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FY2019 Disaster Supplemental Appropriations: Overview

July 30, 2019

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SUMMARY

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July 30, 2019

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FY2019 Disaster Supplemental Appropriations: Overview

This report provides a legislative history of the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20), and provides an overview of some of the issues that often arise with consideration of supplemental disaster assistance appropriations.

In total, 59 major disasters were declared in calendar year 2018, and 27 major disasters were declared in 2019 up to the date the compromise on the disaster supplemental was announced. In addition to these specifically declared incidents, other situations arose that caused disruption to lives, economic resources, and infrastructure.

Together, these incidents and ongoing recovery efforts from previous disasters drove a demand for additional federal budgetary resources beyond those provided through regular annual appropriations. This kind of demand is usually reflected in a request by the Administration for supplemental appropriations after the need for funding is recognized. Despite the absence of such a request by the Trump Administration, congressional leadership in both the House and the Senate chose to consider disaster-related supplemental appropriations at the end of the 115th Congress.

An initial $7.8 billion proposal that passed the House in the 115th Congress as part of a consolidated appropriations bill did not advance in the Senate. In the 116th Congress, H.R. 268 passed the House. This measure included $14.19 billion in disaster relief appropriations, as well as continuing appropriations intended to resolve an ongoing lapse in annual appropriations that had caused a partial government shutdown. The Senate was unable to get cloture on proposed amendments to the measure, and consideration of the bill stalled. After the lapse in appropriations was resolved, Senate Appropriations Chairman Richard Shelby introduced a $13.45 billion supplemental appropriations measure structured as a substitute to H.R. 268. Again, the Senate could not achieve cloture on the proposal.

On April 9, House Appropriations Chairwoman Nita Lowey introduced H.R. 2157, a supplemental appropriations bill, which covered the same disasters addressed in H.R. 268, as well as additional disasters that had occurred since the earlier measure had been passed by the House. CBO estimated the new bill, as introduced, would provide $17.31 billion in discretionary spending, which grew to $19.26 billion through floor action. The bill passed the House May 10, 2019, by a vote of 257-150.

A $19.19 billion bipartisan, bicameral agreement on FY2019 disaster funding was negotiated, and offered in the Senate as S.Amdt. 250 to H.R. 2157 on May 23, 2019. The bill, as amended, was passed by the Senate, 85-8. Three attempts to approve the amended bill by unanimous consent were blocked in the House of Representatives while the body was in pro forma session during the Memorial Day recess. The House subsequently considered the amended bill under suspension of the rules on June 3, 2019, and voted 354-58 to approve the measure. The bill was signed into law as P.L. 116-20 on June 6, 2019.

This report includes a more detailed legislative history and a tabular comparison that shows how the funding in these different approaches evolved. Congressional clients seeking further insight into specific programs and provisions in P.L. 116-20 may consult the analysts and background reports listed in CRS Report R45714, *FY2019 Disaster Supplemental Appropriations: CRS Experts*. The report also includes a discussion of issues that commonly arise during debate on supplemental appropriations, including

- the relative timeliness of supplemental appropriations;
- adjustments to spending limits that are often applied to them;
- offsets for disaster relief and recovery appropriations;
- the appropriate scope of supplemental appropriations;
- timelines for obligation of funding; and
- oversight of supplemental spending.

This report will not be updated.

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Introduction

In total, 59 major disasters[1] were declared in calendar year 2018 under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq., henceforth the Stafford Act). As of May 23,[2] 27 major disasters have been declared in calendar year 2019.

In addition to these specifically declared disasters, other situations arose that caused disruption to lives, economic resources, and infrastructure. In some of these cases, a Stafford Act declaration may not have been provided or even sought.

Together, these incidents, and ongoing recovery efforts from previous disasters, drove a demand for additional federal budgetary resources beyond those provided in regular annual appropriations. This demand is usually reflected in one or more requests by the Administration for supplemental appropriations after the incident (or incidents) have occurred and the need for funding is apparent. The Trump Administration did not make a formal request for supplemental appropriations for disaster assistance for FY2019. However, congressional leadership in both the House and Senate chose to initiate consideration of disaster-related supplemental appropriations at the end of the 115th Congress. Consideration continued into the 116th Congress, until a $19.19 billion supplemental appropriations measure was enacted in June 2019.

This report provides a legislative history of the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20), and provides an overview of some of the issues that often arise with consideration of supplemental disaster assistance appropriations.

FY2019 Disaster Supplemental Appropriations

115th Congress

At the beginning of FY2019, several annual appropriations bills remained unresolved. By December 2018, five regular appropriations measures had become law; the activities funded under the remaining seven regular appropriations bills were instead funded under two continuing resolutions (CRs) lasting through December 7, 2018, and December 21, 2018, respectively. Although there had been discussions in some quarters about the need for supplemental appropriations for disaster assistance, no request for such appropriations had been forthcoming from the Administration. The debate on continuing appropriations would provide the first attempted floor vehicle for FY2019 disaster supplemental appropriations.

In the Senate, a third CR for FY2019, lasting until February 8, 2019 (H.R. 695) was passed by voice vote on December 19, 2018. The House subsequently considered and amended the bill the following day, adding additional funding, including $7.8 billion for disaster assistance. The amended measure passed the House by a vote of 217-185, and was sent back to the Senate for further consideration. On December 21, the Senate agreed to a motion to proceed to the consideration of the House-passed bill by a vote of 48-47, with Vice President Pence casting the tie-breaking vote. In the absence of a 60-vote majority to invoke cloture, H.R. 695 was not considered further, and the House and Senate adjourned later that day. When the second CR, providing funding for the agencies, programs, and activities covered by the remaining seven appropriations bills, expired at midnight on December 21, funding lapsed and a partial

[1] Data drawn from https://www.fema.gov/disasters on January 6, 2018.

[2] The date the FY2019 disaster relief appropriations package was finalized.

government shutdown ensued.[3] The 115th Congress subsequently adjourned sine die on January 3, 2019, and the 116th Congress took office the same day.

116th Congress

On January 8, 2019, House Appropriations Committee Chairwoman Nita Lowey introduced H.R. 268, a measure that would have provided disaster relief supplemental funding and would have temporarily resolved the partial government shutdown by providing for a continuing resolution through February 8. The House took up the bill on January 16, 2019, and after adopting several amendments, passed the bill by a vote of 237-187 that same day.[4] CBO estimated the discretionary spending in the supplemental appropriations proposal for FY2019 as $14.19 billion.

The Senate proceeded to consideration of the bill on January 22, 2019, by unanimous consent. Amendments were offered by Majority Leader McConnell for Senate Appropriations Committee Chairman Richard Shelby (S.Amdt. 5)[5] and Senate Minority Leader Chuck Schumer (S.Amdt. 6)[6] that same day. On January 24, 2019, separate attempts to invoke cloture on both of these alternatives were unsuccessful.[7] The partial government shutdown was subsequently ended through the enactment of a separate measure (H.J.Res. 28, providing for continuing appropriations through February 15).[8]

On March 14, the Senate returned to consideration of H.R. 268. Cloture on the motion to proceed to consideration of the measure was invoked in the Senate, 90-10, on March 26, and the measure was laid before the Senate on March 28. On the same day, Chairman Shelby offered a substitute amendment (S.Amdt. 201), providing $13.45 billion for disaster relief.[9] Attempts to invoke cloture on both S.Amdt. 201 and H.R. 268 on April 1, 2019, were unsuccessful.[10]

On April 9, 2019, Chairwoman Lowey introduced H.R. 2157, a supplemental appropriations bill, to provide funding for previous disasters as well as additional disasters that had occurred since the earlier House passage of H.R. 268. CBO estimated the bill as introduced included $17.31 billion in discretionary spending, a figure which grew to $19.26 billion through floor action. The bill passed the House on May 10, 2019, by a vote of 257-150.[11]

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[3] For more details, see CRS Report RL34680, *Shutdown of the Federal Government: Causes, Processes, and Effects*, coordinated by Clinton T. Brass.

