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Federal Disaster Assistance: The National Flood Insurance Program and Other Federal Disaster Assistance Programs Available to Individuals and Households After a Flood

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Summary

After a flood, people are often uncertain if their eligibility for federal disaster assistance is linked in any way to whether or not they have flood insurance. Because much of the other disaster assistance that is available to individuals comes from the Federal Emergency Management Agency (FEMA), there may be confusion between possible claims provided through the National Flood Insurance Program (NFIP, which is also managed by FEMA), and other disaster assistance programs. This report provides an overview of the assistance available to individuals and households following a flood and provides links to more comprehensive guidance on both flood insurance and disaster assistance.

The National Flood Insurance Program (NFIP) is the main program intended to provide federal assistance to homeowners and renters recovering from flood losses. The maximum coverage for one- to four-family homes is $100,000 for contents and $250,000 for buildings coverage. In addition to NFIP claims payments to policyholders, homeowners and renters may also access a number of other federal programs aimed at mitigating the impact on individuals and households. The principal FEMA program to offer assistance to individuals and families is the Individuals and Households Program (IHP). The total of all IHP assistance to one household cannot exceed $34,000. IHP recipients whose homes are located in a Special Flood Hazard Area, are in a community participating in the NFIP, and who receive assistance for repair, replacement, permanent housing construction, and/or personal property as a result of a flood-related disaster must obtain and maintain flood insurance as a condition of accepting disaster assistance.

The Small Business Administration (SBA) Disaster Loan Program provides direct loans to businesses, nonprofit organizations, homeowners, and renters to repair or replace property destroyed in a federally declared disaster. A Personal Property Loan provides a creditworthy homeowner or renter in a declared disaster area with up to $40,000 to repair or replace personal property owned by the survivor, while Real Property Loans provide creditworthy homeowners with up to $200,000 to repair or restore the homeowners' primary residence to its predisaster condition. Recipients of SBA loans must carry flood insurance for the life of the loan.

In some instances that are perceived as catastrophic events, Congress has provided additional resources to states and local governments through the Department of Housing and Urban Development's Community Development Block Grant Disaster Recovery Program (CDBG-DR); however, the CDBG-DR program is not automatically triggered by a disaster. Due to the block grant nature of the program, local and state officials exercise a great deal of discretion in determining which combination of eligible activities to employ. This allows communities to use CDBG-DR funds to meet disaster-related needs, including short-term disaster relief, mitigation activities, and long-term recovery activities. HUD does not provide CDBG-DR funding directly to individuals; however, individuals and families may benefit from a number of the eligible activities for which CDBG-DR funds can be used. Unless the individual state requires the purchase of flood insurance, the recipients of CDBG-DR grants are exempt from the requirement to purchase flood insurance.

The NFIP's authorization expires on November 30, 2018. If the NFIP is not reauthorized and is allowed to lapse, the authority to provide new flood insurance contracts will expire. If the NFIP were to lapse, the unavailability of NFIP insurance could have an impact on other programs such as IHP, SBA disaster loans, and CDBG-DR. Separately from or in conjunction with NFIP reauthorization, the impacts on such other programs may be useful to consider. In particular, Congress may consider revising the requirements for flood insurance in the Flood Disaster Protection Act.

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Introduction

After a flood event, people are often uncertain about what types of federal assistance they are eligible for, and if their eligibility for federal disaster assistance is linked in any way to whether or not they have flood insurance. Because much of the other disaster assistance that is available to individuals comes from the Federal Emergency Management Agency (FEMA), there may be confusion between possible claims provided through the National Flood Insurance Program (NFIP, which is also managed by FEMA) and other disaster assistance programs. This report provides an overview of the assistance available to individuals and households following a flood and provides links to more comprehensive guidance on both flood insurance and disaster assistance. The NFIP is described in detail in CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*.

The National Flood Insurance Program (NFIP) is the main program intended to provide federal assistance to homeowners and renters recovering from flood losses. The NFIP was established by the National Flood Insurance Act of 1968 (NFIA, 42 U.S.C. §4001 et seq.). The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk, and to reduce flood risk through the adoption of floodplain management standards. As of May 2018, the NFIP had over 5 million flood insurance policies providing over $1.28 trillion in coverage.[1] Nationally, as of July 2018, about 22,322 communities in 56 states and jurisdictions participated in the NFIP.[2] According to FEMA, the program saves the nation an estimated $1.87 billion annually in flood losses avoided because of the NFIP's building and floodplain management regulations.[3]

In addition to NFIP claims payments to policyholders, homeowners and renters may also access a number of other federal programs aimed at mitigating the impact on individuals and households. As described below, Congress established certain limits on the availability of federal disaster assistance dependent on whether individuals had flood insurance, as set out by the Flood Disaster Protection Act of 1973 (FDPA, P.L. 93-234, 87 Stat 985). In addition to requiring property owners with federally backed mortgages to have flood insurance,[4] the FDPA restricts access to federal financial assistance for *acquisition or construction purposes*[5] for use in any area that has been

[1] Statistics on the NFIP policy and claims are available from FEMA's website at https://www.fema.gov/policy-claim-statistics-flood-insurance.

[2] Based on FEMA's map inventory, 98.8% of the U.S. population is mapped with an existing flood map. Over 88% of the population lives in a community that has received a modernized product. Email correspondence from FEMA Congressional Affairs staff, April 20, 2017. Detailed information about which communities participate and where is available from the Community Status Book, found on FEMA's website at https://www.fema.gov/national-flood-insurance-program-community-status-book.

[3] Ibid.

[4] The mandatory purchase requirement is discussed in this report in the section entitled Primary Flood Insurance through the NFIP.

[5] *Financial assistance for acquisition or construction purposes* is defined at 42 U.S.C. §4003(4) and means

> any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] (other than assistance under such Act in connection with a flood).

Financial assistance is also separately defined at 42 U.S.C. §4003(3) and means "any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal

identified as having special flood hazards (i.e., what is known as a Special Flood Hazard Area, or SFHA), and in which the sale of flood insurance has been made available under the NFIP, unless covered by flood insurance (i.e., the community participates in the NFIP).[6] The Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended, Stafford Act) also sets restrictions to flood disaster assistance, stating that notwithstanding any other provision of law, no federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable federal law on such property.[7]

Federal Assistance Available to Individuals and Families

The National Flood Insurance Program (NFIP)

Availability of Flood Insurance Through the NFIP

A core design feature of the NFIP is that communities[8] are not required to participate in the program by any law or regulation. Rather, communities in the United States voluntarily participate in the NFIP generally as a means of securing access to the primary flood insurance offered by the NFIP. Essentially, the NFIP is structured so that the availability of primary flood insurance through the NFIP is tied to the adoption and enforcement of floodplain management standards by participating communities. FEMA is only allowed to provide flood insurance to "those States or areas (or subdivisions thereof)" where "adequate land use and control measures" have been adopted that "are consistent with the comprehensive criteria for land management and use developed" by the NFIP.[9] Thus, communities that participate in the NFIP, and therefore whose residents may access the NFIP's primary flood insurance, also must adopt, through local or state laws, minimum floodplain management standards that are described in FEMA regulations. Communities are required to adopt these minimum floodplain management standards in order to participate in the NFIP.[10] FEMA has set forth the minimum standards it requires for participation in the NFIP in federal regulations.[11] Though the standards appear in federal regulations, the standards only have the force of law because they are adopted and enforced by a state or local government.

A community that has been found failing to enforce the floodplain management standards may be placed on probation and ultimately suspended from the NFIP. However, a community cannot be

assistance, other than general or special revenue sharing or formula grants made to States."

[6] 42 U.S.C. §4012a(a).

[7] 42 U.S.C. §5154a(a).

[8] 44 C.F.R. 59.1 defines community as "any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction."

[9] 42 U.S.C. §4012(c)(2).

[10] 42 U.S.C. 4022(a)(1).

