In determining the amount of a grant assistance for any project, the Secretary of Commerce may take into consideration such factors as are established by regulation and are consistent with the purposes of this Act.

“SEC. 103. In extending assistance under this Act the Secretary shall take into consideration the relative needs of applicant areas for the projects for which assistance is requested, and the appropriateness of the project for relieving the conditions intended to be alleviated by this Act.

“SEC. 104. The Secretary of Commerce shall have such powers and authorities under this Act as are vested in the Secretary by sections 701 and 708 of the Public Works and Economic Development Act of 1965, as amended [sections 3211 and 3218 of this title], with respect to that Act [section 3121 et seq. of this title].

“SEC. 105. The National Environmental Protection Act of 1969, as amended [section 4321 et seq. of this title], shall be implemented to the fullest extent consistent with but subject to the time constraints imposed by this Act, and the Secretary of Commerce when making the final determination regarding an application for assistance hereunder shall give consideration to the environmental consequences determined within that period.

“SEC. 106. (a) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1977, \$225,000,000 of which sum \$150,000,000 is to be for the loan program herein, including administration thereof, and \$75,000,000 of which is to be used for the grant program herein, including administration thereof, and such additional amounts for the fiscal year ending September 30, 1978, as may be reasonably needed for administrative expenses in monitoring and closing out the program authorized by the Act. Funds authorized by this Act shall be obligated by December 31, 1977.

“(b) Funds available to the Secretary for this Act shall be available for expenditure for drought impact projects conducted heretofore by eligible applicants during fiscal year 1977 if such projects are found to be compatible with the broad purposes of this Act.”

§ 5185. Emergency communications

The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

(Pub. L. 93-288, title IV, § 418, formerly § 415, May 22, 1974, 88 Stat. 158; renumbered § 418, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

Editorial Notes

PRIOR PROVISIONS

A prior section 418 of Pub. L. 93-288 was renumbered section 421 by Pub. L. 100-707 and is classified to section 5188 of this title.

§ 5186. Emergency public transportation

The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

(Pub. L. 93-288, title IV, § 419, formerly § 416, May 22, 1974, 88 Stat. 158; renumbered § 419, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

Editorial Notes

PRIOR PROVISIONS

A prior section 419 of Pub. L. 93-288 was classified to section 5189 of this title prior to repeal by Pub. L. 100-707.

§ 5187. Fire management assistance

(a) In general

The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

(b) Coordination with State and tribal departments of forestry

In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.

(c) Essential assistance

In providing assistance under this section, the President may use the authority provided under section 5170b of this title.

(d) Hazard mitigation assistance

Whether or not a major disaster is declared, the President may provide hazard mitigation assistance in accordance with section 5170c of this title in any area affected by a fire for which assistance was provided under this section.

(e) Rules and regulations

The President shall prescribe such rules and regulations as are necessary to carry out this section.

(Pub. L. 93-288, title IV, § 420, formerly § 417, May 22, 1974, 88 Stat. 158; renumbered § 420, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 106-390, title III, § 303(a), Oct. 30, 2000, 114 Stat. 1572; Pub. L. 115-254, div. D, § 1204(a), Oct. 5, 2018, 132 Stat. 3438.)

Editorial Notes

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115-254 added subsec. (d) and redesignated former subsec. (d) as (e).

2000—Pub. L. 106-390 amended section catchline and text generally. Prior to amendment, text read as follows: “The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-390, title III, § 303(b), Oct. 30, 2000, 114 Stat. 1573, provided that: “The amendment made by subsection (a) [amending this section] takes effect 1 year after the date of the enactment of this Act [Oct. 30, 2000].”

REPORTING REQUIREMENT

Pub. L. 115-254, div. D, § 1204(c), Oct. 5, 2018, 132 Stat. 3439, provided that: “Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018] and annually thereafter, the Administrator [of the Federal Emergency Management Agency] shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives a report containing a summary of any projects carried out, and any funding provided to those projects, under subsection (d) of section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187) (as amended by this section).”

