

Appendices

Appendix A: Executive Order 12699

Presidential Documents

Title 3—

Executive Order 12699 of January 5, 1990

The President

Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction

By the authority vested in me as President by the Constitution and laws of the United States of America, and in furtherance of the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 *et seq.*), which requires that Federal preparedness and mitigation activities are to include "development and promulgation of specifications, building standards, design criteria, and construction practices to achieve appropriate earthquake resistance for new . . . structures," and "an examination of alternative provisions and requirements for reducing earthquake hazards through Federal and federally financed construction, loans, loan guarantees, and licenses. . . ." (42 U.S.C. 7704(f)(3, 4)), it is hereby ordered as follows:

Section 1. Requirements for Earthquake Safety of New Federal Buildings.

The purposes of these requirements are to reduce risks to the lives of occupants of buildings owned by the Federal Government and to persons who would be affected by the failures of Federal buildings in earthquakes, to improve the capability of essential Federal buildings to function during or after an earthquake, and to reduce earthquake losses of public buildings, all in a cost-effective manner. A building means any structure, fully or partially enclosed, used or intended for sheltering persons or property.

Each Federal agency responsible for the design and construction of each new Federal building shall ensure that the building is designed and constructed in accord with appropriate seismic design and construction standards. This requirement pertains to all building projects for which development of detailed plans and specifications is initiated subsequent to the issuance of the order. Seismic design and construction standards shall be adopted for agency use in accord with sections 3(a) and 4(a) of this order.

Sec. 2. Federally Leased, Assisted, or Regulated Buildings.

The purposes of these requirements are to reduce risks to the lives of occupants of buildings leased for Federal uses or purchased or constructed with Federal assistance, to reduce risks to the lives of persons who would be affected by earthquake failures of federally assisted or regulated buildings, and to protect public investments, all in a cost-effective manner. The provisions of this order shall apply to all the new construction activities specified in the subsections below.

(a) **Space Leased for Federal Occupancy.** Each Federal agency responsible for the construction and lease of a new building for Federal use shall ensure that the building is designed and constructed in accord with appropriate seismic design and construction standards. This requirement pertains to all leased building projects for which the agreement covering development of detailed plans and specifications is effected subsequent to the issuance of this order. Local building codes shall be used in design and construction by those concerned with such activities in accord with section 3(a) and 3(c) of this order and augmented when necessary to achieve appropriate seismic design and construction standards.

(b) **Federal Domestic Assistance Programs.** Each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings

shall plan, and shall initiate no later than 3 years subsequent to the issuance of this order, measures consistent with section 3(a) of this order, to assure appropriate consideration of seismic safety.

(c) Federally Regulated Buildings. Each Federal agency with generic responsibility for regulating the structural safety of buildings shall plan to require use of appropriate seismic design and construction standards for new buildings within the agency's purview. Implementation of the plan shall be initiated no later than 3 years subsequent to the issuance of this order.

Sec. 3. Concurrent Requirements. (a) In accord with Office of Management and Budget Circular A-119 of January 17, 1980, entitled "Federal Participation in the Development and Use of Voluntary Standards," nationally recognized private sector standards and practices shall be used for the purposes identified in sections 1 and 2 above unless the responsible agency finds that none is available that meets its requirements. The actions ordered herein shall consider the seismic hazards in various areas of the country to be as shown in the most recent edition of the American National Standards Institute Standards A58, *Minimum Design Loads for Buildings and Other Structures*, or subsequent maps adopted for Federal use in accord with this order. Local building codes determined by the responsible agency or by the Interagency Committee for Seismic Safety in Construction to provide adequately for seismic safety, or special seismic standards and practices required by unique agency mission needs, may be used.

(b) All orders, regulations, circulars, or other directives issued, and all other actions taken prior to the date of this order that meet the requirements of this order, are hereby confirmed and ratified and shall be deemed to have been issued under this order.

(c) Federal agencies that are as of this date requiring seismic safety levels that are higher than those imposed by this order in their assigned new building construction programs shall continue to maintain in force such levels.

(d) Nothing in this order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 402, 403, 502, and 503 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5170a, 5170b, 5192, and 5193), or for temporary housing assistance programs and individual and family grants performed pursuant to Sections 408 and 411 of the Stafford Act (42 U.S.C. 5174 and 5178). However, this order shall apply to other provisions of the Stafford Act after a presidentially declared major disaster or emergency when assistance actions involve new construction or total replacement of a building. Grantees and subgrantees shall be encouraged to adopt the standards established in section 3(a) of this order for use when the construction does not involve Federal funding as well as when Federal Emergency Management Agency (FEMA) funding applies.

