

Calendar No. 1040

110TH CONGRESS }
2d Session

SENATE

{ REPORT
110-479

PREDISASTER HAZARD MITIGATION ACT OF
2008

R E P O R T

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3175

TO AMEND THE ROBERT T. STAFFORD DISASTER RELIEF AND
EMERGENCY ASSISTANCE ACT TO REAUTHORIZE THE PRE-
DISASTER HAZARD MITIGATION PROGRAM, TO MAKE TECHNICAL
CORRECTIONS TO THAT ACT, AND FOR OTHER PURPOSES



SEPTEMBER 22 (legislative day, SEPTEMBER 17), 2008.—Ordered to be
printed

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PREDISASTER HAZARD MITIGATION ACT OF 2008

SEPTEMBER 22 (legislative day, SEPTEMBER 17), 2008.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3175]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3175) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster hazard mitigation program, to make technical corrections to that Act, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

Predisaster mitigation has proven to be a very effective and cost-effective way to reduce the damage caused by disasters. The purpose of this legislation is to reduce injuries, loss of life, and property damage and destruction, and, in the long run, save taxpayer dollars, by reauthorizing the Predisaster Mitigation (PDM) program for five years. The bill also requires the President to use a competitive process, with a minimum and maximum amount of funding for each state, as described in the legislation, to award the PDM grants.

II. BACKGROUND AND NEED

The PDM program, which is authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”) (42 U.S.C. § 5133 et seq.), provides technical and financial assistance to states, tribes, territories, and communities for projects to mitigate the risk of future disasters. Administered by the Federal Emergency Management Agency (FEMA), the program is designed to reduce injuries, loss of life, and property damage and destruction, and thereby reduce the harmful impact of disasters on the individuals affected and reduce the cost to government at all levels.¹ Funding is provided under the program both for predisaster mitigation planning and for the implementation of mitigation projects. Such planning can help local communities to recognize hazards and determine priorities for reduction of risks. Such mitigation projects may include activities like the acquisition and relocation of structures out of the floodplain, retrofitting buildings to better withstand storms and earthquakes, and protective measures for gas and electric utilities, water and sewer systems, and roads and bridges.²

This Committee believes that PDM has shown itself to be an effective and cost-effective program for reducing loss of life, personal injuries, damage to and destruction of property, and disruption of communities from disasters. This assessment is supported by recent studies. In 2007, the Congressional Budget Office (CBO) issued a report evaluating the assistance that has resulted, and is likely to result, from the PDM program since it was authorized in its current form in 2000.³ According to CBO, available information suggests that future losses are reduced by about \$3 (present value) for each \$1 spent on mitigation efforts supported under the program. Moreover, CBO found that PDM-funded projects could lower the need for federal post-disaster assistance so that the federal PDM investment would actually save taxpayer money in terms of the federal budget.

Moreover, a 2005 report by the Multihazard Mitigation Council shows substantial benefits and cost savings from FEMA’s hazard mitigation programs generally.⁴ Looking at a range of FEMA programs for the mitigation of hazards,⁵ the study found that, on average, one dollar spent by FEMA provides the nation about \$4 in future benefits. Moreover, FEMA mitigation grants during the ten years preceding 2003 are expected to save more than 220 lives and

¹See FEMA, FY 2008 Pre-Disaster Mitigation Program Guidance, available at <http://www.fema.gov/library/viewRecord.do?id=3029>.

²*Id.*

³U.S. Congress, CBO, “Potential Cost Savings from the Pre-Disaster Mitigation Program” (September 2007), available at www.cbo.gov/ftpdocs/86xx/doc8653/09-28-Disaster.pdf. CBO conducted this assessment to satisfy a statutory mandate under section 209 of the Disaster Mitigation Act of 2000, Pub. L. 106-390 (42 U.S.C. § 5121 note), which is the Act that authorized the current PDM program.

⁴Multihazard Mitigation Council of the National Institute of Building Sciences, “Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities” (2005) available at www.nibs.org/MMC/MitigationSavingsReport/natural_hazard_mitigation_saves.htm.

