



FY2013 Supplemental Funding for Disaster Relief: Summary and Considerations for Congress

William L. Painter, Coordinator

Analyst in Emergency Management and Homeland Security Policy

Jared T. Brown, Coordinator

Analyst in Emergency Management and Homeland Security Policy

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Summary

In late October 2012, Hurricane Sandy impacted a wide swath of the East Coast of the United States, resulting in more than 120 deaths and the major disaster declarations for 12 states plus the District of Columbia. The Administration submitted a request to Congress on December 7, 2012, for \$60.4 billion in supplemental funding and legislative provisions to address both the immediate losses and damages from Hurricane Sandy, as well as to mitigate the damage from future disasters in the impacted region.

On January 15, 2012, the House of Representatives passed H.R. 152, the Disaster Relief Appropriations Act, 2013. This bill included \$50.7 billion in disaster assistance. This was the third piece of disaster legislation considered by the House in the 113th Congress. H.R. 41, which passed the House and Senate on January 4, 2013, and was signed into law two days later as P.L. 113-1, provided \$9.7 billion in additional borrowing authority for the National Flood Insurance Program. On January 14, the House passed H.R. 219, legislation making changes to disaster assistance programs. The rule for consideration of H.R. 152 combined the text of H.R. 219, “The Sandy Recovery Improvement Act,” with H.R. 152 upon its engrossment, to send them to the Senate as a single package.

In the 112th Congress, the Senate had passed a separate package of disaster assistance totaling \$60.4 billion, as well as several legislative provisions reforming federal disaster programs. Appropriations legislation generally originates in the House of Representatives. However, the Senate chose to act on the Administration’s request first by amending an existing piece of House-passed appropriations legislation—H.R. 1. This passed the Senate December 28, 2012, by a vote of 62-32. Section 609 of the bill included many of the legislative provisions similar to those that would appear in H.R. 219. The House did not act on the legislation before the end of the 112th Congress.

This report analyzes the Administration’s request, the House-passed legislation, and the Senate position as reflected in Senate-amended H.R. 1 from the 112th Congress. (The newly constituted Senate has not taken up legislation establishing its position on the supplemental request as of the date of publication.) It includes information on legislative provisions as well as funding levels. The report includes a list of CRS experts available to provide more in-depth analysis of the implications of this evolving legislation.

This report will be updated as events warrant.

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Introduction

On October 25, 2012, Tropical Storm Sandy strengthened to become Hurricane Sandy. The next day, the Federal Emergency Management Agency (FEMA) elevated its ongoing preparedness efforts, sending Incident Management Assistance Teams to states from North Carolina to Vermont, and public and private sector entities began to ramp up efforts to prepare for the storm, including a wide range of federal entities from the Federal Aviation Administration to the Department of Energy. On October 28 and 29, as the storm neared land, the President signed emergency declarations for eight states, as well as the District of Columbia, making federal resources available to help state and local governments as they prepared and as the storm began to impact coastal communities.¹ Hurricane Sandy made landfall in New Jersey the night of October 29, 2012, as a Category 1 Hurricane, with a field of hurricane-force winds 900 miles across.²

The storm was responsible for at least 125 deaths in the United States, and damage estimates are still being made. In early November EQECAT, an economic forecasting firm, estimated economic losses from Sandy as \$30 billion to \$50 billion.³ As of January 16, 2013, the President has declared major disasters for 12 states as well as the District of Columbia under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act).⁴

Given the scale of the damage, the Administration submitted a request to Congress on December 7, 2012, for \$60.41 billion in supplemental funding and legislative provisions to address both the immediate losses and damages from Hurricane Sandy, as well as to mitigate the damage from future disasters in the impacted region.⁵

Legislative History

112th Congress

On December 12, 2012, the Senate Appropriations Committee published a draft amendment to H.R. 1⁶ on its website that would provide \$60.41 billion in supplemental appropriations. The amendment also included a variety of authorizing provisions sought by the Administration as well

¹ Federal Emergency Management Agency, “Hurricane Sandy: Timeline,” <http://www.fema.gov/hurricane-sandy-timeline>.