[4] House of Representatives Roll Call vote number 39: http://clerk.house.gov/evs/2019/roll039.xml.

[5] S.Amdt. 5 was a substitute amendment providing regular annual appropriations for FY2019 for the seven remaining regular appropriations bills as Division A-G. Division H of the amendment was a disaster supplemental scored by CBO as including $12.76 billion.

[6] The Schumer Amendment was essentially identical to H.R. 268.

[7] Record vote 9, on invoking cloture on S.Amdt. 5, was 50-47, while record vote 10, on invoking cloture on S.Amdt. 6, was 52-44. Cloture votes require three-fifths of all Senators to vote in the affirmative to limit further debate of a question.

[8] H.J.Res. 28 was enacted into law on January 25, 2019 (P.L. 116-5). Regular annual appropriations were provided in P.L. 116-6, enacted February 15, 2019.

[9] Congressional Budget Office, "Cost Estimate for Divisions A and B of Senate Amendment 201 to H.R. 268, as filed for consideration by the Senate on March 26, 2019," press release, March 27, 2019, https://www.cbo.gov/publication/55086.

[10] Record vote 55, on invoking cloture on S.Amdt. 201, was 44-49, and record vote 56, on the same question, was 46-48.

[11] House of Representatives Roll Call vote number 202: http://clerk.house.gov/evs/2019/roll202.xml.

A bipartisan, bicameral agreement on FY2019 disaster funding was negotiated prior to Senate consideration. After the Senate agreed to proceed to the consideration of H.R. 268 on May 23, Senator McConnell offered S.Amdt. 250 to H.R. 2157 as a substitute on behalf of Senator Shelby. The amendment was agreed to by unanimous consent, and the amended bill was passed, 85-8.[12] Three attempts to approve the amended bill by unanimous consent were blocked in the House of Representatives while the body was in pro forma session during the Memorial Day recess. The House subsequently considered the bill under suspension of the rules on June 3, and voted 354-58 to approve the measure.[13] The bill was signed into law as P.L. 116-20 on June 6, 2019.

Congressional clients seeking further insight into specific programs and provisions in P.L. 116-20 may consult the analysts and background reports listed in CRS Report R45714, *FY2019 Disaster Supplemental Appropriations: CRS Experts*.

Evolution of FY2019 Disaster Supplemental Appropriations

Table 1 details the disaster supplemental appropriations proposed by senior party leadership or enacted for FY2019, organized by appropriations subcommittee of jurisdiction. The table only displays amounts for which an appropriations level was specified in bill text. It does not display amounts for which an indefinite or unspecified amount was appropriated. In addition, the table does not display the amount appropriated to Medicaid in P.L. 116-20, because a portion of that appropriation was unspecified.

Many appropriations provided in P.L. 116-20 are available until expended, which is not uncommon for disaster assistance. However, a number of supplemental appropriations in the measure have a limited term of availability, including

- Grant funding through the Department of Agriculture in general provisions for several purposes (available through FY2020);
- National Oceanic and Atmospheric Administration appropriations for "Operations, Research, and Facilities" (through FY2020) and "Procurement, Acquisition and Construction" (through FY2021);
- U.S. Coast Guard appropriations for "Operations and Support" (through FY2020) and "Procurement, Construction and Improvements" (through FY2023);
- National Park Service "Historic Preservation Fund" appropriations (through FY2022);
- Forest Service "Wildland Fire Management" appropriations (through FY2022);
- Department of Labor Employment and Training Administration "Training and Employment Services" appropriations (through FY2020);
- Department of Health and Human Services appropriations (through FY2021, except for the "Public Health and Social Services Emergency Fund" which is available through FY2020);
- Department of Education "Hurricane Education Recovery" appropriations (through FY2020);

[12] Record vote 129.

[13] House of Representatives Roll Call vote number 232: http://clerk.house.gov/cgi-bin/vote.asp?year=2019&rollnumber=232.

- Military Construction appropriations (through FY2023); and
- Department of Veterans Affairs "Medical Facilities" appropriations (through FY2023).

The last line of **Table 1** references CBO's total discretionary score of the bill for FY2019, rather than a total of the elements in the table.

Table 1. FY2019 Disaster-Related Supplemental Appropriations

(Thousands of nominal dollars of budget authority)

Appropriations Subcommittee	115th Congress	116th Congress			
DEPARTMENT, Agency/Bureau, Account	H.R. 695 (Division C)	House-passed H.R. 268 (Titles I-XI)	S.Amdt. 201 to H.R. 268	House-passed H.R. 2157	P.L. 116-20
AGRICULTURE					
DEPARTMENT OF AGRICULTURE					
Office of the Secretary					
[Crop Loss Grants]	1,105,422	3,005,442	3,005,442	3,005,442	3,005,442
Farm Service Agency					
Emergency Forest Restoration Program	200,000	480,000	480,000	480,000	480,000
Emergency Conservation Program	—	—	—	500,000	558,000
Natural Resources Conservation Service					
Watershed and Flood Prevention Operations	125,000	125,000	125,000	435,000	435,000
Rural Development					
Rural Community Facilities Program Account	8,000	150,000	150,000	150,000	150,000
CNMI Disaster Nutrition Assistance [General Provision]	8,500	25,200	25,200	25,200	25,200
Nutrition Assistance Program Grant (Puerto Rico) [General Provision]	—	610,000	600,000	600,000	600,000
Independent Study on the Impact of Sec. 309 of P.L. 115-72 on Puerto Rico [General Provision]	—	—	5,000	5,000	5,000
American Samoa Disaster Nutrition Assistance [General Provision]	—	—	5,000	18,000	18,000
COMMERCE, JUSTICE, SCIENCE					
DEPARTMENT OF COMMERCE					
Economic Development Administration (EDA)					
Economic Development Programs	300,000[a]	600,000[a]	600,000[a]	600,000[a]	600,000[a]