⁵The study looked at three major mitigation grant programs at FEMA: the Hazard Mitigation Grant Program (which assists in long-term hazard mitigation measures following presidentially declared hazards); Project Impact, (which supported pre-disaster mitigation programs from 1997 to 2001); and the Flood Mitigation Assistance Program (which funds measures to reduce the risk of flood damage to structures insurable under the National Flood Insurance Program).

prevent nearly 4700 injuries over approximately 50 years.⁶ Significantly, the study found: “a dollar spent from the federal treasury on FEMA mitigation grants potentially saves it about \$3.65.”

Under section 203(m) of the Stafford Act (42 U.S.C. § 5133(m)), the authority to provide PDM assistance will terminate on September 30, 2008. In order to enable this highly valuable program to continue saving lives, property, and taxpayer dollars, S. 3175 will remove the sunset provision and will authorize annual appropriations through fiscal year 2013.

As amended by the Committee, the bill will reauthorize the program as a competitive program with a minimum and maximum amount of funding for each state. The Committee disapproves of the earmarking of PDM program money that has been included in recent Homeland Security Appropriations legislation, and believes that the competitive award of funds is far more likely to ensure that the highest-priority and most cost-effective mitigation projects are supported. Also, given the substantial taxpayer savings generated by competitively awarded PDM grants, the Committee has authorized additional funding for the program; the bill as amended by the Committee authorizes appropriations for fiscal years 2009, 2010, 2011, 2012, and 2013 of \$210 million, \$220 million, \$230 million, \$240 million, and \$250 million, respectively.

Additionally, the bill was amended by the Committee to specify that a state may not use more than 25% of the financial assistance made available to the state under the PDM program in a fiscal year for eligible flood control projects.

III. LEGISLATIVE HISTORY

S. 3175 was introduced by Senator Joseph Lieberman and Senator Susan Collins on June 20, 2008 and was referred to the Homeland Security and Governmental Affairs Committee. Senator Daniel Akaka joined as a cosponsor at a later date.

On June 25, 2008, the Committee considered S. 3175. The Committee adopted two amendments, both offered by Senator Pryor. The first amendment provided that a state may not use more than 25% of the financial assistance made available to a state under the PDM program in a fiscal year for eligible flood control projects. The second amendment increased the levels of authorized appropriations for fiscal years 2009 through 2013 above the levels in the bill as introduced. The Committee approved the amendments and ordered the bill favorably reported to the full Senate by voice votes. The Senators present for the voice votes were Senators Lieberman, Akaka, Carper, Pryor, McCaskill, Collins, Coleman, Coburn, and Sununu. Senator Coburn asked that his vote be recorded as nay for each of these votes.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section of the bill states that the short title of the Act is the “Predisaster Hazard Mitigation Act of 2008.”

⁶Multihazard Mitigation Council of the National Institute of Building Sciences, “Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities” at iii.

Section 2. Predisaster hazard mitigation

Subsection (a) amends section 203(f) of the Stafford Act (42 U.S.C. 5133(f)) to require the President to award PDM grants by a competitive process, but to ensure that the amount of financial assistance made available to a state for a fiscal year does not fall below the lesser of \$575,000 or the amount that is equal to 1% of the total funds appropriated to carry out section 203. Additionally, the subsection requires that the amount of financial assistance available to a state may not exceed 15% of the total funds appropriated to carry out section 203 for the fiscal year.

Subsection (b) amends section 203(m) of the Stafford Act (42 U.S.C. 5133(m)) to repeal the provision sunsetting the PDM program as of September 30, 2008, and to authorize appropriations of \$210 million, \$220 million, \$230 million, \$240 million, and \$250 million for the fiscal years 2009 through 2013, respectively.

Section 3. Technical and conforming amendments

This section makes technical and conforming amendments to the Stafford Act to change the term “Director” of FEMA to “Administrator” of FEMA, in accordance with the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. 109–295.