² Voiland, Adam, “Comparing the Winds of Sandy and Katrina,” November 9, 2012, http://www.nasa.gov/mission_pages/hurricanes/archives/2012/h2012_Sandy.html.

³ As downloaded from <http://www.eqecat.com/news/in-the-news/2012/hurricane-sandy/>, link verified January 23, 2013.

⁴ The Stafford Act is codified at 42 U.S.C. 5121 et seq. To date, the major disaster declarations are: New York (DR-4085); New Jersey (DR-4086); Connecticut (DR-4087); Rhode Island (DR-4089); Delaware (DR-4090); Maryland (DR-4091); Virginia (DR-4092); West Virginia (DR-4093); New Hampshire (DR-4095); the District of Columbia (DR-4096); Massachusetts (DR-4097); Ohio (DR-4098); and Pennsylvania (DR-4099). More information on each declaration is available at <http://www.fema.gov/disasters>.

⁵ Office of Management and Budget, *Hurricane Sandy Funding Needs*, Washington, DC, December 7, 2012, http://www.whitehouse.gov/sites/default/files/supplemental__december_7_2012_hurricane_sandy_funding_needs.pdf.

⁶ H.R. 1 was a continuing resolution for FY2011 passed by the House in the 112th Congress that was not previously voted on in the Senate.

as provisions originating in the Senate to modify disaster assistance processes and functions. On December 17, 2012, this proposal was introduced as S.Amdt. 3338.⁷ On December 19, the amendment was withdrawn and S.Amdt. 3395, with the same title and overall cost was offered in its place. The Senate amended the amendment, passed it by voice vote and then passed the underlying legislation (H.R. 1) on December 28, 2012, by a vote of 62-32. The House did not act on the legislation before the end of the 112th Congress.

However, one facet of the Administration's request did become law through the 112th Congress. The Administration had sought a legislative provision to increase the bond limit for the Small Business Administration's Surety Bond Guarantees Revolving Fund. A provision increasing the bond limit to \$6.5 million, and up to \$10 million if a federal contracting officer certified it was necessary, was included in P.L. 112-239, the National Defense Authorization Act for Fiscal Year 2013.⁸

113th Congress

On January 4, 2013, the House and Senate both passed H.R. 41, legislation providing an additional \$9.7 billion in borrowing authority for the National Flood Insurance Program (NFIP), which had been a part of the Administration's request. The President signed it into law as P.L. 113-1 on January 6, 2013.

H.R. 152, which included another portion of the Administration's supplemental request, was introduced on January 4, 2013, and an amendment was filed that same day that included further portions. The House Appropriations Committee describes H.R. 152 as including \$17 billion "to meet immediate and critical needs," and the amendment as including \$33 billion "funding for longer-term recovery efforts and infrastructure improvements that will help prevent damage caused by future disasters." On January 7, an amendment in the nature of a substitute to H.R. 152 which contained some minor textual changes, along with a restructured "long-term recovery" amendment, was posted on the House Rules Committee website.

The House took up the legislation on January 15, 2013. The amendment with long-term recovery funding passed with several amendments, and the amended bill passed the House by a vote of 241-180. The rule for consideration of the bill combined H.R. 219, a House-passed package of legislative provisions reforming disaster assistance programs with the appropriations legislation upon engrossment of H.R. 152, and sent them to the Senate as a single package.

Analysis of the Administration's Supplemental Request and the Legislative Response

Table 1 below outlines the Administration's request for supplemental funding and mitigation funding in the wake of Hurricane Sandy, and the congressional response to those requests. All figures are in millions of dollars of budget authority.

⁷ Slight changes were made from the draft on the Senate website including designating what had been chapters as titles, and altering the section numbering.

⁸ For more information, see CRS Report R42037, *SBA Surety Bond Guarantee Program*, by Robert Jay Dilger.

The Administration's request is redistributed by appropriations subcommittee. There is no distinction made in this table for mitigation funding. A breakdown of the Administration's request that illuminates the Administration's separate request for mitigation funding is included in the **Appendix**.

