



To: Emergency Managers
From: Martha Braddock
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Subject: Final Update on Funding Bills and Highlights of FEMA Appropriations
for FY 2012
Date: Wednesday, December 21, 2011

Consolidated Appropriations Act for FY 2012, HR 2055-- Passed

The House and Senate agreed to the Conference Report (HReport 112-331) on HR 2055, the Consolidated Appropriations Act for FY 2012. This Act which contains nine appropriations bills including the one funding the Department of Homeland Security provides funding through September 30, 2012. The bill will be enrolled and sent to the President for signature. (Passed House on December 16 by vote of 296-121 and Senate on December 17 by vote of 67-32)

Continuing Resolution for FY 2012 --Passed

HJ Res 95 passed House and Senate and was signed by the President. It continues the government through December 23 to give time for HR 2055 to be enrolled, sent to President, and signed.

Disaster Relief Appropriations Act of 2012, HR 3672—Passed

The House and Senate passed HR. 3672 which provides an additional \$8.12 billion in disaster funds, including \$6.4 billion for FEMA and \$1.72 billion for the Army Corps of Engineers. (Vote was 351-67 in House and 72-27 in Senate)

Across-the Board Cut, Offsetting Disaster Funding, H. Con. Res 94—Defeated

The Senate by a vote of 43-56 rejected the bill passed by the House which would offset the disaster funding in HR 3672 by placing a 1.83% across the board reduction (called a rescission) to discretionary accounts in all the FY 2012 appropriations bills except for Defense and Military Construction-Veteran Affairs. The bill was considered to be an “enrollment correction” to HR 3672. The bill would direct the House enrolling clerk to add a new section to HR 3672 before sending it to the President which would result in the across-the-board reductions. The bill passed the House by a vote of 255-165.

The remainder of this memo focuses on funding and direction to the Federal Emergency Management Agency. Division D of the Conference Report (bill text) and Division D of the Joint Statement of Managers. which contain the funding and direction for the Department of Homeland Security are posted on the IAEM website at <http://www.iaem.com/Committees/GovernmentAffairs/GovtAffairs.htm>

**CONFERENCE REPORT 112-331 ON HR 2055, CONSOLIDATED
APPROPRIATIONS ACT FOR FY 2012, DIVISION D and JOINT STATEMENT
OF MANAGERS DIVISION D, FEMA SECTION**

At end of this memo is an explanation of relevance of language in House Report 112-91 and Senate Report 112-74 on the earlier bill HR 2017, making appropriations for Department of Homeland Security for FY 2012.

HIGHLIGHTS FOR FEMA

EMERGENCY MANAGEMENT PERFORMANCE GRANTS. \$350 million

- Is retained as a separate account.
- Limits administrative cost to 3 percent
- \$10 million increase over FY 2011.

STATE AND LOCAL PROGRAMS, \$1,349,681,000

State and Local Program Grants \$1,118,000,000

**(Note: FY 2011 funding for state and local program grants was \$1,976,040,000)
House FY 2012 mark was \$1,000,000,000. Senate mark was \$1,245,000,000)**

- Consolidates funding for 12 grant programs listed below
 - State Homeland Security Grant Program
 - Urban Area Security Initiative
 - Metropolitan Medical Response System
 - Citizen Corps Program
 - Public Transportation Security Assistance and Railroad Security Assistance
 - Over the Road Bus Security Assistance
 - Port Security Grants
 - Driver's License Security Grants program
 - Interoperable Emergency Communications Grant Program
 - Emergency Operations Center
 - Buffer Zone Protection Program Grants
 - 501© (3) Organizations determined by Secretary to be at high risk of terrorist attack.
- Of the total, \$50,000,000 is for Operation Stonegarden, and not less than \$100,000,000 shall be for areas at the highest risk for terrorist attack
- Funding is to be awarded at the discretion of the Secretary and is to be allocated according to threat, vulnerability and consequence to high-risk urban areas,

States, local and Tribal governments, and other homeland security partners in preventing, preparing for, protecting against and responding to acts of terrorism.

