Disaster Housing Programs

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FEMA leads the federal government's efforts to prepare the nation for all potential disasters and to manage the federal response and recovery efforts following any national disaster. FEMA provides immediate, direct financial and physical assistance to those affected by disasters and has the responsibility for coordinating government-wide relief efforts.

HISTORY

Until the 1930s, *ad hoc* legislation was passed in response to hurricanes, earthquakes, floods, and other natural disasters. By the 1930s, when the federal approach to disaster-related events became popular, the Reconstruction Finance Corporation was given authority to make disaster loans for repair and reconstruction of certain public facilities following an earthquake, and later, other types of disasters. However, a piecemeal approach to disaster assistance continued. The "Disaster Relief Act of 1974" firmly established the process of presidential disaster declarations. Finally, on April 1, 1979, President Jimmy Carter signed Executive Order 12127, merging many of the separate federal disaster-related responsibilities into a newly created Federal Emergency Management Agency (FEMA). In 2003, FEMA became a part of the new Department of Homeland Security (DHS).

The "Robert T. Stafford Disaster Relief and Emergency Assistance Act" (Public Law 100-707), amending the "Disaster Relief Act of 1974," became law on November 23, 1988. It created the system in place today by which a presidential disaster declaration of an emergency triggers financial and physical assistance through FEMA. The act gives FEMA the responsibility for coordinating government-wide relief efforts. It is designed to bring an orderly and systemic means of federal natural disaster assistance for state and local governments. Congress' intention was to encourage states and localities to develop comprehensive disaster preparedness plans, prepare for better intergovernmental coordination in the face of a disaster, encourage the use of insurance coverage, and provide federal assistance programs for losses due to a disaster.

President George W. Bush signed the "Post-Katrina Emergency Reform Act" on October 4, 2006. The act significantly reorganized FEMA, provided substantial new authority to remedy gaps that became apparent in the response to Hurricane Katrina in August 2005, and included a more robust preparedness mission for FEMA. President Barack Obama signed the "Sandy Recovery Improvement Act (SRIA) of 2013" on January 29, 2013. SRIA authorized several significant changes to the way FEMA may deliver federal disaster assistance to survivors.

FEDERAL PROGRAMS

FEMA

Along with other government agencies, FEMA may provide disaster victims with low-interest loans, veterans' benefits, tax refunds, excise tax relief, unemployment benefits, crisis counseling, and free legal assistance. These resources are available once the President grants a governor's request for Individual Assistance (IA) as part of a major disaster declaration. Disaster housing and community development programs unique to FEMA include:

Individuals and Households Program (IHP): The Housing Assistance provision of the IHP provides financial and direct assistance for disaster-caused housing needs not covered by insurance or provided by any other source. IHP Assistance lasts for 18 months, although the impacted state may request for an extension, which must be approved by the president. Four types of housing assistance are available under IHP:

1. Temporary housing assistance, which includes:
    a. Transitional Shelter Assistance (TSA). In recent large-scale disasters, FEMA has provided TSA, which covers the cost of staying in an approved hotel or motel for an initial period of up to 14 days (which may be extended in 14-day intervals for up to six months). TSA does not cover additional fees, such as resort fees, that hotels may include in the cost of a room. Participation in TSA does not count against a household's maximum amount of assistance available under IHP.
    b. Rental Assistance. FEMA may provide financial assistance to rent temporary housing. The amount is based on the impacted area's Fair Market Rent (FMR) and covers rent plus utilities typically for two months, although it may also be used as a security deposit equal to one month of FMR. Households may seek Continued Rental Assistance when alternate housing is not available.
    c. Direct Temporary Housing Assistance. FEMA may provide direct housing assistance when disaster survivors are unable to use Rental Assistance due to a lack of available housing resources. Direct Temporary Housing Assistance is not counted toward the IHP maximum award amount. The impacted government must specifically request it. Direct Temporary Housing Assistance may include:
        - Manufactured Housing Units provided by FEMA and made available to use as temporary housing.
        - Multi-Family Lease and Repair, which allows FEMA to enter into lease agreements with owners of multi-family rental properties and make repairs to provide temporary housing.
        - Permanent or Semi-Permanent Housing Construction, which allows home repair and/or construction services provided in Insular Areas outside the continental U.S. and other locations where no alternative housing resources are available, and where other types of FEMA Housing Assistance are unavailable, infeasible, or not cost effective.
2. Home repair cash grants, available to homeowners for damage not covered by insurance. These grants are intended to repair the home to a safe, sanitary, or functional condition; it is not intended to return the home to its pre-disaster condition.
3. Home replacement cash grants, available to homeowners to help replace a destroyed home that is not covered by insurance.