Appropriations Subcommittee	115th Congress	116th Congress			
DEPARTMENT, Agency/Bureau, Account	H.R. 695 (Division C)	House-passed H.R. 268 (Titles I-XI)	S.Amdt. 201 to H.R. 268	House-passed H.R. 2157	P.L. 116-20
National Oceanographic and Atmospheric Administration (NOAA)					
Operations, Research, and Facilities	70,570	120,570	120,570	125,570	120,570
Procurement, Acquisition, and Construction	25,000	25,000	25,000	25,000	25,000
Fisheries Disaster Assistance	82,000	150,000	150,000	150,000	150,000
DEPARTMENT OF JUSTICE					
U.S. Marshals Service					
Salaries and Expenses	1,336	1,336	1,336	1,336	1,336
Federal Prison System					
Buildings and Facilities	28,400	28,400	28,400	28,400	28,400
RELATED AGENCIES					
Legal Services Corporation (LSC)					
Payment to the LSC	5,000	15,000	15,000	15,000	15,000
DEFENSE					
DEPARTMENT OF DEFENSE					
Operations and Maintenance (O&M)					
O&M, Marine Corps	200,000	200,000	200,000	200,000	381,000
O&M, Air Force	400,000	400,000	400,000	670,000	670,000
ENERGY & WATER					
CORPS OF ENGINEERS—CIVIL WORKS					
Investigations	50,000	35,000	35,000	35,000	35,000
Construction	250,000	740,000	740,000	740,000	740,000
Mississippi River and Tributaries	225,000	225,000	225,000	575,000	575,000
O&M	245,000	245,000	245,000	908,000	908,000

Appropriations Subcommittee DEPARTMENT, Agency/Bureau, Account	115th Congress H.R. 695 (Division C)	116th Congress House-passed H.R. 268 (Titles I-XI)	S.Amdt. 201 to H.R. 268	House-passed H.R. 2157	P.L. 116-20
Flood Control and Coastal Emergencies	—	—	—	510,000	1,000,000
DEPARTMENT OF THE INTERIOR					
Central Utah Project					
Central Utah Project Completion Account	350	350	350	350	350
Bureau of Reclamation					
Water and Related Resources	15,500	15,500	15,500	17,000	15,500
DEPARTMENT OF ENERGY					
Energy Programs					
Energy Delivery	—	15,500	—	15,500	—
FINANCIAL SERVICES AND GENERAL GOVERNMENT					
GENERAL SERVICES ADMINISTRATION					
Real Property Activities					
Federal Buildings	—	—	—	91,200	91,200
HOMELAND SECURITY					
DEPARTMENT OF HOMELAND SECURITY					
U.S. Coast Guard					
Operations and Support	46,977	46,977	46,977	48,977[b]	48,977[b]
Procurement, Construction and Improvement	194,775	476,755	476,755	476,755	476,755
Environmental Compliance and Restoration	2,000	2,000	2,000	—[b]	—[b]
INTERIOR AND ENVIRONMENT					
DEPARTMENT OF THE INTERIOR					
U.S. Fish & Wildlife Service					
Construction	32,400	82,400[c]	82,400[c]	82,400[c]	82,400[c]

Appropriations Subcommittee	115th Congress	116th Congress			
DEPARTMENT, Agency/Bureau, Account	H.R. 695 (Division C)	House-passed H.R. 268 (Titles I-XI)	S.Amdt. 201 to H.R. 268	House-passed H.R. 2157	P.L. 116-20
National Park Service					
Historic Preservation Fund	50,000	50,000	50,000	50,000	50,000
Construction	78,000	78,000	78,000	78,000	78,000
U.S. Geological Survey					
Surveys, Investigations, and Research	69,500[d]	98,500[e]	98,500[e]	98,500[e]	98,500[e]
Departmental Offices—Insular Affairs					
Assistance to Territories	2,000	2,000	2,000	2,000	2,000
Office of the Inspector General	1,000	1,000	1,000	1,000	1,000
ENVIRONMENTAL PROTECTION AGENCY					
Science and Technology	600	600	600	600	600
Leaking Underground Storage Tank Trust Fund	1,500	1,500	1,500	1,500	1,500
State and Tribal Assistance Grants	62,000[f]	911,900[g]	411,900[h]	920,700[i]	411,900[h]
DEPARTMENT OF AGRICULTURE					
U.S. Forest Service					
Forest and Rangeland Research	1,000	1,000	1,000	1,000	1,000
State and Private Forestry	2,000	12,000	12,000	12,000	12,000
National Forest System	63,960	84,960[j]	84,960[j]	84,960[j]	84,960[j]
Capital Improvement and Maintenance	36,040	36,040	36,040	36,040	36,040
Wildland Fire Management	720,271	720,271	720,271	720,271	720,271
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
National Institutes of Health					
National Institute of Environmental Health Sciences	—	1,000	1,000	1,000	1,000

Appropriations Subcommittee	115th Congress	116th Congress			
DEPARTMENT, Agency/Bureau, Account	H.R. 695 (Division C)	House-passed H.R. 268 (Titles I-XI)	S.Amdt. 201 to H.R. 268	House-passed H.R. 2157	P.L. 116-20
LABOR / HEALTH AND HUMAN SERVICES / EDUCATION					
DEPARTMENT OF LABOR					
Employment and Training Administration					
Training and Employment Services	—	50,000[k]	50,000[k]	50,000[k]	50,000[k]
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Substance Abuse and Mental Health Support Administration					
Health Surveillance and Program Support	—	30,000	—	30,000	—
Centers for Medicare and Medicaid					
Medicaid [General Provision]	—	[l]	—	[l]	[l]
Administration for Children and Families					
Child Care and Development Block Grant	—	—	30,000	—	30,000
Social Services Block Grant	—	250,000	—	250,000	
Children and Families Services Programs	25,000[m]	60,000[m]	90,000[n]	60,000[m]	90,000[n]
Office of the Secretary					
Public Health and Social Services Emergency Fund	15,500[o]	—	201,000[p]	—	201,000[p]
DEPARTMENT OF EDUCATION					
Education					
Hurricane Education Recovery	50,000[q]	165,000[r]	165,000[r]	165,000[r]	165,000[r]
LEGISLATIVE BRANCH					
Government Accountability Office					
Expenses	4,000	10,000	10,000	10,000	10,000

Appropriations Subcommittee	115th Congress	116th Congress			
DEPARTMENT, Agency/Bureau, Account	H.R. 695 (Division C)	House-passed H.R. 268 (Titles I-XI)	S.Amdt. 201 to H.R. 268	House-passed H.R. 2157	P.L. 116-20
MILITARY CONSTRUCTION					
DEPARTMENT OF DEFENSE					
Military Construction					
Navy and Marine Corps	90,000	115,000	115,000	500,000	600,000
Air Force	150,000	700,000	700,000	1,000,000	1,000,000
Army National Guard	42,400	42,400	42,400	42,400	42,400
DEPARTMENT OF VETERANS AFFAIRS					
Veterans Health Administration					
Medical Facilities	3,000	3,000	3,000	3,000	3,000
TRANSPORTATION / HOUSING AND URBAN DEVELOPMENT					
DEPARTMENT OF TRANSPORTATION					
Federal Transit Administration					
Public Transportation Emergency Relief Program	10,542	10,542	10,542	10,542	10,542
Federal Aviation Administration					
Operations (Airport and Highway Trust Fund)	18,000	18,000	18,000	18,000	18,000
Federal Highway Administration					
Emergency Relief Program	1,650,000	1,650,000	1,650,000	2,150,000	1,650,000
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
Community Planning and Development					
Community Development Fund	1,060,000	1,210,000	1,060,000	2,210,000	2,431,000[s]
CBO-Estimated Score of Supplemental Appropriations[t]	**7,820,000**	**14,193,000**	**13,454,000**	**19,259,000**	**19,121,000**

Source: CRS analysis of H.R. 695 (115th Congress); House-passed H.R. 268, S.Amdt. 201 as offered to H.R. 268; H.R. 2157 as passed by the House; and P.L. 116-20.

