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

Updated November 4, 2024

**Congressional Research Service**

<https://crsreports.congress.gov>

R45238



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November 4, 2024

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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 disaster survivors 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. For example, 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 their recovery needs.

It could be argued that the overlap between the programs provides an effective means to identify duplication of benefits and provide federal assistance to disaster survivors; however, some in Congress are concerned that the application process results in confusion and burdens disaster survivors because there is not a single application for federal disaster assistance—instead, FEMA and SBA have separate applications and application processes.

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 and the use of computer matching agreements to prevent a duplication of benefits. Resources are also provided.

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## Introduction

Disaster survivors who suffer uninsured or underinsured losses caused by an *incident*<sup>1</sup> that results in a presidential 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).<sup>2</sup> They may also apply for disaster loans, administered by the Small Business Administration (SBA).<sup>3</sup>

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 the application process and the use of computer matching agreements to prevent a duplication of benefits.

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.<sup>4</sup> The SBA and FEMA use the interface between their systems to identify and prevent a duplication of benefits (DOB) because SBA disaster loans and FEMA grants both provide assistance for damage to real and personal property.<sup>5</sup> 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.<sup>6</sup>

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<sup>1</sup> 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.”

<sup>2</sup> 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), *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](https://www.fema.gov/sites/default/files/documents/fema_iappg-1.1.pdf) (hereinafter FEMA, *IAPPG*)).

<sup>3</sup> 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 U.S. Small Business Administration (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.

<sup>4</sup> SBA and U.S. Department of Homeland Security (DHS)/ 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”).

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

<sup>6</sup> SBA/FEMA, “Computer Matching Agreement,” p. 1. FEMA updated its regulations on March 22, 2024 pursuant an interim file rule, which removed the previous requirement that IHP applicants who met the SBA’s minimum income requirements first apply for an SBA disaster loan, and either be denied or receive a partial loan, before they could be considered for FEMA’s SBA-Dependent ONA, which included assistance for personal property, transportation, and Group Flood Insurance Policies (GFIPs). The new process allows IHP applicants to receive the IHP assistance they apply and are eligible for, including all forms of ONA, without first having to apply for an SBA disaster loan. However, the interim final rule explains that “FEMA currently shares relevant data with the SBA, and will continue to (continued...)”

While the overlap between the two programs may have some benefits, it arguably also causes some confusion. For instance, some Members of Congress have expressed concern regarding the separate applications for FEMA IHP assistance and SBA disaster loans, and have introduced legislation to unify the application process.<sup>7</sup>

## 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.<sup>8</sup> 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 \$100,000 to repair or replace personal property owned by the disaster survivor.<sup>9</sup> 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

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do so to ensure FEMA and the SBA continue to remain good partners and stewards of taxpayer dollars. FEMA and the SBA will continue to coordinate to ensure that FEMA assistance and SBA disaster loans do not cause a duplication of benefits for the same type of assistance” (DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 4009, January 22, 2024 (see footnote 176)).

<sup>7</sup> Members of Congress have introduced bipartisan legislation, including in the 118<sup>th</sup> and 117<sup>th</sup> Congresses, to help simplify the application process to receive federal disaster assistance. In the 118<sup>th</sup> 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 117<sup>th</sup> 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 118<sup>th</sup> 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.

<sup>8</sup> SBA, “Physical Damage Loans: Home and Personal Property Loans,” <https://www.sba.gov/funding-programs/disaster-assistance/physical-damage-loans>.

<sup>9</sup> 13 C.F.R. §123.105(a)(1). The SBA Administrator may increase the home loan lending limits on appropriate economic indicators for the region(s) in which the disaster occurred. SBA publishes the increased lending limit for an individual disaster declaration in the *Federal Register*.

installments of principal and interest, beginning five months from the date of the loan. Loan maturities may be up to 30 years.