Other Needs Assistance (ONA): In addition to housing assistance, the Individuals and Households Program includes ONA, which provides financial assistance for disaster-related necessary expenses. There are two categories of ONA: those that do not require a household to have been denied a Small Business Administration (SBA) loan, and those that do require such a denial. "Non-SBA dependent" types of ONA that may be awarded regardless of a household's SBA status include covering medical, dental, childcare, and funeral expenses. Also included in this category is Critical Needs Assistance, which provides up to $500 to meet life-saving or life-sustaining needs such as water, food, first aid, prescriptions, infant formula, diapers, consumable medical supplies and durable medical equipment, and fuel for transportation. Assistance that depends on a household being denied an SBA loan or receiving a partial SBA loan that is not adequate to meet needs include funds to repair or replace damaged personal property, repair or replace vehicles, and cover moving and storage costs.

Public Assistance (PA): FEMA provides disaster assistance to state, territorial, tribal, and local governments as well as certain private nonprofits through the Public Assistance program. Under the Permanent Work component of Public Assistance, FEMA provides grants to state and local governments to repair roads, bridges, water control facilities, public utilities, public buildings, and parks and recreational facilities (Categories

C through G). In addition, PA can be provided to nonprofits to restore damaged facilities, which could include repair funds for public housing agencies. The Emergency Work component of PA provides assistance to remove debris and carry out emergency protective measures (Categories A and B). FEMA generally provides 75% of the cost of PA, requiring the state and subgrantees (for example, counties) to provide the remaining 25%.

Hazard Mitigation Grant Program (HMGP): In order to reduce the risk of damage and reliance on federal recovery funds in future disasters, FEMA administers the Hazard Mitigation Grant Program (HMGP). HMGP provides state and local governments funds for long-term mitigation following a federally declared disaster. Nonprofits, individuals, and businesses may apply through their local government. Uses of HMGP include acquiring from an individual property in a flood-prone zone and permanently removing the property, raising a home so that flood water flows underneath, erecting barriers to prevent flood water from entering a home, flood diversion and storage, and aquifer storage and recovery. FEMA provides up to 75% of the funds for mitigation projects.

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created in 1968, making flood insurance available to homeowners for the first time. The "Flood Disaster Protection Act of 1973" made purchase of flood insurance mandatory for properties in Special Flood Hazard Areas (SFHAs) if the property had a mortgage from a federally regulated or insured lender. To participate in NFIP, a community must adopt and enforce floodplain management ordinances. The NFIP has an arrangement with private insurance firms to sell and service flood insurance.

HUD

CDBG Disaster Recovery (CDBG-DR): CDBG-DR funding is provided for Presidentially Declared Major Disasters by appropriation acts, generally special appropriations tailored to specific disasters. To determine how much a state or local government receives, HUD uses a formula that considers damage estimates and disaster recovery needs unmet by other federal disaster assistance programs such as FEMA and SBA. In addition to any requirements cited in the specific appropriation act, the regular CDBG regulations at 24 CFR 570 apply to CDBG-DR funds. However, CDBG-DR appropriations generally grant HUD broad authority to issue waivers and alternative requirements, which are identified in a *Federal Register* notice issued by HUD following the announcement of the appropriation.

CDBG-DR grantees, generally states, must prepare an Action Plan to assess housing, infrastructure, and economic revitalization needs, and then identify activities to address unmet needs. Public participation in devising the Action Plan is required. In the regular CDBG program a minimum 30-day public review and comment period is required; however, in recent CDBG-DR *Federal Register* notices, HUD has reduced the public participation period to a mere 14 days. Advocates stress that more time for public engagement is necessary, especially since the consequences of the final plan will have long-term impacts on low-income households.