Headers in bold italics note the Appropriations subcommittee of jurisdiction, followed by the department or independent agency in bold capitals. Two columns then specify where a given appropriation is going, by bureau, if applicable, then account or program. The Administration's request is next, in millions of dollars of budget authority, followed by the amount in the House-passed version of H.R. 152. Where accounts are funded through transfers, that number is shown in the table and the donor account is reduced accordingly.

The next column indicates the appropriations that would have been provided if Senate-amended H.R. 1 from the 112th Congress had been enacted. This is provided only for historical reference, as the bill expired with the end of the 112th Congress, and the Senate has not voted on a broader supplemental appropriations package in the 113th Congress.

After the table is a more detailed discussion of the contents of the request and the positions taken by the House and Senate in response to it.

Table 1. FY2013 Disaster Supplemental Request and Congressional Action

By appropriations subcommittee, amounts in millions of dollars of budget authority

Subcommittee / Bureau	Account/ Program	President's Request	House Action	Senate Action
			House-passed H.R. 152	Senate-passed H.R. 1 (112 th Congress)
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies				
DEPARTMENT OF AGRICULTURE				
Farm Service Agency	Emergency Conservation Program	15	15	25.09
Farm Service Agency	Emergency Forest Restoration Program ^a	23	23	58.855
Natural Resources Conservation Service	Emergency Watershed Protection Program ^b	180	180	125.055
Food and Nutrition Service	Commodity Assistance Program	6	6	15
Commerce, Justice, Science, and Related Agencies				
DEPARTMENT OF COMMERCE				
National Oceanographic and Atmospheric Administration	Operations, Research and Facilities	393	140	373
National Oceanographic and Atmospheric Administration	Procurement, Acquisition, and Construction	100	186	109
DEPARTMENT OF JUSTICE				
General Administration	Office of the Inspector General	0.02	0	0.02
Federal Bureau of Investigation	Salaries and Expenses	4	10.02	4
Drug Enforcement Agency	Salaries and Expenses	1	1	1
Bureau of Alcohol Tobacco Firearms and Explosives	Salaries and Expenses	0.23	0.23	0.23
Federal Prison System	Buildings and Facilities	10	10	10
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION				

Subcommittee / Bureau	Account/ Program	President's Request	House Action	Senate Action
			House-passed H.R. 152	Senate-passed H.R. 1 (112 th Congress)
	Construction and Environmental Compliance and Restoration	4	15	15
LEGAL SERVICES CORPORATION				
	Payment to LSC	1	1	1
Defense				
DEPARTMENT OF DEFENSE				
Operations and Maintenance	Operations and Maintenance, Army	5.37	5.37	5.37
Operations and Maintenance	Operations and Maintenance, Navy	41.2	40.015	40.015
Operations and Maintenance	Operations and Maintenance, Air Force	8.5	8.5	8.5
Operations and Maintenance	Operations and Maintenance, Army National Guard	3.165	3.165	3.165
Operations and Maintenance	Operations and Maintenance, Air National Guard	5.775	5.775	5.775
Procurement	Procurement of Ammunition, Army	1.31	1.31	1.31
Revolving and Management Funds	Defense Working Capital Funds	24.2	24.2	24.2
Energy & Water Development, and Related Agencies				
U.S. ARMY CORPS OF ENGINEERS				
	Investigations	30	50	50
	Construction	3,829	3,461	3,461
	Operations and Maintenance	899	821	821
	Flood Control and Coastal Emergencies	592	1,008	1,008
	Expenses	0	10	10

Subcommittee / Bureau	Account/ Program	President's Request	House Action	Senate Action
			House-passed H.R. 152	Senate-passed H.R. 1 (112 th Congress)
Financial Services and General Government				
GENERAL SERVICES ADMINISTRATION				
Real Property Activities	Federal Buildings Fund	7	7	7
SMALL BUSINESS ADMINISTRATION				
	Salaries and Expenses	50	20	40
	Office of the Inspector General	5	5	5
	Disaster Loan Program Account	750	779	760
Homeland Security				
DEPARTMENT OF HOMELAND SECURITY				
Customs and Border Protection	Salaries and Expenses	2.402	1.667	1.667
Immigration and Customs Enforcement	Salaries and Expenses	0.855	0.855	0.855
Coast Guard	Operating Expenses	66.844	d	d
Coast Guard	Acquisition, Construction and Improvements	207.389	274.233	274.233
Secret Service	Salaries and Expenses	0.3	0.3	0.3
Federal Emergency Management Agency	Disaster Relief Fund	11,500	11,484.735	11,484.735
Federal Emergency Management Agency	Disaster Assistance Direct Loan Program	300	300	300
Science and Technology	RDAO	3.249	3.249	3.249
Domestic Nuclear Detection Office	Systems Acquisition	3.869	3.869	3.869
Office of the Inspector General	(by transfer)	0	3	3