[11] See 44 C.F.R. Part 60, particularly 44 C.F.R. 60.3.

removed from the NFIP because of increased or excess flood insurance claims and losses. Rather, probation and suspension only occur if the community fails to uphold its obligations related to floodplain management.[12] Communities that have been suspended or those communities that do not participate in the NFIP can face significant consequences. Most importantly, residents of these communities are not able to purchase primary flood insurance through the NFIP, which may result in significant uninsured property risk in that community. In addition, if a community does not participate in, or has been suspended from, the NFIP but has been previously mapped by FEMA for flood hazards, it is difficult for the community and policyholders to access some other forms of federal assistance for areas in the floodplain.[13]

For example, by law, no federal assistance may be provided for acquisition or construction purposes in an area that has been identified as having special flood hazards unless the property is covered by flood insurance.[14] Likewise, as federally backed mortgages require flood insurance for properties in the Special Flood Hazard Area (SFHA),[15] these property owners would be required to obtain such insurance in the private market. A community is allowed to leave the NFIP at its will, but the potential consequences of that decision are similar to those if the community has been suspended.

The Coastal Barrier Resources System and Flood Insurance

In some other special cases NFIP flood insurance may not be available; for example, no new NFIP flood insurance coverage[16] may be provided for new construction or structures with substantial improvements which are located on any coastal barrier within the John H. Chafee Coastal Barrier Resources System (CBRS).[17] The CBRS contains two types of units: System units[18] and Otherwise Protected Areas (OPAs).[19] System units are generally comprised of private lands that were relatively undeveloped at the time of their designation within the CBRS. The boundaries of system units are generally intended to follow geomorphic, development, or cultural features. OPAs are generally comprised of lands held by a qualified organization primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. The boundaries of OPAs are generally intended to coincide with the boundaries of conservation or recreation areas such as state parks and national wildlife refuges.[20]

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[12] The conditions under which a community can be placed on probation or suspended from the NFIP are described in detail in CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*, pp. 20-21.

[13] For additional details on the effects of suspension, see FEMA's website at http://www.fema.gov/suspension.

[14] 42 U.S.C. §4012a(a).

[15] A Special Flood Hazard Area (SFHA) is defined by FEMA as an area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map. See the following section on Primary Flood Insurance through the NFIP for a more detailed description of SFHAs.

[16] 42 U.S.C. §4028.

[17] The Coastal Barrier Resources Act (P.L. 97-348), as amended, designates undeveloped coastal barriers and adjacent areas, where most federal spending that would support additional development is prohibited. 42 U.S.C. §4028(a) prohibits the issuance of new flood insurance coverage in the CBRS. More details about the CBRA can be found in CRS Report RL34339, *Coastal Zone Management: Background and Reauthorization Issues*. For additional information about flood insurance and the Coastal Barrier Resources System, see 44 C.F.R. Part 71, particularly 71.3, and the NFIP Flood Insurance Manual, revised April 2018, Section CBRS 1, which can be accessed at https://www.fema.gov/media-library-data/1523648891506-09056f549d51efc72fe60bf4999e904a/19_cbrs_508_apr2018.pdf.

[18] 16 U.S.C. §3502.

[19] §12(2) of P.L. 101-591.

[20] See U.S. Fish and Wildlife Service information on the Coastal Barrier Resources Act at https://www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html.

Primary Flood Insurance Through the NFIP

FEMA develops, in coordination with participating communities, flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's floodplain and flood risk. A key aspect of this flood mapping is the identification of the Special Flood Hazard Area (SFHA). The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a "1 in 100 year flood" or greater frequency. This means that properties have a risk of 1% *or greater* of flooding every year if located in a SFHA. In a community that participates or has participated in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage. By law and regulation, federal agencies, federally regulated lending institutions, and government-sponsored enterprises must require these property owners to purchase flood insurance as a condition of any mortgage that these entities make, guarantee, or purchase.[21] Property owners falling under this mandate may purchase flood insurance through the NFIP or through a private company, so long as the private flood insurance "provides flood insurance coverage which is at least as broad as the coverage" of the NFIP, among other conditions.[22] Not all mortgages in the SFHA are affected by this mandatory purchase requirement. For example, a personal mortgage loan between two private parties (such as between family members), or a mortgage issued by a private mortgage company that is *not* then sold on the secondary market to a bank or entity like Fannie Mae, *may* not require flood insurance. Even if they are not technically required to mandate flood insurance by federal law, the issuing party may still require it as a means of financially securing the property.

Preferred Risk Policies

Flood insurance is optional for properties outside the SFHA regardless of whether they have a federally backed mortgage. However, as there is still a risk of flooding outside the SFHA, residents of NFIP participating communities with property located outside the SFHA may voluntarily purchase a lower-cost Preferred Risk Policy (PRP). Rates for PRPs are lower than for properties in SFHAs in accordance with their lower risk profile; however, unlike properties in the SFHA, an individual may be denied a PRP if there is significant loss history for the property.[23] FEMA encourages the purchase of PRPs both to reduce the financial flood risk of a broader group of individuals, and to expand the number of NFIP policyholders, thus improving the fiscal soundness of the NFIP portfolio.

Standard Flood Insurance Policies

FEMA has considerable discretion under the law to craft the details of the flood insurance policies it sells through the NFIP.[24] Currently, there are three policies that the NFIP uses to sell primary flood insurance—the Dwelling, the General Property, and the Residential Condominium Building Association policy (RCBAP) forms. Collectively, these Standard Flood Insurance Policies (SFIPs) appear in regulations, and coverage qualifications are generally equivalent.[25]

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[21] 42 U.S.C. §4012a.

[22] 42 U.S.C. §4012a(b).

[23] For additional information on PRPs and restrictions, see FEMA, *Flood Insurance Manual, Preferred Risk Policy Section*, Revised April 2018, at https://www.fema.gov/media-library-data/1523307331106-4cf9726b2eb04c3471a3e9d37a58fa6a/09_prp_508_apr2018.pdf.

[24] 42 U.S.C. §4013(a).

[25] See 44 C.F.R. Part 61, Appendix A. Copies of the policy forms are also available on FEMA's website at https://www.fema.gov/national-flood-insurance-program/standard-flood-insurance-policy-forms.

Within the SFIPs sold by the NFIP, there are numerous policy exclusions that are often not understood by policyholders. For example, SFIPs have limited coverage of basements or crawlspaces.[26] Because SFIP coverage limits are often less than the value of a structure or the value of the property's contents, policyholders can obtain excess flood insurance to cover losses beyond the coverage limit. However, such excess coverage is not sold by the NFIP, and can only be purchased through the private insurance market.

NFIP Coverage Limits: Single Family Dwellings

The maximum coverage limits available from the NFIP are determined by occupancy type and location in or out of a SFHA (see **Table 1**). The NFIP defines three main occupancy types: Single Family Dwelling,[27] Other Residential Building,[28] and Business Building.[29] The distinction between residential and nonresidential is determined by the percentage of the floor space which is devoted to commercial uses.

Policyholders are able to elect coverage for both their building property and separate coverage for contents. Renters may obtain a contents-only coverage. The maximum coverage with either a SFIP or a PRP for single-family dwellings (which also includes single-family residential units within a 2-4 family building) is $100,000 for contents and up to $250,000 for buildings coverage.

NFIP Coverage Limits: Other Residential Buildings and Condominiums

For Other Residential Buildings which are not covered by a Residential Condominium Building Association Policy (RCBAP), the maximum available coverage limit is $250,000 for building coverage and $100,000 for contents coverage. These limits apply to all single condominium units and all other buildings not in a condominium form of ownership, including cooperatives, timeshares, apartment buildings, dormitories, and assisted-living facilities. The Other Residential Building category also includes hotels, motels, tourist homes, and rooming houses which have more than four units where the normal guest occupancy is six months or more.[30] An individual

[26] For a basic guide to coverage under the SFIP, see FEMA, *Summary of Coverage*, FEMA F-679, November 2012, at http://www.fema.gov/media-library-data/20130726-1620-20490-4648/f_679_summaryofcoverage_11_2012.pdf.