- 6.8 percent transferred to FEMA for grant administration.
- Report language notes that over \$34,000,000,000 has been appropriated and Department should work with Committees of jurisdiction to clearly define the Federal role and reassess the most effective delivery of support and resources to sustain and improve homeland security capabilities.
- Secretary and Administrator of FEMA are directed to study the current grants programs in order to make them the most effective and to reduce impediments to timely expenditure of grant funds. Study to be provided with the required comprehensive plan to implement a system to measure the effectiveness of grants.
- Grant guidance is to be issued to eligible applicants in 60 days, applicants shall apply within 80 days after grant announcement and award decisions shall be made in 65 days after receipt of application.
- Grantee may not use more than 5% for administrative expenses.
- FEMA is required to report on accomplishments of the Regional Catastrophic Preparedness Grant program, including how successes can be transitioned to and sustained through future catastrophic planning efforts.
- Department shall brief Committees on steps taken to ensure community leaders and grantees have same threat vulnerability, and consequence information that is available to the Department to ensure applications reflect true risk.
- FEMA to brief Committees within 90 days on plans to expedite expenditures for interoperable emergency communications, port security and transit security grants. (particularly those prior to FY 2008)
- Grantees shall provide reports on their use of funds and determined necessary by the Secretary of Homeland Security

Education, Training and Exercises and Technical Assistance \$231,681,000 of which \$155,000,000 shall be for training State, local and tribal emergency response providers.

- **\$16,181,000 Emergency Management Institute**
 - Specifically designated in the Conference Report
 - It is my understanding from information provided to the Appropriations Committees that this is \$7,438,000 for program and \$8,793,000 for Salary and Benefits. FY 2011 was \$7,438,000 for program and \$8,500,000 for benefits.
- \$62,500,000 Center for Domestic Preparedness
- \$93,000,000 National Domestic Preparedness Consortium
- \$34,000,000 National Exercise Program
- \$26,000,000 Continuing Training

FIREFIGHTER ASSISTANCE \$ 675,000,000

- \$337,000,000 for Firefighter Assistance Grants
- \$337,000,000 for SAFER (firefighter staffing) grants.

- Is retained as a separate account.
- General Provision Section 561 waives Federal Fire Prevention and Control Act new hire requirements.
- .FEMA directed to continue present practice of funding based on local priorities, to maintain all hazards focus, to grant funds for eligible activities in accordance with authorizing statute, and continue current grant application and review process.
- Not more than 5 percent for program administration.

PRE-DISASTER MITIGATION PROGRAM. \$35,500,000

- Total administrative cost not to exceed \$3,000,000
- Report notes that there is an unobligated balance from previous years of \$173,259,000

U.S. FIRE ADMINISTRATION. \$44,038,000

FEMA SALARIES AND EXPENSES. \$895,350,000 for (a total of \$1,031,378 including grant program execution)

- Includes \$5,493,000 for Office of National Capital Region Coordination. Strides have been made in coordination among state and local partners, but much more to do especially among Federal entities in area. Briefing on clear strategy required in 60 days. Continues provision requiring inclusion of Governors of State of West Virginia and the Commonwealth of Pennsylvania in National Capital Region decision-making and planning process for mass evacuation.
- Includes \$41,250,000 for Urban Search and Rescue Response System, an increase of \$6,070,000 over FY 2011, not more than \$1,600,000 for administrative costs. Increase is for updating the chemical, biological, radiological, nuclear or explosives equipment for existing teams and to add an additional team if warranted.
- Bill language withholds \$1,400,000 (25%) of funds for Office of the Administrator until National Preparedness Report required by PL 109-295 and a **comprehensive plan to implement a system to measure the effectiveness of grants** to State and local communities is submitted to House and Senate Appropriations Committees.
- Modernization of automated systems \$13,662,000
 - Strategic plan must be submitted with 5 requirements listed within 180 days of enactment. Report notes a recent OIG report (OIG-11-69) highlights systemic information management and systems problem in FEMA. FEMA relies on manual process to estimate needs for disaster relief funding.
 - FEMA has been unable to quantify national preparedness capabilities and gaps in capabilities and is unable to efficiently work with partners in homeland security and emergency management due to lack of comparable technology capability.

DISASTER RELIEF FUND \$700,000,000.