Subcommittee / Bureau	Account/ Program	President's Request	House Action	Senate Action
			House-passed H.R. 152	Senate-passed H.R. 1 (112 th Congress)
	National Flood Insurance Fund ^c	9,700	0	9,700
	General Provisions for this title	0	0	13
Interior, Environment, and Related Agencies				
DEPARTMENT OF THE INTERIOR				
US Fish and Wildlife Service	Resource Management	400	0	0
US Fish and Wildlife Service	Construction	78	68.2	78
National Park Service	Historic Preservation Fund	0	50	50
National Park Service	Construction	348	348	348
Bureau of Safety and Environmental Enforcement	Oil Spill Research	3	3	3
Departmental Operations	Office of the Secretary	0	360	150
ENVIRONMENTAL PROTECTION AGENCY				
	Environmental Programs and Management	0.725	0.725	0.725
	Hazardous Substance Superfund	2	2	2
	Leaking Underground Storage Tank Trust Fund	5	5	5
	State and Tribal Assistance Grants	610	600	810
DEPARTMENT OF AGRICULTURE (FOREST SERVICE)				
Forest Service	Capital Improvement and Maintenance	4.4	4.4	4.4
SMITHSONIAN INSTITUTION				
	Salaries and Expenses	2	2	2

Subcommittee / Bureau	Account/ Program	President's Request	House Action	Senate Action
			House-passed H.R. 152	Senate-passed H.R. 1 (112 th Congress)
Labor, Health and Human Services, Education, and Related Agencies				
DEPARTMENT OF LABOR				
Employment and Training Administration	Training and Employment Services	50	25	50
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
Administration for Children and Families	Social Services Block Grant	500	500 ^f	500
Administration for Children and Families	Children and Families Services Programs	100	100 ^f	100
Departmental Management	Public Health and Social Services Emergency Fund	200	195 ^f	200
Office of the Inspector General	(by transfer)	0	5 ^f	0
SOCIAL SECURITY ADMINISTRATION				
	Limitation on Administrative Expenses	2	2 ^e	2
Military Construction, Veterans Affairs and Related Agencies				
DEPARTMENT OF DEFENSE (MILITARY CONSTRUCTION)				
Military Construction	Military Construction, Army National Guard	24.235	24.235	24.2
DEPARTMENT OF VETERANS AFFAIRS				
Veterans Health Administration	Medical Services	21	21	21
Veterans Health Administration	Medical Facilities	6	6	6
National Cemetery Administration		1.1	2.1	1.1
Departmental Administration	IT Systems	0.531	0.531	0.5

Subcommittee / Bureau	Account/ Program	President's Request	House Action	Senate Action
			House-passed H.R. 152	Senate-passed H.R. 1 (112 th Congress)
Departmental Administration	Construction, Major Projects	207	207	207
Transportation, Housing and Urban Development, and Related Agencies				
DEPARTMENT OF TRANSPORTATION				
Federal Aviation Administration	Facilities and Equipment	30	30	30
Federal Highway Administration	Emergency Relief Program	308	2,022	921
Federal Railroad Administration	Grants to the National Railroad Passenger Corporation	32	118	336
Federal Transit Administration	Public Transportation Emergency Relief Program	11,700	10,894	10,777
Office of the Inspector General	(by transfer)	0	6	6
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Community Planning and Development	Community Development Fund	17,000	15,990	16,990
Office of the Inspector General	(by transfer)	0	10	10
TOTAL		\$60,408.669	\$50,507.684	\$60,407.418

Source: CRS analysis of FY2013 Supplemental Appropriations Request, as transmitted in a letter from Jeffrey D. Zients, Deputy Director for Management, to the Honorable John Boehner, Speaker of the House of Representatives, December 7, 2012; H.R. 1, 112th Congress; H.R. 152, 113th Congress; H.R. 152 and amendments thereto as provided on <http://rules.house.gov>.

