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FEMA and SBA Disaster Assistance for Individuals and Households: Application Processes, Determinations, and Appeals

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FEMA and SBA Disaster Assistance for Individuals and Households: Application Processes, Determinations, and Appeals

The Small Business Administration's (SBA's) Disaster Loan Program and the Federal Emergency Management Agency's (FEMA's) Individual Assistance (IA)—Individuals and Households Program (IHP) are the federal government's primary sources of financial assistance to help individuals and households recover and rebuild following an incident. In many cases, disaster survivors need assistance from both programs in addition to other sources of assistance, including private insurance, state and local government assistance, and assistance from voluntary organizations.

Although the SBA Disaster Loan Program and FEMA's IHP are separate programs administered by different agencies, in many ways they are interconnected. SBA and FEMA share real-time data on disaster loan and grant approvals to identify potential duplication of benefits while providing individuals and households with federal assistance that can be used in conjunction with other forms of assistance to meet recovery needs. The programs are also interconnected in the way they are administered to determine loan and grant eligibility. Eligibility and assistance from one source can affect eligibility and assistance from the other source.

It could be argued that the overlap between the programs provides an effective means to identify duplication of benefits and provide federal assistance; however, the interconnectedness also causes some confusion. Some in Congress are concerned that the application process itself results in confusion and added burden on disaster survivors because FEMA refers IHP applicants who meet the SBA's minimum income test to first apply for a low-interest SBA disaster loan before they are eligible to receive SBA-Dependent Other Needs Assistance (ONA) through the IHP, which requires applicants for assistance to submit two separate applications—one to FEMA and one to the SBA. Also, confusion can arise with regard to how decisions are made with respect to whether an applicant should be provided a loan or a grant (or both).

This report provides an overview of these two programs, including discussions about

- how different types of declarations put the programs into effect;
- the application process for both programs;
- the criteria used by the SBA and FEMA to determine eligibility for assistance and the appropriate types of assistance; and
- the FEMA and SBA appeals processes.

The report concludes with policy observations and considerations for Congress about the application process, the use of income tests as a screening device for SBA disaster loans and FEMA grants, and the use of computer matching agreements to prevent a duplication of benefits. Resources are also provided.

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Introduction

Individuals and households that suffer uninsured or underinsured losses caused by an *incident*¹ that results in an emergency or major disaster declaration typically apply for assistance through the Individuals and Households Program (IHP), a form of Individual Assistance (IA) administered by the Federal Emergency Management Agency (FEMA).² They may also apply for disaster loans, administered by the Small Business Administration (SBA).³ This report opens with an overview of the two programs and a discussion about how declarations, including presidential declarations of emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; P.L. 93-288, as amended; 42 U.S.C. §§5121 et seq.), and SBA declarations under the Small Business Act (P.L. 83-163, as amended; 15 U.S.C. §§631 et seq.), are used to put them into effect. This report also discusses the application processes and eligibility criteria used by the SBA and FEMA to make loan and grant determinations, respectively. The report then describes the appeals processes, and concludes with policy observations and potential considerations for Congress about computer matching agreements, duplication of benefits, and the use of income tests as a screening device for SBA disaster loans and FEMA grants.

The SBA Disaster Loan Program and FEMA IA are interlaced to a certain degree. Functionally, the SBA and FEMA have a computer matching agreement (CMA) to share real-time data on assistance provided to applicants.⁴ The SBA and FEMA use the interface between their systems to identify and prevent a duplication of benefits (DOB) because the SBA disaster loans and FEMA grants both provide assistance for damage to personal property and transportation, and can be used for Group Flood Insurance Policy assistance.⁵ The CMA also helps determine loan and grant eligibility because, from an administrative perspective, eligibility and assistance from one source can impact eligibility and assistance from the other source.⁶

While the overlap between the two programs may have some benefits, it arguably also causes some confusion. For instance, some Members have expressed concern regarding the interrelated

¹ 44 C.F.R. §206.32(e) defines an *incident* as “[a]ny condition which meets the definition of major disaster or emergency as set forth in §206.2 which causes damage or hardship that may result in a Presidential declaration of a major disaster or an emergency.”

² When an emergency or major disaster is declared, areas of the impacted state are “designated” as having been deemed eligible for federal assistance (44 C.F.R. §206.2(a)(6)). A *designated area* is “[a]ny emergency or major disaster-affected portion of a State which has been determined eligible for Federal assistance.” Designated areas may include counties, parishes, or tribal lands, as well as municipalities, villages, or districts (Federal Emergency Management Agency (FEMA), *Individuals and Households Program Unified Guidance (IHPUG)*, FP 104-009-03, September 2016, p. 3, https://www.fema.gov/sites/default/files/2020-05/IHP_Unified_Guidance_FINAL_09272016_0.pdf (hereinafter FEMA, *IHPUG*); FEMA, *Individual Assistance Program and Policy Guide (IAPPG)*, FP 104-009-03, May 2021, p. 41 https://www.fema.gov/sites/default/files/documents/fema_iappg-1.1.pdf (hereinafter FEMA, *IAPPG*)).

³ For more information about Individual Assistance (IA), see CRS In Focus IF11298, *A Brief Overview of FEMA’s Individual Assistance Program*, by Elizabeth M. Webster and CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster. For more information on SBA disaster loans, see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay; and CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*, by Bruce R. Lindsay.

⁴ U.S. Small Business Administration (SBA) and U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), “Computer Matching Agreement Between U.S. Small Business Administration and U.S. Department of Homeland Security, Federal Emergency Management Agency,” February 10, 2022, <https://www.dhs.gov/sites/default/files/2022-02/2.%20FEMA%20%26%20SBA%20CMA.pdf> (hereinafter SBA/FEMA, “Computer Matching Agreement”).

⁵ SBA/FEMA, “Computer Matching Agreement,” p. 1.

⁶ SBA/FEMA, “Computer Matching Agreement,” p. 1.

but separate applications for FEMA IHP assistance and SBA disaster loans, and have introduced legislation to unify the application process.⁷ Members also have asked for clarification concerning how decisions are made with respect to the application of the SBA's income test and determining whether an applicant is eligible for a loan, grant, or both.

Overview of Programs

The following sections provide descriptions of the SBA and FEMA programs that provide assistance to individuals and households. In many cases, disaster survivors find that they need assistance from both programs in addition to other sources of assistance, including private insurance, state and local government assistance, and assistance from voluntary organizations, to fully recover.

SBA Home Disaster Loans

Homeowners, renters, and personal property owners located in a declared disaster area are eligible to apply for an SBA home disaster loan.⁸ SBA home disaster loans can be conceptualized as two categories of loans according to how the proceeds are put to use: Personal Property Loans and Real Property Loans. These loans cover only uninsured or underinsured property and primary residences in a declared disaster area.

Personal Property Loans

A Personal Property Loan provides a creditworthy homeowner or renter located in a declared disaster area with up to \$40,000 to repair or replace personal property owned by the disaster survivor.⁹ Eligible items include furniture, appliances, clothing, and automobiles damaged or lost in a disaster. Eligibility of luxury items with functional use, such as antiques and rare artwork, is limited to the cost of an ordinary item meeting the same functional purpose. Interest rates for Personal Property Loans cannot exceed 8% per annum, or 4% per annum if the applicant is found by SBA to be unable to obtain credit elsewhere. Generally, borrowers pay equal monthly installments of principal and interest, beginning five months from the date of the loan. Loan maturities may be up to 30 years.

⁷ Members of Congress have introduced bipartisan legislation, including in the 118th and 117th Congresses, to help simplify the application process to receive federal disaster assistance. In the 118th Congress, Sens. Gary Peters, Rand Paul, and James Lankford cosponsored the Disaster Assistance Simplification Act (S. 1528) to simplify the application process itself by creating a consolidated application for federal disaster assistance. Previously, during the 117th Congress, Sens. Peters and Lankford cosponsored the Disaster Assistance Simplification Act (S. 4599); see also U.S. Senate Committee on Homeland Security and Governmental Affairs, "Peters and Lankford Bipartisan Bill to Simplify Application Process for Federal Disaster Assistance Advances in Senate: Legislation Would Create Universal Application for Disaster Survivors," press release, August 5, 2022, <https://www.hsgac.senate.gov/media/dems/peters-and-lankford-bipartisan-bill-to-simplify-application-process-for-federal-disaster-assistance-advances-in-senate/>. Similarly, in the 118th Congress, Reps. Dina Titus, Garrett Graves, Troy Carter, and Marcus Molinaro, and Resident Commissioner Jennifer González-Colón, cosponsored the Disaster Survivors Fairness Act of 2023 (H.R. 1796), which includes a universal application for individual assistance.

⁸ SBA, "Disaster Loan Assistance: Home and Personal Property Loans," <https://disasterloanassistance.sba.gov/ela/s/article/Home-and-Personal-Property-Loans>.

⁹ 13 C.F.R. §123.105(a)(1).