Notes:

a. Up to 2% of this appropriation may be transferred to the EDA's "Salaries and Expenses" account for administration and oversight activities, and $1 million is to be transferred to the Commerce Office of Inspector General for investigations and audits related to the EDA program funding.

b. $2 million for Environmental Compliance and Restoration is included in the Operations and Support appropriation.

c. $50 million of this appropriation is provided to restore and rebuild wildlife refuges and increase resiliency of coastal habitat and infrastructure.

d. $43.3 million of this appropriation is provided for repair and replacement of equipment and facilities damaged by disasters.

e. $72.3 million of this appropriation is provided for repair and replacement of equipment and facilities damaged by disasters.

f. This is a total of $57 million for the Hazardous Waste Financial Assistance Grants program ($1 million for Hurricanes Florence and Michael, $56 million for Typhoon Yutu) and $5 million for Sec. 106 grants under the Federal Water Pollution Control Act for costs associated with Hurricanes Florence and Michael, Typhoon Yutu, and calendar year 2018 wildfires.

g. This is a total of $57.5 million for the Hazardous Waste Financial Assistance Grants program ($1.5 million for Hurricanes Florence and Michael and 2018 earthquakes, $56 million for Typhoon Yutu); $5 million for Sec. 106 grants under the Federal Water Pollution Control Act; and $349.4 million for capitalization grants for water and wastewater infrastructure affected by Hurricanes Florence and Michael, Typhoon Yutu, and calendar year 2018 wildfires and earthquakes, with $10.4 million reserved for works impacted by Typhoon Yutu; and $500 million for water and wastewater infrastructure grants for works affected by Hurricanes Harvey, Irma, and Maria, with $74.6 million reserved for areas impacted by Irma and Maria.

h. This is a total of the appropriations listed in table note "g," without the $500 million for works affected by Hurricanes Harvey, Irma, and Maria.

i. This is a total of the appropriations listed in table note "g," with an additional $8.8 million for capitalization grants for water and wastewater facilities impacted by Typhoon Yutu.

j. $21 million of this appropriation is provided for hazardous fuels management activities.

k. Each measure from the 116th Congress allowed for up to $1 million of funds appropriated to the account to be set aside for "reconstruction and recovery needs, including worker protection activities" and called for $500,000 to be transferred to the OIG.

l. H.R. 268, H.R. 2157, and P.L. 116-20 included similar provisions to provide additional Medicaid funding to the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. These funds are not displayed in the table because a portion of the Medicaid appropriation was for an unspecified amount. The Congressional Budget Office estimated total LHHS budget authority in P.L. 116-20 to be $611 million. Of that amount, $536 million is specified in Table 1, and the remaining amount presumably is for the Medicaid funding in Section 802.

m. Under H.R. 695, H.R. 268, and H.R. 2157, the entire amount proposed for this account would be directed to Head Start programs.

n. Under S.Amdt. 201 to H.R. 268 and P.L. 116-20, the total appropriation for this account would be allocated across several programs or activities, including Head Start ($55 million), the Community Services Block Grant ($25 million), the Stephanie Tubbs Jones Child Welfare Services program ($5 million), and federal administrative expenses (up to $5 million).

o. H.R. 695 called for funds appropriated to this account to be transferred as follows: not less than $7.5 million to the Health Surveillance and Program Support account at the Substance Abuse and Mental Health Services Administration (SAMHSA), $7.5 million to the Primary Health Care account at the Health Resources and Services Administration (HRSA), for health centers, and up to $500,000 to the Office of the Inspector General (OIG).

p. S.Amdt. 201 to H.R. 268 and P.L. 116-20 called for funds appropriated to this account to be transferred as follows: $100 million to Health Surveillance and Program Support at SAMHSA, $80 million to the Primary Health Care account at HRSA, for health centers, $20 million to the CDC-Wide Activities and Program Support account at the Centers for Disease Control and Prevention (CDC), and up to $1 million to the OIG.

q. H.R. 695 called for $500,000 of the funds appropriated to this account to be transferred to the Office of the Inspector General (OIG) and for $500,000 to be set aside for program administration.

r. Each measure from the 116th Congress called for $2 million of the funds appropriated to this account to be transferred to the OIG and for $1 million to be set aside for program administration.

s. $431 million of the funds appropriated in this account is set aside for unmet infrastructure needs in Puerto Rico and the U.S. Virgin Islands; $5 million is set aside for technical assistance to communities with disasters declared in 2018; and $2.5 million is transferred for the costs of administering and overseeing the program.

t. This line includes the total CBO discretionary score of each disaster relief supplemental proposal listed. It is not a total of the discretionary budget authority listed in the table, as the table does not include the discretionary scoring effects of provisions in the bill that do not explicitly enumerate a discretionary cost.

Issues in Disaster Relief Appropriations

Since the mid-20th century, federal law has established a role for the federal government in supporting state and local governments in disaster response and recovery. Congress has the constitutional responsibility to exercise the "power of the purse" in making decisions on funding this role in regular annual appropriations, and through supplemental appropriations when necessary. Traditionally, such funding is requested by the Administration. The development of P.L. 116-20 was uncommon, in that the House and Senate developed this measure in the absence of a formal supplemental appropriations request from the Administration for disaster funding.

In the process of exercising this constitutional authority, a number of issues frequently reemerge in congressional debate:

- The relative timeliness of supplemental appropriations;
- The proper scope of a supplemental appropriations measure;
- How exemptions from discretionary budget limits enable investments in disaster relief, and whether such exemptions are properly structured;
- Proposals to offset some or all of the proposed disaster relief spending;
- How quickly relief and recovery funding will be made available;
- How Congress can ensure that the funding provided is not spent on wasteful or fraudulent endeavors.

Relative Timeliness of Supplemental Appropriations

Congressional offices often express an interest in the average time it has taken for past supplemental disaster assistance appropriations to be enacted after a significant disaster. This seemingly simple question lacks a meaningful answer for a variety of reasons.

There are significantly fewer supplemental appropriations measures than declared disasters—disaster response and recovery efforts do not always require federal funding beyond regular annual appropriations. Appropriations for recovery from a disaster may come in multiple appropriations measures over the course of several years. Furthermore, a single supplemental appropriations act may meet response or recovery needs generated by multiple disasters.

Table 2 illustrates this situation, showing information on Stafford Act major disaster declarations and public laws with supplemental disaster assistance appropriations, by calendar year. From the beginning of 2011 through 2018, there were 977 declarations[14] under the Stafford Act, including 461 major disasters.[15] Of those major disaster declarations, 76 were associated with 17 catastrophic events.[16] In that same time period, there have been 12 public laws enacted with supplemental appropriations expressly for disaster assistance—four of which were enacted in calendar years 2017 and 2018.

[14] FEMA considers declarations to include approval of wildfire management assistance, fire suppression authorization, emergencies, and major disasters.

[15] For more information on Stafford Act declarations, see CRS Report R42702, *Stafford Act Declarations 1953-2016: Trends, Analyses, and Implications for Congress*, by Bruce R. Lindsay.

[16] Defined by FEMA as "a disaster or a grouping of disasters (i.e., a disaster event) that results in a total projected cost for the Federal Government in excess of $500 million." (FEMA, *Disaster Relief Fund: FY2019 Funding Requirements*, May 7, 2018, p. 4.)