Notes:

- The Administration requested funding for the Commodity Credit Corporation (CCC) to carry out program activities authorized under the Emergency Forest Restoration Program. The Senate amendment does not refer to the CCC as the authorized funding mechanism, but rather appropriates funds directly to the Emergency Forest Restoration Program.
- This is described as funding for "Watershed and Flood Prevention Operations" in the Administration's request.
- P.L. 113-1 was signed into law on January 6, 2013, providing the \$9,700 million in additional borrowing authority requested for the National Flood Insurance Program.

- d. Transfer authority is provided to other Coast Guard accounts from Coast Guard Acquisition, Construction and Improvements.
- e. The House derives these funds from unobligated balances, therefore they do not add to the bill's budgetary score, according to CBO.
- f. H.R. 152 would appropriate \$800 million to the PHSSEF account, but would then require the HHS Secretary to transfer specified portions of these funds as follows: \$500 million to the SSBG, \$100 million to the Head Start program (within the Children and Families Services Programs account), and at least \$5 million to the HHS Office of the Inspector General (OIG). The remaining \$195 million would remain available to the HHS Secretary for other activities.

Analysis of the Administration's Request and Congressional Response

This section of the report is organized by alphabetically by subcommittee of jurisdiction. Except where otherwise noted, all numbers are in budget authority rounded to the nearest million.

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies⁹

Both the President's request and House-passed H.R. 152 include \$224 million for programs under the jurisdiction of the Agriculture Appropriations subcommittee. The Senate bill, H.R. 1 as amended, would also have provided \$224 million for the same programs. Three of the four programs that would receive funding under the President's proposal and the House-passed bill are for emergency land assistance and typically only receive funding through supplemental appropriations bills, rather than annual appropriations bills. The fourth is a nutrition assistance program. While the President's request and House-passed H.R. 152 are similar, they are not identical. The difference between the two is that the President's proposal would provide \$150 million for watershed protection mitigation efforts, while the House-passed bill adds this \$150 million to watershed response and recovery. The Senate bill would have divided the \$150 million for mitigation between all four programs proposed under response and recovery.

The Emergency Conservation Program (ECP) and the Emergency Forest Restoration Program (EFRP) are administered by the USDA Farm Service Agency (FSA). ECP assists landowners in restoring the productivity of agricultural land damaged by natural disaster. Participants are paid a percentage of the cost to restore the land to a productive state. EFRP assists private forestland owners with damage caused by a natural disaster on nonindustrial private forest land. Both the President's request and House-passed H.R. 152 provide \$15 million for ECP and \$23 million for EFRP; the Senate bill would have provided approximately \$25 million and \$59 million, respectively. Following Hurricane Sandy, USDA made \$15.5 million in previously appropriated ECP funds available to producers in counties that received a major disaster declaration pursuant to the Stafford Act. According to press releases, producers in counties without a declaration were still encouraged to sign up in the event that future funds were made available (further discussed below). Similarly, USDA announced that no funding is available under EFRP; likewise, producers were encouraged to apply if future funding becomes available.¹⁰

The Emergency Watershed Protection (EWP) program and the EWP floodplain easement program are administered by USDA's Natural Resources Conservation Service (NRCS) and the U.S. Forest Service (USFS). The EWP program assists sponsors, landowners, and operators in implementing emergency recovery measures for runoff reduction and erosion prevention to relieve imminent hazards to life and property created by a natural disaster. The EWP floodplain

⁹ This section prepared by Megan Stubbs, Specialist in Agricultural Conservation and Natural Resources Policy (7-8707) and Randy Aussenberg, Analyst in Nutrition Assistance Policy (7-8641).