Section 4. Program eligibility

This section adds a new section 203(e)(2) to the Stafford Act (42 U.S.C. 5133(e)(2)), providing that a state may not use more than 25% of the financial assistance made available to a state under the PDM program in a fiscal year for flood control projects.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and has determined that the bill would have no regulatory impact. Moreover, CBO states that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

VI. ESTIMATED COST OF LEGISLATION

JULY 7, 2008.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3175, the Predisaster Hazard Mitigation Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Daniel Hoople and Jeffrey LaFave.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 3175—Predisaster Hazard Mitigation Act of 2008

Summary: S. 3175 would authorize appropriations to the Federal Emergency Management Agency (FEMA) for grants to states and localities for predisaster mitigation programs such as constructing levees, relocating homes from flood-prone areas, and retrofitting buildings in areas prone to earthquakes. CBO estimates that implementing S. 3175 would cost \$735 million over the 2009–2013 period and \$415 million after 2013, assuming appropriation of the specified amounts. Enacting S. 3175 would not affect direct spending or revenues.

S. 3175 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3175 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—					2009– 2013
	2009	2010	2011	2012	2013	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	210	220	230	240	250	1,150
Estimated Outlays	21	85	173	223	233	735

Basis of estimate: Under current law, FEMA is authorized through 2008 to provide grants to states and localities to help prevent damage in areas frequented by disasters. S. 3175 would extend this authority through fiscal year 2013 and authorize appropriations totaling \$1.15 billion, which CBO estimates would cost \$735 million over the 2009–2013 period and \$415 million after 2013. This estimate of spending is based on historical spending patterns for such grants.

Intergovernmental and private-sector impact: S. 3175 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Assuming appropriation of authorized amounts, state and local governments would benefit from \$735 million in grants over the 2009–2013 period for mitigation activities. Any costs to such governments, including matching funds, would be incurred voluntarily.

Previous CBO estimate: On June 5, 2008, CBO transmitted a cost estimate for H.R. 6109, the Predisaster Mitigation Act of 2008, as ordered reported by the House Committee on Transportation and Infrastructure on May 22, 2008. The bill is similar to S. 3175, but the Senate legislation would authorize annual appropriations over the 2009–2013 period while H.R. 6109 would authorize appropriations only through 2011. As a result, CBO estimates that the cost of implementing S. 3175 would exceed the cost of H.R. 6109 by \$35 million over the 2009–2013 period and by \$365 million after 2013.

Estimate prepared by: Federal Costs: Daniel Hoople and Jeffrey LaFave; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the following changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Title 42—The Public Health and Welfare**Chapter 68—Disaster Relief****Subchapter II. Disaster Preparedness and Mitigation Assistance****SEC. 5133. PREDISASTER HAZARD MITIGATION.**

(a) * * *

* * * * *

(e) USES OF TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) * * *

* * * * *

(2) *FLOOD CONTROL PROJECTS.*—

(A) *IN GENERAL.*—*A State may use not more than 25 percent of the financial assistance under this section made available to the State in a fiscal year (including any such financial assistance made available to local governments of the State) for flood control projects.*

(B) *DEFINITION.*—*In this paragraph, the term ‘flood control project’—*

(i) *means—*

(I) *a project relating to the construction, demolition, repair, or improvement of a dam, dike, levee, floodwall, seawall, groin, jetty, or breakwater;*

(II) *a waterway channelization; or*

(III) *an erosion project relating to beach nourishment or renourishment; and*

(ii) *does not include any project the maintenance of which is the responsibility of a Federal department or agency, including the Corps of Engineers.*

[2](3) Dissemination

* * * * *

[(f) ALLOCATION OF FUNDS.—The amount of financial assistance made available to a State (including amounts made available to local governments of the State) under this section for a fiscal year—

(1) shall be not less than the lesser of—

(A) \$500,000; or

(B) the amount that is equal to 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;

(2) shall not exceed 15 percent of the total funds described in paragraph (1)(B); and

(3) shall be subject to the criteria specified in subsection (g) of this section.】

“(f) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

“(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

“(A) is not less than the lesser of—

“(i) \$575,000; and

“(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

“(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.”.