Table 2. Stafford Act Declarations and Public Laws with Supplemental Disaster Assistance, Calendar Years 2011-2018

Calendar Year	Stafford Act Declarations (# of Major Disasters)	Catastrophic Incidents (# of declarations)	Public Laws with Supplemental Disaster Assistance Appropriations
2011	242 (99)	2011 Spring Tornadoes (7) 2011 Spring Floods (4) Hurricane Irene (15) Tropical Storm Lee (6)	P.L. 112-55 (11/18/2011)[a] P.L. 112-77 (11/23/2011)
2012	112 (47)	Hurricane Isaac (4) Hurricane Sandy (13)	P.L. 112-175 (9/28/2012)[b]
2013	95 (62)	2013 Colorado Flood (1)	P.L. 113-2 (1/28/2013) P.L. 113-46 (10/17/2013)[c]
2014	84 (45)	None	None
2015	80 (44)	None	P.L. 114-53 (9/30/2015)[d] P.L. 114-113 (12/18/15[e]
2016	103 (46)	Louisiana Floods 4277[f] (1) Hurricane Matthew (5)	P.L. 114-223 (9/29/2016)[g]
2017	137 (59)	Hurricane Harvey (2) Hurricane Irma (6) Hurricane Maria (2) CA Wildfires 2017 (1)	P.L. 115-56 (9/8/2017) P.L. 115-72 (10/26/2017)
2018	124 (59)	Hurricane Florence (3); Hurricane Michael (4); Supertyphoon Yutu (1); CA Wildfires 2018 (1)	P.L. 115-123 (2/9/2018) P.L. 115-254 (10/5/2018)[h]
TOTAL	**977 Stafford Act declarations (461 major disasters)**	**17 catastrophic incidents, encompassing 76 major disaster declarations**	**12 Public Laws with supplemental disaster assistance appropriations**

Source: Disaster Relief Fund monthly reporting from FEMA and legislative databases.

a. P.L. 112-55, a consolidated appropriations act, included $200 million for disaster assistance through the Economic Development Agency.

b. P.L. 112-175 was a continuing resolution which included additional resources for wildland fire suppression.

c. P.L. 113-46 was a continuing resolution that included additional resources for wildland fire suppression in multiple sections.

d. P.L. 114-53 was a continuing resolution that included $700 million for wildfire suppression costs in Sec. 135.

e. P.L. 114-113, Division L, Section 420 (part of a consolidated appropriations act) included a $300 million supplemental appropriation for the Community Development Block Grant-Disaster Relief (CDBG-DR) program.

f. This is the FEMA-assigned name for the incident, which refers to the major disaster declaration number to distinguish it from other flooding in Louisiana.

g. Division B of P.L. 114-223, a continuing appropriations measure in a consolidated appropriations act, included a $500 million supplemental appropriation for CDBG-DR.

h. Division I of the FAA Reauthorization Act (P.L. 115-254) included a $1.68 billion supplemental appropriation for CDBG-DR.

As **Table 2** shows, there are many more disaster declarations than supplemental measures. Given the lack of one-to-one alignment, the time from a single incident to a single supplemental appropriations measure does not provide meaningful data for calculating an average of how long it takes after a specific disaster to get a supplemental appropriations measure enacted.

The 2017 hurricane season provides an example of how the comparative rarity of supplemental measures as opposed to disasters complicates calculating the time from a disaster to supplemental appropriations, and can generate meaningless results for developing an average:

- The first of the three supplemental appropriations measures that directly supported response and recovery for Hurricanes Harvey, Irma, and Maria, P.L. 115-56, included funding for the Disaster Relief Fund (DRF), Small Business Administration disaster loans, and the Department of Housing and Urban Development's (HUD's) Community Development Block Grant Disaster Recovery program (CDBG-DR). This initial measure was enacted on September 8, 2017, 14 days after Harvey made landfall, 2 days after Irma affected Puerto Rico and the U.S. Virgin Islands, and 12 days *before* Maria struck Puerto Rico.[17]
- The second, P.L. 115-72, was enacted on October 26, 2017, seven weeks after the first.
- The third, P.L. 115-123, was enacted on February 9, 2018, five months after the initial measure.

Each of these acts included a different range of programs, with the third addressing the largest range of programs.

This scenario leaves some questions without definitive answers—such as, which supplemental appropriations bills should be associated with which disasters for calculating the speed of congressional response? It also demonstrates that comparison of these lengths of time has limited meaning in some cases. For example, the shorter time between Hurricane Irma and the supplemental appropriations as opposed to Hurricane Harvey and the supplemental appropriations is happenstance, rather than a meaningful difference in how Congress and the Administration approached the relief process.

Legislative Factors in the Timing of Supplemental Appropriations

The development and enactment of supplemental appropriations legislation is also affected by the same legislative rhythms that affect the timing of other legislation. Disaster assistance supplemental appropriations may move more quickly at some times than others, given the legislative environment. They may move on their own or they may be included in a variety of legislative vehicles.

Continuing appropriations measures and consolidated appropriations measures (which include multiple appropriations bills) frequently serve as vehicles for supplemental appropriations toward the end of the fiscal year or soon after. For example, P.L. 114-223, a continuing resolution for FY2017 in a consolidated appropriations act, included a $500 million supplemental appropriation for HUD's Community Development Block Grant-Disaster Recovery (CDBG-DR) program targeting major disasters declared prior to the enactment of the measure in calendar 2016.[18]

[17] Supplemental disaster assistance appropriations measures regularly provide resources for both past and future disasters.

[18] P.L. 114-223, §145.

High-priority authorizing legislation may also prove to be a convenient vehicle. For example, Division I of the FAA Reauthorization Act (P.L. 115-254) included a $1.68 billion supplemental appropriation for CDBG-DR, targeting areas impacted by major disasters declared in calendar 2018.

An Administration request for supplemental disaster assistance can be an additional factor in the timing of the congressional consideration of supplemental appropriations. In the wake of a significant disaster, individual Members of Congress or state or regional delegations with affected constituencies may put forward supplemental appropriations legislation independent of a request from the Administration. However, unless they are crafted in consultation with majority party leadership, these measures are rarely taken up. The development of a supplemental appropriations measure destined for enactment usually begins with a supplemental appropriations request from the Administration, and a response from the Appropriations Committee or leadership. The request provides a starting point for congressional deliberations, framing the stated needs of the federal government at large for Congress to consider. For disasters that occurred in 2017, a series of three requests came from the Administration, and in each case, a supplemental appropriations measure was initiated and subsequently enacted.[19] In contrast, as was noted above, P.L. 116-20 was enacted without a formal request by the Administration for supplemental disaster assistance appropriations for FY2019.[20]

Adjustments to Spending Limits Under the Budget Control Act for Disaster Relief

The Budget Control Act of 2011 (BCA; P.L. 112-25), passed in the first session of the 112th Congress as part of a deal to raise the debt limit, placed statutory limits on discretionary spending. The BCA also provided exceptions to those limits for a number of purposes. One such exception was a reiteration of a long-standing exception for funding designated as an emergency requirement.[21]

Emergencies

The Budget Enforcement Act of 1990 (BEA; Title XIII of P.L. 101-508), and its extensions, established statutory limits on discretionary spending between FY1991 and FY2002.[22] The BEA also provided for an adjustment to these discretionary spending limits to accommodate spending that both the President and Congress designated as an emergency requirement.[23] During this period, this adjustment was frequently used to provide funding for disaster response and recovery. However, it was also used for a broad variety of other purposes, some instances of which sparked

[19] For details on these supplemental appropriations, see CRS Report R45084, *2017 Disaster Supplemental Appropriations: Overview*, by William L. Painter.