## Real Property Loans

Real Property Loans provide creditworthy homeowners with uninsured or underinsured loss located in a declared disaster area with up to \$500,000 to repair or replace the homeowner's primary residence to its pre-disaster condition.<sup>10</sup> 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 \$500,000 for home loans.<sup>11</sup> 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

FEMA may provide various types of assistance to disaster survivors, depending on whether the President declares an emergency or major disaster authorizing IA, and the type(s) of IA requested by the governor of the affected state/territory or the chief executive of the affected tribal government.<sup>12</sup> The Individuals and Households Program (IHP) provides assistance to meet the housing and other needs of disaster survivors, and the IHP 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

When the Individuals and Households Program is authorized pursuant to a presidential emergency or major disaster declaration, FEMA may provide financial and/or direct assistance for housing and financial assistance for other needs (referred to as other needs assistance or ONA) to eligible disaster survivors who, as a result of a disaster, have uninsured or under-insured necessary expenses and serious needs that cannot be met through other means or forms of assistance.<sup>13</sup> The IHP is intended to meet basic needs and support recovery efforts, but it does not

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<sup>10</sup> 13 C.F.R. §123.105(a)(2). The SBA Administrator may increase the home loan lending limits on appropriate economic indicators for the region(s) in which the disaster occurred. SBA publishes the increased lending limit for an individual disaster declaration in the *Federal Register*.

<sup>11</sup> 13 C.F.R. §123.107.

<sup>12</sup> FEMA's IA program includes (1) the Crisis Counseling Assistance and Training Program, (2) Disaster Case Management, (3) Disaster Legal Services, (4) Disaster Unemployment Assistance, and (5) the Individuals and Households Program. Additionally, Mass Care and Emergency Assistance can support disaster survivors (e.g., emergency feeding and sheltering)—however, it is authorized and funded through the Public Assistance 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. 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.

<sup>13</sup> FEMA, *IAPPG*, p. 41.

compensate disaster survivors for all losses and it is not intended to be a substitute for insurance.<sup>14</sup> 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
Lodging Expense Reimbursement	Multi-Family Lease and Repair	Serious Needs Assistance
Rental Assistance	Transportable Temporary Housing Units	Displacement Assistance
Home Repair Assistance	Direct Lease	Personal Property Assistance
Home Replacement Assistance	Permanent Housing Construction	Transportation Assistance
		Group Flood Insurance Policy
		Funeral Assistance
		Medical and Dental Assistance
		Childcare Assistance
		Assistance for Miscellaneous Items
		Moving and Storage 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](https://www.fema.gov/sites/default/files/documents/fema_iappg-1.1.pdf); 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](https://www.fema.gov/sites/default/files/documents/fema_iappg-policy-amendments-memo.pdf); DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 3990-4125, January 22, 2024; and FEMA, “Voluntary Organization Information Sharing for Engagement VOISE Partner Call: Reforming Individual Assistance,” January 25, 2023 (see slide on “The Future of FEMA Individual Assistance”).

**Note:** 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.

### *Housing Assistance*

Housing Assistance may include the following financial and/or direct assistance options:

- **Lodging Expense Reimbursement (LER)** provides reimbursement for out-of-pocket short-term lodging costs and taxes (e.g., hotels, motels, or other short-term lodging).
- **Rental Assistance (Initial Rental Assistance and Continued Temporary Housing Assistance)** provides funding for temporary alternate housing accommodations while the applicant is displaced from their primary residence.
- **Home Repair Assistance** provides funding to repair an owner-occupied primary residence.
- **Replacement Assistance** provides funding to replace an owner-occupied primary residence when the residence is destroyed.

<sup>14</sup> 44 C.F.R. §§206.110 et seq.; 42 U.S.C. §5174; FEMA, *IAPPG*, p. 6; FEMA, “How a Disaster Gets Declared.” 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.

- **Multi-Family Lease and Repair (MLR)** temporarily place disaster survivors in FEMA-leased currently existing vacant multi-family housing units.
- **Transportable Temporary Housing Units (TTHUs)** temporarily places disaster survivors in FEMA-purchased or -leased temporary housing units (i.e., Recreational Vehicles [RVs] or Manufactured Housing Units [MHUs]).
- **Direct Lease** temporarily places disaster survivors in FEMA-leased residential properties.
- **Permanent Housing Construction (PHC)** provides 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 the types of FEMA housing assistance that are normally provided (such as Rental Assistance) are unavailable, infeasible, or not cost-effective.<sup>15</sup>

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).<sup>16</sup>

### *Other Needs Assistance (ONA)*

ONA provides financial assistance for other disaster-related necessary expenses and serious needs.<sup>17</sup> ONA may include the following financial assistance options:

- **Serious Needs Assistance** provides \$750 to address disaster survivors’ immediate post-disaster needs for items such as “water, food, first aid, infant formula, diapers, personal hygiene items, and fuel for or the cost of transportation.”<sup>18</sup>
- **Displacement Assistance** provides up-front financial assistance to help disaster survivors immediately obtain short-term accommodations while they work to secure temporary housing (such as FEMA Rental Assistance).<sup>19</sup>
- **Personal Property Assistance** provides funding to repair or replace eligible personal property items damaged or destroyed as a result of a declared

<sup>15</sup> FEMA, *IAPPG*, p. 127. According to the *IAPPG*, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands are insular areas, and the Alaskan interior is an example of a remote area (FEMA, *IAPPG*, p. 76). *Unavailable* means temporary housing options are unavailable for a reasonable cost or in a reasonable amount of time. *Infeasible* means there are no available rental housing resources, or forms of Direct Temporary Housing Assistance cannot be used because of various challenges (e.g., distance, time delays), which FEMA cannot overcome with reasonable means. *Not cost-effective* means the provision of other forms of Direct Temporary Housing Assistance would cost more than providing Permanent Housing Construction (PHC).

<sup>16</sup> 42 U.S.C. §5170b. Note that Stafford Act Section 403 assistance is not the focus of this report.

<sup>17</sup> State, territory, and Indian tribal governments establish the maximum amount of assistance that may be awarded for some categories of ONA, including Transportation Assistance for repair or replacement, Funeral Assistance, and Child Care Assistance. Personal Property and Miscellaneous Items may also be requested, and the requesting state, territory, and Indian tribal government must list the additional items, maximum quantity, maximum award amount, and justification and situations for use. This is submitted to FEMA annually via the “ONA Administrative Option Selection Form” (FEMA, *IAPPG*, pp. 147, 149). However, the “ONA Administrative Option Selection Form” may be changed “during any non-disaster period or within three days of a major disaster declaration” (FEMA, *IAPPG*, p. 149).

<sup>18</sup> DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 4012, 4023-4024, and 4123, January 22, 2024.

<sup>19</sup> DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 4024 and 4123, January 22, 2024.



- emergency or major disaster.<sup>20</sup> Assistance may be provided for ONA-eligible personal property items set by the affected state/territory/tribe in its “ONA Administrative Option Selection Form.”<sup>21</sup>
- **Transportation Assistance** provides funding 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.”<sup>22</sup>
  - **Group Flood Insurance Policy** enables FEMA or the state, territory, or tribal government to directly purchase a three-year certificate of coverage on an applicant’s behalf if the applicant is required to purchase and maintain flood insurance, but could not otherwise purchase a policy.<sup>23</sup>
  - **Funeral Assistance** provides funding to assist 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.”<sup>24</sup>
  - **Medical and Dental Assistance** provides funding to assist with eligible medical and dental expenses incurred as a direct result of a declared emergency or major disaster.<sup>25</sup>
  - **Child Care Assistance** provides funding to assist 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.<sup>26</sup>
  - **Moving and Storage Assistance** provides funding 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.<sup>27</sup>

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<sup>20</sup> FEMA, *IAPPG*, pp. 166-169; DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 4010, January 22, 2024. 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 or for education, as well as a self-employed individual’s disaster-damaged essential tools and equipment, and required items for their trade/profession.

<sup>21</sup> 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.

<sup>22</sup> 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.”

<sup>23</sup> FEMA, *IAPPG*, pp. 172-175. 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.

<sup>24</sup> 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.

<sup>25</sup> 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.

<sup>26</sup> FEMA, *IAPPG*, pp. 155-160.

<sup>27</sup> 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.

- **Miscellaneous Expenses** provides funding to reimburse eligible individuals for eligible items purchased or rented after a disaster to assist with their recovery.<sup>28</sup> Assistance may be provided for ONA-eligible miscellaneous items set by the affected state/territory/tribe in its “ONA Administrative Option Selection Form.”<sup>29</sup>
- **Clean and Sanitize 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.”<sup>30</sup>

### *Maximum Amount of IHP Financial Assistance*

The amount of IHP financial assistance an individual or household may receive for housing and other needs is limited. Housing assistance may not exceed \$42,500 (FY2024; adjusted annually), and separate from that, financial assistance for ONA also may not exceed \$42,500 (FY2024; adjusted annually).<sup>31</sup> 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.<sup>32</sup>

Still, 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.

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<sup>28</sup> 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.