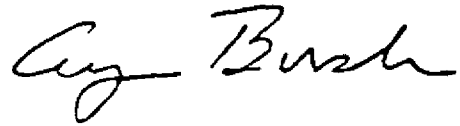
Sec. 4. Agency Responsibilities. (a) The Director of the Federal Emergency Management Agency shall be responsible for reporting to the President on the execution of this order and providing support for the secretariat of the Interagency Committee on Seismic Safety in Construction (ICSSC). The ICSSC, using consensus procedures, shall be responsible to FEMA for the recommendation for adoption of cost-effective seismic design and construction standards and practices required by sections 1 and 2 of this order. Participation in ICSSC shall be open to all agencies with programs affected by this order.

(b) To the extent permitted by law, each agency shall issue or amend existing regulations or procedures to comply with this order within 3 years of its issuance and plan for their implementation through the usual budget process. Thereafter, each agency shall review, within a period not to exceed 3 years, its regulations or procedures to assess the need to incorporate new or revised standards and practices.

Sec. 5. Reporting. The Federal Emergency Management Agency shall request, from each agency affected by this order, information on the status of its procedures, progress in its implementation plan, and the impact of this order on its operations. The FEMA shall include an assessment of the execution of this order in its annual report to the Congress on the National Earthquake Hazards Reduction Program.

Sec. 6. Judicial Review. Nothing in this order is intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

THE WHITE HOUSE.
January 5, 1990.



[FR Doc. 90-720

Filed 1-8-90; 12:08 pm]

Billing code 3195-01-M

**Appendix B: FEMA Supplied Format for
Federal Agency Reports**

FORMAT

1992 PROGRESS REPORT TO FEMA ON EXECUTIVE ORDER 12699

The Federal Emergency Management Agency (FEMA) is required to include an assessment of the implementation of Executive Order 12699 by Federal agencies in the National Earthquake Hazards Reduction Program biennial report to the Congress. Information is requested from each agency affected by the Order on the status of its procedures, progress in its implementation plan, and the impact of this Order on its operations. The planned submission of the report to the Congress by the end of this calendar year requires your agency information to be provided to FEMA by July 15, 1992.

The suggested format for reporting progress to FEMA follows.

1. Introduction

Briefly describe your agency's seismic safety responsibilities and jurisdictions. If yours is a regulatory agency, describe the authority the agency has to enforce compliance with the Order.

2. Status of Agency Procedures

Provide information on the progress on regulations and procedures for implementing the Order. What is the planned schedule for having the regulations and procedures in place? Identify Order requirements not implemented and describe impediments to progress.

Describe actions taken in response to the July 1991, **Guidelines and Procedures for Implementation of the Executive Order on Seismic Safety of New Construction**, prepared by the Interagency Committee on Seismic Safety in Construction.

What procedures are in place for collecting and documenting agency seismic safety information and for assessing and providing the information to FEMA when necessary?

Has your agency adopted seismic safety design and construction standards for agency use? If so, how are they used?

Describe special initiatives and accomplishments of your agency in achieving improved seismic safety for new building construction.

3. Progress on Implementation Plan

Report the progress of your agency in implementing the Order from its enactment on January, 5, 1990, to the end of Fiscal Year 1992 (*i.e.*, September 30, 1992). Are responsibilities clearly assigned?

Describe changes within the agency in the administration of the seismic safety program, policy, budget, organizational, and staff changes. Has a viable administrative framework been established for implementation of the requirements of the Order and for addressing the substantive and procedural steps set out in the Guidelines?

Describe your agency's plan for implementation of the Order through the usual budget process. Describe any actions being taken to overcome any deficiencies.

Report on the provisions made to insure that the seismic safety actions being taken are technically sound.

4. Impact on Agency Operations

Assess the impact of the agency changes on the effectiveness of accomplishing seismic safety objectives.

Provide information on the impact of the Order on agency operations, both positive and negative. Beneficial impacts can be expressed by reduced risk to lives of building occupants, improved capability of critical buildings to function during and after an earthquake, and reduced potential for damage losses. Negative impacts can include such aspects as excessive additional costs, or major time delays in construction, regulatory approval, or provision of Federal financial assistance.

Report on seismic safety training and education activities which your agency has performed or supported. Identify actions being taken to strengthen these activities.

**Appendix C: Criteria for Review of Federal
Agency Execution of Executive Order 12699**

The Director of the Federal Emergency Management Agency (FEMA) is responsible for reporting to the President on the execution of Executive Order 12699, *Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction*.

Each agency affected by Executive Order 12699 is required to provide FEMA with information on the status of its procedures, progress in its implementation plan, and the impact of the Order on its operations. A format for reporting progress during Fiscal Years (FY) 1991 and 1992 was provided to the Federal agencies by FEMA.