§ 5188. Timber sale contracts

(a) Cost-sharing arrangement

Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than \$1,000 for sales under one million board feet, (2) of more than \$1 per thousand board feet for sales of one to three million board feet, or (3) of more than \$3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Cancellation of authority

If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) Public notice of sale

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476¹ of title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber

The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

(Pub. L. 93-288, title IV, § 421, formerly § 418, May 22, 1974, 88 Stat. 158; renumbered § 421, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

Editorial Notes

REFERENCES IN TEXT

Section 476 of title 16, referred to in subsec. (c), was repealed by Pub. L. 94-588, § 13, Oct. 22, 1976, 90 Stat. 2958.

§ 5189. Simplified procedure

(a) In general

If the Federal estimate of the cost of—

(1) repairing, restoring, reconstructing, or replacing under section 5172 of this title any damaged or destroyed public facility or private nonprofit facility,

(2) emergency assistance under section 5170b or 5192 of this title, or

(3) debris removed under section 5173 of this title,

is less than \$1,000,000 (or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b)), the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 5170b, 5172, 5173, or 5192 of this title, as the case may be, on the basis of such Federal estimate. Such \$1,000,000 amount or, if applicable, the amount established under subsection (b), shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

¹ See References in Text note below.

(b) Threshold**(1) Report**

Not later than 1 year after January 29, 2013, the President, acting through the Administrator of the Federal Emergency Management Agency (in this section referred to as the “Administrator”), shall—

(A) complete an analysis to determine whether an increase in the threshold for eligibility under subsection (a) is appropriate, which shall include consideration of cost-effectiveness, speed of recovery, capacity of grantees, past performance, and accountability measures; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the analysis conducted under subparagraph (A).

(2) Amount

After the Administrator submits the report required under paragraph (1), the President shall direct the Administrator to—

(A) immediately establish a threshold for eligibility under this section in an appropriate amount, without regard to chapter 5 of title 5; and

(B) adjust the threshold annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

(3) Review and report

Not later than 3 years after the date on which the Administrator establishes a threshold under paragraph (2), and every 3 years thereafter, the President, acting through the Administrator, shall review the threshold for eligibility under this section and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding such review, including any recommendations developed pursuant to such review.

(Pub. L. 93-288, title IV, §422, as added Pub. L. 100-707, title I, §106(k), Nov. 23, 1988, 102 Stat. 4705; amended Pub. L. 113-2, div. B, §1107, Jan. 29, 2013, 127 Stat. 46; Pub. L. 117-189, §2(a), Oct. 10, 2022, 136 Stat. 2204.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5189, Pub. L. 93-288, title IV, §419, May 22, 1974, 88 Stat. 159, related to alternate contributions, prior to repeal by Pub. L. 100-707, §106(k).

AMENDMENTS

2022—Subsec. (a). Pub. L. 117-189, §2(a)(1), substituted “\$1,000,000” for “\$35,000” in two places in concluding provisions.

Subsec. (b)(3). Pub. L. 117-189, §2(a)(2), inserted “and report” after “Review” in heading and “and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding such review, including any recommendations developed pursuant to such review” after “under this section” in text.

2013—Subsec. (a). Pub. L. 113-2, §1107(3), which directed insertion of “or, if applicable, the amount established under subsection (b),” after “\$35,000 amount” the second place appearing, was executed by making the insertion after “\$35,000 amount” the only place that phrase appeared, to reflect the probable intent of Congress.

Pub. L. 113-2, §1107(1), (2), designated existing provisions as subsec. (a), inserted heading, and inserted “(or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b))” after “less than \$35,000” in concluding provisions.

Subsec. (b). Pub. L. 113-2, §1107(4), added subsec. (b).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2022 AMENDMENT**

Pub. L. 117-189, §2(b), Oct. 10, 2022, 136 Stat. 2204, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to any amounts appropriated after the date of enactment of this Act [Oct. 10, 2022].”