<sup>29</sup> 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.

<sup>30</sup> 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](https://www.fema.gov/sites/default/files/documents/fema_iapppg-policy-amendments-memo.pdf) (hereinafter Memorandum from Keith Turi RE: Amendment to the IAPPG).

<sup>31</sup> DHS/FEMA, “Notice of Maximum Amount of Assistance Under the Individuals and Households Program,” 88 *Federal Register* 72520, October 20, 2023, <https://www.govinfo.gov/content/pkg/FR-2023-10-20/pdf/2023-23168.pdf>. The maximum amount of assistance is adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor (42 U.S.C. §5174(h)).

<sup>32</sup> 42 U.S.C. §5174(h)(4). FEMA expanded the provision of Home Repair Assistance for accessibility-related items to allow individuals with pre-existing or disaster-caused disabilities to install or construct new real-property components that are necessary to meet their accessibility-related needs—even if such items were not present in the home prior to the disaster (DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 3997, January 22, 2024).

## Stafford Act Declarations

The Stafford Act authorizes the President to issue emergency and major disaster declarations<sup>33</sup> to provide local, state, territorial, and tribal governments, nonprofit organizations, and individual disaster survivors with a range of federal assistance to support their response to and recovery from natural and human-caused incidents.<sup>34</sup> Each presidential Stafford Act declaration includes a “designation” listing the counties eligible for assistance, as well as the types of assistance FEMA is authorized to provide under the declaration.<sup>35</sup> Potential types of assistance include (1) Public Assistance (PA) for emergency protective measures, debris removal, and repair or replacement of damaged public infrastructure;<sup>36</sup> (2) Hazard Mitigation Grant Program (HMGP) grants to fund projects to lessen the effects of future disaster incidents;<sup>37</sup> and (3) Individual Assistance (IA) to provide assistance to disaster survivors.

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). (It is also uncommon for IA to be authorized pursuant to an emergency declaration.)

In addition to making FEMA assistance available, Stafford Act major disaster declarations also trigger the SBA Disaster Loan Program.<sup>38</sup> 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.<sup>39</sup> If the President issues a PA-only major declaration, SBA disaster loans are generally only available to private nonprofit organizations. In some 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.

<sup>33</sup> Emergency declarations provide more limited federal assistance. 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.

<sup>34</sup> 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.

<sup>35</sup> 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, *IAPPG*, p. 5).

<sup>36</sup> 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.

<sup>37</sup> 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.

<sup>38</sup> 13 C.F.R. §123.3(a)(1).

<sup>39</sup> Contiguous counties also become eligible for SBA disaster loans. 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).

## 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.<sup>40</sup> The SBA declaration by itself does not, however, trigger FEMA IA.<sup>41</sup>

## 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. Each agency is responsible for determining eligibility based on the applicant’s losses and the forms of assistance they have received.

Applicants in a declared disaster area may register for FEMA IHP assistance and SBA disaster loans after a Stafford Act declaration has been issued and IA has been authorized (applicants may also register for SBA disaster loans pursuant to an SBA declaration).

## Applying for FEMA Individual Assistance

Disaster survivors can register for assistance online, by telephone, or in-person at a Disaster Recovery Center (DRC).<sup>42</sup>

Disaster survivors 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*.<sup>43</sup> FEMA will continue to accept late registrations for an additional 60 days after the Initial Registration Period if the applicant provides a reasonable explanation for the delay (no written justification or documentation explaining the circumstances that prevented them from applying on time are required)—this is known as the *Late Application Period*.<sup>44</sup> FEMA does not accept applications submitted after the Late Application Period concludes.<sup>45</sup>

The registration deadline does not change for areas that are subsequently designated for assistance, but FEMA may extend the Registration Period at the request of the state, territory, or tribal government—with FEMA’s approval (e.g., to establish the same registration deadline for

<sup>40</sup> 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).

<sup>41</sup> Under an SBA declaration, applicants apply directly to SBA for disaster loans. The Computer Matching Agreement (CMA) with FEMA is not used in these situations.

<sup>42</sup> FEMA, *IAPPG*, p. 69. See **Appendix A** 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.

<sup>43</sup> FEMA, *IAPPG*, pp. 70-71; 44 C.F.R. §206.112; and email from FEMA Congressional Affairs staff, May 25, 2021.