[27] FEMA's definition of a Single-Family Dwelling is either (1) a residential single-family building in which the total floor area devoted to nonresidential uses is less than 50% of the building's total floor area, or (2) a single-family residential unit within a 2-4 family building, other residential building, business, or nonresidential building, in which commercial uses within the unit are limited to less than 50% of the unit's total floor area. See FEMA, *Flood Insurance Manual, Definitions Section*, April 2018, p. DEF 9, https://www.fema.gov/media-library-data/1523648919158-09056f549d51efc72fe60bf4999e904a/23_definitions_508_apr2018.pdf.

[28] FEMA defines an Other Residential Building as a residential building that is designed for use as a residential space for 5 or more families, or a mixed-use building in which the total floor space devoted to nonresidential uses is less than 25% of the total floor area within the building. See FEMA, *Flood Insurance Manual, Definitions Section*, April 2018, p. DEF 7, https://www.fema.gov/media-library-data/1523648919158-09056f549d51efc72fe60bf4999e904a/23_definitions_508_apr2018.pdfhttps://www.fema.gov/media-library-data/1503240583997-30b35cc754f462fe2c15d857519a71ec/23_definitions_508_oct2017.pdf.

[29] FEMA defines a Business Building as a building in which the named insured is a commercial enterprise primarily carried out to generate income and the coverage is for (1) a building designed as a nonhabitational building; (2) a mixed-use building in which the total floor area devoted to residential uses is (a) 50% or less of the total floor area within the building if the residential building is a single family property or (b) 75% or less of the total floor area within the building for all other residential properties; or (3) A building designed for use as office or retail space, wholesale space, hospitality space, or for similar uses. See FEMA, *Flood Insurance Manual, Definitions Section*, April 2018, p. DEF 1, https://www.fema.gov/media-library-data/1523648919158-09056f549d51efc72fe60bf4999e904a/23_definitions_508_apr2018.pdf.

[30] FEMA, *Flood Insurance Manual, General Rules Section*, October 2017, p. GR6, https://www.fema.gov/media-

dwelling unit in a condominium not covered by the RCBAP may be separately insured under the Dwelling form, in the name of the unit owner, up to the limits of insurance coverage for a single-family dwelling (up to $100,000 for contents, up to $250,000 for building elements). A residential condominium association may purchase insurance coverage under the RCBAP on behalf of the association and the unit owners to cover the building and, if desired, coverage of commonly owned contents. In this case, the maximum limit for the building is the replacement cost, or the total number of units multiplied by $250,000, whichever is less.[31]

NFIP Claims

While FEMA provides the overarching management and oversight of the NFIP, the bulk of the day-to-day operation of the NFIP, including claims made after a flood, is handled by private companies. This arrangement between the NFIP and private industry is authorized by statute and guided by regulation.[32] There are two different arrangements that FEMA has established with private industry. The first is the Direct Servicing Agent (DSA), which operates as a private contractor on behalf of FEMA for individuals seeking to purchase flood insurance policies directly from the NFIP. The second arrangement is called the Write-Your-Own (WYO) Program, where private insurance companies are paid to directly write and service the policies themselves. With either the DSA or WYO Program, the NFIP retains the actual financial risk of paying claims for the policy (i.e., underwrites the policy), and the policy terms and premiums are the same.

Following a flood, NFIP policyholders are advised to contact their agent or insurance company to file a claim. This is either one of the WYO companies or the DSA, who will provide an adjuster to assist the policyholder to make a claim. The adjuster will normally take measurements and photographs to assess the damage, provide an estimate of the covered flood damage, and provide a proof of loss form for the policyholder to sign. The estimate, proof of loss form, and other supporting documentation provide the Proof of Loss,[33] which is required before the claim can be paid. The complete Proof of Loss, signed and sworn to by the policyholder, along with documentation to support the amount requested initially and any requests for additional payment, must be sent to the DSA or WYO company within 60 days after the date of loss or within the extension. In severe events, FEMA may authorize an extension of the 60-day period to send the proof of loss to the NFIP adjuster. For example, following both the Louisiana floods in August 2016 and Hurricane Sandy in 2012, FEMA authorized multiple extensions which ultimately gave policyholders 330 days to submit their proof of loss after the Louisiana floods[34] and a full two years to submit their proofs of loss after Sandy.[35] So far, policyholders have been given one year

library-data/1523307258594-4cf9726b2eb04c3471a3e9d37a58fa6a/03_general_rules_508_apr2018.pdf.

[31] FEMA, *Flood Insurance Manual, Condominiums Section*, October 2017, https://www.fema.gov/media-library-data/1523307300588-4cf9726b2eb04c3471a3e9d37a58fa6a/06_condo_508_apr2018.pdf.

[32] See primarily 42 U.S.C. §4081 and §4018, and 44 C.F.R. Part 62.

[33] The Proof of Loss is the policyholder's statement of the amount of money being requested, signed to and sworn by the policyholder with documentation to support the amount requested. The Proof of Loss is not the claim. The claim is the policyholder's declaration that they are entitled to be paid for a covered loss under the terms of the NFIP flood insurance policy. For additional information on the claims procedure, see FEMA, *Flood Insurance Manual, Claims Section*, April 2018, at https://www.fema.gov/media-library-data/1523307409213-4cf9726b2eb04c3471a3e9d37a58fa6a/16_policy_508_apr2018.pdf.

[34] Federal Emergency Management Agency, Fourth Extension of the Deadline for Sending Proofs of Loss in the State of Louisiana for Claims Related to the Mid-Summer Severe Storms Commencing on August 9, 2016 through August 31, 2016, W-17017, May 5, 2017, at https://bsa.nfipstat.fema.gov/wyobull/2017/w-17017.pdf.

[35] Federal Emergency Management Agency, Further Extension of the Time to File a Standard Flood Insurance Policy ("SFIP") Proof of Loss for National Flood Insurance Program ("NFIP") Flood Claims Arising Out of Meteorological

from the date of loss to file claims for Hurricane Harvey,[36] Hurricane Irma,[37] and Hurricane Maria.[38]

Advance Payments from the NFIP

In some circumstances, FEMA has authorized a conditional waiver to allow insurers (either WYO companies or the NFIP Direct Servicing Agent) to make advance payments to policyholders.[39] These advance payments have been made in two ways.

> (1) Pre-inspection: Once a policyholder provides notice of loss, an insurer may offer an advance payment for building and/or personal property damages up to a total of $5000 after confirming coverage and validating that the insured property has flooded. The insurer may offer a total advance payment of up to $20,000 if the policyholder provides photographs depicting flood damage to the covered property and either documentation such as receipts verifying out-of-pocket expenses related to the repair or replacement of covered property, or a contractor's itemized damage estimate.
>
> (2) Payment for Significant Damage: If the insurer receives a general contractor's estimate of necessary repairs to the insured property and a flood insurance inspector retained by the insurer has inspected the insured property, an advance payment may be authorized, not to exceed 50% of the general contractor's estimate of necessary repairs. In both cases, the advance payment cannot be used for Additional Living Expenses,[40] and after the claim is settled, the insurer will reduce the final payment by the amount of the advance. If the loss is determined not to be a covered loss, or if the advance payment exceeds the amount of the actual covered loss, the insured will be required to repay the advanced payment (or portion thereof).[41]

FEMA Assistance to Individuals and Families

When the President declares a major disaster under the Stafford Act, the President's action contains a designation for the types of assistance FEMA will provide for victims of that disaster. Individual Assistance (IA) may be provided for certain declared disaster areas, but not others. IA

Event Sandy, W-14017, April 28, 2014, at http://bsa.nfipstat.fema.gov/wyobull/2014/w-14017.pdf.

[36] Federal Emergency Management Agency, Activation of NFIP Catastrophic Event Enhanced Claim Payment Process Hurricane Harvey, W-17030, September 3, 2017, at https://nfip-iservice.com/Stakeholder/pdf/bulletin/w-17030.pdf.