(g) * * *

* * * * *

【(m) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2008.】

“(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$210,000,000 for fiscal year 2009;

“(2) \$220,000,000 for fiscal year 2010;

“(3) \$230,000,000 for fiscal year 2011;

“(4) \$240,000,000 for fiscal year 2012; and

“(5) \$250,000,000 for fiscal year 2013.”.

SECTION 5134. INTERAGENCY TASK FORCE.

(a) * * *

(b) CHAIRPERSON.—The 【Director】 Administrator of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

SECTION 5144(b). EMERGENCY SUPPORT AND RESPONSE TEAMS.

(b) EMERGENCY RESPONSE TEAMS.—

(1) ESTABLISHMENT.—In carrying out subsection (a) of this section, the President, acting through the 【Director】 Administrator of the Federal Emergency Management Agency, shall establish—

(A) * * *

* * * * *

(2) TARGET CAPABILITY LEVEL.—The 【Director】 Administrator shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 746(a) of Title 6, are established for Federal emergency response teams.

(3) PERSONNEL.—The President, acting through the 【Director】 Administrator, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emer-

gency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.

(4) **READINESS REPORTING.**—The **[Director]** *Administrator* shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 752(a) of Title 6.

SECTION 5165d(c)(3). DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.

(c) **DUTIES.**—The Small State and Rural Advocate shall—

(1) * * *

* * * * *

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

SECTION 5170c(b). HAZARD MITIGATION.

(b) **PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.**—

(1) **GENERAL AUTHORITY.**—In providing hazard mitigation assistance under this section in connection with flooding, the **[Director]** *Administrator* of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

(2) **TERMS AND CONDITIONS.**—An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

(A) * * *

(B) on or after December 3, 1993, the applicant for the assistance enters into an agreement with the **[Director]** *Administrator* that provides assurances that—

(i) * * *

(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

(I) * * *

(II) * * *

(III) a structure that the **[Director]** *Administrator* approves in writing before the commencement of the construction of the structure; and

(iii) * * *

* * * * *

SECTION 5172. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

(a) * * *

* * * * *

(c) **LARGE IN-LIEU CONTRIBUTIONS.**—

(1) **FOR PUBLIC FACILITIES.**—

(A) * * *

* * * * *

(C) LIMITATIONS.—Funds made available to a State or local government under this paragraph may not be used for—

(i) * * *

(ii) any uninsured public facility located in a special flood hazard area identified by the [Director] Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(D) REDESIGNATED (C).—

(2) FOR PRIVATE NONPROFIT FACILITIES.—

(A) * * *

* * * * *

(C) LIMITATIONS.—Funds made available to a person under this paragraph may not be used for—

(i) * * *

(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the [Director] Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968.

(d) FLOOD INSURANCE.—

(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the [Director] Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

(2) * * *

* * * * *

(e) ELIGIBLE COST.—

(1) * * *

(2) * * *

(3) EXPERT PANEL.—

(A) ESTABLISHMENT.—Not later than 18 months after October 30, 2000, the President, acting through the [Director] Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

(B) * * *

* * * * *

SECTION 5195a(a). DEFINITIONS.

(a) DEFINITIONS.—For purposes of this subchapter only:

(1) * * *

* * * * *

(4) ORGANIZATIONAL EQUIPMENT.—The term “organizational equipment” means equipment determined by the [Director] Administrator to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

(5) * * *

(6) * * *

[(7) DIRECTOR.—The term Director means the Administrator of the Federal Emergency Management Agency.]

(7) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

* * * * *

§ 5195b. Administration of subchapter.

This subchapter shall be carried out by the [Director] Administrator of the Federal Emergency Management Agency.

SECTION 5196. DETAILED FUNCTIONS OF ADMINISTRATION.

(a) IN GENERAL.—In order to carry out the policy described in section 5195 of this title, the [Director] Administrator shall have the authorities provided in this section.