<sup>44</sup> DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 3995 and 4031, January 22, 2024, <https://www.govinfo.gov/content/pkg/FR-2024-01-22/pdf/2024-00677.pdf>. Reasonable explanations for late applications can include incarceration, that the applicant was the victim of human trafficking, ongoing domestic situations in which persons pose an immediate threat to a family member in the same household, major life events (e.g., birth or a child, marriage), hospitalization/illness/disability of the applicant or an immediate family member, death of an immediate family member, or proof of personal or business travel out of the area during the application period.

<sup>45</sup> FEMA, *IAPPG*, pp. 70-71; 44 C.F.R. §206.112; and email from FEMA Congressional Affairs staff, May 25, 2021.

subsequently designated areas).<sup>46</sup> Additionally, if the Stafford Act declaration is amended to include additional counties following the expiration of the registration period, then the registration period can be reopened, but only for the newly authorized counties.<sup>47</sup>

(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.<sup>48</sup>

Other forms of IA include other application requirements and processes on the part of the requesting affected local, state, territorial, or tribal government, 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 under either the Stafford Act or Small Business Act to apply for SBA real and personal property disaster loans (see **Figure 1**). Applicants can apply for SBA disaster loans online, in-person at a DRC, or by mail.<sup>49</sup> Applicants must fill out SBA Form 5C and IRS Form 4506-C.<sup>50</sup> 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).

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<sup>46</sup> FEMA, *IAPPG*, pp. 70-71; 44 C.F.R. §206.112; and email from FEMA Congressional Affairs staff, May 25, 2021.

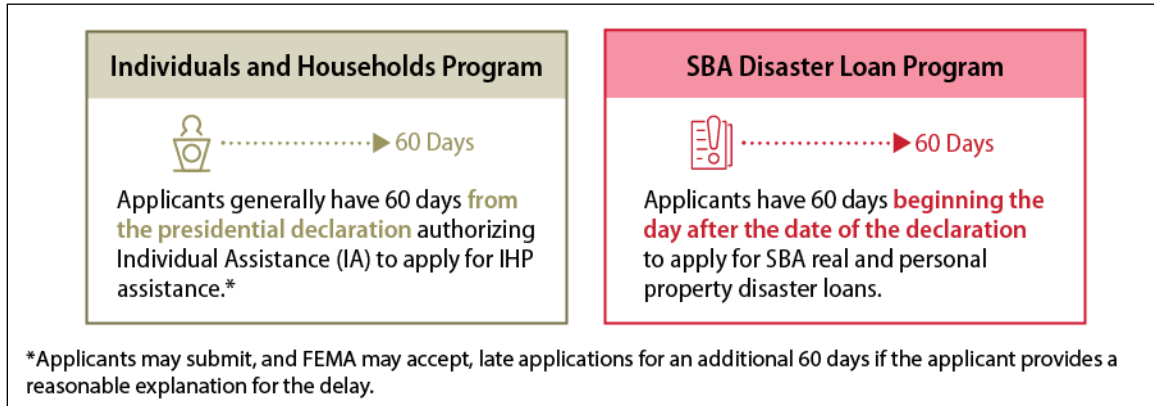
<sup>47</sup> DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 4030, January 22, 2024.

<sup>48</sup> FEMA, *IAPPG*, pp. 71-72.

<sup>49</sup> See **Appendix A** of this report for more information. See also SBA, “Disaster Assistance,” <https://www.sba.gov/funding-programs/disaster-assistance>; and SBA, “Three Steps to SBA Disaster Assistance Loans,” <https://www.sba.gov/brand/assets/sba/resource-partners/three-steps-disaster-assistance-loans-508.pdf>.

<sup>50</sup> For the paper forms, see SBA, “Document Search,” <https://www.sba.gov/documents>.

**Figure I. Application Deadlines**  
 FEMA IHP and SBA Disaster Loan Program



**Sources:** Based on CRS’s 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](https://www.fema.gov/sites/default/files/documents/fema_iappg-1.1.pdf); DHS/FEMA, “Individual Assistance Program Equity,” 89 *Federal Register* 3995, January 22, 2024, <https://www.govinfo.gov/content/pkg/FR-2024-01-22/pdf/2024-00677.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.<sup>51</sup> 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).<sup>52</sup>

## Eligibility for FEMA IHP Assistance

IHP applicants must meet general eligibility requirements, as follows:

1. be a U.S. citizen, noncitizen national, or “qualified alien” (or the parent or guardian of such a minor);<sup>53</sup>

<sup>51</sup> Generally, based on the amount of disaster damages, minus any assistance received from insurance, FEMA grants, or other sources of recovery.