¹⁰ USDA, "Farmers and Ranchers Urged to Record Losses from Hurricane Sandy," press release, October 31, 2012, <http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/10/0337.xml&contentidonly=true>.

easement program is a mitigation program that pays for permanent easements on private land in order to safeguard lives and property from future floods, drought, and the products of erosion. The President's proposal would provide \$30 million for EWP recovery and response and \$150 million for EWP floodplain easements for mitigation. House-passed H.R. 152 does not include funding for EWP floodplain easements and instead adds \$150 million to the general EWP program. Similarly, Senate-passed H.R. 1 did not include funding for EWP floodplain easements, but rather provided the equivalent of the President's proposed \$150 million to the other USDA programs proposed for funding response and recovery efforts, including \$125 million for general EWP. Following Hurricane Sandy, USDA released \$5.3 million in prior appropriated EWP funds to 11 states to respond to imminent hazards to life and property.¹¹ The EWP floodplain easement program has not received funding since FY2009 and has no current funding available for mitigation.¹²

The emergency agricultural land assistance programs are funded through supplemental appropriations, rather than annual appropriations. As a result, funding for emergency agricultural land assistance varies greatly from year to year. These programs traditionally do not require a federal disaster designation from either the President or a state official. Recent changes in appropriations and budget law, however, have altered how disaster funding for the programs may be used. Funding appropriated in FY2012 was to be used for major disasters declared pursuant to the Stafford Act. This same Stafford Act requirement is present in the House bill with the additional requirement that funding may only be used for expenses related to the consequences of Hurricane Sandy. The Senate bill also included the Stafford Act requirement but only to a portion of the appropriation for all three land assistance programs. The Senate bill did not include the House-passed bill's requirement that funds only be used for Hurricane Sandy expenses.

Both the President's request and H.R. 152 would provide \$6 million for the Commodity Assistance Program account—specifically for The Emergency Food Assistance Program (TEFAP).¹³ The Senate bill would have provided \$15 million for TEFAP. TEFAP funding provides USDA commodity foods and administrative funding to food banks and other emergency feeding organizations. In their request for \$6 million, the Administration reasoned that “this amount is equivalent to one month's worth of TEFAP entitlement commodities in the affected areas.” In annual appropriations, TEFAP funds are typically available for one fiscal year, but Senate-passed H.R. 1 would have allowed the funds to be available through the end of FY2014. H.R. 152 did not include this extended availability of funding. In addition, H.R. 152 would and the Senate bill would have granted USDA flexibilities to allocate foods and funds for administrative expenses to the Sandy-affected areas beyond the parameters in the authorizing law.

¹¹ USDA, “USDA Delivers Funding for Hurricane Sandy Recovery Projects in 11 States,” press release, November 8, 2012, <http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/11/0342.xml&contentidonly=true>.

¹² Additional information on ECP, EFRP, EWP, and EWP floodplain easements—collectively referred to as emergency agricultural land assistance programs—may be found in CRS report, CRS Report R42854, *Emergency Assistance for Agricultural Land Rehabilitation*.

¹³ Aside from TEFAP, many of the food assistance benefits provided and being provided by USDA's Food and Nutrition Service programs (such as the Disaster Supplemental Nutrition Assistance Program (D-SNAP)) require no additional appropriations because the benefits are entitlements.

Commerce, Justice, Science, and Related Agencies¹⁴

The Administration's request includes \$513.3 million for the accounts that are traditionally funded by the Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill. H.R. 152 would provide \$363.3 million for the CJS accounts while Senate-passed H.R. 1 would have provided \$513.3 million for these accounts. As outlined in **Table 1**, the Administration's request for the CJS agencies includes \$493.0 million for the National Oceanic and Atmospheric Administration (NOAA), \$15.3 million for the Department of Justice (DOJ), \$4.0 million for the National Aeronautics and Space Administration (NASA), and \$1.0 million for the Legal Services Corporation (LSC). H.R. 152 would provide \$167.0 million less for NOAA, \$6.0 million more for DOJ, and \$11 million more for NASA than the Administration's request. Senate-passed H.R. 1 would have provided \$11.0 million less for NOAA and \$11.0 million more for NASA than the Administration's request.

