

Code, see Short Title note set out under section 5121 of this title and Tables.

§ 5165b. Management costs

(a) Definition of management cost

In this section, the term “management cost” includes any indirect cost, any administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.

(b) Establishment of management cost rates

Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation establish management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this chapter for management costs.

(c) Review

The President shall review the management cost rates established under subsection (b) of this section not later than 3 years after the date of establishment of the rates and periodically thereafter.

(Pub. L. 93–288, title III, §324, as added Pub. L. 106–390, title II, §202(a), Oct. 30, 2000, 114 Stat. 1560.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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.

EFFECTIVE DATE

Pub. L. 106–390, title II, §202(b), Oct. 30, 2000, 114 Stat. 1560, provided that:

“(1) IN GENERAL.—Subject to paragraph (2), subsections (a) and (b) of section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5165b(a), (b)] (as added by subsection (a)) shall apply to major disasters declared under that Act [42 U.S.C. 5121 et seq.] on or after the date of the enactment of this Act [Oct. 30, 2000].

“(2) INTERIM AUTHORITY.—Until the date on which the President establishes the management cost rates under section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)), section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) (as in effect on the day before the date of the enactment of this Act) shall be used to establish management cost rates.”

§ 5165c. Public notice, comment, and consultation requirements

(a) Public notice and comment concerning new or modified policies

(1) In general

The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that—

(A) governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this chapter; and

(B) could result in a significant reduction of assistance under the program.

(2) Application

Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.

(b) Consultation concerning interim policies

(1) In general

Before adopting any interim policy under the public assistance program to address specific conditions that relate to a major disaster or emergency that has been declared under this chapter, the President, to the maximum extent practicable, shall solicit the views and recommendations of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely—

(A) to result in a significant reduction of assistance to applicants for the assistance with respect to the major disaster or emergency; or

(B) to change the terms of a written agreement to which the Federal Government is a party concerning the declaration of the major disaster or emergency.

(2) No legal right of action

Nothing in this subsection confers a legal right of action on any party.

(c) Public access

The President shall promote public access to policies governing the implementation of the public assistance program.

(Pub. L. 93–288, title III, §325, as added Pub. L. 106–390, title II, §203, Oct. 30, 2000, 114 Stat. 1560.)

REFERENCES IN TEXT

This chapter, referred to in subsections (a)(1)(A) and (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.

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.

§ 5165d. Designation of Small State and Rural Advocate

(a) In general

The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

(b) Responsibilities

The Small State and Rural Advocate shall be an advocate for the fair treatment of small

States and rural communities in the provision of assistance under this chapter.

(c) Duties

The Small State and Rural Advocate shall—

(1) participate in the disaster declaration process under section 5170 of this title and the emergency declaration process under section 5191 of this title, to ensure that the needs of rural communities are being addressed;

(2) assist small population States in the preparation of requests for major disaster or emergency declarations; and

(3) conduct such other activities as the Administrator of the Federal Emergency Management Agency considers appropriate.

(Pub. L. 93-288, title III, §326, as added Pub. L. 109-295, title VI, §689g(a), Oct. 4, 2006, 120 Stat. 1453; amended Pub. L. 111-351, §3(c)(2), Jan. 4, 2011, 124 Stat. 3864.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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.

AMENDMENTS

2011—Subsec. (c)(3). Pub. L. 111-351 substituted “Administrator” for “Director”.

CONSTRUCTION

Pub. L. 109-295, title VI, §689g(c), Oct. 4, 2006, 120 Stat. 1453, provided that: “Nothing in this section [enacting this section] or the amendments made by this section shall be construed to authorize major disaster or emergency assistance that is not authorized as of the date of enactment of this Act [Oct. 4, 2006].”

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.)

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).

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