<sup>52</sup> SBA, *Frequently Asked Questions*, August 17, 2021, <https://disasterloanassistance.sba.gov/ela/s/article/FAQ>.

<sup>53</sup> FEMA cites the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA; P.L. 104-193), which provides that only “qualified aliens” are eligible for federal public benefits—to include IHP assistance. Further, there are some categories of “aliens lawfully present in the U.S. who are not eligible for IHP assistance,” such as temporary tourist visa holders (FEMA, *IAPPG*, p. 47). On April 26, 2024, FEMA issued a memorandum to (continued...)

2. have their identity verified by FEMA;
3. have disaster-caused needs that cannot be met through their insurance or other forms of disaster assistance; and
4. have necessary expenses and serious needs that were directly caused by a declared disaster.<sup>54</sup>

Each type of IHP assistance requires that additional eligibility conditions be met, and may require additional documentation.<sup>55</sup> 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.<sup>56</sup> A FEMA inspection is used to verify losses related to real and personal property.<sup>57</sup>

## 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.<sup>58</sup> If this occurs, applicants for IHP assistance may appeal FEMA's determinations. To appeal any IHP assistance-related FEMA determination, applicants must submit documentation supporting the appeal request (a written and signed appeal letter of explanation is not required).<sup>59</sup> 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 company) to verify the supporting documentation; and/or (3) schedule an appeal

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implement the statutory amendments to the IHP and make changes to the *IAPPG*, including to reflect that, "Legal residents in accordance with the Compacts of Free Association with the Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau" are qualified noncitizens (Memorandum from Frank Matranga, FEMA Individual Assistance Division Director to FEMA Regional Administrators, "RE: Compact of Free Association Citizen Eligibility for the Individuals and Households Program and Amendment to FP 104-009-03, Individual Assistance Program and Policy Guide, Version 1.1," April 26, 2024, [https://www.fema.gov/sites/default/files/documents/fema\\_iappg-amendment\\_cofa\\_April-26-2024.pdf](https://www.fema.gov/sites/default/files/documents/fema_iappg-amendment_cofa_April-26-2024.pdf); FEMA, "Qualifying for FEMA Disaster Assistance: Citizenship and Immigration Status Requirements," last updated May 21, 2024, <https://www.fema.gov/assistance/individual/program/citizenship-immigration-status>). Thus, FEMA may now provide IHP assistance to eligible COFA (Compacts of Free Association) migrants who are affected by declared disasters.

<sup>54</sup> FEMA, *IAPPG*, p. 46. See also FEMA, "Eligibility Criteria for FEMA Assistance," last updated November 28, 2022, <https://www.fema.gov/assistance/individual/program/eligibility>; FEMA, "Individuals and Households Program," last updated April 5, 2023, <https://www.fema.gov/fact-sheet/individuals-and-households-program>.

<sup>55</sup> See the *IAPPG* guidance on the type of IHP assistance being requested for additional requirements.

<sup>56</sup> FEMA, *IAPPG*, pp. 46, 51-55; Memorandum from Keith Turi RE: Amendment to the *IAPPG*, pp. 2-9.

<sup>57</sup> FEMA, *IAPPG*, p. 72.

<sup>58</sup> 42 U.S.C. §5189a(a); 44 C.F.R. §206.115(a). Applicants can appeal FEMA's determinations, including related to their eligibility for assistance, the amount and/or specific type(s) of IHP assistance authorized, FEMA's decision to recoup assistance, and FEMA's rejection of a late application, or any other eligibility-related decision.