§ 5189a. Appeals of assistance decisions**(a) Right of appeal**

Any decision regarding eligibility for, from, or amount of assistance under this subchapter may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

(b) Period for decision

A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

(c) Rules

The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

(d) Right of arbitration**(1) In general**

Notwithstanding this section, an applicant for assistance under this subchapter may request arbitration to dispute the eligibility for assistance or repayment of assistance provided for a dispute of more than \$500,000 for any disaster that occurred after January 1, 2016. Such arbitration shall be conducted by the Civilian Board of Contract Appeals and the decision of such Board shall be binding.

(2) Review

The Civilian Board of Contract Appeals shall consider from the applicant all original and additional documentation, testimony, or other such evidence supporting the applicant's position at any time during arbitration.

(3) Rural areas

For an applicant for assistance in a rural area under this subchapter, the assistance amount eligible for arbitration pursuant to this subsection shall be \$100,000.

(4) Rural area defined

For the purposes of this subsection, the term “rural area” means an area with a population of less than 200,000 outside an urbanized area.

(5) Eligibility

To participate in arbitration under this subsection, an applicant—

(A) shall submit the dispute to the arbitration process established under the authority granted under section 601 of Public Law 111-5; and

(B) may submit a request for arbitration after the completion of the first appeal under subsection (a) at any time before the Administrator of the Federal Emergency Management Agency has issued a final agency determination or 180 days after the Administrator's receipt of the appeal if the Administrator has not provided the applicant with a final determination on the appeal. The applicant's request shall contain documentation from the administrative record for the first appeal and may contain additional documentation supporting the applicant's position.

(Pub. L. 93-288, title IV, § 423, as added Pub. L. 100-707, title I, § 106(l), Nov. 23, 1988, 102 Stat. 4705; amended Pub. L. 115-254, div. D, § 1219, Oct. 5, 2018, 132 Stat. 3452.)

Editorial Notes

REFERENCES IN TEXT

Section 601 of Public Law 111-5, referred to in subsec. (d)(5)(A), is Pub. L. 111-5, div. A, title VI, § 601, Feb. 17, 2009, 123 Stat. 164, which is not classified to the Code.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-254 added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

DISPUTE RESOLUTION PILOT PROGRAM

Pub. L. 113-2, div. B, § 1105, Jan. 29, 2013, 127 Stat. 43, as amended by Pub. L. 114-301, § 2(c), Dec. 16, 2016, 130 Stat. 1514, provided that:

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

“(2) ELIGIBLE ASSISTANCE.—The term ‘eligible assistance’ means assistance—

“(A) under section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173);

“(B) for which the legitimate amount in dispute is not less than \$1,000,000, which sum the Administrator shall adjust annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor;

“(C) for which the applicant has a non-Federal share; and

“(D) for which the applicant has received a decision on a first appeal.

“(b) PROCEDURES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section [Jan. 29, 2013], and

in order to facilitate an efficient recovery from major disasters, the Administrator shall establish procedures under which an applicant may request the use of alternative dispute resolution, including arbitration by an independent review panel, to resolve disputes relating to eligible assistance.

“(2) BINDING EFFECT.—A decision by an independent review panel under this section shall be binding upon the parties to the dispute.

“(3) CONSIDERATIONS.—The procedures established under this section shall—

“(A) allow a party of a dispute relating to eligible assistance to request an independent review panel for the review;

“(B) require a party requesting an independent review panel as described in subparagraph (A) to agree to forgo rights to any further appeal of the dispute relating to any eligible assistance;

“(C) require that the sponsor of an independent review panel for any alternative dispute resolution under this section be—

“(i) an individual or entity unaffiliated with the dispute (which may include a Federal agency, an administrative law judge, or a reemployed annuitant who was an employee of the Federal Government) selected by the Administrator; and

“(ii) responsible for identifying and maintaining an adequate number of independent experts qualified to review and resolve disputes under this section;

“(D) require an independent review panel to—

“(i) resolve any remaining disputed issue in accordance with all applicable laws, regulations, and Agency interpretations of those laws through its published policies and guidance;

“(ii) consider only evidence contained in the administrative record, as it existed at the time at which the Agency made its initial decision;

“(iii) only set aside a decision of the Agency found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; and

