



OFFICE OF THE ADMINISTRATOR

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

File

October 28, 2009

The Honorable Mary Landrieu  
Chairwoman  
Committee on Small Business & Entrepreneurship  
United States Senate  
Washington, DC 20510

Dear Madame Chairwoman:

Thank you for your letter requesting that the U.S. Small Business Administration (SBA) review its existing authority under the Stafford Act to provide disaster assistance to affected businesses and homeowners impacted by the use of allegedly defective drywall. Having toured New Orleans earlier this year, I share your concern for the victims of Hurricane Katrina.

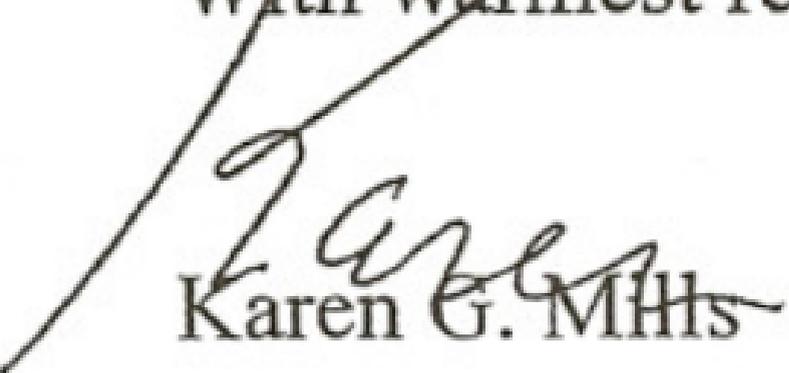
The Stafford Act is the general statutory authority for most Federal disaster response activities as they pertain to Federal Emergency Management Authority (FEMA) programs. When, pursuant to the Stafford Act, the President declares a Major Disaster or emergency and authorizes Federal assistance, including individual assistance, SBA is authorized to make physical disaster loans and economic injury disaster loans to disaster victims. In addition, SBA has the authority under the Small Business Act (Act) to issue disaster declarations and to make physical and economic injury disaster loans to disaster victims in SBA-declared disasters. Under the Act, a "disaster" is generally defined as a sudden event which causes severe damage. Product defects do not fall within the statutory definition for a "disaster." Thus, SBA has never based a disaster declaration on defective products. While we are sympathetic to these victims, the installation of defective drywall likewise would not fall within this statutory definition and could not serve as the basis for an SBA disaster declaration.

In response to the specific issues raised in your letter, SBA does have the authority to disburse additional funds to existing disaster borrowers for disaster-related damage that is discovered within a reasonable time after original loan approval and before repairs are complete. However, if the repair, replacement or rehabilitation of the disaster-damaged property has been completed, SBA does not increase an existing loan.

You also asked whether SBA may issue a disaster declaration based on a request from a Governor. After SBA receives a request from a Governor that satisfies the statutory and regulatory requirements, SBA can issue a physical or economic injury disaster declaration and make low interest loans to cover uninsured losses. As noted above, however, the installation of defective drywall would not qualify as a disaster under the SBA's statutory definition.

Thank you again for your continued support of the SBA disaster loan program and the small business community. A similar response is being sent to your colleagues, Senators Nelson, Warner, and Webb.

With warmest regards,

  
Karen G. Mills