[37] Federal Emergency Management Agency, Activation of NFIP Catastrophic Event Enhanced Claim Payment Process and Proof of Loss Extension for Hurricane Irma, W-17040, September 12, 2017, at https://nfip-iservice.com/Stakeholder/pdf/bulletin/w-17040.pdf.

[38] Federal Emergency Management Agency, Activation of NFIP Catastrophic Event Enhanced Claim Payment Process and Proof of Loss Extension for Hurricane Maria, W-17057, September 28, 2017, at https://nfip-iservice.com/Stakeholder/pdf/bulletin/w-17057.pdf.

[39] For example, FEMA Memorandum W-16053 (August 17, 2016) and FEMA Memorandum W-17039 (September 12, 2017) both authorized a conditional waiver of the Standard Flood Insurance Policy, Section VII. General Conditions, Paragraphs (J) and (M) and Section VIII, General Conditions, Paragraphs (J) and (M) of the Residential Condominium Building Association Policy to allow advance payments. See https://bsa.nfipstat.fema.gov/wyobull/2016/w-16053.pdf and https://nfip-iservice.com/Stakeholder/pdf/bulletin/w-17039.pdf.

[40] Additional Living Expenses coverage in a standard homeowner's policy reimburses the insured for the cost of maintaining a comparable standard of living following a covered loss that exceeds the insured's normal expenses prior to the loss.

[41] See https://bsa.nfipstat.fema.gov/wyobull/2016/w-16053.pdf and https://nfip-iservice.com/Stakeholder/pdf/bulletin/w-17039.pdf.

provides help to individuals and families and can include several programs, depending on whether the governor of the affected state or the tribal leader has requested that specific help.[42]

Individuals and Households Program

The principal IA program to offer assistance to individuals and families is the Individuals and Households Program (IHP).[43] The IHP has two broad categories that assist families and individuals who have been impacted by disaster damage: housing assistance and other needs assistance. The total of all assistance to one household cannot exceed $34,000.[44] Each household is considered a single applicant regardless of the number of household members.[45] In all instances, this help is intended to supplement, but not substitute for, existing insurance coverage. If applicants have insurance, any assistance provided by FEMA for losses covered by insurance should be considered an advance and must be repaid to FEMA upon receipt of an insurance payment settlement.

Under IHP, housing costs can be assumed by the federal government for up to 18 months.[46] Unlike other Stafford Act programs, housing is not cost shared with the state, but is all federal assistance. The types of housing assistance include monetary assistance, direct assistance, repairs, and replacement. Monetary Assistance is provided to individuals and families to address the costs to rent temporary housing while repairs are being made to their predisaster primary residence or while they transition to permanent housing. The amount of rental assistance available is calibrated to include housing and utility costs in the affected area. Direct Assistance provides temporary housing units to disaster survivors that are purchased or leased by the federal government. The IHP cost per household limit does not apply to Direct Assistance. The use of Direct Assistance, such as mobile homes and trailers, is rare and is generally considered a last resort to be employed only when other housing options are not available in the immediate disaster area.

The great majority of disaster housing help comes in the form of temporary rental assistance and repairs to a home which is not insured in order to make it habitable. This repair assistance does not include new utilities or improvements to the home, but does make the home conform to current, applicable building codes in the affected area. The goal is to repair the home to a safe and sanitary living or functioning condition. FEMA will not pay to return a home to its condition before the disaster. The IHP can also make a contribution through Replacement Assistance toward the replacement of an uninsured or underinsured owner-occupied residence that was damaged in a disaster event. However, the $34,000 limit means that it is unlikely that IHP awards will pay for the full replacement of a residence. IHP recipients whose homes are located in a Special Flood Hazard Area and are in a community participating in the NFIP and who receive assistance for repair, replacement, permanent housing construction, and/or personal property as a result of a

[42] For additional information on FEMA Individual Assistance, see CRS Report R44619, *FEMA Disaster Housing: The Individuals and Households Program—Implementation and Potential Issues for Congress*.

[43] 42 U.S.C. 5174 §408.

[44] This amount is adjusted annually in accordance with the Consumer Price Index. The latest adjustment was posted in Federal Emergency Management Agency, "Notice of Maximum Amount of Assistance Under the Individuals and Households Program," 82(196) *Federal Register* 47568, October 12, 2017.

[45] 44 C.F.R. 206.101(e)(2).

[46] 42 U.S.C. 5174 §408(c)(1)(B)(iii). This period can be extended by the President for "extraordinary circumstances" in the "public interest."

flood-related disaster must obtain and maintain flood insurance as a condition of accepting disaster assistance.[47]

Other Needs Assistance

Funding for individuals and families is also available through the Other Needs Assistance (ONA) program. Unlike housing, ONA is cost shared with the state government on a 75% federal, 25% state basis. The ONA program is intended to address specific needs created by the disaster's impact. Assistance under ONA can include clothing, furniture, funeral expenses, child care, emergency medical and/or dental help, and a range of other needs.[48] Flood insurance may be required on insurable items (personal property) if they are to be located in a SFHA.[49]

Group Flood Insurance

One unique form of assistance that is eligible for ONA funding is the Group Flood Insurance Policy (GFIP) offered by FEMA to IHP recipients after major flood disasters.[50] The GFIP is a temporary mechanism for recipients of IHP funds—generally low-income persons—to acquire flood insurance following a flood loss. This assistance allows households time to recover from the disaster and be in a better position to buy flood insurance after the expiration of the GFIP.[51] The premium for the GFIP is a flat fee of $600 per insured household, which is paid from ONA funds. A special deductible of $200 (applicable separately to any buildings loss and any contents loss) applies to insured flood damage losses sustained by the insured property in the course of any subsequent flooding event during the term of the GFIP. The policy covers the maximum amount of IHP awards (currently $34,000) and begins 60 days after the date of the applicable disaster declaration. The term of the policy is 36 months and is nonrenewable. FEMA is to provide a certificate of coverage to each household and contact the household 60 days before the policy is due to expire. The expiration notification from FEMA is designed, in part, to encourage policyholders to contact a local insurance agent or producer or a private insurance company selling NFIP policies under the WYO program, and advise them as to the amount of coverage the policyholder must maintain in order not to jeopardize their eligibility for future disaster assistance.

Other Individual Assistance

Other programs which may be available to individuals and families from FEMA include Crisis Counseling for disaster victims,[52] Disaster Legal Assistance,[53] and Disaster Unemployment Assistance (DUA).[54] The latter is available if there is a significant number unemployed due to the disaster who do not qualify for the regular state unemployment program. DUA is federally funded

[47] 44 C.F.R. 206.110 (k)(3).

[48] 44 C.F.R. 206.119-120. For a detailed listing of ONA assistance, see FEMA Individuals and Households Program Fact Sheet, June 1, 2016, available at https://www.fema.gov/media-library/assets/documents/24945.

[49] FEMA, *What is FEMA's Individual Assistance Program*, June 16, 2016, https://www.fema.gov/media-library-data/1461689021638-cfcfd7f6c263635802fa7a76a19e00ea/FS001_What_is_Individual_Assistance_508.pdf.

[50] 44 C.F.R. §61.17.

[51] 44 C.F.R. 206.119(d).

[52] Stafford Act §416, 42 U.S.C. §5177.

[53] 42 U.S.C. §5182.

[54] Stafford Act §410, 20 C.F.R. §625.

through FEMA but is administered by the Department of Labor and State Unemployment Compensation agencies. These programs do not require flood insurance.