“(iv) in the case of a finding of material fact adverse to the claimant made on first appeal, only set aside or reverse such finding if the finding is clearly erroneous;

“(E) require an independent review panel to expeditiously issue a written decision for any alternative dispute resolution under this section; and

“(F) direct that if an independent review panel for any alternative dispute resolution under this section determines that the basis upon which a party submits a request for alternative dispute resolution is frivolous, the independent review panel shall direct the party to pay the reasonable costs to the Federal Emergency Management Agency relating to the review by the independent review panel. Any funds received by the Federal Emergency Management Agency under the authority of this section shall be deposited to the credit of the appropriation or appropriations available for the eligible assistance in dispute on the date on which the funds are received.

“(c) SUNSET.—A request for review by an independent review panel under this section may not be made after December 31, 2015.”

§ 5189b. Date of eligibility; expenses incurred before date of disaster

Eligibility for Federal assistance under this subchapter shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that reasonable expenses which are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this chapter.

(Pub. L. 93-288, title IV, § 424, as added Pub. L. 100-707, title I, § 106(l), Nov. 23, 1988, 102 Stat. 4706.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§ 5189c. Transportation assistance to individuals and households

The President may provide transportation assistance to relocate individuals displaced from their predisaster primary residences as a result of an incident declared under this chapter or otherwise transported from their predisaster primary residences under section 5170b(a)(3) or 5192 of this title, to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

(Pub. L. 93-288, title IV, § 425, as added Pub. L. 109-295, title VI, § 689f, Oct. 4, 2006, 120 Stat. 1452.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Another section 425 of Pub. L. 93-288 was renumbered section 427 and is classified to section 5189e of this title.

§ 5189d. Case management services**(a) In general**

The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.

(b) Training

Each State, local government agency, or qualified private organization providing professional counseling services described in subsection (a) shall ensure that any individual providing case management services to victims of a major disaster as authorized under subsection (a), including individuals working for nonprofit partners and recovery organizations, is appropriately trained to address impacts from major disasters in communities, and to individuals, with socio-economically disadvantaged backgrounds.

(Pub. L. 93-288, title IV, § 426, as added Pub. L. 109-295, title VI, § 689f, Oct. 4, 2006, 120 Stat. 1453; amended Pub. L. 117-251, § 8(a), Dec. 20, 2022, 136 Stat. 2357.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-251 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-251, § 8(b), Dec. 20, 2022, 136 Stat. 2357, provided that: “The amendments made by this section [amending this section] shall apply with respect to amounts appropriated on or after the date of enactment of this Act [Dec. 20, 2022].”

§ 5189e. Essential service providers**(a) Definition**

In this section, the term “essential service provider” means an entity that—

(1)(A) provides

(i) wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service;

(ii) electrical power;

(iii) natural gas;

(iv) water and sewer services; or

(v) any other essential service, as determined by the President; or

(B) is a tower owner or operator;

(2) is—

(A) a municipal entity;

(B) a nonprofit entity; or

(C) a private, for profit entity; and

(3) is contributing to efforts to respond to an emergency or major disaster.

(b) Authorization for accessibility

Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not—

(1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or

(2) impede the restoration or repair of the services described in subsection (a)(1).

(c) Implementation

In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulations, and policies.

(Pub. L. 93-288, title IV, § 427, formerly § 425, as added Pub. L. 109-347, title VI, § 607, Oct. 13, 2006, 120 Stat. 1941; renumbered § 427, Pub. L. 113-2, div. B, § 1102(1), Jan. 29, 2013, 127 Stat. 39; amended Pub. L. 115-141, div. P, title III, § 302, Mar. 23, 2018, 132 Stat. 1087.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-141 designated existing provisions as subpar. (A), redesignated former subpars. (A) to (E) as cls. (i) to (v), respectively, of subpar. (A), substituted “wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service” for “telecommunications service” in cl. (i), and added subpar. (B).