(b) FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.—The [Director] Administrator may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the [Director] Administrator may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—With the approval of the President, the [Director] Administrator may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(d) COMMUNICATIONS AND WARNINGS.—The Administrator [Director] may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

(e) EMERGENCY PREPAREDNESS MEASURES.—The [Director] Administrator may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

(1) * * *

* * * * *

(f) TRAINING PROGRAMS.—

(1) The [Director] Administrator may—

(A) * * *

* * * * *

(2) The terms prescribed by the [Director] *Administrator* for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

(3) The [Director] *Administrator* may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

(g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION.—The [Director] *Administrator* may publicly disseminate appropriate emergency preparedness information by all appropriate means.

(h) EMERGENCY PREPAREDNESS COMPACTS.—

(1) The [Director] *Administrator* shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

(A) * * *

* * * * *

(2) The [Director] *Administrator* may—

(A) * * *

* * * * *

(i) MATERIALS AND FACILITIES.—

(1) The [Director] *Administrator* may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

(2) * * *

(3) The [Director] *Administrator* may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

(4) The [Director] *Administrator* may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the [Director] *Administrator* shall prescribe.

(j) FINANCIAL CONTRIBUTIONS.—

(1) The [Director] *Administrator* may make financial contributions, on the basis of programs or projects approved by the [Director] *Administrator*, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the *Administrator* [Director] shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment

to assure the uniformity, availability, and good condition of such materials or facilities.

(2) The **[Director]** *Administrator* may make financial contributions, on the basis of programs or projects approved by the **[Director]** *Administrator*, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.

(3) * * *

(4) The amounts authorized to be contributed by the **[Director]** *Administrator* to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

(5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the **[Director]** *Administrator* for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the **[Director]** *Administrator* in each State, at the time of the determination), bears to the total urban population of the critical target areas of all of the States.

(6) The amounts authorized to be contributed by the **[Director]** *Administrator* to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the **[Director]** *Administrator* may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

(7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the **[Director]** *Administrator*. The **[Director]** *Administrator* shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the **[Director]** *Administrator*, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the **[Director]** *Administrator* may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the **[Director]** *Administrator* determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the **[Director]** *Administrator* necessary for the use of such facility for emergency preparedness purposes.

(8) The **[Director]** *Administrator* shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

(9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the **[Director]** *Administrator* under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of Title 40, and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The **[Director]** *Administrator* shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of Title 40.

(k) **SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES.**—The **[Director]** *Administrator* may arrange for the sale or disposal of materials and facilities found by the **[Director]** *Administrator* to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949. Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

SECTION 5196a. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES.

The **[Director]** *Administrator* shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

SECTION 5196b. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.

(a) **GENERAL AUTHORITY.**—To further assist in carrying out the purposes of this subchapter, the Director **[Administrator]** may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 5196(h) of this title) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) **PLAN REQUIREMENTS.**—A plan submitted under this section shall—

- (1) * * *
- (2) * * *

(3) provide for the development of State and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by the **[Director] Administrator**;

(4) * * *

(5) provide that the State shall make such reports in such form and content as the **[Director] Administrator** may require;

(6) make available to duly authorized representatives of the **[Director] Administrator** and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section; and

(7) * * *

(c) CATASTROPHIC INCIDENT ANNEX.—

(1) * * *

* * * * *

(d) TERMS AND CONDITIONS.—The **[Director] Administrator** shall establish such other terms and conditions as the **[Director] Administrator** considers necessary and proper to carry out this section.

(e) * * *

(f) ALLOCATION OF FUNDS.—For each fiscal year concerned, the **[Director] Administrator** shall allocate to each State, in accordance with regulations and the total sum appropriated under this subchapter, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the **[Director] Administrator** shall prescribe. The **[Director] Administrator** may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(g) STANDARDS FOR STATE AND LOCAL EMERGENCY PREPAREDNESS OPERATIONAL PLANS.—In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3) of this section, the **[Director] Administrator** shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(h) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the **[Director] Administrator** notifies the States of the allocations under this section, the **[Director] Administrator** may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the **[Director] Administrator**, will best assure the adequate development of the emergency preparedness capability of the United States.