Real Property Loans

Real Property Loans provide creditworthy homeowners with uninsured or underinsured loss located in a declared disaster area with up to \$200,000 to repair or replace the homeowner's primary residence to its pre-disaster condition.¹⁰ The loans may not be used to upgrade a home or build additions to the home, unless the upgrade or addition is required by city or county building codes, such as a code-required elevation. Repair or replacement of landscaping and/or recreational facilities cannot exceed \$5,000. A homeowner may borrow funds to cover the cost of improvements to protect their property against future damage (e.g., elevation, retaining walls, sump pumps, etc.). Mitigation funds may not exceed 20% of the disaster damage, as verified by SBA, to a maximum of \$200,000 for home loans.¹¹ As previously mentioned, interest rates cannot exceed 8% per annum, or 4% per annum if the applicant is unable to obtain credit elsewhere. Generally, borrowers pay equal monthly installments of principal and interest, beginning five months from the date of the loan. Loan maturities may be up to 30 years.

FEMA Individual Assistance

Various types of FEMA IA may be provided to disaster survivors, depending on whether an emergency or major disaster is declared, and the type(s) of IA requested by the governor of the affected state/territory or the tribal chief executive of the affected Indian tribal government and authorized by FEMA.¹² The Individuals and Households Program (IHP) provides assistance to meet the housing and other needs of disaster survivors, and is the IA program that is often the subject of the most congressional interest. A brief description of the IHP is included below.

Individuals and Households Program

The Individuals and Households Program is the primary vehicle for FEMA assistance to individuals and households after the President issues an emergency or major disaster declaration, when Individual Assistance is authorized.¹³ The IHP is intended to meet basic needs and support recovery efforts, but it cannot compensate disaster survivors for all losses.¹⁴ Under the IHP, financial assistance (i.e., funding provided to an applicant) and/or direct assistance (i.e., assistance provided by FEMA/state/territorial/Indian tribal government) may be available to eligible individuals and households who have uninsured or underinsured necessary expenses and

¹⁰ 13 C.F.R. §123.105(a)(2).

¹¹ 13 C.F.R. §123.107.

¹² FEMA's IA program includes (1) Mass Care and Emergency Assistance, (2) the Crisis Counseling Assistance and Training Program, (3) Disaster Unemployment Assistance, (4) Disaster Legal Services, (5) Disaster Case Management, and (6) the Individuals and Households Program. The Individuals and Households Program (IHP) and the Crisis Counseling Assistance and Training Program (CCP) are the only forms of IA that may be authorized under an emergency declaration (42 U.S.C. §5192(a)(6)); however, all forms of IA may be available following a declaration of major disaster. See FEMA, "How a Disaster Gets Declared." For additional information on the FEMA IA programs, see the FEMA, *IAPPG*. See also CRS In Focus IF11298, *A Brief Overview of FEMA's Individual Assistance Program*, by Elizabeth M. Webster; and CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster. For more information about the disaster declaration process, see FEMA, "How a Disaster Gets Declared," <https://www.fema.gov/disaster/how-declared> (hereinafter FEMA, "How a Disaster Gets Declared"). See also CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Bruce R. Lindsay.

¹³ FEMA, "How a Disaster Gets Declared." Note that the IHP and CCP are the only forms of IA that may be authorized under an emergency declaration (42 U.S.C. §5192(a)(6)). For additional information on the IHP, see CRS In Focus IF12049, *FEMA's Individuals and Households Program (IHP)*, by Elizabeth M. Webster and CRS Report R47015, *FEMA's Individuals and Households Program (IHP)—Implementation and Considerations for Congress*, by Elizabeth M. Webster.

¹⁴ 44 C.F.R. §§206.110 et seq.; 42 U.S.C. §5174; FEMA, *IAPPG*, p. 6.

serious needs, as a result of a disaster, that cannot be met through other means or forms of assistance.¹⁵ There are two categories of IHP assistance: Housing Assistance, and Other Needs Assistance (ONA) (see **Table 1** for the subcategories of Housing Assistance and ONA).

Table 1. Types of Housing Assistance and Other Needs Assistance

Housing Assistance: Financial	Housing Assistance: Direct	ONA: SBA-Dependent^a	ONA Non-SBA-Dependent^b
Lodging Expense Reimbursement	Multi-Family Lease and Repair	Personal Property Assistance	Funeral Assistance
Rental Assistance	Transportable Temporary Housing Units	Transportation Assistance	Medical and Dental Assistance
Home Repair Assistance	Direct Lease	Group Flood Insurance Policy	Childcare Assistance
Home Replacement Assistance	Permanent Housing Construction		Assistance for Miscellaneous Items
			Moving and Storage Assistance
			Critical Needs Assistance
			Clean and Sanitize Assistance

Sources: CRS’s interpretation of “Figure 5: Housing Assistance” and “Figure 28: Other Needs Assistance, Non-SBA-Dependent and SBA-Dependent” of the FEMA, *Individual Assistance Program and Policy Guide (IAPPG)*, v. 1.1, FP 104-009-03, May 2021, pp. 44 and 146, https://www.fema.gov/sites/default/files/documents/fema_iappg-1.1.pdf; and Memorandum from Keith Turi, FEMA Assistant Administrator, Recovery Directorate to FEMA Regional Administrators, “RE: Amendment to FP 104-009-03, Individual Assistance Program and Policy Guide, Version 1.1,” September 2, 2021, pp. 11-12, https://www.fema.gov/sites/default/files/documents/fema_iappg-policy-amendments-memo.pdf.

Notes: The different types of Housing Assistance may constitute either financial or direct assistance; however, all types of Other Needs Assistance (ONA) are forms of financial assistance. The term “SBA” refers to the Small Business Administration.

- a. SBA-Dependent ONA is only available to individuals or households that do not qualify for an SBA disaster loan or whose SBA disaster loan amount is insufficient. Eligibility for SBA-Dependent ONA is determined by FEMA in collaboration with SBA (see 42 U.S.C. §5174(e); and 44 C.F.R. §206.119).
- b. Non-SBA-Dependent ONA may be awarded regardless of the individual or household’s SBA disaster loan status (see 42 U.S.C. §5174(e); and 44 C.F.R. §206.119).

Housing Assistance

Housing Assistance may include financial or direct assistance, including the following:

- **Lodging Expense Reimbursement (LER)** for hotels, motels, or other short-term lodging;
- **Rental Assistance** for alternate housing accommodations while the applicant is displaced from their primary residence;
- **Home Repair Assistance** for an owner-occupied primary residence;
- **Replacement Assistance** for an owner-occupied primary residence when the residence is destroyed;
- **Multi-Family Lease and Repair (MLR)** to place disaster survivors in FEMA-leased multi-family temporary housing;

¹⁵ 42 U.S.C. §5174; 44 C.F.R. §206.110(a); see also FEMA, *IAPPG*, p. 6.

- **Transportable Temporary Housing Units (TTHUs)**¹⁶ to place disaster survivors in FEMA-purchased or -leased temporary housing units;
- **Direct Lease** to place disaster survivors in FEMA-leased residential properties; and
- **Permanent Housing Construction (PHC)** to provide home repair and construction services in insular areas outside the continental United States and other locations where no alternative housing resources are available and where types of FEMA housing assistance that are normally provided (such as rental assistance) are unavailable, infeasible, or not cost-effective.¹⁷

In addition to IHP temporary housing assistance, FEMA may provide short-term, emergency sheltering accommodations under Section 403—Essential Assistance—of the Stafford Act (e.g., the Transitional Sheltering Assistance [TSA] program, which provides short-term hotel/motel accommodations to disaster survivors).¹⁸

Other Needs Assistance (ONA)

ONA provides financial assistance for other disaster-related necessary expenses and serious needs. There are two categories of ONA: (1) SBA-dependent, and (2) non-SBA-dependent.

SBA-Dependent ONA

FEMA and the Small Business Administration (SBA) collaborate to determine an applicant's eligibility for some forms of ONA.¹⁹ This is because IHP assistance for Personal Property Assistance, Transportation Assistance, and Group Flood Insurance Policy assistance—the three forms of SBA-Dependent ONA—are forms of assistance that may also be addressed by an SBA disaster loan. To avoid the statutory prohibition on duplicative assistance,²⁰ FEMA refers IHP applicants who meet the SBA's minimum income test to first apply for a low-interest SBA disaster loan before they are eligible to receive SBA-Dependent ONA through the IHP.²¹ If the applicant does not qualify for an SBA disaster loan or their SBA disaster loan amount is insufficient to meet their disaster-caused expenses or serious needs, then they can be referred back to FEMA for consideration for IHP assistance—specifically for SBA-Dependent ONA.²²

- **Personal Property Assistance** provides funding to eligible individuals to repair or replace eligible personal property items damaged or destroyed as a result of a

¹⁶ Examples of Transportable Temporary Housing Units (TTHUs) include Recreational Vehicles (RVs) and Manufactured Housing Units (MHUs).

¹⁷ FEMA, *IAPPG*, p. 127.

¹⁸ 42 U.S.C. §5170b. Note that Stafford Act Section 403 assistance is not the focus of this report.