Some of the specific differences between the Administration's request, H.R. 152 and Senate-passed H.R. 1 are as follows.

- The Administration requests \$4.0 million for NASA's Construction and Environmental Compliance and Protection account, but H.R. 152 would provide \$15.0 million for this account. Senate-passed H.R. 1 would have also provided \$15.0 million for this account.
- H.R. 152 includes language that would limit the LSC in using the appropriations it would receive under the bill only to providing the mobile resources, technology, and disaster coordinators necessary to provide storm-related services to the LSC client population and only in the areas significantly affected by Hurricane Sandy. Senate-passed H.R. 1 contained similar language.
- The Administration requests a total of \$393.0 million for NOAA's Operations, Research, and Facilities (ORF) account. The Administration's request allocates most funding to mitigation projects that would enhance resiliency of coastal communities and ecosystems. The House bill allocates more funding to repairs, replacement, and enhancement of equipment and facilities. The Senate bill, like the current House bill, would have allocated more funding to repairs, replacement, and enhancement of equipment and facilities.
- Specifically, the Administration requests \$360.0 million under the ORF account to assess risks associated with storms and flooding, provide technical assistance to improve preparedness and resiliency in coastal communities, improve forecast and modeling capabilities to support mitigation efforts, and stabilize and restore ecosystems. The Administration requests \$13.0 million under the ORF account to repair or replace damaged weather observation, weather radio, and ocean observing assets and facilities belonging to the National Ocean Service, National Marine Fisheries Service, and National Weather Service. The Administration also requests \$20.0 million to evaluate impacts on natural resources, support mapping and charting missions, and conduct marine debris assessments.

¹⁴ Prepared by Nathan James, Analyst in Crime Policy (7-0264).

- House-passed H.R. 152 would provide \$140.0 million for the ORF account, of which \$50.0 million is for mapping, charting, geodesy services and marine debris surveys for coastal states impacted by Hurricane Sandy, \$7.0 million is to repair and replace ocean observing and coastal monitoring assets damaged by Hurricane Sandy, \$3.0 million is for providing technical assistance to support state assessments of coastal impacts of Hurricane Sandy, \$25.0 million is for improving weather forecasting and hurricane intensity forecasting capabilities, \$50.0 million is for laboratories and cooperative institutes research activities associated with sustained observations weather research programs, and ocean and coastal research, and \$5.0 million is for necessary expenses related to fishery disasters declared in 2012 that were the direct result of Hurricane Sandy.¹⁵
- Senate-passed H.R. 1 would have provided \$373.0 million for the ORF account, of which \$6.2 million was for repairing or replacing ocean observing and coastal monitoring assets damaged by Hurricane Sandy; \$10.0 million was for repairing and improving weather forecasting capabilities; \$150.0 million was for evaluating, stabilizing, and restoring coastal ecosystems damaged by the storm; \$56.8 million was for mapping, charting, damage assessment, and marine debris coordination and remediation; and \$150.0 million was for necessary expenses related to fishery disasters declared in 2012.¹⁶
- The Administration's request for NOAA includes \$100.0 million under the Procurement, Acquisition and Construction (PAC) account to support state and local acquisition of land to restore and build coastal resiliency in areas where rebuilding physical infrastructure is not feasible or desirable, and on activities that can increase the protective capacity of natural ecosystems. House-passed H.R. 152 would provide \$186.0 million for the PAC account, of which \$9.0 million is to repair NOAA facilities damaged in the storm, \$44.5 million is for repairs and upgrades to NOAA hurricane reconnaissance aircraft, \$8.5 million is for improvements to weather forecasting equipment and supercomputer infrastructure, \$13.0 million is to accelerate the National Weather Service ground readiness project, and \$111.0 million is for a weather satellite data mitigation gap reserve fund. Senate-passed H.R. 1 as amended would have provided \$109.0 million for the PAC account, of which \$47.0 million was for the Coastal and Estuarine Land Conservation Program to support state and local restoration in areas affected by Hurricane Sandy, \$9.0 million was for repairing NOAA facilities damaged by the storm, \$44.5 million was for repairs and upgrades to NOAA hurricane reconnaissance aircraft, and \$8.5 million was for improvements to weather forecasting equipment and supercomputer infrastructure.