§ 5189f. Public assistance program alternative procedures**(a) Approval of projects**

The President, acting through the Administrator of the Federal Emergency Management

Agency, may approve projects under the alternative procedures adopted under this section for any major disaster or emergency declared on or after January 29, 2013. The Administrator may also apply the alternate procedures adopted under this section to a major disaster or emergency declared before enactment of this Act for which construction has not begun as of the date of enactment of this Act.¹

(b) Adoption

The Administrator, in coordination with States, tribal and local governments, and owners or operators of private nonprofit facilities, may adopt alternative procedures to administer assistance provided under sections 5170b(a)(3)(A), 5172, 5173, and 5192(a)(5) of this title.

(c) Goals of procedures

The alternative procedures adopted under subsection (a) shall further the goals of—

- (1) reducing the costs to the Federal Government of providing such assistance;
- (2) increasing flexibility in the administration of such assistance;
- (3) expediting the provision of such assistance to a State, tribal or local government, or owner or operator of a private nonprofit facility; and
- (4) providing financial incentives and disincentives for a State, tribal or local government, or owner or operator of a private nonprofit facility for the timely and cost-effective completion of projects with such assistance.

(d) Participation

(1) In general

Participation in the alternative procedures adopted under this section shall be at the election of a State, tribal or local government, or owner or operator of a private nonprofit facility consistent with procedures determined by the Administrator.

(2) No conditions

The President may not condition the provision of Federal assistance under this chapter on the election by a State, local, or Indian tribal government, or owner or operator of a private nonprofit facility to participate in the alternative procedures adopted under this section.

(e) Minimum procedures

The alternative procedures adopted under this section shall include the following:

- (1) For repair, restoration, and replacement of damaged facilities under section 5172 of this title—
 - (A) making grants on the basis of fixed estimates, if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible for any actual costs that exceed the estimate;
 - (B) providing an option for a State, tribal or local government, or owner or operator of a private nonprofit facility to elect to receive an in-lieu contribution, without reduction, on the basis of estimates of—
 - (i) the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State, tribal or local government or owner or operator of a private nonprofit facility; and
 - (ii) management expenses;
 - (C) consolidating, to the extent determined appropriate by the Administrator, the facilities of a State, tribal or local government, or owner or operator of a private nonprofit facility as a single project based upon the estimates adopted under the procedures;
 - (D) if the actual costs of a project completed under the procedures are less than the estimated costs thereof, the Administrator may permit a grantee or subgrantee to use all or part of the excess funds for—
 - (i) cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster; and
 - (ii) other activities to improve future Public Assistance operations or planning;
 - (E) in determining eligible costs under section 5172 of this title, the Administrator shall make available, at an applicant's request and where the Administrator or the certified cost estimate prepared by the applicant's professionally licensed engineers has estimated an eligible Federal share for a project of at least \$5,000,000, an independent expert panel to validate the estimated eligible cost consistent with applicable regulations and policies implementing this section;
 - (F) in determining eligible costs under section 5172 of this title, the Administrator shall, at the applicant's request, consider properly conducted and certified cost estimates prepared by professionally licensed engineers (mutually agreed upon by the Administrator and the applicant), to the extent that such estimates comply with applicable regulations, policy, and guidance; and
 - (G) once certified by a professionally licensed engineer and accepted by the Administrator, the estimates on which grants made pursuant to this section are based shall be presumed to be reasonable and eligible costs, as long as there is no evidence of fraud.
- (2) For debris removal under sections 5170b(a)(3)(A), 5173, and 5192(a)(5) of this title—
 - (A) making grants on the basis of fixed estimates to provide financial incentives and disincentives for the timely or cost-effective completion if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible to pay for any actual costs that exceed the estimate;
 - (B) using a sliding scale for determining the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal;
 - (C) allowing use of program income from recycled debris without offset to the grant amount;
 - (D) reimbursing base and overtime wages for employees and extra hires of a State, tribal or local government, or owner or operator of a private nonprofit facility per-

¹ See References in Text note below.

forming or administering debris and wreckage removal;

(E) providing incentives to a State or tribal or local government to have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster; and

(F) if the actual costs of projects under subparagraph (A) are less than the estimated costs of the project, the Administrator may permit a grantee or subgrantee to use all or part of the excess funds for—

- (i) debris management planning;
- (ii) acquisition of debris management equipment for current or future use; and
- (iii) other activities to improve future debris removal operations, as determined by the Administrator.