¹⁹ SBA/FEMA, "Computer Matching Agreement," p. 1; and FEMA, *IAPPG*, p. 145. Per the Computer Matching Agreement, "The Computer Matching program seeks to ensure that applicants for SBA Disaster Loans and DHS/FEMA Individuals and Households Program (IHP) ... are eligible to receive benefits and do not receive a duplication of benefits or verify initial eligibility for DHS/FEMA and SBA disaster assistance as well as provide updates on disaster recipients' SBA Loan status."

²⁰ 42 U.S.C. §5155.

²¹ The other forms of ONA may be awarded regardless of the individual's or household's SBA disaster loan status and are referred to as Non-SBA-Dependent ONA.

²² For additional detailed information on the process for authorizing a disaster survivor's request for SBA-Dependent ONA, see the "SBA-Dependent ONA" section of CRS Report R47015, *FEMA's Individuals and Households Program (IHP)—Implementation and Considerations for Congress*, by Elizabeth M. Webster.

declared emergency or major disaster.²³ Assistance may be provided for ONA-eligible personal property items set by the affected state/territory/tribe in its “ONA Administrative Option Selection Form.”²⁴

- **Transportation Assistance** provides funding to eligible individuals to repair or replace a vehicle damaged by a declared emergency or major disaster, up to the maximum award amount set by the affected state/territory/tribe in its “ONA Administrative Option Selection Form.”²⁵
- **Group Flood Insurance Policy** enables FEMA or the state, territory, or Indian tribal government to directly purchase a policy on an applicant’s behalf if the applicant is required to purchase and maintain flood insurance, but could not otherwise purchase a policy.²⁶ The premium for a three-year certificate of coverage costs \$2,400,²⁷ and it covers real and personal property equaling the maximum amount of financial assistance available for both Housing Assistance and ONA combined.²⁸ Upon the group policy’s expiration, the applicant must purchase and maintain their own flood insurance; failure to do so may affect future IHP eligibility.²⁹

Non-SBA-Dependent ONA

The forms of Non-SBA-Dependent ONA may be awarded regardless of the individual or household’s SBA disaster loan status.³⁰

- **Funeral Assistance** provides funding to assist eligible individuals with eligible funeral expenses related to a death that is directly or indirectly attributable to a declared emergency or major disaster, up to the maximum award amount set by the affected state/territory/tribe in its “ONA Administrative Option Selection Form.”³¹
- **Medical and Dental Assistance** provides funding to assist eligible individuals with eligible medical and dental expenses incurred as a direct result of a declared emergency or major disaster.³²

²³ FEMA, *IAPPG*, pp. 166-169. Eligible Personal Property items include standard household appliances (and selected accessibility items); essential clothing; standard furnishings; and essential, specialized tools and equipment required by an employer (essential equipment for self-employment is ineligible) or for education.

²⁴ FEMA, *IAPPG*, p. 149. The affected state, territory, or tribe may identify ONA-eligible personal property and miscellaneous items, and can set a maximum number of items each eligible individual or household may receive.

²⁵ FEMA, *IAPPG*, pp. 149, and 170-172. Eligible vehicles include cars, vans, sport utility vehicles (SUVs), and trucks, and may include motorcycles, boats, golf carts, etc. if specified by the affected state, territory, or Indian tribal government on their “ONA Administrative Option Selection Form.”

²⁶ FEMA, *IAPPG*, pp. 172-175.

²⁷ Per 44 C.F.R. §61.17(b), the Group Flood Insurance Policy (GFIP) premium is a “flat fee of \$600 per insured” and 44 C.F.R. §61.17(d) states that the term is for 36 months—or 3 years; however, the regulation notes that the premium may be adjusted “to reflect NFIP [National Flood Insurance Program] loss experience and any adjustment of benefits under the IHP program” (FEMA, *IAPPG*, p. 172).

²⁸ FEMA, *IAPPG*, p. 172.

²⁹ FEMA, *IAPPG*, p. 174.

³⁰ FEMA, *IAPPG*, p. 149.

³¹ FEMA, *IAPPG*, pp. 149-152. Examples of eligible funeral expenses include interment or reinterment, funeral and officiant services, and the cost of producing and certifying death certificates.

³² FEMA, *IAPPG*, pp. 153-155. Examples of eligible medical and dental expenses include costs associated with a disaster-caused illness or injury, replacing prescribed medication or equipment, and insurance deductibles and copayments, as well as loss or injury of a service animal.

- **Child Care Assistance** provides funding to assist eligible individuals with a disaster-caused increased financial burden for childcare for children aged 13 and under and/or children up to age 21 who have a disability and need assistance with activities of daily living. Assistance is provided for up to eight cumulative weeks of childcare and eligible expenses or the maximum award amount set by the affected state/territory/tribe in its “ONA Administrative Option Selection Form,” whichever is less.³³
- **Moving and Storage Assistance** provides funding to eligible individuals to relocate and store essential personal property while repairs are made to the applicant’s primary residence, and then return the property to the repaired primary residence.³⁴
- **Miscellaneous Expenses** provides funding to reimburse eligible individuals for eligible items purchased or rented after a disaster to assist with their recovery.³⁵ Assistance may be provided for ONA-eligible miscellaneous items set by the affected state/territory/tribe in its “ONA Administrative Option Selection Form.”³⁶
- **Critical Needs Assistance** (sometimes referred to as “Immediate Needs Assistance”) is provided to eligible individuals in the form of a one-time payment that is limited to \$500 per eligible household when applicants are displaced from their pre-disaster primary residence or need to shelter elsewhere as a result of a declared emergency or major disaster.³⁷
- **Clean and Sanitize Assistance** (previously “Clean and Removal Assistance”) is provided to eligible individuals in the form of a one-time payment limited to \$300 to “ensure minimal damage to the home is addressed in order to prevent additional losses and potential health and safety concerns.”³⁸

Maximum Amount of IHP Financial Assistance

The amount of IHP financial assistance an individual or household may receive is limited. Housing assistance may not exceed \$41,000 (FY2023; adjusted annually),³⁹ and separate from

³³ FEMA, *IAPPG*, pp. 155-160.

³⁴ FEMA, *IAPPG*, pp. 162-164. Items may be relocated to a temporary housing unit if they will be returned to the repaired primary residence. Appliances and furniture, but not recreational items, are eligible to move and store.

³⁵ FEMA, *IAPPG*, pp. 160-162. Miscellaneous items may assist disaster survivors with gaining access to their property or assisting with cleaning efforts. Examples of eligible miscellaneous items may include carbon monoxide and smoke detectors, and a dehumidifier or humidifier. Chainsaws and generators may be permitted under limited circumstances if certain conditions are met.

³⁶ FEMA, *IAPPG*, p. 149. The affected state, territory, or tribe may identify ONA-eligible personal property and miscellaneous items, and can set a maximum number of items each eligible individual or household may receive.

³⁷ FEMA, *IAPPG*, pp. 164-165. FEMA’s *IAPPG* provides a nonexclusive list of life-saving and life-sustaining items including “water, food, first aid, prescriptions, infant formula, diapers, CMS [consumable medical supplies], DME [durable medical equipment], personal hygiene items, and fuel for transportation.”

³⁸ Memorandum from Keith Turi, FEMA Assistant Administrator, Recovery Directorate to FEMA Regional Administrators, “RE: Amendment to FP 104-009-03, Individual Assistance Program and Policy Guide, Version 1.1,” September 2, 2021, pp. 11-12, https://www.fema.gov/sites/default/files/documents/fema_iapppg-policy-amendments-memo.pdf (hereinafter Memorandum from Keith Turi RE: Amendment to the IAPPG).

³⁹ DHS/FEMA, “Notice of Maximum Amount of Assistance Under the Individuals and Households Program,” 87 *Federal Register* 64512, October 25, 2022, <https://www.govinfo.gov/content/pkg/FR-2022-10-25/pdf/2022-23162.pdf>. The maximum amount of assistance is adjusted annually to reflect changes in the Consumer Price Index for All Urban (continued...)

that, financial assistance for ONA also may not exceed \$41,000 (FY2023; adjusted annually).⁴⁰ In addition, financial assistance to rent alternate housing accommodations is not subject to the cap, and accessibility-related repair or replacement costs associated with real and personal property are not subject to the cap.⁴¹ Households may need both IHP assistance and an SBA disaster loan to repair or rebuild their home, or meet other disaster-caused needs.

Stafford Act and SBA Disaster Declarations, and Designations

Two declaration authorities put FEMA IA and the SBA Disaster Loan Program into effect: (1) the Stafford Act and (2) the Small Business Act.

Stafford Act Declarations

The Stafford Act authorizes the President to issue major disaster declarations⁴² that provide local, state, territorial, and Indian tribal governments with a range of federal assistance in response to natural and human-caused incidents.⁴³ Each presidential major disaster declaration includes a “designation” listing the counties eligible for assistance, as well as the types of assistance FEMA is to provide under the declaration.⁴⁴ Potential types of assistance include (1) Public Assistance (PA) for emergency protective measures, debris removal, and repair or replacement of damaged public infrastructure;⁴⁵ (2) Hazard Mitigation Grant Program (HMGP) grants to fund projects to

Consumers published by the Department of Labor (§408(h)(3) of the Stafford Act, P.L. 93-288, as amended; 42 U.S.C. §5174).

