



## DRCA Position Paper

### “The Implementation of Disaster Assistance Policy 9525.9”

#### **FEMA Section 324 Management Costs and Direct Administrative Costs**

**Background:** As stated in FEMA policy 9525.9, The Disaster Mitigation Act of 2000 (P.L. 106-390) amended the Stafford Act by adding section 324 "*Management Costs*." Congress directed the Federal Emergency Management Agency (FEMA) to promulgate regulations that establish management cost rates and required that, until the management cost regulation is published, the associated expense percentages in section 406(f) of the Stafford Act apply to management costs. On October 11, 2007, FEMA published the *Management Costs* interim final rule (72 FR 57869) that established the management costs rates for emergencies and major disasters. The interim final rule went into effect on November 13, 2007. With publication of the interim final rule, section 406(f) of the Stafford Act, *Associated Expenses*, does not apply to disasters and emergencies declared on or after November 13, 2007. The policy was signed on March 12, 2008.

**Authority:** Section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5165b, and 44 Code of Federal Regulations (CFR) Part 13, §206.207, §206.228, and Part 207.

**DRCA Issue Priorities: Here is an overview of the six priority issues DRCA’s membership has identified involving the implementation of the Disaster Assistance Policy 9525.9.**

**Issue #1: Eligibility:** There is a lack of understanding at the state and local levels as to what costs are eligible and what costs are not.

**Prescription:** FEMA needs to clarify what costs are eligible under 9525.9 for applicants and sub-applicants (and their consultants) in the field.

**Issue #2: Reasonable Rates:** There is a lack of understanding in the private sector as to what constitutes “Reasonable Rates.” Currently, reasonable rates vary dramatically from state to state and community to community.

**Prescription:** DRCA would like FEMA to communicate, in writing, that reasonable costs will be accepted by FEMA as those that have been demonstrated and accepted on competitively bid contracts. If an applicant hires a company on an emergency basis, FEMA should consider the rates in those contracts as “reasonable” as long as those rates are commensurate with competitively bid contract rates as they have been in the past.

**Issue #3: Contractors’ Rights:** Currently, there is a considerable tension between FEMA Technical Assistance Contractors (TACs), applicants and consultants. There is also a misconception at the state and local levels regarding applicants’ ability to hire consultants to represent them, and whether or not those costs will be reimbursed.

**Prescription:** FEMA should communicate, in writing, that state and local officials are allowed to use contractors at will and FEMA will not discourage the use of contractors. After this issue is clarified, we hope FEMA TAC’s will be in a position to treat those representatives as an extension of the applicant/grantee.



**Issue #4: Project Worksheets (PW's):** 87% of overall PW's are small projects. Currently, a high percentage of small PW's are reviewed and analyzed for reasonable costs which increases the cost to the federal government and slows the overall process. There is also a misunderstanding amongst FEMA and their TAC's that applicants cannot draft large project PW's.

**Prescription:** We can avoid duplicity of effort and reduce costs if FEMA communicates, in writing, that they do not have a problem with applicants writing small project PW's. And, that these PW's will be validated at the standard 20% rate. It will also be important to reinforce that FEMA does not have a problem with applicants writing large project PW's; but, FEMA will fully review and verify every large project PW. We need to develop trust between applicants and FEMA contractors to reduce the amount of review/analysis of reasonable costs on small project PW's, improve efficiency and reduce overall cost.

**Issue #5: Lack of Training and Education:** Because there is a lack of training and awareness at the state and local levels, there are large discrepancies in terms of how the 9525.9 is implemented across the country.

**Prescription: Emphasis on Training and Education:** It will be important to continue the dialogue between the public and private sector on training and education as it is a critical component in implementing management costs and direct administrative costs under policy 9525.9. DRCA's membership would like to continue our discussion with FEMA on the development of minimum standards for program education and knowledge for consultants, FEMA TACs, and FEMA personnel who respond to disasters. DRCA also believes "train the trainer" programs on 9525.9 for locals and their contractors would be beneficial.

**Issue #6: Level of Documentation:** There is a lack of understanding from the private sector as to FEMA's expectations in terms of the "level of documentation."

**Prescription: Clarify Expectations:** If FEMA clarifies, in writing, the "level of documentation" they expect from applicants, companies will be able to tailor their documentation to meet those expectations and the entire process will work more smoothly. Currently, the private sector is unclear on what level of documentation is appropriate on time sheets (i.e. 15 minutes, 30 minutes, hourly).

**Conclusion:** DRCA's membership strongly believes that clarification of FEMA's positions on the aforementioned issue priorities will improve the level of understanding of this policy in the field thereby reducing discrepancies across state lines in terms of the interpretation, application and implementation of DA Policy 9525.9 and easing conflicts amongst FEMA contractors, consultants and applicants.