

**(b) Threshold****(1) Report**

Not later than 1 year after January 29, 2013, the President, acting through the Administrator of the Federal Emergency Management Agency (in this section referred to as the “Administrator”), shall—

(A) complete an analysis to determine whether an increase in the threshold for eligibility under subsection (a) is appropriate, which shall include consideration of cost-effectiveness, speed of recovery, capacity of grantees, past performance, and accountability measures; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the analysis conducted under subparagraph (A).

**(2) Amount**

After the Administrator submits the report required under paragraph (1), the President shall direct the Administrator to—

(A) immediately establish a threshold for eligibility under this section in an appropriate amount, without regard to chapter 5 of title 5; and

(B) adjust the threshold annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

**(3) Review and report**

Not later than 3 years after the date on which the Administrator establishes a threshold under paragraph (2), and every 3 years thereafter, the President, acting through the Administrator, shall review the threshold for eligibility under this section and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding such review, including any recommendations developed pursuant to such review.

(Pub. L. 93–288, title IV, § 422, as added Pub. L. 100–707, title I, § 106(k), Nov. 23, 1988, 102 Stat. 4705; amended Pub. L. 113–2, div. B, § 1107, Jan. 29, 2013, 127 Stat. 46; Pub. L. 117–189, § 2(a), Oct. 10, 2022, 136 Stat. 2204.)

**Editorial Notes****PRIOR PROVISIONS**

A prior section 5189, Pub. L. 93–288, title IV, § 419, May 22, 1974, 88 Stat. 159, related to alternate contributions, prior to repeal by Pub. L. 100–707, § 106(k).

**AMENDMENTS**

2022—Subsec. (a). Pub. L. 117–189, § 2(a)(1), substituted “\$1,000,000” for “\$35,000” in two places in concluding provisions.

Subsec. (b)(3). Pub. L. 117–189, § 2(a)(2), inserted “and report” after “Review” in heading and “and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding such review, including any recommendations developed pursuant to such review” after “under this section” in text.

2013—Subsec. (a). Pub. L. 113–2, § 1107(3), which directed insertion of “or, if applicable, the amount established under subsection (b),” after “\$35,000 amount” the second place appearing, was executed by making the insertion after “\$35,000 amount” the only place that phrase appeared, to reflect the probable intent of Congress.

Pub. L. 113–2, § 1107(1), (2), designated existing provisions as subsec. (a), inserted heading, and inserted “(or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b))” after “less than \$35,000” in concluding provisions.

Subsec. (b). Pub. L. 113–2, § 1107(4), added subsec. (b).

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2022 AMENDMENT**

Pub. L. 117–189, § 2(b), Oct. 10, 2022, 136 Stat. 2204, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to any amounts appropriated after the date of enactment of this Act [Oct. 10, 2022].”

**§ 5189a. Appeals of assistance decisions****(a) Right of appeal**

Any decision regarding eligibility for, from, or amount of assistance under this subchapter may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

**(b) Period for decision**

A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

**(c) Rules**

The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

**(d) Right of arbitration****(1) In general**

Notwithstanding this section, an applicant for assistance under this subchapter may request arbitration to dispute the eligibility for assistance or repayment of assistance provided for a dispute of more than \$500,000 for any disaster that occurred after January 1, 2016. Such arbitration shall be conducted by the Civilian Board of Contract Appeals and the decision of such Board shall be binding.

**(2) Review**

The Civilian Board of Contract Appeals shall consider from the applicant all original and additional documentation, testimony, or other such evidence supporting the applicant's position at any time during arbitration.

**(3) Rural areas**

For an applicant for assistance in a rural area under this subchapter, the assistance amount eligible for arbitration pursuant to this subsection shall be \$100,000.

**(4) Rural area defined**

For the purposes of this subsection, the term “rural area” means an area with a population of less than 200,000 outside an urbanized area.

**(5) Eligibility**

To participate in arbitration under this subsection, an applicant—

(A) shall submit the dispute to the arbitration process established under the authority granted under section 601 of Public Law 111-5; and

(B) may submit a request for arbitration after the completion of the first appeal under subsection (a) at any time before the Administrator of the Federal Emergency Management Agency has issued a final agency determination or 180 days after the Administrator's receipt of the appeal if the Administrator has not provided the applicant with a final determination on the appeal. The applicant's request shall contain documentation from the administrative record for the first appeal and may contain additional documentation supporting the applicant's position.

(Pub. L. 93-288, title IV, § 423, as added Pub. L. 100-707, title I, § 106(l), Nov. 23, 1988, 102 Stat. 4705; amended Pub. L. 115-254, div. D, § 1219, Oct. 5, 2018, 132 Stat. 3452.)

**Editorial Notes****REFERENCES IN TEXT**

Section 601 of Public Law 111-5, referred to in subsec. (d)(5)(A), is Pub. L. 111-5, div. A, title VI, § 601, Feb. 17, 2009, 123 Stat. 164, which is not classified to the Code.

**AMENDMENTS**

2018—Subsec. (d). Pub. L. 115-254 added subsec. (d).

**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.

**DISPUTE RESOLUTION PILOT PROGRAM**

Pub. L. 113-2, div. B, § 1105, Jan. 29, 2013, 127 Stat. 43, as amended by Pub. L. 114-301, § 2(c), Dec. 16, 2016, 130 Stat. 1514, provided that:

“(a) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **ADMINISTRATOR.**—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

“(2) **ELIGIBLE ASSISTANCE.**—The term ‘eligible assistance’ means assistance—

“(A) under section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173);

“(B) for which the legitimate amount in dispute is not less than \$1,000,000, which sum the Administrator shall adjust annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor;

“(C) for which the applicant has a non-Federal share; and

“(D) for which the applicant has received a decision on a first appeal.

“(b) **PROCEDURES.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this section [Jan. 29, 2013], and

in order to facilitate an efficient recovery from major disasters, the Administrator shall establish procedures under which an applicant may request the use of alternative dispute resolution, including arbitration by an independent review panel, to resolve disputes relating to eligible assistance.

“(2) **BINDING EFFECT.**—A decision by an independent review panel under this section shall be binding upon the parties to the dispute.

“(3) **CONSIDERATIONS.**—The procedures established under this section shall—

“(A) allow a party of a dispute relating to eligible assistance to request an independent review panel for the review;

“(B) require a party requesting an independent review panel as described in subparagraph (A) to agree to forgo rights to any further appeal of the dispute relating to any eligible assistance;

“(C) require that the sponsor of an independent review panel for any alternative dispute resolution under this section be—

“(i) an individual or entity unaffiliated with the dispute (which may include a Federal agency, an administrative law judge, or a reemployed annuitant who was an employee of the Federal Government) selected by the Administrator; and

“(ii) responsible for identifying and maintaining an adequate number of independent experts qualified to review and resolve disputes under this section;

“(D) require an independent review panel to—

“(i) resolve any remaining disputed issue in accordance with all applicable laws, regulations, and Agency interpretations of those laws through its published policies and guidance;

“(ii) consider only evidence contained in the administrative record, as it existed at the time at which the Agency made its initial decision;

“(iii) only set aside a decision of the Agency found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; and

“(iv) in the case of a finding of material fact adverse to the claimant made on first appeal, only set aside or reverse such finding if the finding is clearly erroneous;

“(E) require an independent review panel to expeditiously issue a written decision for any alternative dispute resolution under this section; and

“(F) direct that if an independent review panel for any alternative dispute resolution under this section determines that the basis upon which a party submits a request for alternative dispute resolution 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.)