⁴⁰ §1212 of DRRRA, P.L. 115-254. The Disaster Recovery Reform Act of 2018 (DRRA, Division D of P.L. 115-254) amended the provision of housing assistance and ONA under Stafford Act Section 408—Federal Assistance to Individuals and Households by creating separate caps of equal amounts for housing assistance and ONA. Prior to DRRRA’s enactment, the Stafford Act imposed a total limit on the maximum amount of all IHP financial assistance an individual or household could receive for a single disaster (i.e., housing assistance and ONA combined to count towards the cap).

⁴¹ §1212 of DRRRA, P.L. 115-254. Prior to DRRRA’s enactment, financial assistance to rent alternate accommodations was also subject to the maximum amount of financial assistance (§1212 of DRRRA, P.L. 115-254). Note that the exclusion from the cap applies to both Lodging Expense Reimbursement (LER) and Rental Assistance (including Initial Rental Assistance and Continued Rental Assistance). Memorandum from Christopher B. Smith, Individual Assistance Division Director, to Regions I-X Regional Administrators, “Policy Changes to the Individuals and Households Program resulting from the Disaster Recovery Reform Act of 2018, Section 1212,” March 25, 2019, last accessed July 8, 2019.

⁴² The President may also issue emergency declarations, which provide federal assistance; however, only Public Assistance Categories A (debris removal) and B (emergency protective measures), the Individual Assistance Individuals and Households Program (IHP), and the Crisis Counseling Assistance and Training Program (CCP), may be available following an emergency declaration (FEMA, “How a Disaster Gets Declared”). Additionally, SBA disaster loans for individuals and households are only available following a Presidential declaration of a major disaster when IA is authorized.

⁴³ For more information on major disaster declarations, see CRS Report R43784, *FEMA’s Disaster Declaration Process: A Primer*, by Bruce R. Lindsay; and CRS Report R42702, *Stafford Act Declarations 1953-2016: Trends, Analyses, and Implications for Congress*, by Bruce R. Lindsay.

⁴⁴ When an emergency or major disaster is declared, areas of the impacted state are “designated” as having been deemed eligible for federal assistance (44 C.F.R. §206.2(a)(6)). A *designated area* is “[a]ny emergency or major disaster-affected portion of a State which has been determined eligible for Federal assistance.” Designated areas may include counties, parishes, or tribal lands, as well as municipalities, villages, or districts (FEMA, *IHPUG*, p. 3; FEMA, *IAPPG*, p. 5).

⁴⁵ For more information on the Public Assistance (PA) program, see CRS Report R46749, *FEMA’s Public Assistance Program: A Primer and Considerations for Congress*, by Erica A. Lee.

lessen the effects of future disaster incidents;⁴⁶ and (3) Individual Assistance (IA) to provide assistance to disaster survivors, to include housing and other needs assistance through the IHP.

Not all major disaster declarations provide IA. Often, major declarations only provide PA and HMGP (these are sometimes referred to as “PA-only” major disaster declarations).

Stafford Act major disaster declarations also trigger the SBA Disaster Loan Program.⁴⁷ The assistance designation, however, determines what loan types become available. In particular, the IA designation is important because it determines whether SBA disaster loans will be made available to individuals and households. For example, if the President declares a major disaster and designates IA for a county, then all SBA disaster loan types become available to that county.⁴⁸ If the President issues a PA-only major declaration, SBA disaster loans are generally only available to private nonprofit organizations. In many cases, a major disaster is declared for an incident that designates IA for some counties, and designates PA for others. Only counties authorized to receive IA pursuant to a major disaster declaration are eligible for SBA home disaster loans.

SBA Disaster Declarations

SBA disaster loans can also be triggered by the SBA Administrator, who is authorized under the Small Business Act to issue an “Agency” or “SBA declaration” that makes SBA disaster loans available for homeowners, renters, businesses, and nonprofit organizations.⁴⁹ The SBA declaration by itself does not, however, trigger FEMA IA.⁵⁰

Applications for Assistance

The following sections describe the application process for FEMA and SBA disaster loan assistance. They include a discussion concerning eligibility criteria for the two programs in addition to a description of how applicants are screened to determine whether the applicant should be provided a grant, a loan, or both. Although integrated to a large extent, ultimately each agency is responsible for determining eligibility based on the applicant’s losses and the forms of assistance they have received.

Applying for FEMA Individual Assistance

Applicants in a declared disaster area may register for FEMA IA—IHP assistance and SBA disaster loans after a major disaster declaration has been issued and IA has been designated.

⁴⁶ For more information on the Hazard Mitigation Grant Program (HMGP), see CRS Report R46989, *FEMA Hazard Mitigation: A First Step Toward Climate Adaptation*, by Diane P. Horn.

⁴⁷ 13 C.F.R. §123.3(a)(1).

⁴⁸ Contiguous counties are eligible for Economic Injury Disaster Loans (EIDLs). FEMA assistance is not provided to contiguous counties—only those counties designated in the declaration. The loan types are home disaster loans (Personal Property Loans and Real Property Loans), which are discussed in this report, and business disaster loans (Business Physical Disaster Loans and Economic Injury Disaster Loans).

⁴⁹ The criteria used to determine whether to issue a declaration include a minimum amount of uninsured physical damage to buildings, machinery, inventory, homes, and other property. Generally, this minimum is at least 25 homes or businesses (or some combination of the two) that have sustained uninsured losses of 40% or more in any county or other smaller political subdivision of a state or U.S. possession. See 13 C.F.R. §123.3(a)(3)(i) and 13 C.F.R. §123.3(a)(3)(ii).

⁵⁰ Under an SBA declaration, applicants apply directly to SBA for disaster loans. The CMA with FEMA is not used in these situations.

Individuals and households can register for assistance online, by telephone, or in-person at a Disaster Recovery Center (DRC).⁵¹

Individuals and households have 60 days from the date of a declaration authorizing Individual Assistance to apply for FEMA IHP assistance. This 60-day period is known as the *Initial Registration Period*.⁵² FEMA may extend the Registration Period at the request of the state, territory, or Indian tribal government (e.g., to establish the same registration deadline for subsequently designated areas—per the *IAPPG*, “[f]or individuals in areas subsequently designated for IA after the date of declaration, the registration deadline is still 60 days after the date of declaration, not 60 days from the day the county or parish was designated for IA, unless extended”).⁵³ FEMA will continue to accept late registrations for an additional 60 days after the Initial Registration Period if the applicant submits a written justification and documentation explaining the circumstances that prevented them from applying on time—this is known as the *Late Application Period*. FEMA does not accept applications submitted after the Late Application Period concludes.⁵⁴ (See **Figure 1** for a comparison of the IHP and SBA disaster loan program application deadlines.)

The registration process requires the following information:

- certification that the applicant is a U.S. citizen, noncitizen national, a qualified alien, or the parent or guardian of a minor who is a U.S. citizen, noncitizen national, or qualified alien;
- the primary applicant’s social security number (or the social security number of a minor child in the household who is a U.S. citizen, noncitizen national, or qualified alien if the parent or legal guardian is not a legal citizen);
- current and pre-disaster address;
- names of pre-disaster household occupants;
- contact information;
- insurance information;
- financial information (i.e., pre-disaster household annual gross income);
- losses caused by the disaster; and
- banking information for direct deposit of financial assistance.⁵⁵

Other forms of IA include other application requirements and processes on the part of the requesting affected local, state, territorial, or Indian tribal governments, and eligible disaster survivors may access the services provided at no cost to the disaster survivor.

Applying for SBA Disaster Loans

Applicants have 60 days beginning the day after the date of the declaration to apply for SBA real and personal property disaster loans (see **Figure 1**). Applicants can apply for SBA disaster loans

⁵¹ FEMA, *IAPPG*, p. 69. See **Appendix B** for more information. See also CRS Report R47297, *Disaster Survivor FAQ: FEMA Individuals and Households Program*, by Elizabeth M. Webster, for additional information on frequently asked questions that arise as disaster survivors navigate the IHP application process and receive IHP assistance.

⁵² FEMA, *IAPPG*, pp. 70-71; 44 C.F.R. §206.112; and email from FEMA Congressional Affairs staff, May 25, 2021.

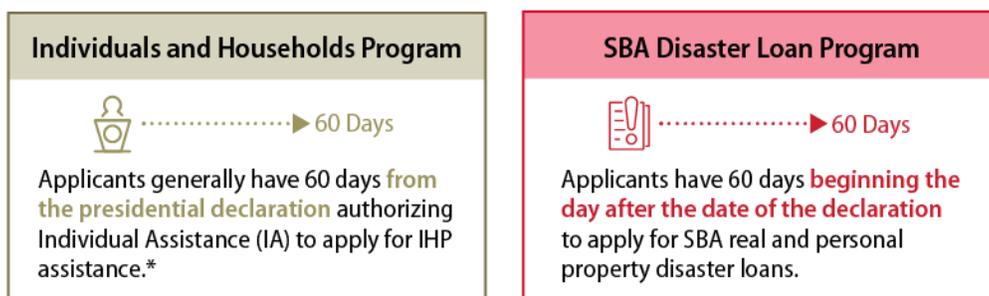
⁵³ FEMA, *IAPPG*, pp. 70-71; 44 C.F.R. §206.112; and email from FEMA Congressional Affairs staff, May 25, 2021.