[20] A supplemental appropriations request to address border security and humanitarian issues at the U.S.-Mexico border was submitted May 1, 2019 (Letter from Russell T. Vought, Acting Director, Office of Management and Budget, to the Honorable Michael R. Pence, President of the Senate, May 1, 2019, https://www.whitehouse.gov/wp-content/uploads/2019/05/Pence.pdf), but it did not include disaster assistance appropriations.

[21] This exception was first formalized in the Budget Enforcement Act of 1990 (P.L. 101-508).

[22] For more details, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan S. Lynch.

[23] P.L. 101-508, §13101.

debate over whether the designated funding was truly for unanticipated "emergency" needs,[24] stoking controversy in some quarters over the potential for abuse.

Disaster Relief

While the BCA included a similar mechanism, it also included a more limited, but specifically defined, adjustment for disaster relief, distinct from emergency funding. The BCA defined "disaster relief" as federal government assistance provided pursuant to a major disaster declared under the Stafford Act. Spending limits could be adjusted upward to accommodate funding provided in future spending bills. The allowable adjustment for disaster relief, however, is limited to an amount based on a modified 10-year rolling average of designated major disaster costs.[25]

Division O of the Bipartisan Budget Act of 2018 (P.L. 115-123) modified the calculation to incorporate disaster relief appropriations designated as an emergency requirement, which had previously been excluded from the calculation.[26]

The Disaster Relief Fund and the Disaster Relief Adjustment

FEMA's Disaster Relief Fund (DRF) is the primary source of funding for disaster response and recovery efforts by the federal government, including pre-disaster surge efforts and immediate response during the declaration process and once the declaration is made. Since FY2012, more than 90% of the appropriations covered by the BCA's disaster relief designation and thus benefitting from the disaster relief adjustment have been for the DRF, with designated funding included in every annual DRF appropriations since FY2013, including $12 billion in FY2019. With the designation, a larger proportion of DRF funding is now provided through the annual appropriations process than had been prior to the BCA. With the DRF less reliant on supplemental appropriations, some observers perceive less of a demand for immediate action on supplemental appropriations measures.

The allowable adjustment for disaster relief does not act as a limit on federal appropriations for disaster assistance—only on the amount of additional budget authority that can be provided pursuant to that provision. When Congress provides more funding for disaster relief than can be covered by the disaster relief adjustment in a given fiscal year, such as was the case for Hurricane Sandy and the 2017 disasters, the emergency designation may be used for such funding.[27]

Congress is not unanimous in its support of the disaster relief designation. On March 28, 2019, Senator Mitt Romney introduced an amendment to the Senate majority leadership's substitute for H.R. 268.[28] The Romney amendment would have eliminated the adjustment for disaster relief in FY2021. In a press statement from his office, Senator Romney said "It's time for Congress to start planning ahead for natural disasters by including funding for them in the annual budget process, instead of busting our spending limits and adding to our skyrocketing national debt."[29]

[24] These included providing funding for the 2010 Census and alleviating a shortfall in funding for veterans' health care during the U.S.'s second Iraq war.

[25] For additional information on the allowable adjustment, see CRS In Focus IF10720, *Calculation and Use of the Disaster Relief Allowable Adjustment*, by William L. Painter.

[26] P.L. 115-123, Division O, §102.

[27] See CRS Report R44937, *Congressional Action on the FY2013 Disaster Supplemental*, coordinated by William L. Painter, for details on the initial use of the emergency designation for disaster relief in the BCA era.

[28] Thanks.

[29] Office of Senator Mitt Romney, "Romney Files Amendment Requiring Congress to Budget for Future Natural Disasters," press release, March 28, 2019, https://www.romney.senate.gov/romney-files-amendment-requiring-congress-budget-future-natural-disasters.

Adjustments and P.L. 116-20

Congress may also choose to provide disaster recovery and relief funding with an emergency designation regardless of the amount of funding provided with a disaster relief designation. For example, all of the funding provided in P.L. 116-20 carried an emergency designation rather than being designated as disaster relief pursuant to the BCA, even though, according to OMB, almost $3 billion of the disaster relief allowable adjustment remained available for use in FY2019 when the bill was enacted.[30]

Offsetting Disaster Relief and Recovery

Periodically, Congress has weighed whether some or all of the costs associated with disaster relief and recovery should be offset[31] by cuts to other spending. Historically, this debate has focused on whether disaster relief and recovery funding should be accounted for in the same fashion as other "on-budget" discretionary budget authority in general discussions of the budget. Since the passage of the BCA in 2011, the debate has a new aspect, as discretionary spending is constrained by statutory limits. If disaster relief and recovery spending is treated like regular appropriations with respect to the BCA spending caps—not designated as either an emergency or disaster relief, and thus not triggering an upward adjustment of the caps—such spending would potentially require an offset to prevent the cap from being breached and triggering sequestration.

In most cases between 1990 and 2017, FEMA's DRF generally has been given a priority status for prompt funding in times of need, without offsetting spending reductions. Disaster assistance from other agencies has at times been funded through shifting resources from one program to another through appropriations language, but such activity is relatively rare. The largest single occurrence of this was in the wake of Hurricane Katrina. Nearly four months after $60 billion had been provided to the DRF in the ten days after the storm, P.L. 104-148 rescinded $23.4 billion from the account while simultaneously appropriating a similar amount to other agencies to meet disaster response and recovery needs.[32]

On April 4, 2019, during morning business, Senate Budget Committee Chairman Michael Enzi raised the issue of disaster offsets in comments on the Senate floor concerning Senator Romney's amendment to eliminate the disaster relief adjustment:

> I want to applaud my friend from Utah, Senator Romney, for offering an amendment that recognizes the challenge of budgeting for disasters and emergencies. Disaster relief funding must be built into our base budgets, which is why I have incorporated these costs in recent budget resolutions, including the one that passed through our Budget Committee last week.
>
> While there is no silver bullet to this problem, I am willing and eager to work with any of my colleagues who believe there is a better way to anticipate these costs.
>
> The Senate Budget Committee recently held a hearing that partially touched on ideas to better budget for disaster funding. One option is to offset emergency spending increases

[30] Office of Management and Budget, *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2019*, Washington, DC, March 4, 2019, p. 7, https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/ .

[31] Offsets are negative budget authority, usually generated by reductions in prior appropriations, that reduces the net total budget authority provided in a bill.

[32] For more details on offsets and the DRF, see CRS Report R42458, *Offsets, Supplemental Appropriations, and the Disaster Relief Fund: FY1990-FY2013*, by William L. Painter.