Transitional Shelter Assistance

FEMA also uses Public Assistance grants to provide short-term shelter for disaster survivors who are unable to return to their homes.[55] For instance, Transitional Shelter Assistance (TSA) provides short-term sheltering assistance to disaster survivors who have a continuing need for shelter after congregate shelters[56] have closed. The TSA initiative is intended to provide short-term lodging for eligible disaster survivors whose communities are either uninhabitable or inaccessible due to disaster-related damages. FEMA considers applicants' eligibility for TSA as part of the IHP application process.[57] TSA is authorized by the Stafford Act[58] and is subject to Public Assistance regulations on state cost share. However, TSA is administered through FEMA's Individual Assistance program, which is better prepared to collect information on individuals than Public Assistance.[59] For those who are eligible for TSA support, FEMA has the authority to fund the use of hotels or motels as transitional shelters, through direct payment to the participating hotels or motels.

Sheltering and Temporary Essential Power Program

In the aftermath of Hurricane Sandy in 2012, FEMA designed the Sheltering and Temporary Essential Power (STEP) Pilot Program to work with state, local, and tribal governments to carry out certain essential measures to help restore power, heat, and hot water to residential properties, allowing residents to remain in or return to their homes while permanent repairs were completed. The STEP program home repairs were not accomplished under the authority of the IHP program, but instead were funded under Section 403 of the Stafford Act,[60] which covers essential assistance; in other words, the grants were provided to eligible Public Assistance Grant Program applicants, who in turn used the funding for essential repairs to private residences. The STEP program was intended to reduce the demand for other FEMA-provided shelter, such as congregate shelters or TSA. STEP consisted of three elements: residential electrical meter repairs, shelter essential measures, and rapid temporary exterior repairs. FEMA delivered the STEP program through direct federal assistance; reimbursement of applicants[61] who perform, or contract for the performance of, authorized emergency protective measures; or a combination of the two. Individual residential property owners were not eligible to apply directly to STEP. Eligible costs under the STEP pilot program were limited to $10,000 per residential unit,

[55] For additional information on Public Assistance, see CRS Report R43990, *FEMA's Public Assistance Grant Program: Background and Considerations for Congress*.

[56] FEMA defines a congregate shelter as any public or private facility that provides refuge to evacuees but that normally serves a nonrefuge function, such as schools, churches, or stadiums. See Federal Emergency Management Agency, *Mass Sheltering and Housing Assistance*, Recovery Strategy RS-2006-1, July 24, 2006, https://www.fema.gov/media-library-data/20130726-1824-25045-9144/mass_sheltering_and_housing_assistance.pdf.

[57] U.S. Government Accountability Office, *Hurricane Sandy: FEMA Has Improved Disaster Aid Verification but Could Act to Further Limit Improper Assistance*, GAO-15-15, December 2014, pp. 10-11, http://www.gao.gov/products/GAO-15-15.

[58] §403, 42 U.S.C. §5170b and §502, 42 U.S.C. §5192.

[59] U.S. Government Accountability Office, *Hurricane Sandy: FEMA Has Improved Disaster Aid Verification but Could Act to Further Limit Improper Assistance*, GAO-15-15, December 2014, p. 11, http://www.gao.gov/products/GAO-15-15.

[60] 42 U.S.C. §5170b.

[61] Applicants can be state, local or tribal governments.

including equipment, materials, labor, and any associated inspection fees that were necessary to accomplish work that was eligible under STEP.[62] STEP assistance was made available to residents in New York, New Jersey, and Connecticut.[63]

The STEP pilot program shared some commonality with IHP, as it provided basic repairs to disaster-affected residences. However, STEP was intended only to make homes habitable for the short term and did not provide any assistance beyond basic repairs to homes, whereas IHP provides financial assistance for home repair or replacement, rental expenses, damaged personal property, and other needs. In New York City, the New York City Rapid Repair Program augmented STEP to allow for repairs to multifamily dwellings and more permanent repairs needed to meet building codes.[64] As STEP funding was not provided to individuals, support from STEP did not affect the determination of any IA grant from FEMA. Households which benefitted from STEP support were not required to have or purchase flood insurance.[65]

FEMA instituted a similar program to STEP, called Shelter at Home, to address housing needs following the floods in Louisiana in August 2016 (FEMA-4277-DR-LA).[66] Eligible costs under the Shelter at Home program were limited to single-family owner-occupied properties for repairs up to a maximum value of $15,000. As with the STEP program, Shelter at Home assistance did not affect the determination of any IA grant from FEMA and there was no flood insurance requirement for recipients of Shelter at Home assistance.[67]

STEP programs were instituted in Texas following Hurricane Harvey (FEMA-4332-DR-TX), in Florida following Hurricane Irma (FEMA-4337-DR-FL),[68] in Puerto Rico following Hurricane Irma (FEMA-4336-DR-PR) and Hurricane Maria (FEMA-4339-DR-PR), and in the U.S. Virgin Islands following Hurricane Irma (FEMA-4335-DR-VI) and Hurricane Maria (FEMA-4340-DR-VI). All of these STEP programs were available only for disaster-damaged single-family owner-occupied primary residential properties, including duplexes and townhomes. The Texas program is known as Partial Repair and Essential Power for Sheltering (PREPS).[69] All of the STEP programs for the 2017 hurricanes capped the cost of repairs at $20,000. As with previous STEP programs, STEP assistance for the 2017 hurricanes did not affect a FEMA IHP applicant's eligibility for repair, replacement, or permanent or semipermanent housing construction assistance, if approved, under Section 408 of the Stafford Act,[70] and there was no flood insurance

[62] FEMA Recovery Program Guidance: *Sheltering and Temporary Essential Power (STEP) Pilot Program*, November 6, 2012, https://www.fema.gov/media-library-data/20130726-1858-25045-8258/step_pilot_program_final_111612.pdf.

[63] U.S. Government Accountability Office, *Hurricane Sandy: FEMA Has Improved Disaster Aid Verification but Could Act to Further Limit Improper Assistance*, GAO-15-15, December 2014, p. 12, http://www.gao.gov/products/GAO-15-15.

[64] U.S. Government Accountability Office, *Hurricane Sandy: FEMA Has Improved Disaster Aid Verification but Could Act to Further Limit Improper Assistance*, GAO-15-15, December 2014, p. 11, http://www.gao.gov/products/GAO-15-15.

[65] U.S. Government Accountability Office, *Hurricane Sandy: FEMA Has Improved Disaster Aid Verification but Could Act to Further Limit Improper Assistance*, GAO-15-15, December 2014, p. 11, http://www.gao.gov/products/GAO-15-15.

[66] https://www.fema.gov/disaster/4277.

[67] For further information about Shelter at Home, see https://shelterathome.la.gov/.

[68] FEMA, "Temporary Emergency Housing Mission Sets Path for Long-Term Recovery," March 13, 2018, https://www.fema.gov/news-release/2018/03/13/temporary-emergency-housing-mission-sets-path-long-term-recovery.

[69] Texas Rebuilds, "Partial Repair and Essential Power for Sheltering (PREPS), Examples of Temporary Repairs," http://texasrebuilds.com/pdf/texasglo_preps_brochure_11x17.pdf.

[70] 42 U.S.C. 5174 §408.

requirement for recipients other than providing documentation of flood insurance or certification of no flood insurance.[71]

The Coastal Barrier Resources System and Housing Assistance

The Coastal Barrier Resources Act (P.L. 97-348, as amended through P.L. 106-390) restricts housing assistance provided under Section 408 of the Stafford Act. Housing assistance, including repair, replacement, and semipermanent or permanent construction, is not authorized to those who live in the Coastal Barrier Resources System (CBRS) or in an Otherwise Protected Area (OPA).[72] However, essential assistance under Section 403 of the Stafford Act is allowed in the CBRS and in OPAs.[73] In addition, although FEMA discourages some types of sheltering in CBRA or OPA areas, none of the STEP policies exclude implementation of STEP in CBRAs/OPAs. STEP is funded as an emergency protective measure under Section 403 and is, therefore, exempt from most of the CBRA/OPA restrictions.[74]

SBA Disaster Loan Program

The Small Business Administration (SBA)[75] Disaster Loan Program provides direct loans to businesses, nonprofit organizations, homeowners, and renters to repair or replace property damaged or destroyed in a federally declared disaster. SBA Disaster Loans include Home and Personal Property Disaster Loans, Business Physical Disaster Loans, and Economic Injury Disaster Loans. About 83% of direct disaster loans are awarded to individuals and households rather than small businesses.[76] The program generally offers disaster loans at a fixed rate that have loan maturities of up to 30 years. The SBA Disaster Loan Program can be put into effect by five types of declarations: two types of Presidential Declarations as authorized by the Stafford Act, and three types of SBA declarations.[77] The type of declaration determines what types of loans are made available, but has no bearing on the loan terms or loan caps.