The criteria used by FEMA to assess Federal agency execution of Executive Order 12699 reflect the full range of issues which could be addressed by the agencies to meet the intent of Executive Order 12699. The criteria cover the following issues and requirements.

- Scope and Purposes of Executive Order 12699
- Agency Impact
- Formulation of Regulations or Procedures
- Leadership
- Coordination
- Program Implementation
- Adoption of Standards

The assessment criteria are based on the requirements of Executive Order 12699 and the *Guidelines and Procedures for Implementation of the Executive Order on Seismic Safety of New Building Construction* developed by the Interagency Committee on Seismic Safety in Construction (ICSSC).

I. Introduction

Briefly describe your agency's seismic safety responsibilities and jurisdictions. If yours is a regulatory agency, describe the authority the agency has to enforce compliance with the Order.

1. Is the agency responsible for the design and construction of new Federal buildings? If so, what is the approximate number of new buildings or the approximate square footage of the buildings?
2. Is the agency responsible for additions to existing Federal buildings? If so, what is the approximate number of additions or the approximate square footage of the additions?
3. Is the agency responsible for the construction and lease of new Federal buildings in which 15 percent or more of total space will be leased for Federal use? If so, what is the approximate number of new buildings or the approximate square footage of the buildings?
4. Does the agency assist in the financing, through Federal grants or loans or guaranteeing of financing through mortgage or loan insurance programs, of newly constructed buildings? If so, what is the type and level of assistance? How many buildings are assisted per year?
5. Does the agency have regulatory responsibility for the structural safety of buildings? If so, what is the type and level of responsibility? How many buildings are regulated per year?
6. Does the agency distinguish between the three purposes of Executive Order 12699 in terms of its responsibilities for seismic safety (ownership, lease, financial assistance, and/or regulatory responsibility)?
7. How is the agency addressing the three purposes of Executive Order 12699 in its policies and procedures?

8. Does the agency have the authority to enforce compliance with Executive Order 12699? If so, what is the authority?
9. Has the agency established exemption criteria (non-applicability or low regional seismicity) for buildings under its jurisdiction? If so, are the exemption criteria applied in a uniform manner across the agency? How is this uniformity being achieved?
10. If the agency's position is that some of the requirements of Executive Order 12699 are not applicable to certain programs, what are these requirements? On what basis does the agency consider the requirements to be exempt? Under whose authority, such as that of the Office of the General Counsel, is this determination being made?
11. What policies, procedures, and criteria, other than the regulations, are in place to identify existing and future programs that should be included under Executive Order 12699?

II. Status of Agency Procedures

- A. Provide information on the progress on regulations and procedures for implementing the Order. What is the planned schedule for having the regulations and procedures in place? Identify Order requirements not implemented and describe the impediments to progress.
1. Will the agency have final regulations by February 1, 1993?
 2. If regulations will not be final by February 1, 1993, what are the reasons for the failure to meet the deadline?
 3. If regulations will not be final by February 1, 1993, what is the current status of the agency's compliance with the regulatory requirement? What are the projected milestone dates for completion of rulemaking and regulatory processes?
 4. How will the regulations meet the intent and requirements (procedural and substantive) of Executive Order 12699?
 5. Will the agency issue new procedures or amend existing procedures to comply with Executive Order 12699? If so, will the procedures be issued in lieu of regulations or in addition to regulations?
 6. How will procedures issued by the agency meet the intent and requirements (procedural and substantive) of Executive Order 12699?
 7. Does the agency anticipate any impediments to the implementation of Executive Order 12699? If so, what are the impediments? What steps are being taken to overcome them?

- B. What procedures are in place for collecting and documenting agency seismic safety information and for assessing and providing the information to FEMA when necessary.
1. What policies, procedures, and criteria, other than the regulations, are in place to document and assess compliance with Executive Order 12699?
 2. What are the agency procedures for collecting and documenting agency seismic safety information and for assessing and providing the information to FEMA?
- C. Has your agency adopted seismic safety design and construction standards for agency use? If so, how are they used?
1. What seismic hazard map does the use in its construction activity? Why was it selected?
 2. What seismic safety design and construction standards and practices has the agency adopted? Why were they adopted? How have they been adopted?
 3. If the recommended ICSSC design and construction standards and practices has not been adopted, what standards or local building code is the agency using?
 4. If the recommended ICSSC design and construction standards and practices has not been adopted, what is the justification for not adopting the standards and practices? Does the agency have a unique mission that requires the development of unique standards?
 5. If unique standards are used, are they substantially equivalent to the NEHRP Provisions? If not, what is the agency planning to do to make them so?