⁵⁴ FEMA, *IAPPG*, pp. 70-71; 44 C.F.R. §206.112; and email from FEMA Congressional Affairs staff, May 25, 2021.

⁵⁵ FEMA, *IAPPG*, pp. 71-72.

online, in-person at a DRC, or by mail.⁵⁶ Applicants must fill out SBA Form 5C and IRS Form 4506-C.⁵⁷ The forms require information about the applicant, including their social security number, income, insurance, assets, debt amounts, and tax information. The applicant may also be required to indicate whether their employment has changed in the last two years, as well as provide deed and proof of residency information. If the applicant is claiming automobile damage they may be required to provide proof of ownership (e.g., a copy of the registration, title, bill of sale).

Figure 1. Application Deadlines
FEMA IHP and SBA Disaster Loan Program



*Applicants may submit, and FEMA may accept, late applications for an additional 60 days when accompanied by a written explanation and documentation justifying the delay.

Sources: CRS interpretation of FEMA, *Individual Assistance Program and Policy Guide (IAPPG)*, v. 1.1, FP 104-009-03, May 2021, pp. 70-71, https://www.fema.gov/sites/default/files/documents/fema_iappg-1.1.pdf; and U.S. Small Business Administration, *SOP 50 30 9, Disaster Assistance Program*, May 31, 2018, p. 14, <https://www.sba.gov/sites/default/files/2018-06/SOP%2050%2030%209-FINAL.PDF>.

Note: The application deadline for SBA disaster loans applies to declarations issued by either the President pursuant to the Stafford Act, or the SBA Administrator pursuant to the Small Business Act.

Eligibility for SBA Disaster Loans

In the case of SBA disaster loans, the SBA’s Office of Disaster Assistance (ODA) determines eligibility based on the applicant’s disaster-related losses, as verified by the SBA.⁵⁸ According to the SBA, three main criteria are used for making credit decisions: (1) eligibility, which is based on the applicant’s disaster-related losses; (2) satisfactory credit; and (3) repayment ability, including minimum income levels. The SBA would not decline an application for not having collateral to secure a loan but, to the extent it is available, a borrower may be required to pledge collateral for loans over certain amounts (e.g., \$25,000 for physical damage loans).⁵⁹

⁵⁶ See **Appendix A** of this report for more information. See also SBA, “Disaster Loan Assistance,” <https://disasterloanassistance.sba.gov/ela/s/>; and SBA, “Three Steps to SBA Disaster Assistance Loans,” https://disasterloanassistance.sba.gov/ela/file-asset/Three_Step_Process_SBA_Disaster_Loa.

⁵⁷ For the paper forms, see SBA, “Disaster Loan Application Paper Forms,” <https://disasterloanassistance.sba.gov/ela/s/article/Paper-Forms>.

⁵⁸ Generally, based on the amount of disaster damages, minus any assistance received from insurance, FEMA grants, or other sources of recovery.

⁵⁹ SBA, *Frequently Asked Questions*, August 17, 2021, <https://disasterloanassistance.sba.gov/ela/s/article/FAQ>.

Eligibility for FEMA IHP Assistance

IHP applicants must meet general eligibility requirements, as follows:

1. “[t]he applicant must be a U.S. citizen, noncitizen national, or qualified alien” (or the parent or guardian of a minor child who is a U.S. citizen, noncitizen national, or qualified alien);
2. “FEMA must be able to verify the applicant’s identity”;
3. “[t]he applicant’s insurance, or other forms of disaster assistance received, cannot meet their disaster-caused needs”; and
4. “[t]he applicant’s necessary expenses and serious needs are directly caused by a declared disaster.”⁶⁰

Each type of IHP assistance requires that additional eligibility conditions be met, and may require additional documentation.⁶¹ For example, Home Repair and Home Replacement assistance are only available to homeowners, and some forms of assistance require proof of occupancy and/or ownership.⁶²

A FEMA inspection is used to verify losses related to real and personal property, and is typically conducted on-site by a FEMA inspector, but may also be completed via a geospatial inspection or based on documentation of losses (e.g., medical bills or receipts for automobile repairs).⁶³

Eligibility for SBA-Dependent ONA

As stated above, FEMA and the SBA collaborate to determine an applicant’s eligibility for some forms of Other Needs Assistance (see the “Other Needs Assistance (ONA)” section).⁶⁴ **Figure 2** depicts the general process for determining eligibility for SBA-Dependent ONA.⁶⁵

There are two pathways for individuals and households to be considered for SBA-Dependent ONA:

- Path 1: FEMA refers applicants to the SBA Disaster Loan Program if their income meets the SBA’s minimum income test (see the “Yes” path)—in this case, the referred IHP applicant must submit an application for an SBA disaster loan. If the SBA denies the applicant’s SBA disaster loan request or the loan amount is insufficient to meet their recovery needs (i.e., a partial SBA disaster loan), the applicant is referred back to FEMA to be considered for SBA-Dependent ONA. According to the FEMA officials, FEMA contacts the disaster survivor if the SBA determines they cannot afford a loan.⁶⁶

⁶⁰ FEMA, *IAPPG*, p. 46.

⁶¹ See the *IAPPG* guidance on the type of IHP assistance being requested for additional requirements.

⁶² FEMA, *IAPPG*, pp. 46, 51-55; Memorandum from Keith Turi RE: Amendment to the *IAPPG*, pp. 2-9.

⁶³ FEMA, *IAPPG*, p. 72.

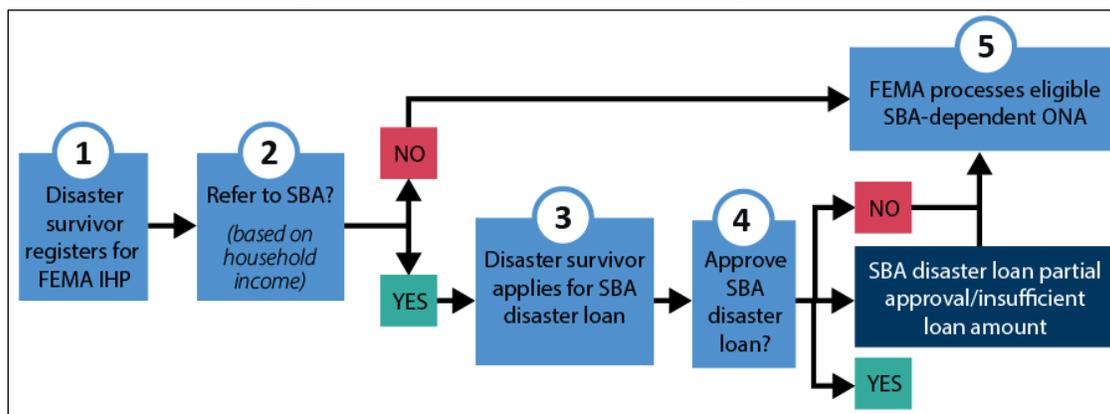
⁶⁴ SBA/FEMA, “Computer Matching Agreement,” p. 1; FEMA, *IAPPG*, p. 133.

⁶⁵ For more information on the process of determining whether an applicant may qualify for a SBA disaster loan and how FEMA ONA assistance and SBA disaster loans intersect, see CRS Report R45238, *FEMA and SBA Disaster Assistance for Individuals and Households: Application Processes, Determinations, and Appeals*, by Bruce R. Lindsay and Elizabeth M. Webster.

⁶⁶ Government Accountability Office (GAO), *Disaster Assistance: Additional Actions Needed to Strengthen FEMA’s Individuals and Households Program*, GAO-20-503, September 2020, p. 37, <https://www.gao.gov/assets/710/709775.pdf> (see footnote 49) (hereinafter GAO, *Disaster Assistance IHP*).

- The SBA’s minimum income levels for disaster home and renter loan consideration are included in **Table 2**. If a household’s income is below these levels, they are referred directly to the IHP.⁶⁷
- SBA disaster loan applicants with income below the minimum income level are classified as Failed Income Test (FIT). FIT applicants are notified that their SBA disaster loan application has been denied and advised that they will be notified if there are any changes to the decision.⁶⁸
- Alternatively, Path 2: FEMA considers the applicant for SBA-Dependent ONA if the applicant’s income does not meet the SBA’s minimum income test (see the “No” path).⁶⁹

Figure 2. FEMA and SBA Screening Process



Source: Developed by CRS based on “Figure 27: SBA Disaster Loan Application Process” of the FEMA, *Individual Assistance Program and Policy Guide (IAPPG)*, v. 1.1, FP 104-009-03, May 2021, p. 145, https://www.fema.gov/sites/default/files/documents/fema_iappg-1.1.pdf.