(f) Waiver authority

Until such time as the Administrator promulgates regulations to implement this section, the Administrator may—

- (1) waive notice and comment rulemaking, if the Administrator determines the waiver is necessary to expeditiously implement this section; and
- (2) carry out the alternative procedures under this section as a pilot program.

(g) Overtime payments

The guidelines for reimbursement for costs under subsection (e)(2)(D) shall ensure that no State or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(h) Report

(1) In general

Not earlier than 3 years, and not later than 5 years, after January 29, 2013, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the alternative procedures for the repair, restoration, and replacement of damaged facilities under section 5172 of this title authorized under this section.

(2) Contents

The report shall contain an assessment of the effectiveness of the alternative procedures, including—

- (A) whether the alternative procedures helped to improve the general speed of disaster recovery;
- (B) the accuracy of the estimates relied upon;
- (C) whether the financial incentives and disincentives were effective;
- (D) whether the alternative procedures were cost effective;
- (E) whether the independent expert panel described in subsection (e)(1)(E) was effective; and
- (F) recommendations for whether the alternative procedures should be continued

and any recommendations for changes to the alternative procedures.

(Pub. L. 93-288, title IV, § 428, as added Pub. L. 113-2, div. B, § 1102(2), Jan. 29, 2013, 127 Stat. 39; amended Pub. L. 115-254, div. D, § 1207(c), (d), Oct. 5, 2018, 132 Stat. 3440, 3441.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (a), probably means the date of enactment of Pub. L. 113-2, which enacted this section and was approved Jan. 29, 2013.

This chapter, referred to in subsec. (d)(2), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (g), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-254, § 1207(c), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (e)(1)(G). Pub. L. 115-254, § 1207(d), added subpar. (G).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

§ 5189g. Unified Federal review

(a) In general

Not later than 18 months after January 29, 2013, and in consultation with the Council on Environmental Quality and the Advisory Council on Historic Preservation, the President shall establish an expedited and unified interagency review process to ensure compliance with environmental and historic requirements under Federal law relating to disaster recovery projects, in order to expedite the recovery process, consistent with applicable law.

(b) Contents

The review process established under this section shall include mechanisms to expeditiously address delays that may occur during the recovery from a major disaster and be updated, as appropriate, consistent with applicable law.

(Pub. L. 93-288, title IV, § 429, as added Pub. L. 113-2, div. B, § 1106, Jan. 29, 2013, 127 Stat. 45.)

Statutory Notes and Related Subsidiaries

UNIFIED FEDERAL ENVIRONMENTAL AND HISTORIC PRESERVATION REVIEW

Pub. L. 115-254, div. D, § 1220, Oct. 5, 2018, 132 Stat. 3453, provided that:

“(a) REVIEW AND ANALYSIS.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018],

the Administrator [of the Federal Emergency Management Agency] shall review the Unified Federal Environmental and Historic Preservation review process established pursuant to section 429 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189g), and submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that includes the following:

“(1) An analysis of whether and how the unified process has expedited the interagency review process to ensure compliance with the environmental and historic requirements under Federal law relating to disaster recovery projects.

“(2) A survey and analysis of categorical exclusions used by other Federal agencies that may be applicable to any activity related to a major disaster or emergency declared by the President under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191).

“(3) Recommendations on any further actions, including any legislative proposals, needed to expedite and streamline the review process.

“(b) REGULATIONS.—After completing the review, survey, and analyses under subsection (a), but not later than 2 years after the date of enactment of this Act, and after providing notice and opportunity for public comment, the Administrator shall issue regulations to implement any regulatory recommendations, including any categorical exclusions identified under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations, and section II of DHS Instruction Manual 023-01-001-01.”

§ 5189h. Agency accountability

(a) Public assistance

Not later than 5 days after an award of a public assistance grant is made under section 5172 of this title that is in excess of \$1,000,000, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency the specifics of each such grant award, including—

- (1) identifying the Federal Emergency Management Agency Region;
- (2) the disaster or emergency declaration number;
- (3) the State, county, and applicant name;
- (4) if the applicant is a private nonprofit organization;
- (5) the damage category code;
- (6) the amount of the Federal share obligated; and
- (7) the date of the award.