> with spending reductions in other areas. Another option could require a dedicated fund for emergencies, similar to how some States budget for these events. I have also considered whether a new actuarially sound insurance program could appropriately assess the risk for such disasters while maintaining affordable premiums. Budgeting for emergencies and disasters is not a precise science, but I believe Congress can do a lot better than just calling an emergency and adding to the debt.[33]

Recent Consideration of Offsets

Hurricane Sandy Relief

Beginning in November 2012 there were calls for supplemental appropriations for Hurricane Sandy relief efforts,[34] as well as calls for offsets.[35] On December 7, 2012, the Obama Administration requested $60.4 billion in supplemental appropriations in connection with Hurricane Sandy, including $11.5 billion for the DRF. The preamble to the request specifically opposed offsetting the cost of the legislation,[36] and although amendments to offset the cost of the legislation were considered in the House and Senate, they were not agreed to.[37]

During Senate debate on a supplemental appropriations bill after Hurricane Sandy, a point of order was raised against the emergency designation for $3.4 billion in Army Corps of Engineers Construction appropriation for disaster mitigation projects. A motion to waive the point of order failed to achieve the necessary majority of three-fifths of all Senators, 57-34, so the point of order was sustained, eliminating the emergency designation for that particular appropriation. This meant that the $3.4 billion for the mitigation projects would count against the discretionary spending limits imposed by the BCA, limiting the amount available for other discretionary appropriations. At the time, some observers critical of the move considered this as setting a precedent by effectively requiring an offset for disaster assistance. Others considered this as including part of the cost of disaster preparedness (as opposed to disaster relief) within the regular discretionary budget.[38]

2017 Disasters

All three of the Trump Administration's disaster supplemental appropriations requests have sought an emergency designation for the funding that would be provided in the legislation. However, unlike the Trump Administration's first two requests for supplemental disaster relief funding, the November 2017 request sought to offset some of the additional spending as well, suggesting $14.8 billion in rescissions and spending cuts and $44.4 billion in potential future savings by extending the nondefense discretionary spending limits for two additional years. Many of the rescissions and spending cuts had previously been proposed in the Administration's

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[33] Sen. Michael Enzi, "H.R. 268," remarks in the Senate, *Congressional Record*, vol. 165 (April 4, 2019), p. S2260.

[34] Koss, Geof, "Senate Democrats Preparing Disaster Response Bills" *CQ News*, November 14, 2012. Available at http://www.cq.com/doc/news-4175335.

[35] Young, Kerry and Niels Lesniewski, "Republicans Say they Expect Spending Offsets for Sandy Disaster Aid," *CQ News*, November 29, 2012. Available at http://www.cq.com/doc/news-4181820?wr=bzR2QWhQbmtjMGxjdG52NXplMSo0UQ.

[36] Letter from Jeffrey D. Zients, Deputy Director for Management, to The Honorable John Boehner, Speaker of the House of Representatives, December 7, 2012, p. 2.

[37] See CRS Report R42458, *Offsets, Supplemental Appropriations, and the Disaster Relief Fund: FY1990-FY2013*, by William L. Painter, pp. 9-12, for details of the debate on offsets for what became P.L. 113-2.

[38] *Congressional Record*, December 21, 2012, pp. S8341-S8342.

FY2018 budget request.[39] No offsets were included in any of the three supplemental appropriations measures enacted after the 2017 disasters.[40]

The "Appropriate" Scope of Supplemental Appropriations

One of the most frequent criticisms of supplemental appropriations measures, especially those containing disaster assistance, is that the measures include "unrelated" spending. Any attempt to make a nonpartisan determination regarding what appropriations may be considered "unrelated" in a measure that is typically responsive to a range of unmet needs presents significant methodological challenges.

Long-standing colloquial naming practices have associated supplemental appropriations legislation with a particular event or problem that has drawn congressional and public attention, but the content of these measures typically goes beyond the message-friendly colloquial name.

The scope, purpose, and size of a supplemental appropriations measure can be driven by one or more events, the unfunded needs such events generate, and the associated political support for considering and enacting the legislation. In the case of supplemental appropriations measures for disaster relief and recovery, these drivers often include a series of events over time. For example, in the case of P.L. 116-20, it also incorporated responses to events occurring as the legislation was being developed and considered.

Controlling Language and Supplemental Appropriations

At times, "controlling language" has been included in supplemental appropriations measures to clarify the intent of specific appropriations, and counter the unrelated spending charge. This language is often included with appropriations for accounts that also have nondisaster-related purposes, in order to link the provided resources to specific activities.[41]

P.L. 115-123, the largest and broadest of the three supplemental appropriations acts signed into law after the 2017 disasters, included a range of forms of controlling language, the most common limiting the availability of funds to "necessary expenses related to the consequences of Hurricanes Harvey, Irma, and Maria." Other controlling language of varying specificity targeted subsets of the disaster-related needs across the United States, including the following:

- Natural disasters
    - Natural disasters occurring in 2017
    - Damage reduction in flood and storm damage in states with more than one flood-related major disaster in calendar years 2014-2017
    - Hurricanes Harvey, Irma, Maria, and 2017 wildfires
        - Hurricanes occurring in 2017
            - Hurricane Harvey

[39] Letter from Mick Mulvaney, Director, Office of Management and Budget, to The Honorable Paul D. Ryan, Speaker of the House of Representatives, November 17, 2017, p. 3, https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/Letters/fy_2018_hurricanes_supp_111717.pdf.

[40] While Title II of Division C of P.L. 115-123 is titled "Offsets," these are for the budget provisions carried in Title I of Division C.

[41] As this language is not universally applied, is not geographically specific, and often takes different forms across more complex supplemental appropriations measures, it usually is not sufficient to develop totals of disaster assistance funding provided to specific states or localities.

- Hurricanes Irma and Maria
- Major disasters
- Oversight of funds provided in the measure

Appropriations Without Controlling Language

Such language generally has not been applied to accounts that have a primary mission of providing disaster assistance, such as the SBA Disaster Loan Program Account and FEMA's Disaster Relief Fund. For example, in P.L. 116-20, the $1.65 billion supplemental appropriation for the Department of Transportation's Emergency Relief Program under the Federal Highway Administration has no specific controlling language.

The absence of such specific controlling language allows agencies greater flexibility to ensure that resources are directed to meet evolving needs on short notice. Appropriations for FEMA's DRF are regularly obligated to relief and recovery efforts from multiple disasters across many fiscal years, regardless of the legislative vehicle that provided them. For example, before passage of P.L. 113-2—the "Sandy Supplemental"—FEMA had already obligated almost $3.4 billion from the DRF for declarations linked to Hurricane Sandy from prior appropriations.[42] Had language been included in those prior appropriations limiting the use of the budget authority provided following past disasters, FEMA's ability to respond would have been more limited. By the end of 2017, almost twice the amount provided for the DRF in P.L. 113-2 had been obligated pursuant to disaster declarations from the storm—aid that might not have been available, had appropriations for the DRF been statutorily limited in their application.[43]

Controlling Language in P.L. 116-20

Almost all of the appropriations provided in P.L. 116-20 include controlling language. The most common references are to Hurricanes Michael and Florence, although many other incident types are cited as well.

The controlling language for some of the appropriations in this measure evolved significantly over time since consideration of supplemental appropriations for disaster relief and recovery were first initiated late in the 115th Congress. For example, as additional disaster needs arose, the appropriation provided for the Office of the Secretary for the U.S. Department of Agriculture that was proposed in Division C of H.R. 695 grew from $1.1 billion to more than $3 billion in P.L. 116-20. The controlling language changed to broaden the potential application of the assistance as well (additions are shown in **bold**): "for necessary expenses related to losses of crops (including milk, **on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes**), trees, bushes, and vines, as a consequence of Hurricanes Michael and Florence, other hurricanes, **floods, tornadoes,** typhoons, volcanic activity, **snowstorms,** and wildfires occurring in calendar years 2018 **and 2019** under such terms and conditions as determined by the Secretary."