Note: SBA-Dependent ONA provides financial assistance for other disaster-related expenses and needs, including for Personal Property Assistance, Transportation Assistance, and Group Flood Insurance Policies.

⁶⁷ Memorandum from Francisco Sánchez, Jr., Associate Administrator for SBA’s Office of Disaster Assistance, to All Directors and All ODA HQ Staff, “#22-11, Income Test Tables to be used 06/28/2022 and Continuing,” June 8, 2002 (letter and attachment of SBA Income Test Tables were provided to CRS by SBA Office of Congressional and Legislative Affairs staff on January 5, 2023) (hereinafter Memorandum from Francisco Sánchez, Jr., Associate Administrator for SBA’s ODR, “Income Test Tables”). According to the letter, “all family size units have been increased to 185 percent to arrive at the minimum income guidelines.” Further, the tables are effective for disaster declarations on or after June 28, 2022. As additional background, the income test is not specifically authorized in statute nor is it published in SBA regulations. Rather, the formula was first introduced as agency policy in 1985 by SBA Memorandum 85-20 as a means to help determine the applicant’s ability to repay the loan (see **Appendix B**).

⁶⁸ SBA, Office of Disaster Assistance, *Disaster Assistance Program SOP 50 30 9*, effective May 31, 2018, <https://www.sba.gov/document/sop-50-30-9-disaster-assistance-program>[https://www.sba.gov/sites/default/files/SOP 50 30 7.pdf](https://www.sba.gov/sites/default/files/SOP%2050%2030%207.pdf).

⁶⁹ SBA/FEMA, “Computer Matching Agreement,” p. 4. “[I]f SBA approves the applicant’s loan application and the applicant does not accept the loan, DHS/FEMA will not provide any SBA-dependent ONA to that applicant.”

Table 2. Minimum Income Guidelines for the 48 Contiguous States and the District of Columbia
(\$ Minimum Income Level)

Household Size	Week	Month	Year
1	\$483	\$2,095	\$25,142
2	\$651	\$2,823	\$33,874
3	\$819	\$3,550	\$42,606
4	\$987	\$4,278	\$51,338
5	\$1,155	\$5,006	\$60,070
6	\$1,323	\$5,733	\$68,802
7	\$1,491	\$6,461	\$77,534
8	\$1,659	\$7,189	\$86,266
for each over 8 add	\$168	\$728	\$8,732

Sources: CRS reproduction of the SBA’s “Minimum Income Guidelines for the 48 Contiguous States and the District of Columbia,” effective June 28, 2022 and continuing (Memorandum from Francisco Sánchez, Jr., Associate Administrator for SBA’s Office of Disaster Assistance, to All Directors and All ODA HQ Staff, “#22-11, Income Test Tables to be used 06/28/2022 and Continuing,” June 8, 2022 (letter and attachment of SBA Income Test Tables were provided to CRS by SBA Office of Congressional and Legislative Affairs staff on January 5, 2023).

Notes: The information in the table reflects the SBA’s minimum income levels for disaster home and renter loan consideration. Households with income levels below these levels are referred directly to the IHP by FEMA Customer Service Representatives. Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Federated States of Micronesia have separate minimum income guideline tables. The tables are effective for disaster declarations on or after June 28, 2022.

Appealing Eligibility and Assistance Determinations

FEMA Appeals

FEMA may deny IHP applicants’ requests for IHP assistance for a variety of reasons, ranging from determinations related to the applicant’s eligibility for IHP assistance generally or the specific type of IHP assistance being requested, to a finding by FEMA that the applicant failed to purchase and maintain flood insurance as a requirement of receiving previous federal disaster assistance.⁷⁰ If this occurs, applicants for IHP assistance may appeal FEMA’s determinations. To appeal any IHP assistance-related FEMA determination, applicants must submit a written appeal explaining the reason for the appeal with documentation supporting the appeal request.⁷¹ Once FEMA receives an appeal, a caseworker who was not involved in the case shall review the appeal and file to determine if there is sufficient information to change FEMA’s determination. If there is not sufficient information, FEMA will either (1) contact the applicant to request additional information with a deadline of 30 days; (2) contact a third party (e.g., contractor, insurance

⁷⁰ 44 C.F.R. §206.113.

⁷¹ 44 C.F.R. §206.115(b); FEMA, *IAPPG*, pp. 66-67. Appeals must also be signed by the applicant (or person they have authorized to act on his/her behalf).

company) to verify the supporting documentation; and/or (3) schedule an appeal inspection.⁷² FEMA shall provide appeal determinations to the applicant in writing within 90 days of receiving the written appeal letter, and FEMA’s appeal decision is final (i.e., it cannot be appealed again).⁷³

SBA Appeals

SBA disaster loan applicants have six months to request a reconsideration of an SBA decline and have 30 days to appeal a subsequent SBA decline decision.⁷⁴

Policy Observations and Considerations

Disaster Survivor Confusion Due to Separate Application Processes for FEMA IHP and SBA Disaster Loans

As previously noted, the SBA disaster loan application is separate from the FEMA IHP application for assistance. Consequently, IHP applicants who are referred to the SBA must also submit an application for an SBA disaster loan to be considered for such assistance—and then potentially for SBA-Dependent ONA. Failure to submit an SBA disaster loan application is one of several reasons some disaster survivors are not considered for selected forms of recovery assistance. In a 2020 Government Accountability Office (GAO) report on the IHP, GAO found the interconnected SBA Disaster Loan and SBA-Dependent ONA application process burdensome, stating that it “may have prevented many survivors from being considered for certain types of assistance....”⁷⁵

This issue of the interconnected SBA disaster loan and IHP process and the current requirement that disaster survivors must submit multiple applications to receive different types of federal disaster assistance has been a subject of congressional concern. Considerations to address potential confusion created by the current process include improving communication to disaster survivors to ensure the separate application requirement is clear, and, alternatively, creating a unified application for disaster assistance.

With regard to improving disaster survivor communications to ensure IHP applicants understand that they may be required to submit separate applications to FEMA and the SBA, GAO stated that

[b]y fully communicating the requirement [to first apply for an SBA disaster loan before being considered for SBA-Dependent ONA] and working with SBA to identify options to simplify and streamline this step of the IHP process, FEMA could help ensure that survivors receive all assistance for which they are eligible.⁷⁶

In May 2023, FEMA revised its letters to IHP applicants regarding the SBA requirements, and in April 2023, FEMA noted that it was still developing a notice of proposed rulemaking related to SBA-Dependent ONA, which, according to GAO, FEMA had planned to publish in spring

⁷² 44 C.F.R. §206.115(f); FEMA, *IAPPG*, p. 68.

⁷³ 44 C.F.R. §206.115(f); FEMA, *IAPPG*, p. 68.

⁷⁴ 13 C.F.R. §123.13(e).

⁷⁵ GAO, *Disaster Assistance: IHP*, p. GAO Highlights.

⁷⁶ GAO, *Disaster Assistance: IHP*, p. GAO Highlights.

2023.⁷⁷ Congress could consider requiring FEMA to report on its progress with regard to the proposed rulemaking.

With regard to simplifying the application process by creating a unified application, during the 118th Congress, Senators Gary Peters, Rand Paul, and James Lankford cosponsored the Disaster Assistance Simplification Act (S. 1528) to simplify the application process itself by creating a consolidated application for federal disaster assistance. Previously, during the 117th Congress, Senators Peters and Lankford cosponsored the Disaster Assistance Simplification Act (S. 4599).⁷⁸ Similarly, in the 118th Congress, Representatives Dina Titus, Garrett Graves, Troy Carter, and Marcus Molinaro, and Resident Commissioner Jennifer González-Colón, cosponsored the Disaster Survivors Fairness Act of 2023 (H.R. 1796), which includes a universal application for individual assistance.

Application of the SBA Income Test

According to a FEMA advisory issued January 3, 2023, FEMA and the SBA made “policy changes to lower the minimum household income thresholds for some types of FEMA assistance.”⁷⁹ SBA Administrator Isabella Casillas Guzman stated, “These changes will enable people to receive FEMA assistance faster while still giving them an opportunity to apply for an SBA loan.”⁸⁰ In June 2022, the SBA’s Office of Disaster Assistance provided income test tables for the 48 contiguous states and the District of Columbia, Alaska, Hawaii, Puerto Rico and the U.S Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands, and the Federated States of Micronesia, that went into effect June 28, 2022, and continuing.⁸¹ In the accompanying letter, the Associate Administrator for SBA’s Office of Disaster Assistance noted that

The annual Health and Human Services Poverty Guidelines are not defined for Puerto Rico or other outlying jurisdictions. SBA’s Office of Disaster Assistance is responsible for deciding whether to use the 48 contiguous states and District of Columbia guidelines for those jurisdictions. Accordingly, all family size units have been increased to 185 percent to arrive at the minimum income guidelines. This percentage change mirrors other federal programs, including the USDA program that offers the free lunch program. No other income guidelines are acceptable for use as minimum income test tables.⁸²

Historically, according to SBA Memorandum 85-20 (see **Appendix B**), the income test table is used as a guide “for summary declines.”