<sup>59</sup> 44 C.F.R. §206.115(b); FEMA, *IAPPG*, pp. 66-67; DHS/FEMA, "Individual Assistance Program Equity," 89 *Federal Register* 3999, January 22, 2024.

inspection.<sup>60</sup> FEMA shall provide appeal determinations to the applicant in writing within 90 days of receiving the appeal, and FEMA's decision is final (i.e., it cannot be appealed again).<sup>61</sup>

## 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.<sup>62</sup>

# Policy Observations and Considerations

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

Prior to March 22, 2024, IHP applicants who met the Small Business Administration's (SBA's) minimum income requirements had to first apply for an SBA disaster loan, and either be denied or receive a partial loan, before they could be considered for FEMA's SBA-Dependent ONA, which included assistance for personal property, transportation, and Group Flood Insurance Policies (GFIPs). FEMA amended its regulations, removing this requirement, so the new process allows IHP applicants to receive the IHP assistance they apply and are eligible for, including all forms of ONA, without having to apply for an SBA disaster loan.<sup>63</sup>

IHP applicants may still choose to apply for an SBA disaster loan if they require additional funding to address their unmet real or personal property needs. As previously noted, the SBA disaster loan application is separate from the FEMA IHP application for assistance, and therefore, disaster survivors must submit a separate application for an SBA disaster loan in order to be considered for such assistance. 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. A potential consideration to address the potential for confusion and the additional burden on disaster survivors resulting from the current process relates to creating a unified application for disaster assistance.

For example, during the 118<sup>th</sup> 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 117<sup>th</sup> Congress, Senators Peters and Lankford cosponsored the Disaster Assistance Simplification Act (S. 4599).<sup>64</sup> Similarly, in the 118<sup>th</sup> 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.

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<sup>60</sup> 44 C.F.R. §206.115(f); FEMA, *IAPPG*, p. 68.

<sup>61</sup> 44 C.F.R. §206.115(f); FEMA, *IAPPG*, p. 68.

<sup>62</sup> 13 C.F.R. §123.13(e).

<sup>63</sup> DHS/FEMA, "Individual Assistance Program Equity," 89 *Federal Register* 4009, January 22, 2024.

<sup>64</sup> 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/>.



## 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.<sup>65</sup> Compensation from multiple sources that exceeds the total loss amount is generally considered a duplication of benefits.<sup>66</sup> When duplication occurs, the recipient is liable to the United States to pay back the duplicated benefit.<sup>67</sup>

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.<sup>68</sup> 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.<sup>69</sup> According to FEMA regulations, the agency or organization that is later in the delivery sequence should not provide assistance that duplicates assistance provided by an agency or organization earlier in the sequence. When the delivery sequence has been disrupted, the disrupting agency is responsible for rectifying the duplication. The regulation specifies selected forms of assistance, including FEMA IHP assistance and SBA disaster loans, but does not specifically list HUD's CDBG-DR program. **Figure 2** sets forth FEMA's sequence of delivery to ensure uniformity in preventing a duplication of benefits from occurring.

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<sup>65</sup> 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.

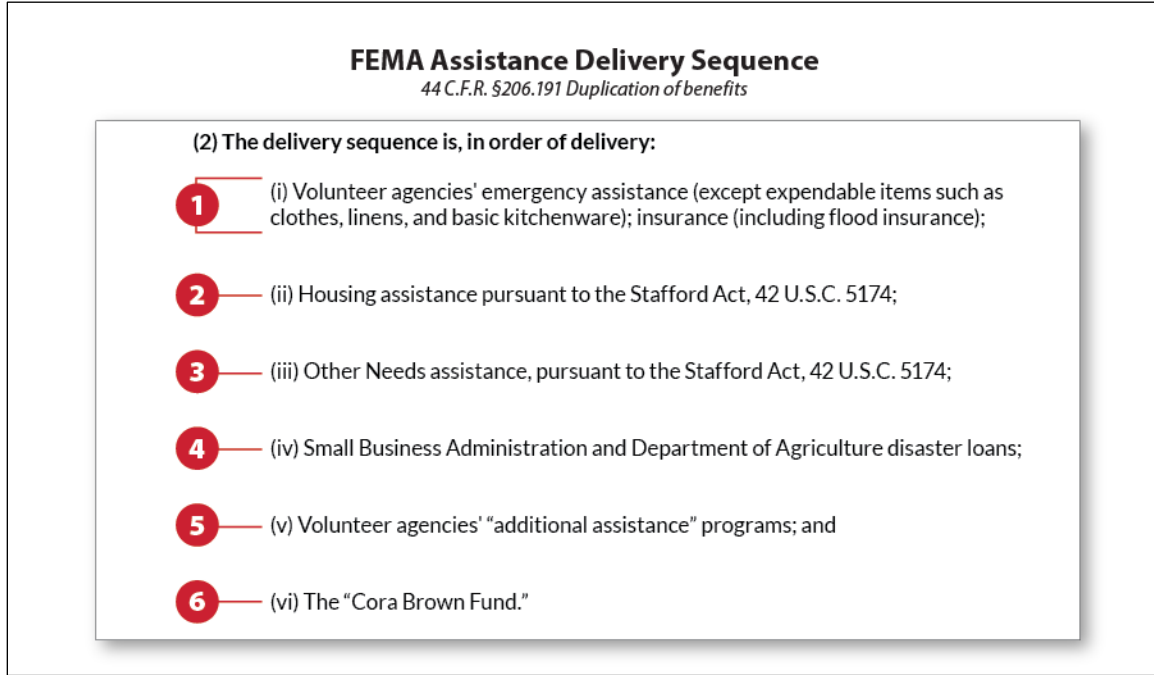
<sup>66</sup> 42 U.S.C. §5155; 44 C.F.R. §206.191.

