



Sandy Recovery Improvement Act

On January 29, 2013, President Barack Obama signed into law the Sandy Recovery Improvement Act (SRIA) of 2013 and the accompanying Disaster Relief Appropriations Act, 2013. In many ways, the passage of SRIA represents the most significant legislative change to the Federal Emergency Management Agency's (FEMA) substantive authorities since the enactment of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

The law authorizes several significant changes to the way FEMA may deliver federal disaster assistance to survivors. To date, 14 of 17 provisions outlined in this legislation have been completed, implemented as pilot programs, or made otherwise available for immediate use.

Public Assistance Permanent Work Alternative Procedures

This provides substantially greater flexibility in use of federal funds for Public Assistance applicants and far less administrative burden and costs for all parties, if applicants accept grants based on fixed, capped estimates, which may be provided by applicants' licensed engineer and validated by independent expert panel.

FEMA is currently piloting the following alternative procedures:

- Grants for public assistance permanent work projects on the basis of fixed estimates for the timely or cost-effective completion of work;
- In-lieu contribution on the basis of estimates for repair, restoration, reconstruction, or replacement of a public facility and management expenses;
- Consolidating the repair, restoration or replacement work on damaged facilities as a single project based upon estimates adopted under the procedures;
- Use of all or part of the excess grant funds for cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster and other activities to improve future Public Assistance operations or planning; and
- Independent expert panel to validate estimated eligible project costs if requested by a Subgrantee for a project of at least \$5 million; and consideration for properly conducted and certified cost estimates prepared by professional licensed engineers (mutually agreed upon by the Administrator and the applicant).

STATUS: Pilot guidance was issued in May 2013 and is available at: www.fema.gov/alternative-procedures.

Debris Removal Program Alternative Procedures

This offers a package of cost share adjustments, reimbursement for force account, and retention of program from recycling to speed debris removal and encourage pre-disaster debris planning.

FEMA is currently piloting the following alternative procedures:

- Use of a sliding scale to determine the Federal share for removal of debris and wreckage, based on the time it takes to complete debris and wreckage removal;
- Use of program income from recycled debris without offset to the grant amount;
- Reimbursement of base and overtime wages for Public Assistance applicants performing Public Assistance performing or administering debris and wreckage removal; and
- Cost-share incentive to a state, tribal or local government to have a debris management plan approved by FEMA and have pre-qualified one or more debris and wreckage removal contractors before the date of declaration of the major disaster.

STATUS: The pilot was first implemented following the Oklahoma tornadoes in May 2013. The nationwide pilot guidance for debris removal, issued on June 28, 2013, is available at: www.fema.gov/alternative-procedures.

Three-year Nationwide Dispute Resolution Pilot (Arbitration) and Related Changes to Appeals Process

SRIA required FEMA to establish within six months of enactment a nationwide Dispute Resolution Pilot Program, including arbitration by an independent review panel, to resolve disputes relating to Public Assistance projects. Most Public Assistance Program projects are free of eligibility disputes or, if eligibility issues do arise, they are quickly resolved. Eligibility disputes are ordinarily resolved through a two level administrative appeals process. The Dispute Resolution Pilot Program allows Public Assistance applicants for all disasters declared on or after October 30, 2012 an option to request binding arbitration for certain projects with an amount in dispute of over \$1 million after first appeal, instead of pursuing a second appeal under FEMA's Public Assistance Program. Also, FEMA has issued a Public Assistance Appeals Policy to ensure timely, specific and well-reasoned first and second appeals decisions and provide a feedback loop to Public Assistance Program management.

STATUS: Regulation was issued August 16, 2013. By statute, the pilot program is authorized through December 2015. More information is available at: www.fema.gov/public-assistance-process-request-arbitration.

Coordination between Federal Transit Administration and FEMA on Public Transportation Infrastructure

The Federal Transit Administration's (FTA) Public Transportation Emergency Relief Program was appropriated \$5,400,000,000 for transit systems affected by Hurricane Sandy. In order to receive the full balance of the appropriation, FTA was required to execute a Memorandum of Agreement (MOA) with FEMA outlining the roles and responsibilities of both agencies in providing federal assistance to repair and restore public transportation systems in areas where the President has declared a major disaster or emergency. FTA also was required to publish interim regulations for the program.

STATUS: In March 2013, FTA issued interim regulations and executed a Memorandum of Agreement with FEMA on roles/responsibilities for all disaster operations. The MOA and interim regulation are available at: www.fta.dot.gov/map21_15025.html.