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[71] Federal Emergency Management Agency, Sheltering and Temporary Essential Power (STEP) Pilot Program for FEMA-4337-DR-FL, Final Policy Approval, September 30, 2017; Federal Emergency Management Agency, Sheltering and Temporary Essential Power (STEP) Pilot Program for FEMA-4336-DR-PR and FEMA-4339-DR-PR, October 29, 2017; Federal Emergency Management Agency, Sheltering and Temporary Essential Power (STEP) Pilot Program for FEMA-4335-DR-VI and FEMA-4340-DR-VI, October 27, 2017, memos provided by FEMA Congressional Affairs staff, November 13, 2017; and Federal Emergency Management Agency, Partial Repair and Essential Power for Sheltering (PREPS) Pilot Program for FEMA-4332-DR-TX, November 20, 2017, memo provided by FEMA Congressional Affairs staff, November 20, 2017.

[72] 16 U.S.C. §3504.

[73] 16 U.S.C. §3505(6)(E).

[74] Email correspondence from FEMA Congressional Affairs staff, November 13, 2017.

[75] For further information about the Small Business Administration, see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress* and CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*.

[76] 13 C.F.R. §123.3. Further information on SBA Disaster Loans is available in CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*.

[77] See 13 C.F.R. §123.3(a)(3), 13 C.F.R. 123.3(a)(4), 13 C.F.R. §123.3(a)(5), and 15 U.S.C. §632(k). A summary of the types of declarations that trigger SBA loans is available in CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*.

SBA Personal Property Loans

A Personal Property Loan provides a creditworthy homeowner or renter in a declared disaster area with up to $40,000 to repair or replace personal property owned by the survivor, while Real Property Loans provide creditworthy homeowners with up to $200,000 to repair or restore the homeowners' primary residence to its predisaster condition. Only uninsured or otherwise uncompensated disaster losses are eligible.[78] The amount that SBA will lend depends on the cost of repairing or replacing the home and/or personal property (minus insurance settlements or grant assistance). The loans may not be used to upgrade a home or build additions to a home unless the upgrade or addition is required by city or county building codes.[79] However, a homeowner can borrow additional funds beyond the cost of repair to cover the costs of mitigation intended to protect their property against future damage; however, mitigation funds may not exceed 20% of the disaster damage, as verified by SBA, to a maximum of $200,000 for home loans.[80]

Disaster loans may be used in conjunction with other types of assistance, including insurance, but only to the extent that there is no duplication of benefit. The Stafford Act requires federal agencies providing disaster assistance to ensure that businesses and individuals do not receive disaster assistance for losses for which they have already been compensated.[81] SBA regulations prohibit applicants from receiving a home disaster loan if their damaged property can be repaired or replaced with the proceeds of insurance, gifts, or other compensation.[82] These amounts must either be deducted from the amount of the claimed losses or, if received after SBA has approved and disbursed a loan, as principal payments on their loans.[83]

SBA Flood Insurance Requirements

Recipients of SBA loans must carry flood insurance for the life of the loan.[84] Because the National Flood Insurance Reform Act of 1994, among other things, made flood insurance requirements directly applicable to agencies that provide government loans, such as the SBA,[85] such agencies cannot subsidize, insure, or guarantee any loan if the property securing the loan is in a SFHA of a community not participating in the NFIP. In addition, the SBA will deem an applicant ineligible for a home disaster loan if the SBA determines that the applicant assumed the risk by not maintaining flood insurance as required by an earlier SBA disaster loan when the current loss is also due to flood.[86] SBA loans are not available for properties in the Coastal Barrier Resources System (CBRS) or in an Otherwise Protected Area (OPA).[87]

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[78] 13 C.F.R. §123.105(a)(1) and 13 C.F.R. §123.105(a)(2).

[79] 13 C.F.R. §123.105(a)(2).

[80] 13 C.F.R. §123.107.

[81] Stafford Act §312, 42 U.S.C. §5177.

[82] For a discussion of rules prohibiting the Duplication of Benefits, see CRS Report R44553, *SBA and CDBG-DR Duplication of Benefits in the Administration of Disaster Assistance: Background, Policy Issues, and Options for Congress*.

[83] 13 C.F.R. 123.101(c).

[84] 13 C.F.R. §120.170.

[85] 42 U.S.C. §4012a(b)(2).

[86] 13 C.F.R. §123.101(d).

[87] 13 C.F.R. §120.175.

Assistance Which May Be Available to Individuals and Families After a Flood

In addition to NFIP and other federal assistance that may be automatically triggered with a disaster declaration, individuals may also access federal assistance that is not automatically triggered by such declarations. In some instances that are perceived as catastrophic events, Congress has provided additional resources to states and local governments through the Department of Housing and Urban Development's Community Development Block Grant Disaster Recovery Program (CDBG-DR). The CDBG-DR program is not automatically triggered by a disaster. Instead, Congress has occasionally addressed unmet disaster needs by providing supplemental disaster-related appropriations for the CDBG-DR program. Consequently, CDBG-DR is not provided for all major disasters declared under the Stafford Act, but only provided at the discretion of Congress.

HUD Community Development Block Grant Disaster Recovery Program

The CDBG-DR program is designed to help communities and neighborhoods that otherwise might not recover after a disaster due to limited resources. Eligible grantees include states, units of local government, Indian tribes, and other areas designated by the President as disaster areas. Generally, CDBG-DR grantees must use at least 70% of the funds for activities that principally benefit low- and moderate-income (LMI) persons or areas. Due to the block grant nature of the program, local and state officials exercise a great deal of discretion in determining which combination of eligible activities to employ. This allows communities to use CDBG-DR funds to meet disaster-related needs, including short-term disaster relief, mitigation activities, and long-term recovery activities.[88] Communities and states are also free to amend and revise their annual CDBG plans in response to flood in order to address imminent threats to the health and safety of residents. Communities, at the discretion of Congress, may be reimbursed by CDBG-DR funds for use of their regular CDBG allocation. This results from explicit language included in some appropriations bills.[89]

HUD does not provide CDBG-DR funding directly to individuals; however, individuals and families may benefit from a number of the eligible activities for which CDBG-DR funds can be used. Examples of these activities include buyouts of damaged properties in a floodplain and relocating residents to safer areas, relocation payments for people and businesses displaced by a disaster, rehabilitation of homes and buildings damaged by the disaster, and homeownership activities such as down payment assistance, interest rate subsidies, and loan guarantees for disaster victims.[90]

Examples of CDBG-DR Assistance After Major Floods

Some of the biggest flood-related CDBG-DR grants have been made available in the aftermath of hurricanes. For example, following the 2005 hurricane season (particularly Hurricanes Katrina,

[88] CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*.

[89] For a further discussion of CDBG allocations, see CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*.

[90] Department of Housing and Urban Development, *Community Development Block Grant Disaster Recovery Program*, at https://www.hudexchange.info/programs/cdbg-dr/.