(i) ANNUAL REPORTS.—The **[Director] Administrator** shall report annually to the Congress all contributions made pursuant to this section.

SECTION 5196f. DISASTER RELATED INFORMATION SERVICES.

(a) IN GENERAL.—Consistent with section 5151(a) of this title, the **[Director]** *Administrator* of Federal Emergency Management Agency shall—

(1) * * *

* * * * *

(b) GROUP SIZE.—For purposes of subsection (a) of this section, the **[Director]** *Administrator* of Federal Emergency Management Agency shall define the size of a population group.

SECTION 5197. ADMINISTRATIVE AUTHORITY.

(a) IN GENERAL.—For the purpose of carrying out the powers and duties assigned to the **[Director]** *Administrator* under this subchapter, the **[Director]** *Administrator* may exercise the administrative authorities provided under this section.

(b) ADVISORY PERSONNEL.—

(1) The **[Director]** *Administrator* may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the **[Director]** *Administrator* considers to be necessary in carrying out the provisions of this subchapter.

(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, plus authorized subsistence and travel, as determined by the **[Director]** *Administrator*.

(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The **[Director]** *Administrator* may—

(1) * * *

* * * * *

(d) GIFTS.—Notwithstanding any other provision of law, the **[Director]** *Administrator* may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this subchapter.

(e) REIMBURSEMENT.—The **[Director]** *Administrator* may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this subchapter to the extent funds are available.

(f) PRINTING.—The **[Director]** *Administrator* may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the **[Director]** *Administrator* considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of Title 44.

(g) RULES AND REGULATIONS.—The **[Director]** *Administrator* may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this subchapter and perform any of the powers and duties provided by this subchapter. The **[Director]** *Administrator* may perform any of the powers and duties provided by this subchapter through or with the aid of such

officials of the Federal Emergency Management Agency as the [Director] *Administrator* may designate.

(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—

(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the [Director] *Administrator* finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this subchapter for approved emergency preparedness plans, programs, or projects, the [Director] *Administrator* may notify such State or person that further payments will not be made to the State or person from appropriations under this subchapter (or from funds otherwise available for the purposes of this subchapter for any approved plan, program, or project with respect to which there is such failure to comply) until the [Director] *Administrator* is satisfied that there will no longer be any such failure.

(2) Until so satisfied, the [Director] *Administrator* shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

(3) * * *

SECTION 5197a. SECURITY REGULATIONS.

(a) ESTABLISHMENT.—The [Director] *Administrator* shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the [Director] *Administrator* considers necessary.

(b) LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the [Director] *Administrator*.

(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the [Director] *Administrator* to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the [Director of the Federal Emergency Management Agency] *Administrator*. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the [Director of the Federal Emergency Management Agency] *Administrator* for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the [Di-

rector of the Federal Emergency Management Agency] *Administrator* for evaluation in writing. Thereafter, the [Director of the Federal Emergency Management Agency] *Administrator* may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the [Director of the Federal Emergency Management Agency] *Administrator* for action.

SECTION 5197b. USE OF EXISTING FACILITIES.

In performing duties under this subchapter, the [Director] *Administrator*—

(1) * * *

* * * * *

(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the [Director] *Administrator*, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this subchapter.

SECTION 5197c. ANNUAL REPORT TO CONGRESS.

The [Director] *Administrator* shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this subchapter, accompanied by such recommendations as the [Director] *Administrator* considers appropriate.

SECTION 5197h. MINORITY EMERGENCY PREPAREDNESS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The [Director] *Administrator* shall establish a minority emergency preparedness demonstration program to research and promote the capacity of minority communities to provide data, information, and awareness education by providing grants to or executing contracts or cooperative agreements with eligible nonprofit organizations to establish and conduct such programs.

(b) * * *

* * * * *

(e) APPLICATION AND REVIEW PROCEDURE.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an organization must submit an application to the [Director] *Administrator* at such time, in such manner, and accompanied by such information as the [Director] *Administrator* may reasonably require. The [Director] *Administrator* shall establish a procedure by which to accept such applications.

