

olution 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

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.

(Pub. L. 93-288, title IV, § 426, as added Pub. L. 109-295, title VI, § 689f, Oct. 4, 2006, 120 Stat. 1453.)

§ 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 facil-

- ity 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 performing or administering debris and wreckage removal;

¹ See References in Text note below.

(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 Envi-