The regular CDBG program requires that at least 70% of the funds be used for activities that benefit low- and moderate-income households or those with income at or less than 80% of the area median income. The CDBG-DR *Federal Register* notices regarding funds for the 2017 disasters maintained the 70% low/mod-income benefit requirement; however, most of the major notices between Hurricane Katrina in 2005 and 2016 allowed waivers so that only 50% of the CDBG-DR had to meet the low/mod benefit test.

Recent *Federal Register* notices have required that at least 80% of the total funds provided to a state address unmet needs within an area designated by HUD as being the most impacted and distressed. They have also required the Action Plan to propose allocating CDBG-DR to primarily address unmet housing needs and describe how the grantee's program will promote housing for vulnerable populations, including a description of activities to address the housing needs of homeless people and to prevent extremely low-income households from becoming homeless.

Grantees must submit Quarterly Performance Reports (QPRs) using HUD's electronic DRGR system showing each activity's progress, expenditures, accomplishments, and beneficiary characteristics such as race, ethnicity, and gender.

Disaster Housing Assistance Program (DHAP): The aftermath of Hurricane Katrina in 2005 demonstrated that HUD, not FEMA, was best suited to oversee and administer federal disaster housing assistance to the lowest-income people. Congress amended the "Stafford Act" to require the federal government to create a disaster housing plan. That 2009 plan made it clear that HUD should be playing a key role in creating and operating disaster housing assistance programs and recommended that Congress make the Disaster Housing Assistance Program (DHAP) permanent. The 2011 National Disaster Recovery Framework recommended that HUD, not FEMA, serve as the agency for coordinating and delivering housing assistance. However, to date, before HUD can put a DHAP program in place, FEMA must enter into an interagency agreement with HUD. In the wake of the 2017 and 2018 hurricanes and wildfires, FEMA has resisted.

DHAP has been used after past disasters, including Hurricanes Katrina, Rita, Gustav, Ike, and Sandy, to provide low-income, displaced families with safe, decent, and affordable rental homes while they can rebuild their lives and get back on their feet. DHAP is administered through HUD's existing network of local public housing agencies, which have significant local market knowledge and experience administering HUD's Housing Choice Voucher program.

DHAP provides displaced households with temporary rental assistance, covering the cost difference between what a family can afford to pay and their rent, capped at a reasonable amount. Over the course of several months, families are required to pay a greater share of their rent to encourage and help them prepare to assume full responsibility for their housing costs at the end of the program. All families receiving DHAP rental assistance are provided wrap-around case management services to help them find permanent housing, secure employment, and connect them to public benefits.

DHAP helps fill the gaps that low-income households experience with FEMA's Transitional Shelter Assistance (TSA) and Rental Assistance programs. Many hotels do not participate in TSA, and those that do often charge daily resort fees, ask for security deposits, and require that displaced households have credit cards, all of which are barriers for low-income households who have already depleted any savings that they may have had and that are often unbanked or underbanked. Because disasters generally reduce the amount of available housing stock, low-income renters are often unable to use Rental Assistance in their communities. If a displaced household relocates, the Rental Assistance amount, which is based on the FMR of the impacted area, may not be sufficient to cover the cost of an apartment in a different community.

Federal Housing Administration (FHA): The FHA grants a 90-day moratorium on foreclosures and forbearance on foreclosures of FHA-insured home mortgages. HUD's Section 203(h) program provides FHA insurance to disaster victims who have lost their homes and need to rebuild or buy another home. Borrowers from participating FHA-approved lenders may be eligible for 100% financing. HUD's Section 203(k) loan program enables those who have lost their homes to finance the purchase or refinance of a house along with its repair through a single mortgage. It also allows homeowners who have damaged houses to finance the rehabilitation of their existing single-family home.

U.S. Small Business Administration

After households apply to FEMA, they might be contacted by SBA to submit an application for a low-interest loan. If eligible, the household does not have to accept it. If a household is not eligible for an SBA loan, they will be referred back to FEMA to be considered for a FEMA Other Needs

Assistance (ONA) grant. To be considered for an ONA grant, a household must have submitted an SBA loan application.

