

ment 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.

§ 5204c. Hazard mitigation for insular areas

The total of contributions under the last sentence of section 5170c of this title for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 5170b, 5172, 5173, 5174, and 5178¹ of this title for any disaster: *Provided*, That the President shall require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 5172 of this title for any disaster. (Pub. L. 102-247, title II, §204, Feb. 24, 1992, 106 Stat. 38.)

REFERENCES IN TEXT

Section 5178 of this title, referred to in text, was repealed by Pub. L. 106-390, title II, §206(c), Oct. 30, 2000, 114 Stat. 1571, effective 18 months after Oct. 30, 2000.

CODIFICATION

Section was enacted as part of the Omnibus Insular Areas Act of 1992, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

§ 5205. Disaster grant closeout procedures

(a) Statute of limitations

(1) In general

Notwithstanding section 3716(e) of title 31 and except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this chapter shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for project completion as certified by the grantee.

(2) Fraud exception

The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.

(b) Rebuttal of presumption of record maintenance

(1) In general

In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for project completion as certified by the grantee, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.

(2) Affirmative evidence

The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.

(3) Inability to produce documentation

The inability of the Federal, State, or local government to produce source documentation

supporting expenditure reports later than 3 years after the date of transmission of the final expenditure report for project completion as certified by the grantee shall not constitute evidence to rebut the presumption described in paragraph (1).

(4) Right of access

The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3-year retention period referred to in paragraph (3), but shall last as long as the records are maintained.

(c) Binding nature of grant requirements

A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this chapter if—

- (1) the payment was authorized by an approved agreement specifying the costs;
- (2) the costs were reasonable; and
- (3) the purpose of the grant was accomplished.

(d) Facilitating closeout

(1) Incentives

The Administrator of the Federal Emergency Management Agency may develop incentives and penalties that encourage State, local, or Indian tribal governments to close out expenditures and activities on a timely basis related to disaster or emergency assistance.

(2) Agency requirements

The Federal Emergency Management Agency shall, consistent with applicable regulations and required procedures, meet its responsibilities to improve closeout practices and reduce the time to close disaster program awards.

(Pub. L. 93-288, title VII, §705, as added Pub. L. 106-390, title III, §304, Oct. 30, 2000, 114 Stat. 1573; amended Pub. L. 115-254, div. D, §§1216(c)(1), 1221(a), Oct. 5, 2018, 132 Stat. 3451, 3453.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c), 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

2018—Subsec. (a)(1). Pub. L. 115-254, §1216(c)(1)(A), substituted “Notwithstanding section 3716(e) of title 31 and except” for “Except” and “report for project completion as certified by the grantee” for “report for the disaster or emergency”.

Subsec. (b)(1). Pub. L. 115-254, §1216(c)(1)(B)(i), substituted “report for project completion as certified by the grantee” for “report for the disaster or emergency”.

Subsec. (b)(3). Pub. L. 115-254, §1216(c)(1)(B)(ii), inserted “for project completion as certified by the grantee” after “final expenditure report”.

Subsec. (d). Pub. L. 115-254, §1221(a), added subsec. (d).

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

¹ See References in Text note below.

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.

REGULATIONS

Pub. L. 115-254, div. D, §1221(b), Oct. 5, 2018, 132 Stat. 3454, provided that: “The Administrator [of the Federal Emergency Management Agency] shall issue regulations to implement the amendment made by this section [amending this section].”

§ 5205a. Certain recoupment prohibited

(a) In general

Notwithstanding any other provision of law, the Agency shall deem any covered disaster assistance to have been properly procured, provided, and utilized, and shall restore any funding of covered disaster assistance previously provided but subsequently withdrawn or deobligated.

(b) Covered disaster assistance defined

In this section, the term “covered disaster assistance” means assistance—

(1) provided to a local government pursuant to section 5170b, 5172, or 5173 of this title; and

(2) with respect to which the inspector general of the Department of Homeland Security has determined, after an audit, that—

(A) the Agency deployed to the local government a Technical Assistance Contractor to review field operations, provide eligibility advice, and assist with day-to-day decisions;

(B) the Technical Assistance Contractor provided inaccurate information to the local government; and

(C) the local government relied on the inaccurate information to determine that relevant contracts were eligible, reasonable, and reimbursable.

(c) Effective date

This section shall be effective on October 5, 2018.

(Pub. L. 115-254, div. D, §1237, Oct. 5, 2018, 132 Stat. 3464.)

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.

DEFINITIONS

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

§ 5206. Buy American

(a) Compliance with chapter 83 of title 41

No funds authorized to be appropriated under this Act or any amendment made by this Act may be expended by an entity unless the entity, in expending the funds, complies with chapter 83 of title 41.

(b) Debarment of persons convicted of fraudulent use of “Made in America” labels

(1) In general

If the Administrator of the Federal Emergency Management Agency determines that a

person has been convicted of intentionally affixing a label bearing a “Made in America” inscription to any product sold in or shipped to the United States that is not made in America, the Administrator shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Definition of debar

In this subsection, the term “debar” has the meaning given the term in section 2393(c) of title 10.

(Pub. L. 106-390, title III, §306, Oct. 30, 2000, 114 Stat. 1574; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 106-390, Oct. 30, 2000, 114 Stat. 1552, known as the Disaster Mitigation Act of 2000. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 5121 of this title and Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(1), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

In subsec. (a), “chapter 83 of title 41” substituted for references to the Buy American Act on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was enacted as part of the Disaster Mitigation Act of 2000, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” and “Administrator” substituted for “Director of the Federal Emergency Management Agency” and “Director”, respectively, in subsec. (b)(1) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

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.