(b) Mission assignments

(1) In general

Not later than 5 days after the issuance of a mission assignment or mission assignment task order, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency any mission assignment or mission assignment task order to another Federal department or agency regarding a major disaster in excess of \$1,000,000, including—

- (A) the name of the impacted State or Indian Tribe;
- (B) the disaster declaration for such State or Indian Tribe;
- (C) the assigned agency;

- (D) the assistance requested;
- (E) a description of the disaster;
- (F) the total cost estimate;
- (G) the amount obligated;
- (H) the State or Indian tribal government cost share, if applicable;
- (I) the authority under which the mission assignment or mission assignment task order was directed; and
- (J) if applicable, the date a State or Indian Tribe requested the mission assignment.

(2) Recording changes

Not later than 10 days after the last day of each month until a mission assignment or mission assignment task order described in paragraph (1) is completed and closed out, the Administrator of the Federal Emergency Management Agency shall update any changes to the total cost estimate and the amount obligated.

(c) Disaster relief monthly report

Not later than 10 days after the first day of each month, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency reports, including a specific description of the methodology and the source data used in developing such reports, including—

(1) an estimate of the amounts for the fiscal year covered by the President's most recent budget pursuant to section 1105(a) of title 31 including—

- (A) the unobligated balance of funds to be carried over from the prior fiscal year to the budget year;
- (B) the unobligated balance of funds to be carried over from the budget year to the budget year plus 1;
- (C) the amount of obligations for noncatastrophic events for the budget year;
- (D) the amount of obligations for the budget year for catastrophic events delineated by event and by State;
- (E) the total amount that has been previously obligated or will be required for catastrophic events delineated by event and by State for all prior years, the current fiscal year, the budget year, and each fiscal year thereafter;
- (F) the amount of previously obligated funds that will be recovered for the budget year;

(G) the amount that will be required for obligations for emergencies, as described in section 5122(1) of this title, major disasters, as described in section 5122(2) of this title, fire management assistance grants, as described in section 5187 of this title, surge activities, and disaster readiness and support activities; and

(H) the amount required for activities not covered under section 901(b)(2)(D)(iii) of title 2; and

(2) an estimate or actual amounts, if available, of the following for the current fiscal year, which shall be submitted not later than the fifth day of each month, published by the Administrator of the Federal Emergency Man-

agement Agency on the website of the Federal Emergency Management Agency not later than the fifth day of each month:

(A) A summary of the amount of appropriations made available by source, the transfers executed, the previously allocated funds recovered, and the commitments, allocations, and obligations made.

(B) A table of disaster relief activity delineated by month, including—

- (i) the beginning and ending balances;
- (ii) the total obligations to include amounts obligated for fire assistance, emergencies, surge, and disaster support activities;
- (iii) the obligations for catastrophic events delineated by event and by State; and
- (iv) the amount of previously obligated funds that are recovered.

(C) A summary of allocations, obligations, and expenditures for catastrophic events delineated by event.

(D) The cost of the following categories of spending:

- (i) Public assistance.
- (ii) Individual assistance.
- (iii) Mitigation.
- (iv) Administrative.
- (v) Operations.
- (vi) Any other relevant category (including emergency measures and disaster resources) delineated by disaster.

(E) The date on which funds appropriated will be exhausted.

(d) Contracts

(1) Information

Not later than 10 days after the first day of each month, the Administrator of the Federal Emergency Management Agency shall publish on the website of the Federal Emergency Management Agency the specifics of each contract in excess of \$1,000,000 that the Federal Emergency Management Agency enters into, including—

- (A) the name of the party;
- (B) the date the contract was awarded;
- (C) the amount and scope of the contract;
- (D) if the contract was awarded through a competitive bidding process;
- (E) if no competitive bidding process was used, the reason why competitive bidding was not used; and
- (F) the authority used to bypass the competitive bidding process.