⁷⁷ GAO, *Disaster Assistance: IHP*, pp. 76-77 (see Recommendations 1 and 2). See also the status of Recommendations 1 and 2 in the “Recommendations for Executive Action” table on the web page for the GAO *Disaster Assistance: IHP* report, available at <https://www.gao.gov/products/gao-20-503>, last accessed August 14, 2023.

⁷⁸ See also U.S. Senate Committee on Homeland Security and Governmental Affairs, “Peters and Lankford Bipartisan Bill to Simplify Application Process for Federal Disaster Assistance Advances in Senate: Legislation Would Create Universal Application for Disaster Survivors,” press release, August 5, 2022, <https://www.hsgac.senate.gov/media/dems/peters-and-lankford-bipartisan-bill-to-simplify-application-process-for-federal-disaster-assistance-advances-in-senate/>.

⁷⁹ See **Table 2** for the SBA’s minimum income guidelines.

⁸⁰ FEMA, “FEMA Advances Accessibility: FEMA-SBA Partnership Provides More than \$38 Million in Expanded Assistance to Low-Income Survivors,” HQ-23-002, January 3, 2023, <https://www.fema.gov/press-release/20230103/fema-advances-accessibility-fema-sba-partnership-provides-more-38-million>.

⁸¹ Memorandum from Francisco Sánchez, Jr., Associate Administrator for SBA’s ODR, “Income Test Tables.”

⁸² Memorandum from Francisco Sánchez, Jr., Associate Administrator for SBA’s ODR, “Income Test Tables.”

It is unclear if income levels are a hard limit to screen out applicants, or if there is discretion in the process.⁸³ Congress may consider whether the SBA should continue to use established thresholds and formulas, including based on SBA Memorandum 85-20, to determine eligibility, or provide SBA with some measure of discretion in the process. Some might argue that uniformity would ensure equitable determinations. Others might argue that a one size-fits-all approach does not address special or mitigating circumstances. In general, SBA disaster loan eligibility is assigned to the person (or entity in the case of businesses) that legally owns or is responsible for the repair or replacement of the disaster-damaged property and is based on that person's ability to repay the loan. It could be argued, however, that the ability to pay a loan is not solely determined by income and that a range of factors and circumstances should also be considered. For example, a retired person may not meet a certain minimum income level, but may own assets that could be liquidated for repayment purposes. Another example is the parent of a university student who is willing to cosign for their child's SBA disaster loan. In both of these examples, strict adherence to an income test might prevent people from obtaining loans despite their being able to repay them through nontraditional methods. Congress may also consider whether the income test is an effective screening tool for identifying applicants that meet the income test but cannot repay their disaster loan; for example, a person who earns more than the minimum income level, but has debt that impedes their ability to repay the loan.

If Congress is concerned about how income factors into assistance determinations, it could consider requiring the SBA and FEMA to publish specific determination criteria in their respective regulations and policy guidance documents. Congress may also consider putting the income determination formula into statute.

Use of the Computer Matching Agreement (CMA) to Prevent a Duplication of Benefits (DOB)

Following a major disaster, homeowners and businesses may have access to a number of resources to assist in the response, recovery, and rebuilding process. The range of resources include insurance payouts, state and local government assistance, charitable donations from private institutions and individuals, as well as certain forms of federal assistance. In addition to FEMA and SBA disaster assistance, individuals and households may be eligible for assistance provided through the Department of Housing and Urban Development's (HUD's) Community Development Block Grant Disaster Recovery (CDBG-DR) program, when authorized.⁸⁴ Compensation from multiple sources that exceeds the total loss amount is generally considered a duplication of benefits.⁸⁵ When duplication occurs, the recipient is liable to the United States to pay back the duplicated benefit.⁸⁶

⁸³ Minimum income includes wages, alimony, child support payments, interest and dividend income from savings, retirement, pension, social security, or disability payments.

⁸⁴ For more information on the Community Development Block Program, see CRS Report R46475, *The Community Development Block Grant's Disaster Recovery (CDBG-DR) Component: Background and Issues*, by Joseph V. Jaroscak.

⁸⁵ 42 U.S.C. §5155; 44 C.F.R. §206.191.

⁸⁶ 42 U.S.C. §5155; 44 C.F.R. §206.191. When a duplication of benefits occurs, the IHP recipient must repay the duplicated benefit. FEMA reclaims funds through a process known as recoupment. There are some circumstances, however, under which FEMA may not pursue recoupment. Section 5602(a) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (P.L. 117-263) amended DRRRA Section 1216(a) to require FEMA to waive recoupment of IHP assistance in two situations, provided the debt does not involve fraud, a false claim, or misrepresentation by the debtor or party having an interest in the claim: (1) "if the covered assistance [i.e., IHP (continued...)]

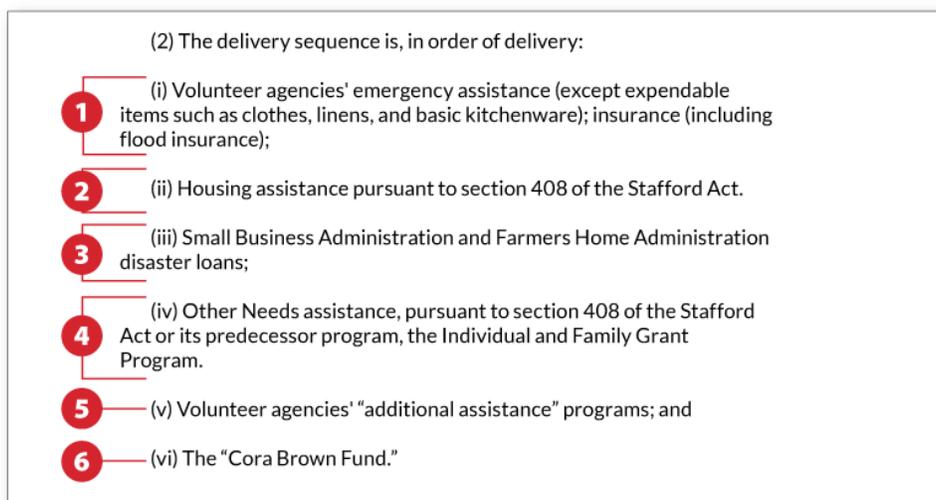
Section 312 of the Stafford Act requires federal agencies to ensure that individuals (and businesses) do not receive disaster assistance for losses for which they have already been compensated or may expect to be compensated.⁸⁷ The uniformity requirement set forth in Section 312 is located in FEMA regulation 44 C.F.R. §206.191, which establishes a delivery sequence of disaster assistance provided by federal agencies and organizations (see **Figure 3**).

Figure 3. Delivery Sequence

44 C.F.R. §206.191(d)(2)

FEMA

From Electronic Code of Federal Regulations e-CFR
data is current as of March 13, 2019



Source: Based on CRS interpretation of 44 C.F.R. §206.191.

Notes: Housing assistance under Section 408—Federal Assistance to Individuals and Households includes financial and direct housing assistance, as well as financial assistance for other needs (Other Needs Assistance (ONA)). SBA-dependent ONA may be available for applicants who do not qualify for an SBA disaster loan or whose loan amount is insufficient; this type of ONA includes personal property, transportation, and Group Flood Insurance Policy assistance. Cora Brown of Kansas City, MO, died in 1977, leaving a portion of her estate to the United States to be used as a special fund to relieve human suffering caused by natural disasters.

Disaster survivors may have access to a number of resources to assist their recovery process, including insurance payouts, state and local government assistance, charitable donations and assistance from private nonprofit and voluntary organizations, as well as certain forms of federal assistance. Individuals may be eligible to receive grants of assistance from FEMA through the IHP, low-interest real and personal property loans through the SBA disaster loan program, and grants of assistance through HUD's CDBG-DR program (when authorized). FEMA's regulations establish a "delivery sequence" that FEMA uses to prevent providing duplicative benefits. The delivery sequence lists the order in which assistance from FEMA and other sources is to be provided to disaster survivors.⁸⁸ According to FEMA regulations, the agency or organization that is later in the delivery sequence should not provide assistance that duplicates assistance provided

assistance] was distributed based on an error by the Agency [i.e., FEMA] and such debt shall be construed as a hardship; and (2) "if such [covered] assistance [i.e., IHP assistance] is subject to a claim or legal action...."

⁸⁷ 42 U.S.C. §5155. There are numerous statutes and regulations that prohibit duplication of benefits with respect to disaster assistance. These are included in **Appendix A**.

⁸⁸ 44 C.F.R. §206.191; FEMA, *IAPPG*, p. 10.

by an agency or organization earlier in the sequence (e.g., SBA disaster loans should be provided before SBA-Dependent ONA). When the delivery sequence has been disrupted, the disrupting agency is responsible for rectifying the duplication. The regulation specifies selected forms of assistance, including SBA disaster loans, but does not specifically list HUD’s CDBG-DR program.