Analysis of Public Assistance Small Project Threshold ("Simplified Procedures")

SRIA required the FEMA Administrator to complete an analysis to determine whether an increase in the Public Assistance grant program small project threshold is appropriate. This analysis had to

consider the following factors: cost-effectiveness, speed of recovery, capacity of grantees, past performance, and accountability measures. FEMA submitted its findings in a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Homeland Security and Governmental Affairs in January 2014. SRIA also required the immediate establishment of a threshold for eligibility in an appropriate amount adjusted annually to reflect changes in the Consumer Price Index. Not later than 3 years after the date on which the Administrator establishes a threshold, and every 3 years thereafter, the FEMA Administrator, shall review the threshold for eligibility under this section.

STATUS: Report was submitted to Congress on January 29, 2014 and available at: www.fema.gov/media-library/assets/documents/90458. FEMA published a final rule on the small project thresholds on February 26, 2014. In accordance with the law, these changes are taking effect for disasters declared on or after February 26, 2014, the date of publication of the Final Rule in the Federal Register. FEMA also plans to publish in the near future a Notice in the Federal Register seeking comment on the Simplified Procedures report. The Final Rule is available at: <http://www.gpo.gov/fdsys/pkg/FR-2014-02-26/pdf/2014-04220.pdf>.

Reimbursement for Certain Force Account Straight Time

SRIA authorizes rulemaking to address reimbursement of straight-time force account labor costs for state, tribal and local government employees performing emergency protective measures, if such work is not typically performed by those employees and is the type of work that may otherwise be carried out by contract or agreement with private entities or individuals.

STATUS: FEMA will implement this authority through the normal notice and comment rulemaking process.

Posting Public Assistance Awards and Mission Assignments on the Web

When issuing a disaster declaration, the President may make Federal funding (Public Assistance) available through FEMA to state, tribal and eligible local governments and certain private nonprofit organizations. This is done on a cost-sharing basis for emergency work, debris removal and the repair or replacement of facilities damaged by the disaster event. The Disaster Relief Appropriations Act, 2013 requires FEMA to publish public assistance grants and mission assignments in excess of \$1 million on the internet within 24 hours of award/issuance.

STATUS: Completed with sustainable process in place and ongoing reporting. Information can be found at: www.fema.gov/public-assistance-grant-awards-activity and www.fema.gov/mission-assignment-activity.

De-obligation of Unexpended Sandy Grants

The Disaster Relief Appropriations Act, 2013 requires the grantee/sub-grantee expenditure of obligated grant funds within 24 months or funds be returned to the agency. Only the Office of Management and Budget (OMB) may waive this requirement and only for good cause with notice to Congress. On July 9, 2013, OMB announced provisions that allow FEMA to waive the 2 year expenditure requirement for \$5 billion for the Public Assistance Grant Program and \$1.5 billion for the Hazard Mitigation Grant Program.

STATUS: The OMB waiver notification can be found at: <https://www.fhwa.dot.gov/specialfunding/er/130709.pdf>. FEMA has notified states of the grant expenditure requirement in accordance with the law and all applicants for Public Assistance funding have also been advised of the requirement. Also, FEMA will continue to use a Strategic Funds Management approach with grantees to ensure funds are made available and obligated based on defined projects that the grantee is capable of executing.

Disaster Relief Fund Reporting

The Disaster Relief Fund (DRF) is an appropriation against which FEMA can direct, coordinate, manage, and fund eligible response and recovery efforts associated with domestic major disasters and emergencies that overwhelm state resources pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Disaster Relief Appropriations Act, 2013 requires FEMA to provide monthly reports to Congress and on the internet regarding DRF spending.

STATUS: Completed with sustainable process in place and ongoing reporting. This information can be found at: www.fema.gov/disaster-relief-fund.

National Strategy to Reduce Costs on Future Disasters

SRIA required FEMA to make recommendations for the development of a national strategy to reduce costs on future disasters that should:

- Respect the constitutional roles and responsibilities of the different levels of government, as well as the private sector;
- Address vulnerability to damage from flooding, severe weather, and other hazards;
- Analyze gaps and duplication of emergency preparedness, response, recovery and mitigation at all levels of government; and
- Include recommendations on improving resiliency of states, local, and tribal communities to lower future response and recovery costs.

STATUS: The recommendations were submitted to Congress in September 2013. Information is available at: www.fema.gov/media-library/assets/documents/35064.

Community Disaster Loans

The Disaster Relief Appropriations Act, 2013 provided \$300 million (\$285 million after sequestration) to the Disaster Assistance Direct Loan Program account that can be used for Community Disaster Loans (CDLs).

The purpose of a CDL is to provide funds to any eligible jurisdiction in a designated disaster area that has suffered a substantial loss of tax and other revenue and demonstrates a need for a loan to perform its governmental functions. The funds must be used to maintain existing government services, or to expand those services to meet disaster-related needs.

STATUS: Loans are being processed as requested. For information on CDL processing, please refer to www.fema.gov/community-disaster-loan-program.