6. What procedures are in place for determining the adequacy of local building codes?
- D. Describe special initiatives and accomplishments of your agency in achieving improved seismic safety for new building construction.
1. Has the agency established an agency-wide policy directive or regulation for implementing Executive Order 12699?
 2. Has the agency designated a policy level official (other than the agency seismic safety coordinator) for providing overall leadership in the implementation of Executive Order 12699?
 3. What leadership activities and initiatives (technical assistance, training and education, and financial assistance) has the agency initiated to inform the private sector and state and local governments of the requirements and benefits of Executive Order 12699 and to involve them in its execution?
 4. What leadership activities and initiatives has the agency planned to inform the private sector and state and local governments of the requirements and benefits of Executive Order 12699?

III. Progress on Implementation Plan

- A. Report the progress your agency has made on the implementation plan for the Order. Are responsibilities clearly assigned?
1. Is the agency following an established plan and schedule for implementing the seismic safety program by February 1, 1993?
 2. How will the agency ensure compliance with Executive Order 12699 by its regional offices, field offices, and bureaus?
 3. If the agency has a unique mission that requires exceptional safety requirements, what implementation and enforcement policies and procedures have been established?
 4. What are the agency procedures for ensuring adequate seismic safety construction in financial assistance programs?
 5. What is the agency's approach to ensuring that the policies, procedures, and criteria are consistent with the regulations?
 6. How will the agency ensure compliance with the standards required by Executive Order 12699 within current and projected budget allocations?
- B. Describe changes made within the agency in the administration of the seismic safety program, policy, budget, organizational, and staff changes. Has a viable administrative framework been established for implementation of the requirements of the Order and for addressing the substantive and procedural steps set out in the Guidelines?
1. Does the agency have a viable administrative framework in place for coordinating its seismic safety program and for addressing the substantive and procedural steps set out in the Guidelines? If so, what is the framework?

2. Has the agency appointed a seismic safety coordinator?
3. What are the specific responsibilities of the seismic safety coordinator with regard to implementation of Executive Order 12699?
4. How does the coordinator interface with agency representatives (technical and policy) involved in seismic safety?
5. How does the coordinator interface with state, local, and private parties involved in the design and construction of Federally owned, leased, or regulated buildings?
6. Is the coordinator a member of the ICSSC?
7. If the agency has not appointed a seismic safety coordinator, what mechanisms are in place for coordinating the implementation of Executive Order 12699?
8. Has the agency delegated any responsibility for implementing Executive Order 12699 or for monitoring compliance with the requirements of the Order? If so, to whom and by what authority?
9. What are the resource commitments (funds and staff) for leadership activities and assistance?
10. What are the milestone dates for leadership activities and technical assistance?

- C. Report on the provisions made to insure that the seismic safety actions being taken are technically sound.
1. If the agency has technically trained staff, have building plan reviews been included in the agency's seismic safety program? If not, what are the reasons for not having such internal reviews?
 2. If the agency does not have technically trained staff, what procedures have been established for notifying appropriate parties (building owner, architect, engineer, or contractor) of the required minimum standards and for ensuring that the standards are followed?
 3. What procedures does the agency have in place for informing contractors and other appropriate parties of documentation requirements (certification and sources of technical assistance)?
 4. What policies, procedures, and criteria, other than the regulations, has the agency established to review its regulations and procedures (at least every 3 years) for the need to incorporate new standards and practices?

IV. Impact on Agency Operations

- A. Provide information on the impact of the Order on agency operations, both positive and negative. Beneficial impacts can be expressed by reduced risk to lives of building occupants, improved capability of critical buildings to function during and after an earthquake, and reduced potential for damage losses. Negative impacts can include such aspects as excessive additional costs, or major time delays in construction, regulatory approval or provision of Federal financial assistance.
1. What is or will be the impact of compliance with Executive Order 12699 on the agency budget?
 2. What is or will be the impact (positive and negative) of compliance with Executive Order 12699 on internal agency operations (organization, policy, and staff)?
 3. What is or will be the impact of compliance with Executive Order 12699 on agency contracting procedures for the design and construction of new and leased buildings?
 4. How will compliance with Executive Order 12699 affect schedules for the design and construction, regulatory approval, or provision of financial assistance for new or leased buildings?
- B. Report on agency seismic safety training and education activities which your agency has performed or supported. Identify actions being taken to strengthen these activities.
1. What in-house training and education activities and initiatives (seminars, workshops, manuals, newsletters) has the agency initiated?
 2. What training and education activities and initiatives (seminars, workshops, manuals, newsletters) has the agency initiated for outside consultants and the private sector?

3. What are the resource commitments (funds and staff) for these activities?

4. What are the milestone dates for these activities?

FEMA-239/February 1993