As mentioned previously in this report, SBA and FEMA have a CMA to share data on assistance provided to applicants.⁸⁹ Both the SBA and FEMA also share relevant data—including personally identifiable information (PII) related to applicants—with local, state, territorial, and Indian tribal governments, and voluntary agencies. This is done to prevent a duplication of benefits, as well as to potentially enable applicants to receive additional disaster assistance.⁹⁰

The SBA and FEMA entered into the CMA pursuant to Section (o) of the Privacy Act of 1974 (5 U.S.C. §552a).⁹¹ As outlined in the SBA-FEMA Computer Matching Agreement, “the financial and administrative responsibilities will be evenly distributed between SBA and DHS/FEMA unless otherwise set forth in this agreement.”⁹² CMA further states that it is “part of a Government wide initiative, Executive Order 13411—Improving Assistance for Disaster Victims (August 29, 2006) ... to identify and prevent duplication of benefits received by individuals, businesses, or other entities for the same disaster.”⁹³

In addition to the CMA used by the SBA and FEMA in this disaster assistance context, FEMA and HUD, which administers CDBG-DR, have a CMA, which states that “CDBG-DR grantees will use matched data to prevent the duplication of benefits by reviewing applications for CDBG-DR assistance and making determinations that CDBG-DR benefits provided to CDBG-DR grantee program applicants are not duplicative of assistance that the grantee program applicants already received from FEMA.”⁹⁴ Historically, HUD has considered whether the provision of CDBG-DR may constitute a duplication of previously provided FEMA assistance. For example, when implementing the CDBG-DR-funded programs in Puerto Rico following 2017 Hurricanes Irma and María, the program guidance describes program requirements and award contingencies explaining that program beneficiaries must agree to repay duplicative assistance and that award determinations consider funding from all sources to avoid duplicating benefits and can deduct duplicative funds.⁹⁵

⁸⁹ SBA/FEMA, “Computer Matching Agreement,” pp. 7-8.

⁹⁰ FEMA, *IAPPG*.

⁹¹ As amended by the Computer Matching and Privacy Protection Act of 1988 (P.L. 100-503), and as amended by the Computer Matching and Privacy Protection Amendments of 1990 (P.L. 101-508, 5 U.S.C. §552a(p) (1990)).

⁹² SBA/FEMA, “Computer Matching Agreement,” p. 1.

⁹³ SBA/FEMA, “Computer Matching Agreement,” p. 5.

⁹⁴ “Computer Matching Agreement Between United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) and United States Department of Housing and Urban Development (HUD),” February 11, 2022, p. 25, https://www.dhs.gov/sites/default/files/2022-02/3.%20DHS%20FEMA%20Department%20HUD%20CMA_0.pdf.

⁹⁵ Puerto Rico, *Puerto Rico Disaster Recovery Action Plan: For the Use of CDBG-DR Funds in Response to 2017 Hurricanes Irma and María, Amend. 10*, February 17, 2023, pp. 20, 102, 105, 130, https://cdbg-dr.pr.gov/en/download/action-planamendment-10-nonsubstantial-effective-on-february-16-2023/?ind=1676677455854&filename=ADM_POLI_Action%20Plan_Amendment%2010%20-%20NONSUBSTANTIAL_EN.pdf&wpdmdl=35213&refresh=640b4a0a61f9a1678461450 (hereinafter Puerto Rico, CDBG-DR Action Plan). Per Puerto Rico’s CDBG-DR Action Plan, “CDBG-DR funds must be funding of last resort, and if additional funds are paid to applicant awardees for the same purpose as the housing assistance award they receive through PRDOH assistance (i.e., repair or replacement of the damaged structure) after PRDOH has completed the repair/rehabilitation project, those funds must be returned to PRDOH.”

The SBA and HUD do not have a CMA to determine instances of duplication.⁹⁶

If Congress is concerned about the use of the CMA, it could investigate the effectiveness of the SBA-FEMA CMA in preventing duplication of benefits since its implementation.

Similarly, Congress could also review how applicant information is being used by local, state, territorial, and Indian tribal governments, as well as voluntary agencies, to determine the effectiveness of information sharing with regard to reducing duplication.

⁹⁶ HUD's list of Computer Matching Agreements can be found at https://www.hud.gov/program_offices/officeofadministration/privacy_act/cma/hud-cma.

Appendix A. Relevant Duplication of Benefits Statutory Authorities and Regulations

The following is a listing of selected authorities and regulations pertaining to the duplication of disaster assistance benefits. This list should be considered representative, not exhaustive.

Stafford Act (42 U.S.C. §5155)

The Stafford Act is the primary statute governing the provision of federal disaster assistance, particularly FEMA assistance. Section 312 of the Stafford Act requires federal agencies that provide financial disaster assistance to ensure that individuals, businesses, or other entities suffering losses as a result of a major disaster or emergency do not receive assistance for losses for which they have already been compensated. Section 312 also requires the President to establish procedures that ensure uniformity in preventing duplication of benefits. Under Section 312, any person, business, or other entity that has received or is entitled to receive federal disaster assistance is liable to the United States for the repayment of such assistance to the extent that such assistance duplicates benefits available for the same purpose from another source, including insurance and other federal programs.

Stafford Act (42 U.S.C. §5174)

Section 408(a)(1) states that the President may provide assistance to individuals and households who, as a result of a major disaster, “have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.”

FEMA Regulations

44 C.F.R. §206.191 establishes the policies implementing Section 312 of the Stafford Act, and states that it is FEMA’s policy to prevent the duplication of benefits between its own programs, other assistance programs, and insurance benefits. The regulation requires individuals to repay all duplicated assistance to the agency providing the assistance. Under 44 C.F.R. §206.191, a federal agency providing disaster assistance is responsible for preventing or rectifying duplication of benefits when they occur. 44 C.F.R. §206.191 also includes a “delivery sequence” hierarchy intended to prevent waste, fraud, and abuse of program assistance, including the duplication of benefits (see **Figure 3**).

Small Business Act (15 U.S.C. §636(b)(1)(A))

The first proviso in 15 U.S.C. §636(b)(1)(A) states that the SBA is authorized to make disaster loans “[p]rovided, [t]hat such damage or destruction is not compensated for by insurance or otherwise.”

Small Business Act (15 U.S.C. §647)

15 U.S.C. §647(a) prohibits the SBA from providing benefits that duplicate the assistance provided by another department or agency of the federal government. It also states that if loan applications are refused or denied by a department or agency due to administrative withholding or due to an administratively declared moratorium, then no duplication is deemed to have occurred.

SBA Regulation

13 C.F.R. §123.101(c) states that applicants for SBA Disaster Loan assistance are ineligible for a home disaster loan if their damaged property can be repaired or replaced with the proceeds of insurance, gifts, or other compensation. These amounts must either be deducted from the amount of the claimed losses or, if received after SBA has disbursed the loan, must be paid to SBA as principal payments on the loan.

Appendix B. SBA Memorandum 85-20

Figure B-I. SBA Memorandum 85-20

Date: JUN 13 1985

To: All Area Directors # 85-20

From: Bernard Kulik, DAA/DA

Subject: Income Test Tables

Enclosed you will find a set of income test tables to be used as guides for summary declines. The information is from Health and Human Services (HHS) 1985 Poverty Income Guidelines. We increased the single member family unit by 150 percent and all other units by 125 percent to arrive at the minimum cost of living estimates. The Puerto Rico table is for disaster declarations on or after May 31, 1985, and the other tables for disaster declarations on or after June 10, 1985. No other income guides are acceptable for use as minimum cost of living estimates.

(Signed) Bernard Kulik

Bernard Kulik
Deputy Associate Administrator
for Disaster Assistance

Enclosures

DAD:Allred:JJ:6/11/85:0906d

cc: Subject Reading Central Files Allred

Note: SBA Memorandum 85-20 was first introduced as agency policy in 1985 by SBA Memorandum 85-20 as a means to help determine the applicant's ability to repay the loan. SBA Memorandum 85-20 established a formula based, in part, on poverty guidelines published by the U.S. Department of Health and Human Services. The formula was updated on June 28, 2022. See "Application of the SBA Income Test" and **Table 2** for the current Minimum Income Guidelines for SBA disaster assistance.

Appendix C. FEMA and SBA Constituent Resources

The following provides various FEMA and SBA resources and information that may be of use for constituents in declared disaster areas.

FEMA:

- **Website:** <https://www.disasterassistance.gov/>
- **Contact:** 1-800-621-FEMA (3362); TTY: 1-800-462-7585
- **Frequently Asked Questions:** <https://www.fema.gov/assistance/individual>

SBA:

- **Website:** <https://disasterloan.sba.gov/ela/>
- **Contact:** 1-800-659-2955; TTY: 1-800-877-8339
- **Frequently Asked Questions:** <https://disasterloanassistance.sba.gov/ela/s/article/FAQ>

SBA and IRS Forms: <https://disasterloanassistance.sba.gov/ela/s/article/Paper-Forms>

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