Declarations for Federally Recognized Tribal Governments

SRIA amended the Stafford Act to provide Federally-recognized Indian tribal governments the option to make their own request for a Presidential emergency or major disaster declaration independently of a state or to seek assistance under a declaration for a state.

STATUS: FEMA conducted initial tribal consultation and public comment in Spring 2013. Input received will be used to inform the development of a Tribal Declarations Pilot Guidance which will describe the process for tribal governments to request declarations. Drafts of the pilot guidance will circulate for tribal consultation and public comment. In the meantime, FEMA is processing declaration requests from tribal governments using existing regulations. More information is available on the recent Tribal outreach related to declarations by Tribes at: www.fema.gov/tribal-consultation.

Individual Assistance Declaration Factors

SRIA directs FEMA 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 Stafford Act. To satisfy these mandates, SRIA requires FEMA to work with state, tribal and local emergency management agencies to review and revise through rulemaking the factors considered when evaluating the need for the Individual Assistance Program following a major disaster or emergency.

STATUS: FEMA is drafting regulatory text for a Notice of Proposed Rulemaking with anticipated publication no earlier than 2014.

The Lease and Repair Program

When there is limited local housing stock available for disaster assistance, FEMA can provide an additional option for housing for disaster survivors. SRIA affirms FEMA's authority to lease multifamily rental units and provide them to individuals or households for use as direct temporary housing where cost effective. FEMA may make repairs to such properties to the extent necessary to serve as safe and adequate temporary housing. The value of the repairs will be deducted from and may not exceed the value of the lease agreement.

STATUS: FEMA issued policy in September 2013 and is available at: <http://www.fema.gov/media-library/assets/documents/85434>.

Other Needs Assistance: Child Care Expenses

SRIA provides FEMA the specific authority to pay for "child care" expenses as disaster assistance under the Other Needs Assistance (ONA) provision of the Individuals and Households Program in addition to funeral, medical and dental expenses

STATUS: FEMA policy was issued in January 2014 and is available at: <http://www.fema.gov/media-library/assets/documents/90723>.

Changes to the Hazard Mitigation Grant Program (HMGP)

Streamlined Procedures: SRIA directs FEMA to streamline HMGP activities and to adopt measures to expedite implementation of the program. FEMA and the states or tribal governments will collaborate to improve the efficiency and effectiveness of HMGP by identifying the minimum criteria for complete applications; timeframes for reviewing actions and decisions; phasing projects; industry cost guides for estimates; industry design and construction standards; pre-calculated benefits. These areas present the first phase of our ongoing efforts to seek continuous improvements to HMGP.

STATUS: In May 2013, FEMA issued pilot program guidance to begin the implementation of the procedures enacted in the law. In July 2013, FEMA issued the revised Hazard Mitigation Assistance Unified Guidance which incorporates the streamlining objectives for HMGP stated in SRIA. The next steps include monitoring effectiveness. FEMA may make adjustments as necessary. More details about these streamlining procedures are available by viewing the pilot program guidance at: [SRIA HMGP Streamlining Memorandum](#) and www.fema.gov/library/viewRecord.do?id=7571.

Advance Assistance: SRIA allows FEMA to provide up to 25 percent of the estimated costs for eligible hazard mitigation measures to a state or tribal grantee before eligible costs are incurred. FEMA will continue to implement this Advance Assistance provision on a pilot basis for any state or tribe having a declaration with an open application period. The amount of assistance is limited to 25 percent of the HMGP ceiling or \$10 million, whichever is less.

STATUS: FEMA pilot guidance was issued for Sandy-declared states in April 2013. Pilot guidance was expanded to all states in May 2013. In July, 2013, FEMA issued Hazard Mitigation Assistance Unified Guidance which informs users of the availability of advance assistance and presents it as an option. Florida requested and received Advance Assistance.

Program Administration by States: SRIA allows FEMA to implement, on a pilot basis, HMGP Administration by States (PAS). PAS provides a framework for FEMA and its partner states to better utilize their collective resources to efficiently and effectively implement HMGP.

STATUS: FEMA pilot guidance was issued March 2013. Florida has applied for PAS for two disasters. FEMA-State operational agreement was executed August 2013 with Florida.

The Unified Federal Review Process

SRIA added Section 429 to the Stafford Act which directs the President to establish an expedited and unified environmental and historic preservation (EHP) process by July 29, 2014 for disaster recovery actions. The Unified Interagency Review Process is a framework for coordinating Federal agency EHP reviews for disaster recovery projects associated with Presidentially-declared disasters under the Stafford Act. The Unified Federal Review is designed to enhance the ability of the Federal EHP review process to inform and expedite disaster recovery decisions for grant applicants and other potential beneficiaries of disaster assistance by improving coordination and consistency across Federal agencies, and assisting agencies in better leveraging their resources and tools.

STATUS: The Unified Federal Review Process is on track to be established by the July 2014 statutory deadline.

FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.

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