SBA can provide physical disaster loans to cover uninsured or uncompensated losses of a home or personal property. A homeowner can apply for a loan to repair or rebuild a primary residence to its pre-disaster condition based on the verified losses. Homeowners may apply for up to $200,000 to repair or replace their home to its pre-disaster condition. The loan amount can increase by as much as 20% to help the homeowner rebuild in a manner that protects against damage from future disasters of the same kind, up to the $200,000 maximum. Both homeowners and renters may apply for loans—up to $40,000—to replace personal property (anything not considered real estate or part of the structure of the home) lost in a disaster. The interest rate on SBA physical disaster loans will depend upon the applicant's ability to secure credit from another source. In 2017, applicants unable to obtain credit elsewhere were charged 1.75% interest; for those who could obtain credit elsewhere, the interest rate was 3.5%. The term of loans is often 30 years.

Businesses, including rental property owners and nonprofit organizations, can apply for loans for real estate and personal property loss up to a maximum of $2 million. In addition, businesses and nonprofits can apply for economic injury loans of up to $2 million to cover working capital to meet their ordinary financial obligations.

U.S. Department of Agriculture

The U.S. Department of Agriculture (USDA) provides loans, grants, and loan servicing options to its loan borrowers and their tenants or grant recipients.

U.S. Department of the Treasury

Though without a permanent disaster recovery program, Congress authorized the U.S. Department of the Treasury to provide special Low-Income Housing Tax Credits (LIHTCs) and other tax incentives after recent major disasters. In the case of hurricanes Katrina and Rita, the Treasury established Gulf Opportunity (GO) Zone tax credits, GO Zone tax-exempt bonds, and additional New Markets Tax Credits to help rebuild housing. After Superstorm Sandy in 2011, Congress also authorized additional LIHTCs, private activity bonds, and New Markets Tax Credits.

Revenue Procedure 2014-49 (Rev. Proc. 2014-49) from 2014 provides guidance to owners and state housing finance agencies (HFAs) regarding temporary relief from certain requirements that apply to the LIHTC program. A key provision allows an owner to provide up to twelve months of emergency housing to households that have been displaced by a presidentially declared major disaster. Households are eligible for emergency housing in a LIHTC unit if their home was located in an area eligible for FEMA individual assistance.

Unless a property's written policies and procedures provide a preference for households displaced by a presidentially declared disaster, an owner may not skip over households on a waiting list to provide emergency housing. Existing households cannot be displaced in order to provide emergency housing.

Rev. Proc. 2014-49 relieves an owner and household of providing evidence of income eligibility. All other LIHTC rules apply, however, including LIHTC rent limits. The emergency relief period ends one year after the date the disaster was declared. After that date, displaced households that are not income-eligible under the LIHTC program cannot occupy a unit assisted under the LIHTC program. To provide emergency housing, an owner must request written approval from the HFA.

FORECAST FOR 2019

Hurricanes Harvey, Irma, and Maria as well as the wildfires in California in 2017 pushed Congress to introduce several bills that would encourage quick and equitable recovery. In 2018, Representative Ann Wagner (R-MO) introduced "The Reforming Disaster Recovery Act," which permanently authorizes the CDBG-DR program. The bill also establishes important safeguards and tools to help ensure that federal disaster recovery and rebuilding efforts reach all impacted households, including those with the lowest incomes who are often the hardest-hit by disasters and have the fewest resources to recover. NLIHC strongly supports this bill, which passed out of committee with bipartisan support and will likely be reintroduced in the new Congress.

Several other members of Congress introduced bills directing FEMA to activate DHAP, increase tax incentives for affordable housing in disaster-impacted areas, and address specific issues that low-income households faced following the 2017 and 2018 disasters.

HUD will need to publish guidance and allocations in the *Federal Register* regarding CDBG-DR funds appropriated for 2018 disasters, including Hurricanes Florence and Michael in addition to the wildfires in California. Once guidelines are published, impacted states will need to develop state action plans. Advocates should be prepared to respond to these plans to push for adequate resources for the lowest-income people. States that received CDBG-DR funds related to 2017 disasters will begin implementing programs outlined in their state action plans.

Congress will enact relief bills to address disasters as they occur. Any disaster relief bill should include resources to ensure that all survivors, including people with the lowest incomes, are served.

FOR MORE INFORMATION

National Low Income Housing Coalition, 202-662-1530, https://nlihc.org/explore-issues/projects-campaigns/disaster-housing-recovery.