[42] Department of Homeland Security, Federal Emergency Management Agency, *Disaster Relief Fund: Monthly Report as of September 30, 2013*, October 21, 2013, Appendix B, p. 10.

[43] Department of Homeland Security, Federal Emergency Management Agency, *Disaster Relief Fund: Monthly Report as of September 30, 2017*, October 11, 2017, Appendix C, p. 10.

Timelines for Obligation

Once Congress appropriates funding for disaster relief and recovery costs, the timeline for when that funding is used varies significantly from program to program. Comparison of these timelines in an effort to assess program efficiency requires an understanding of differences in mission and program structure to ensure assessments are made in context.

For example, within relief provided through the DRF, some costs are borne up front, such as emergency protective measures and much of the individual assistance program, and funding is obligated and expended relatively quickly. Other costs incurred by state and local governments are reimbursed by the federal government after the work is complete—projects to restore major infrastructure often follow this model and can take longer to obligate and expend the appropriated funding (e.g., FEMA's Public Assistance Grant Program). Other redevelopment funds may take time to be obligated as eligible state and local governments must develop a plan and have it approved—this process cannot begin until the funds are provided to the program and official announcements of the grant competition process are made (e.g., HUD's Community Development Block Grant Program).

Because of these varying and extended timelines, disaster recovery funding is often provided without an expiration date. However, appropriations provided for operational costs, damage to facilities, and specifically targeted grant programs with a limited purpose may be provided with a limited term of availability.[44]

Oversight of Spending

Concerns about waste, fraud, and abuse exist for a variety of federal programs, but supplemental disaster relief often receives special attention due to the fact that it is unusual, highly visible, provided in chaotic situations, and meant to address pressing needs. The 2019 disaster supplemental appropriations include more than $27 million in appropriations specifically for audits and oversight efforts, including $10 million for the Government Accountability Office (GAO), as well as transfers and set-asides of more than $21 million.

The federal government has encountered challenges in effectively tracking some federal disaster relief spending. In September 2016, GAO released a report on disaster assistance provided by the federal government over the 10-year period from FY2005 through FY2014. GAO analysts attempted to survey disaster relief provided by 17 federal departments and agencies, and although they were able to identify over $277 billion in obligations for disaster relief provided over that period, obligations were not separately tracked for all disaster-applicable programs and activities. GAO noted in the report that

> At least 5 federal departments and agencies reported that some disaster assistance programs or activities are not separately tracked because spending related to these activities is generally subsumed by a department's general operating budget or mission-related costs. For example, U.S. Coast Guard officials stated that most of the agency's disaster-related costs are associated with maintaining a constant state of readiness to immediately respond to disaster and emergency incidents, which is funded from the U.S. Coast Guard search and rescue appropriation and is not separately tracked. Similarly, the Army has deployed personnel in anticipation of a possible disaster event, even when FEMA has not requested the support. If a disaster does not occur or the activity does not result in a FEMA mission assignment, the Army will not be reimbursed for prepositioning personnel or assets in

[44] For examples of such limitations in the context of FY2019 disaster supplemental appropriations, see the list of appropriations prior to **Table 1**.

> anticipation of an event and therefore may categorize the expenditure as training in the event of a disaster. Another 4 federal departments and agencies reported that obligations and expenditures specific to disaster assistance activities are not tracked or cannot be reliably estimated because there is no requirement for state or other recipients of the financial support to indicate whether or how much of the funding or assistance is used for disasters.[45]

Placing consistent reporting requirements on agencies providing assistance through disaster-applicable programs would be one way to obtain a clearer picture of precisely how much the federal government is spending on disaster relief and recovery. Such reporting requirements could include pass-through requirements to state and local governments that receive the funds to provide contract and subcontract data to the providing federal agency. This could help inform budgeting decisions, and determine if a particular program is providing fewer resources than anticipated to its nondisaster missions. On its own, however, such information cannot provide an answer to questions of whether such funds are subject to waste, fraud, or abuse. Answering such questions requires detailed analysis of the individual programs and activities funded, how they complement or duplicate other assistance programs, and whether they are providing the assistance Congress intended.

On February 2, 2018, OMB issued a memorandum to all federal chief financial officers and budget officers about new Administration guidelines for tracking emergency funding and disaster relief funding. Under these guidelines, agencies will be required to track these resources, starting with the first of the three 2017 disaster supplemental appropriations, by applying a special accounting code to those resources.[46] It remains to be seen if the FY2019 supplemental appropriations will be monitored in a similar fashion.

Tracking Hurricane Sandy Funding

Prior to 2017, the last time Congress attempted to track the use of a large amount of supplemental appropriations was in the wake of Hurricane Sandy.

At that time, a provision of P.L. 113-2 specifically authorized the Recovery and Transparency Board (RATB)[47] to "develop and use information technology resources and oversight mechanisms to detect and remediate waste, fraud, and abuse in the obligation and expenditure of funds" provided in the act.[48] Pursuant to this authority, the RATB developed a website containing quarterly financial reports, a map of where contracts had been awarded, and other spending summaries under the Disaster Relief Appropriations Act, 2013. The RATB had its mission extended and funded by Congress for FY2015,[49] but its authority lapsed at the end of that year and it shut down.

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[45] U.S. Government Accountability Office, *Federal Disaster Assistance: Federal Departments and Agencies Obligated at Least $277.6 Billion During Fiscal Years 2005 through 2014*, GAO-16-797, September 22, 2016, p. 18, https://www.gao.gov/products/GAO-16-797.

[46] Memorandum M-18-08, from Mick Mulvaney, Director, Office of Management and Budget, to Chief Financial Officers and Budget Officers "Guidance on Disaster and Emergency Fund Tracking," February 2, 2018, https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-08.pdf.

[47] The RATB was originally established to track funding through the American Recovery and Reinvestment Act of 2009.

[48] P.L. 113-2, §904(d), 127 Stat. 18.

[49] P.L. 113-235, 128 Stat. 2389.

The Department of Housing and Urban Development (HUD) established a Program Management Office (PMO) in February 2013 to monitor funding flows for Hurricane Sandy Recovery. The office coordinated its efforts with the RATB and provided public information on the status of funding as reported by the agencies. As of November 2014, the responsibilities of the HUD Sandy PMO were transferred to FEMA's Office of Federal Disaster Coordination (OFDC).[50]

One potential issue is that it is not always straightforward to compare the information provided by different agencies. The conclusions that might be drawn from data gathered by the RATB and the PMO were potentially limited by the fact that the agencies reporting their data did not use a consistent methodology. For example, while some agencies reported specifically on the resources provided by P.L. 113-2, FEMA provided information on *all obligations* for Hurricane Sandy response and recovery—those funded by previous appropriations as well as those funded by P.L. 113-2.[51] This difference meant the FEMA-reported data were not comparable with those of other agencies or departments.

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[50] The last reporting from the Sandy PMO was for the fourth quarter of FY2015. There is no information provided on the OFDC public-facing website (https://www.fema.gov/office-federal-disaster-coordination) that provides further tracking information.

[51] FEMA does not track its appropriations by the measure that provided them, but rather by the disaster declarations they respond to.