- HR 3672 included an additional \$6.4 billion. This brings total to \$7,100,000,000.
- Requires an expenditure plan on use of funds for disaster readiness and support and quarterly updates on obligations. Bill language provides details of expected reports.
- Several requirements were included relating to Disaster Relief Fund Financial Management Policy
 - 90 days after the enactment, Administrator and CFO of FEMA shall develop a policy and issue guidance on the implementation of the restriction to **immediate needs funding**. Policy is to identify thresholds and identify which programs are impacted.
 - Administrator and CFO of FEMA are to develop policy and guidance that defines methodology used to formulate the budget estimate for the Disaster Relief fund. CFO shall work with qualified third party organization to review the methodology and create estimating tools for more consistent forecasting of requirements. \$500,000 provided for effort.
 - To improve management of the DRF and assistance programs, FEMA needs to **improve the quality and timeliness of project worksheets** for public assistance grants as well as process for sharing that information with regional offices, FEMA headquarters and the Office of Management and Administration. FEMA shall work with Homeland Security Studies and Analysis Institute or an independent organization with expertise in grants management to review project worksheet process and flow of information and provide report to the Committees no later than May 1, 2012
- **Debris Removal.** 90 days after enactment, Administrator in consultation of Commander of the US Army Corps of Engineers (USACE) shall provide a report on cost of debris removal, addressing disparity between the cost factors for the USACE as compared to other options communities have for debris removal services

EMERGENCY FOOD AND SHELTER PROGRAM. \$120,000,000

- Total administrative cost not to exceed 3.5% of total.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

- \$295,000 for the cost of direct loans
- Gross obligations for the principal amount of direct loans shall not exceed \$25,000,000

FLOOD HAZARD MAPPING AND RISK ANALYSIS PROGRAM. \$97,712,000

- 20 percent is for map updates and maintenance conducted by Cooperating Technical Partners who provide at least 25 percent cash match and have a strong record of working effectively with FEMA on floodplain mapping.

NATIONAL FLOOD INSURANCE FUND

\$60,000,000 for flood mitigation actions

- Not less than \$10,000,000 for severe repetitive loss program under section 1361A National Flood Insurance Act.
- Of which \$10,000,000 for repetitive insurance claims properties under section 1323.
- Of which \$40,000,000 for flood mitigation assistance under section 1366.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM.

Statutory language is included providing for the receipt and expenditure of fees collected.

GENERAL PROVISIONS

- Section 521 prohibits funding pertaining to the **Principal Federal Official** during a Stafford Act declared disaster or emergency, unless responsibilities do not include operational functions related to incident management, including coordination of operations and are consistent with requirements of subsection 509(c) and subsections 503(c)(3) and (c)(4)(A) of Homeland Security Act of 2002 (6 U.S.C. 319 (c) and 313(c)(3) and (c)(4)(A) and section 302 of Stafford Act (42 U.S.C. 5143). Notifications and reports are required.
- Section 537 requires a report to be posted on the FEMA website summarizing **damage assessment information** used to determine whether to declare a major disaster. Report is to be posted in 30 days after decision and any appeal is completed. FEMA may redact date Administrator determines would compromise national security.
- Section 538 relates to sale of Plum Island, NY if the National Bio- and Agro-defense Facility should be located other than Plum Island.
- Section 550 provides that none of the funds in Act may be obligated for construction of the National Bio and Agro-defense Facility until DHS meets certain requirements.
- Section 552 provides \$7,500,000 for FEMA to reimburse actual costs incurred by State and local governments for providing emergency management, public safety and **security at National Special Security Events**, including use of services, personnel, equipment, and facilities. Funds are available until September 30, 2013.
- Section 554 permits administrative law judges to be available temporarily to serve on an arbitration panel as needed for cases related to Hurricanes Katrina and Rita.,