<sup>67</sup> 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 DRRR 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 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...."

<sup>68</sup> 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**.

<sup>69</sup> 42 U.S.C. §5155(b)(2); 44 C.F.R. §206.191(d).

**Figure 2. Sequence of Delivery to Avoid a Duplication of Benefits**  
Effective March 22, 2024.



**Source:** Based on CRS's interpretation of 44 C.F.R. §206.191(d) and DHS/FEMA, "Individual Assistance Program Equity," 89 *Federal Register* 4124, January 22, 2024.

**Note:** 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.

The SBA and FEMA entered into the CMA pursuant to Section (o) of the Privacy Act of 1974 (5 U.S.C. §552a).<sup>70</sup> 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."<sup>71</sup> The 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."<sup>72</sup> Thus, the CMA enables SBA and FEMA to share data on assistance provided to applicants.<sup>73</sup> Additionally, both SBA and FEMA share relevant data—including personally identifiable information (PII) related to applicants—with local, state, territorial, and 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.

In addition to the CMA used by 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

<sup>70</sup> 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)).

<sup>71</sup> SBA/FEMA, "Computer Matching Agreement," p. 1.

<sup>72</sup> SBA/FEMA, "Computer Matching Agreement," p. 5.

<sup>73</sup> SBA/FEMA, "Computer Matching Agreement," pp. 7-8.

program applicants are not duplicative of assistance that the grantee program applicants already received from FEMA.”<sup>74</sup> 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.<sup>75</sup>

The SBA and HUD do not have a CMA to determine instances of duplication.<sup>76</sup>

If Congress is concerned about the use of the SBA-FEMA and/or FEMA-HUD CMAs, it could investigate the effectiveness of the CMAs in preventing duplication of benefits since their implementation. Similarly, Congress could also review how applicant information is being used by local, state, territorial, and tribal governments, as well as voluntary agencies, to determine the effectiveness of information sharing with regard to reducing duplication.

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<sup>74</sup> “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](https://www.dhs.gov/sites/default/files/2022-02/3.%20DHS%20FEMA%20Department%20HUD%20CMA_0.pdf).

<sup>75</sup> 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 (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.”

<sup>76</sup> HUD’s list of Computer Matching Agreements can be found at [https://www.hud.gov/program\\_offices/officeofadministration/privacy\\_act/cma/hud-cma](https://www.hud.gov/program_offices/officeofadministration/privacy_act/cma/hud-cma).

## Appendix A. Relevant Duplication of Benefits Statutory Authorities and Regulations

This Appendix lists 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(d)(2) also includes a “delivery sequence” hierarchy intended to prevent waste, fraud, and abuse of program assistance, including the duplication of benefits (see **Figure 2**).

### **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. 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://www.sba.gov/funding-programs/disaster-assistance>
- **Contact:** 1-800-659-2955; TTY: 1-800-877-8339
- **Three Steps to Disaster Assistance Loans:** <https://www.sba.gov/brand/assets/sba/resource-partners/three-steps-disaster-assistance-loans-508.pdf>
- **SBA and IRS Forms:** <https://www.sba.gov/documents>

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## Acknowledgments

Jamie Bush, Visual Information Specialist, developed the figures included in this report.

FEMA's Office of External Affairs and Individual Assistance Division within the Office of Response and Recovery, and SBA's Office of Disaster Assistance provided information referenced in this report, as well as input and insight on the application process for IHP and SBA disaster loans.

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