Rita, and Wilma), Congress provided $19.7 billion in CDBG-DR funding to five states (Alabama, Florida, Louisiana, Mississippi, and Texas). Louisiana and Mississippi were the two states hardest hit by the 2005 hurricanes and received $13.4 billion and $5.5 billion, respectively. Both states devoted the majority of the CDBG-DR funding to housing recovery, with particular support for homeowners. Louisiana state officials used $3 billion of CDBG-DR funding for the Road Home program. This program defined a homeowner's potential grant amount as the estimated cost to repair or rebuild the home, minus any insurance payments and FEMA assistance for structural repairs, up to a maximum of $150,000. This potential amount was then reduced by 30% for homeowners who did not carry insurance (homeowners insurance and also flood insurance if the property was in a SFHA and the community participated in the NFIP). The state also reduced the award to remove Duplication of Benefits and unpaid taxes owed to the state.[91] Homeowners could choose to repair their property or to relocate (with only 60% of the potential grant amount available if they chose to relocate out of Louisiana). Mississippi established a similar program called the Mississippi Homeowner Grant Program. The maximum assistance in the Mississippi program considered the applicant's income relative to the area median income, and whether or not the property was located in a SFHA. Assistance in Mississippi was also conditional on homeowners' willingness to attach covenants to the property that created commitments to maintain flood insurance, rebuild and repair in accordance with applicable building codes and local ordinances, and elevate the property in accordance with the most recent FEMA guidelines.[92]

After Hurricane Sandy, which made landfall in October 2012, $16 billion ($15.8 billion after the sequester) was awarded in CDBG-DR funding to New York City and the states of Connecticut, Maryland, New Jersey, New York, and Rhode Island. This funding has been used in a variety of ways which provide funding directly to individuals and families, including housing rehabilitation and replacement, resilient rebuilding (for example, elevation of a property), property acquisition, and coastal resiliency measures. The State of New Jersey used CDBG-DR funding after Hurricane Sandy to make grants of up to $10,000 through its Homeowner Resettlement Program which homeowners could use toward addressing anything that would provide an incentive to remain in their community. One of the eligible expenses for which this money could be used was to pay flood insurance premiums.[93] The Resettlement Program was only available to homeowners in the nine most impacted counties whose property was their primary residence which they owned and occupied at the time of the storm, and whose residence sustained a FEMA-verified loss of $8,000 or greater or more than one foot of flooding on the first floor. Before the funds were released, the homeowner was required to sign a promissory note to reside in the county for three years; otherwise, they would have to repay the funds to the state. Initially 60% of the funds were reserved for LMI families in accordance with HUD income guidelines. The disbursement of the funds was evaluated in the order in which the requests were received.

Following the 2017 Hurricanes (Harvey, Irma, and Maria), there were three relevant acts containing CDBG-DR supplemental appropriations. Texas was allocated $57.8 million for damages associated with Hurricane Harvey.[94] The first supplemental allocated an additional

[91] Jonathan Spader and Jennifer Turnham, "CDBG Disaster Recovery Assistance and Homeowners' Rebuilding Outcomes Following Hurricanes Katrina and Rita," *Housing Policy Debate*, vol. 24, no. 1 (2014), pp. 213-237.

[92] HUD, *Recovery Snapshot: Mississippi Homeowners Grant Program*, March 31, 2006, 2 pp., https://www.hudexchange.info/onecpd/assets/File/CDBG-DR-Case-Study-Mississippi-Homeowner-Compensation-Grants.pdf.

[93] New Jersey Department of Community Affairs. Community Development Block Grant Disaster Recovery Action Plan. March 2013. http://www.state.nj.us/dca/announcements/pdf/CDBG-DisasterRecoveryActionPlan.pdf. See pp. 4-7 to 4-9 for a detailed description of the New Jersey Homeowner Resettlement program.

[94] P.L. 115-31.

$5.024 billion to Texas, $616 million to Florida, $1.507 billion to Puerto Rico, and $243 million to the U.S. Virgin Islands.[95] In the second supplemental, Congress did not provide HUD with any CDBG-DR funding, although it did make some modifications to eligibility, to include tribes, and set expenditure deadlines.[96] In the third supplemental,[97] HUD was allocated $28 billion in CDBG-DR funding. Congress required that these funds be used for two purposes:

1. Up to $16 billion to address remaining unmet needs from major disasters in 2017, including Hurricanes Harvey, Irma, and Maria as well as California wildfires and subsequent mudslides. Congress specified that at least $11 million of this be targeted to Puerto Rico and the Virgin Islands, with $2 billion to repair and upgrade the electrical grid in these jurisdictions.
2. At least $12 billion to support mitigation activities among CDBG-DR grantees that experienced presidentially declared disasters from 2015 through 2017. After addressing remaining 2017 unmet needs, HUD was able to make an additional $3.9 billion available for mitigation, bringing the amount available for mitigation to nearly $16 billion for recent CDBG-DR grantees.

CDBG-DR funding from the third supplemental for the 2017 hurricanes, including mitigation funding, allocated $18.4 billion to Puerto Rico, $4.7 billion to Texas, $1.21 billion to the U.S. Virgin Islands, and $707.3 million to Florida.

Summary and Considerations for Congress

Communities Which Do Not Participate in the NFIP

Congress may consider whether they agree that individual households should be disadvantaged by a decision made by their community, over which an individual is likely to have very little control. Individuals who live in a community which has not joined, withdraws from, or which has been suspended from the NFIP, are not allowed to buy or renew NFIP flood insurance and are barred from applying for SBA loans. These households may wish to buy NFIP flood insurance but are not allowed to do so, because of their community's NFIP status (or nonstatus).

Table 1 provides summary information on available federal assistance from an NFIP insurance policy, FEMA Individuals and Households Program, and SBA disaster loans. This information is provided dependent on the status of the individual's property in the Special Flood Hazard Area, the community's participation in the NFIP, and whether that individual has the required insurance coverage.

[95] P.L. 115-56.

[96] P.L. 115-72.

[97] P.L. 115-123.

Table 1. Available Funding Based on NFIP Status

NFIP Status	Occupancy Type	Maximum Available from NFIP Policy	Maximum Available from FEMA IHP If in Stafford Act Declared Disaster Area	Maximum Available from SBA Disaster Loan After a Declaration
In SFHA with flood insurance, community participates in NFIP	1-4 family structures	Building: $250,000 Contents; $100,000	Individual Assistance: up to limit of $34,000; IA reduced by amount of NFIP proceeds received	SBA Personal Property Loan: up to $40,000
	Condominium units	Building: $250,000 Contents; $100,000		SBA Real Property Loan: up to $200,000
	Other residential structures, RCBAP policies, business structures	Building: $500,000 Contents: $100,000		Recipients of SBA loans must carry flood insurance for the life of the loan
In SFHA without flood insurance when required to do so, community participates in NFIP	All occupancy types	Nothing	Individual Assistance: up to limit of $34,000; must obtain and maintain flood insurance as a condition of accepting housing assistance	Nothing
Not in SFHA with Preferred Risk Policy, community participates in NFIP	1-4 family structures	Building: $250,000 Contents: $100,000	Individual Assistance: up to limit of $34,000	SBA Personal Property Loan: up to $40,000
	Other residential structures	Building: $250,000 Contents: $100,000		SBA Real Property Loan: up to $200,000
	Business structures	Buildings: $500,000 Contents: $500,000		Recipients of SBA loans must carry flood insurance for the life of the loan

NFIP Status	Occupancy Type	Maximum Available from NFIP Policy	Maximum Available from FEMA IHP If in Stafford Act Declared Disaster Area	Maximum Available from SBA Disaster Loan After a Declaration
Not in SFHA, without flood insurance, community participates in NFIP	All occupancy types	Nothing	Individual Assistance: up to limit of $34,000	SBA Personal Property Loan: up to $40,000 SBA Real Property Loan: up to $200,000 Recipients of SBA loans must carry flood insurance for the life of the loan
In Coastal Barrier Resources System (CBRS) or Otherwise Protected Areas (OPA)	All occupancy types	Nothing—properties in CBRS cannot buy flood insurance	Individual Assistance: essential assistance under Section 403 of the Stafford Act may be available by exception; housing assistance is not available	Nothing—SBA may not make or guarantee any loan within the CBRS
Not in SFHA, community does not participate in NFIP or withdraws from NFIP or is suspended from NFIP	All occupancy types	Nothing—residents of communities which do not participate in the NFIP cannot buy NFIP flood insurance	Individual Assistance: up to limit of $34,000	SBA Personal Property Loan: up to $40,000 SBA Real Property Loan: up to $200,000 Recipients of SBA loans must carry flood insurance for the life of the loan