- Section 560 provides \$55,979,000 for consolidation of DHS headquarters at St. Elizabeths.
- Sections 561 and 562 pertain to the Fire Assistance grants and the SAFER grants. Prohibits funds to be used to enforce certain provisions of the Federal Fire Prevention and Control Act of 1974 and provides waivers to allow SAFER grants shall be used to retain firefighters, instead of only for increasing the number of firefighters.
- Section 565 is “**Disaster Assistance Recoupment Fairness Act of 2011.**” It applies to assistance to individuals and households (42 U.S.C. 5174) provided in major disasters declared from August 28, 2005 ending December 2010. Administrator **may waive** a debt if assistance was distributed based on an error by FEMA; there was no fault on behalf of debtor; and the collection of the debt would be against equity and good conscience. Debt may not be waived if it involves fraud, the presentation of a false claim, or misrepresentation by debtor or party having interest in claim. Administrator in determining whether to waive the debt shall presume that for those with income over \$90,000 debtor should be required to make at least partial payment.
- Section 566 Recipients of Small Business Administration loans for disaster-related damage may be eligible for reimbursement at the discretion of the state, under Section 404 (HMGP) of the Stafford Act for documented eligible mitigation work performed on their home. Applies to disasters declared beginning on August 28, 2005 and ending August 28, 2006. See bill text for limitations.
- Section 570 rescinded some funds transferred to DHS when department was created in 2003. Included was \$678,213 from PreDisaster Mitigation
- Section 571 rescinded unobligated balances from a number of accounts including \$216,744 from FEMA Management and Administration.
- Section 573 **extends the authorization of the National Flood Insurance Program** until the earlier of the date of the enactment into law of an Act that specifically reauthorizes or extends the authorization or May 31, 2012.

Other Items from bill and report

Unaccompanied Minors Registry. No less than \$500,000 is provided to automate the unaccompanied minors registry and call center as directed in the Senate report.

Presidential Policy Directive-8. Conferees expect to receive a report describing the National Preparedness System before January 2012.

Non FEMA Item of Interest in DHS bill—State and Local Fusion Centers

The Office of Intelligence and Analysis (I&A) is directed to develop robust programmatic justification to better identify and quantify the Federal benefit and return on investment from the State and Local Fusion Center (SLFC) program. I&A shall submit such justification at the time the President’s fiscal year 2013 budget is submitted and provide semi-annual briefings on the fusion center program, in lieu of a quarterly reporting requirement in the House report and quarterly briefing requirements in the Senate report. The first briefing shall occur no later

than February 15, 2012, conform to the requirements outlined in the Senate report, and include metrics to judge the success of the SLFC program.

Documents Posted on IAEM Website

This memo is based on the Conference Agreement on HR 2055 H.Report 112-331(the bill text of Division D of HR 2055) and the Joint Explanatory Statement of Conference Committee as posted by the Appropriations Committee of the House. These documents are available on the IAEM website

<http://www.iaem.com/Committees/GovernmentAffairs/GovtAffairs.htm>

When the bill and report are reprinted by GPO, we will post those documents.

RELEVANCE OF HOUSE AND SENATE REPORTS ON HR 2017, the earlier DHS Appropriations bill.

The Conference Report states, “ the language and allocations contained in House Report 112-91 and Senate Report 112-74 should be complied with and carry the same emphasis as the language included in the explanatory statement, unless specifically addressed to the contrary in the conference report or this explanatory statement. While repeating some report language for emphasis, this explanatory statement does not intend to negate the language referred to above unless expressly provided herein.

It is also noted that in “cases where the explanatory statement directs the submission of a report, such report shall be provided to the Committees on Appropriations by February 15, 2012, unless otherwise directed. In cases where the explanatory statement directs a briefing, such briefing shall be provided to the Committees by February 15, 2012, unless otherwise directed.”

House Report 112-91 and Senate Report 112-74 are posted on the IAEM website at <http://www.iaem.com/Committees/GovernmentAffairs/GovtAffairs.htm>

[Martha’s note: For those trying to track the bills and reports as the bill numbers changed I am providing the following roadmap.

- The original DHS Appropriations bill for FY 2012 was HR 2017. It passed the House and was reported by the Senate Appropriations Committee on Homeland Security. HR 2017, however, was used as the vehicle for the Continuing Resolution which extended the government through October 4..
- HR 2055 was originally the Military Construction and Veterans Affairs bill on which 8 additional bills were added for the Consolidated Appropriations bill for FY 2012 including the bill for the Department of Homeland Security. The bill text for DHS in HR 2055 is the same as HR 3671 which I discussed in the December 16 highlights memo which is posted on the IAEM website.
- Chairman Rogers introduced and posted HR 3671 on December 15. The Appropriations Conference Report on HR 2055 had to be signed by a majority of House and Senate Appropriators before it could be voted on. The signing took place on Thursday afternoon, December 15 so the Conference Report on HR 2055 moved forward instead of HR 3671 on Friday, December 16.