The information shall be delineated by disaster, if applicable, and specify the damage category code, if applicable.

(2) Report

Not later than 10 days after the last day of the fiscal year, the Administrator of the Federal Emergency Management Agency shall provide a report to the appropriate committees of Congress summarizing the following information for the preceding fiscal year:

- (A) The number of contracts awarded without competitive bidding.
- (B) The reasons why a competitive bidding process was not used.

(C) The total amount of contracts awarded with no competitive bidding.

(D) The damage category codes, if applicable, for contracts awarded without competitive bidding.

(e) Collection of public assistance recipient and subrecipient contracts

(1) In general

Not later than 180 days after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall initiate and maintain an effort to collect and store information, prior to the project closeout phase on any contract entered into by a public assistance recipient or subrecipient that through the base award, available options, or any subsequent modifications has an estimated value of more than \$1,000,000 and is funded through section 5165b, 5170b, 5170c, 5172, 5173, 5189f, or 5192 of this title, including—

- (A) the disaster number, project worksheet number, and the category of work associated with each contract;
- (B) the name of each party;
- (C) the date the contract was awarded;
- (D) the amount of the contract;
- (E) the scope of the contract;
- (F) the period of performance for the contract; and
- (G) whether the contract was awarded through a competitive bidding process.

(2) Availability of information collected

The Administrator of the Federal Emergency Management Agency shall make the information collected and stored under paragraph (1) available to the Inspector General of the Department of Homeland Security, the Government Accountability Office, and appropriate committees of Congress, upon request.

(3) Report

Not later than 365 days after October 5, 2018, the Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the efforts of the Federal Emergency Management Agency to collect the information described in paragraph (1).

(Pub. L. 93-288, title IV, § 430, as added Pub. L. 115-254, div. D, § 1224, Oct. 5, 2018, 132 Stat. 3455.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Enactment of section by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as an Effective Date of 2018 Amendment note under section 5121 of this title.

SUBCHAPTER IV—A—EMERGENCY
ASSISTANCE PROGRAMS

§ 5191. Procedure for declaration

(a) Request and declaration

All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this chapter, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

(b) Certain emergencies involving Federal primary responsibility

The President may exercise any authority vested in him by section 5192 of this title or section 5193 of this title with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a).

(c) Indian tribal government requests

(1) In general

The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that an emergency exists consistent with the requirements of subsection (a).

(2) References

In implementing assistance authorized by the President under this subchapter in response to a request of the Chief Executive of an affected Indian tribal government for an emergency declaration, any reference in this subchapter or subchapter III (except sections 5153 and 5165d of this title) to a State or the Governor of a State is deemed to refer to an affected Indian tribal government or the Chief Executive of an affected Indian tribal government, as appropriate.

(3) Savings provision

Nothing in this subsection shall prohibit an Indian tribal government from receiving assistance under this subchapter through a declaration made by the President at the request of a State under subsection (a) if the President does not make a declaration under this subsection for the same incident.

(Pub. L. 93-288, title V, §501, as added Pub. L. 100-707, title I, §107(a), Nov. 23, 1988, 102 Stat. 4706; amended Pub. L. 113-2, div. B, §1110(b), Jan. 29, 2013, 127 Stat. 48.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 501 of Pub. L. 93-288 enacted subchapter VIII (§3231 et seq.) of chapter 38 of this title.

AMENDMENTS

2013—Subsec. (c). Pub. L. 113-2 added subsec. (c).

§ 5192. Federal emergency assistance

(a) Specified

In any emergency, the President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

(3) provide technical and advisory assistance to affected State and local governments for—

(A) the performance of essential community services;

(B) issuance of warnings of risks or hazards;

(C) public health and safety information, including dissemination of such information;

(D) provision of health and safety measures; and

(E) management, control, and reduction of immediate threats to public health and safety;

(4) provide emergency assistance through Federal agencies;

(5) remove debris in accordance with the terms and conditions of section 5173 of this title;

(6) provide assistance in accordance with section 5174 of this title and section 5183 of this title;

(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and

(8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State