



FEMA LAW ASSOCIATES, PLLC
Latest FEMA Law Developments At a Glance

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Message From the President of FEMA Law Associates

This Newsletter is the fourth in our series summarizing recent amendments to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This issue describes amendments enacted in the Security and Accountability for Every (SAFE) Port Act of 2006 (PL 109-347, October 13, 2006, 120 Stat 1884). Previous issues of our Newsletter can be obtained on the FEMA Law site, www.fema-law.com (click on "e-Newsletters").

– Ernie Abbott

Amendments to the Robert T. Stafford Act

Sec. 607. Essential Services Disaster Assistance - is a response to concern that private operators during Hurricane Katrina had trouble getting past security barriers to fix essential utility facilities. The Stafford Act is amended by adding a new Section 425, "Essential Service Providers." This section defines the term 'essential service provider' and directs federal agencies to give emergency service providers access, where possible, to the site of an emergency or major disaster for the purpose of restoring services. Under this legislation, an essential service provider is an entity (municipal, nonprofit, private, for profit entity) that provides: telecommunications service; electrical power; natural gas; water and sewer services; or any other essential service as determined by the President.

Sec. 608. Community Disaster Loans - Section 417(b) of the Robert T. Stafford Act is amended as follows – to increase the maximum amount of community disaster loans from the previously effective '25 percent of the annual operating budget of that local government for the fiscal year', to up to 50 percent of the annual operating budget "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..."

Sec. 609. Public Facilities - Section 406(c)(1) of the Robert T. Stafford Act is amended to increase the federal grant that a state and local government can receive when it chooses not to "repair, restore, reconstruct, or replace a public facility damaged or destroyed by a major disaster..." The Disaster Mitigation Act of 2000 had capped this "in lieu of contribution" at 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses; this "in lieu of" percentage is now 90%.

Sec. 610. Expedited Payments - This amendment responds to concern that the federal public assistance grants were taking too long to be awarded. Section 407 of the Robert T. Stafford Act is amended by adding a new subsection (e) Expedited Claims. It states that 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..." and the date of payment – "not later than 60 days after the date of the estimate... 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..."

Sec. 611. Use of Local Contracting - The Post-Katrina Emergency Management Reform Act of 2006 (part of the FY 2007 DHS Appropriations Act) amended Section 307 of the Stafford Act to more clearly direct the federal government to give preference to local contractors where feasible. (See discussion of Section 694 in FLASH Newsletter Issue 5). The Port Security Act further amends this section by adding the provision on implementation as follows: "(3) Formulation of Requirements – The head of the Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section." Aspiring contractors should keep alert as these requirements are developed.

For a text of the SAFE Port Act of 2006 as passed, visit: http://thomas.loc.gov/home/gpoxmlc109/h4954_enr.xml

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