NFIP Status	Occupancy Type	Maximum Available from NFIP Policy	Maximum Available from FEMA IHP If in Stafford Act Declared Disaster Area	Maximum Available from SBA Disaster Loan After a Declaration
In SFHA, community does not participate in NFIP or withdraws from NFIP or is suspended from NFIP	All occupancy types	Residents of suspended communities cannot purchase or renew NFIP flood insurance policies, but policies in force at the time of suspension remain in force for the policy term	Federal assistance is not available for the acquisition or construction of buildings in identified SHFAs, if the community includes an area which has been identified as a SFHA for at least one year; essential assistance under Section 403 of the Stafford Act may be available	SBA loans are not available

Source: Information on NFIP: 42 U.S.C. §4001 et seq., 42 U.S.C. §4106(a), and FEMA, *Flood Insurance Manual, Rating Section*, Revised October 2016, at https://www.fema.gov/media-library/assets/documents/127010.

Information on IHP: 42 U.S.C. §5174(h) and FEMA, *Federal Register* 81, October 1, 2016, page 40431.

Information on SBA: 13 C.F.R. §123.105(a)(2) and 13 C.F.R. §123.120.170.

Information on CBRS: 13 C.F.R. §123.120.175 and 13 C.F.R. §123.120.17.

Unequal Amount of Assistance Available Through Flood Insurance and Disaster Assistance

There is often a perception that flood victims get large amounts of disaster aid and that this may act as a moral hazard which discourages people from purchasing flood insurance and/or adopting risk reduction measures.[98] In fact, the amount of FEMA Individual Assistance after a flood is relatively limited; many of the headline reports of federal aid refer to public assistance or assistance which is not available to all individuals. Flood insurance may be preferable for governments, since policyholders cover a portion of the costs through premium payments. Flood insurance may also be better for individuals, as uninsured households fare less well than those with insurance. Generally, residents must live in a federally declared disaster area to be eligible to receive disaster assistance or disaster loans; in contrast, NFIP policyholders may claim for damages from any flood, regardless of whether the flood was a declared disaster under federal law. Although the maximum coverage available under the NFIP may not be sufficient to cover all flood-related losses, an individual or family will generally be able to get more from NFIP insurance than from disaster assistance. For example, homeowners are able to get up to $350,000 for buildings and contents together and renters are able to get up to $100,000, compared to a maximum of $34,000 per household from FEMA disaster assistance. In addition, most disaster

[98] For example, see Carolyn Kousky and Leonard Shabman, *The Realities of Federal Disaster Aid: The Case of Floods*, Resources for the Future, Issue Brief 12-02, Washington, DC, April 2012, p. 1, http://www.rff.org/files/sharepoint/WorkImages/Download/RFF-IB-12-02.pdf.

victims do not receive the maximum amount available under FEMA disaster assistance. For example, after the South Carolina floods in October 2015, although less than 5% of households in the counties receiving IHP had NFIP flood insurance, the average IHP payment was about $3,200.[99] In contrast, the average NFIP claim for the South Carolina floods was $34,934.[100] Neither flood insurance payments nor Individual Assistance payments need to be paid back; however, the amount available through IA will be reduced by the amount of NFIP proceeds received for the same damages. In addition, a household without flood insurance will only be able to get IA under a limited set of circumstances. An individual or household may be able to borrow up to $240,000 through a combination of SBA Personal Property and Real Property Loans; however, these loans must be paid back with interest. In order to receive SBA loans, recipients must carry flood insurance for the life of the loan. The amount of this assistance is subject to Duplication of Benefits and sequence protocols.

The nexus between flood insurance and disaster assistance reveals conflicting aims: the desire to encourage individuals and households to purchase flood insurance versus the humanitarian objective of providing assistance following a disaster so that people do not suffer unnecessarily. This is fundamentally a moral hazard question. A fully individualistic approach to flood risk would advocate that individuals and households should purchase adequate flood insurance to protect themselves against a major flood disaster. A more egalitarian approach could take the view that individuals do not necessarily have a free choice on whether or not they purchase flood insurance (for example, residents of a community which does not participate in the NFIP) and that some individuals and households may not be able to afford sufficient coverage. In this case, the policy question is whether or not the federal government should step in after a disaster even if the victims do not have flood insurance. Congress may allow these conflicting policies to continue and to retain the current difference between the amounts available from flood insurance and disaster assistance, or may consider proposals that would alter the balance between assistance and insurance.

Availability of Alternative Funding

A significant amount of money is available to individuals and households through funding sources which are not available in all disasters, particularly through CDBG-DR. For example, homeowners in Louisiana and Mississippi could get grants of up to $150,000 after the 2005 hurricane season, as could homeowners in New Jersey after Hurricane Sandy. Rather than being funded through the annual appropriations process, statutory authority for CDBG-DR funding is provided via supplemental appropriations which are awarded by Congress only in extraordinary circumstances that have resulted in significant unmet needs for long-term recovery. Because Congress has so far opted to use special appropriations to deliver CDBG-DR funds rather than establishing a permanent CDBG disaster recovery program, HUD cannot create permanent regulations and guidance of how states should implement CDBG-DR grants.[101] This may lead to delay and/or confusion in implementation, and may also subject program design decisions to local politics.[102] Unless the individual state required homeowners to purchase flood insurance, the

[99] Figures calculated by CRS from data available at https://www.fema.gov/disaster/4241 and from data provided in email correspondence from FEMA Congressional Affairs, February 8, 2017.

[100] Federal Emergency Management Agency, Significant Flood Events, at https://www.fema.gov/significant-flood-events.

[101] Recently HUD has developed a set of waivers and alternatives to reflect lessons learned from CDBG-DR assistance.

[102] See Jonathan Spader and Jennifer Turnham, "CDBG Disaster Recovery Assistance and Homeowners' Rebuilding Outcomes Following Hurricanes Katrina and Rita," *Housing Policy Debate*, vol. 24, no. 1 (2014), pp. 213-237. They

recipients of CDBG-DR grants are exempt from the requirement to purchase flood insurance.[103] Given the unequal use of CDBG-DR, there may be an issue of equity in disaster housing assistance, where some disaster events receive an expanded form of federal assistance to meet housing needs in the form of CDBG, which can create different tiers of disaster housing assistance for declared disasters.[104]

Considerations for NFIP Reauthorization

NFIP's authorization will expire on November 30, 2018. The availability of NFIP insurance has impacts on other programs operated by FEMA and other agencies such as SBA and HUD. Separately from, or in conjunction with, NFIP reauthorization, the impacts on other programs may be useful to consider. In particular, Congress may consider revising the requirements associated with the Flood Disaster Protection Act and flood insurance.

Resources for Further Information

Other sources of disaster assistance are described in detail in the following CRS reports; however, this is not a comprehensive list of available disaster assistance following a flood, but rather a sampling of the most commonly used programs.

- CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*
- CRS Report R41981, *Congressional Primer on Responding to Major Disasters and Emergencies*
- CRS Report R44619, *FEMA Disaster Housing: The Individuals and Households Program—Implementation and Potential Issues for Congress*
- CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*
- CRS Report RL31734, *Federal Disaster Assistance Response and Recovery Programs: Brief Summaries*
- CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*
- CRS Report R45084, *2017 Disaster Supplemental Appropriations: Overview*

argued that both Louisiana and Mississippi allocated a disproportionate share of CDBG-DR funds after the 2005 hurricanes to homeowner properties compared with rental properties.

[103] 24 C.F.R. §58.6(a)(3).

[104] See CRS Report R44619, *FEMA Disaster Housing: The Individuals and Households Program—Implementation and Potential Issues for Congress* for a fuller discussion of this issue.

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