¹⁵ The amendment to H.R. 152 offered by Congressman Frelinghuysen (H.Amdt. 5) would have provided a total of \$290.0 million for the ORF account, which included \$150.0 million for Regional Ocean Partnership grants to coastal states impacted by Hurricane Sandy. However, the House adopted an amendment offered by Congressman Flores (H.Amdt. 6), which struck the \$150.0 in funding for Regional Ocean Partnership grants and reduced funding for the ORF account to \$140.0 million.

¹⁶ In addition to the fisheries failure that was declared for New Jersey and New York fisheries, during 2012 disasters were also declared for Alaska Chinook salmon, New England groundfish, Mississippi fisheries, and American Samoa bottomfish.

- House-passed H.R. 152 would require NOAA to submit a spending plan to both the House and Senate Committee on Appropriations within 45 days of the bill being signed into law. Senate-passed H.R. 1 would have placed the same requirement on NOAA.

Defense

The Administration is seeking \$90 million for the Department of Defense in accounts managed by the Defense Appropriations subcommittees in its request for FY2013 supplemental appropriations for repair and replacement of damaged equipment and facilities.

Both House-passed H.R. 152 and Senate-passed H.R. 1 would provide \$88 million for the Department of Defense, following the same structure. The only difference between the bills and the request was a slightly more than \$1 million reduction in both bills in the \$41 million request for Navy Operations and Maintenance funding.

Energy and Water Development, and Related Agencies¹⁷

The President's request, House-passed H.R. 152, and Senate-passed H.R. 1 in the 112th Congress all included \$5.35 billion in supplemental funds for the U.S. Army Corps of Engineers (Corps) Civil Works program, which receives annual appropriations through the Energy & Water Development Appropriations bill. Major differences between the House and Senate-passed bills and the President's request are summarized below.¹⁸

While the three proposals share the same total level of Corps funding, they differ in distribution of funds across Corps accounts, eligible uses, and availability of funds.¹⁹ The House and Senate bills designate the Corps funding as an "emergency requirement" with the exception of the Corps Construction Account funding.²⁰ Thus, while the bills' funding for the Corps Construction Account would count against discretionary budget caps, their funding for other Corps accounts would not count against the caps.

For the Investigations account, the President requested \$30 million, while the House and Senate proposed \$50 million. The House bill sets aside \$29.5 million of these funds for ongoing storm damage reduction studies in Hurricane Sandy-impacted areas of the Corps North Atlantic Division (which spans the Atlantic coast from Maine to Virginia). The Senate bill would have made \$34.5 million available for a similar study, and expanded the study area to include Gulf Coast areas in the Mississippi Valley Division impacted by Hurricane Isaac (principally Mississippi and Louisiana). The House bill provides the Corps an additional \$20 million to

¹⁷ Prepared by Charles Stern, Specialist in Natural Resources Policy (7-7786), and Nicole Carter, Specialist in Natural Resources Policy (7-0854).

¹⁸ The Administration's request for the Corps included account-level funding requests and descriptions; it did not include bill language, which complicates comparisons with some of the House and Senate provisions.

¹⁹ Supplemental appropriations for the Corps were proposed for five accounts: the Investigations account for new and ongoing Corps studies; the Flood Control and Coastal Emergencies (FCCE) account for flood fighting, preparedness and response, and repair of eligible damaged nonfederal flood and hurricane protection projects; the Operations and Maintenance (O&M) account for operational Corps projects; the Construction account for construction of new projects or major upgradess; and the General Expenses account for administrative and oversight.

²⁰ For more information, see below section, "Disaster Relief and Emergency Funding Under the Budget Control Act."

conduct a comprehensive coastal flood risk study of the Hurricane Sandy-impacted areas of the Corps North Atlantic Division. The Senate bill would have provided \$15 million for an interagency planning process with federal and nonfederal officials that would have developed plans to address coastal flooding risks and include innovative approaches to long-term stability.

For the Construction Account, the Administration requested \$3.83 billion, including \$9 million for repair of existing Corps construction projects and \$3.82 billion in “mitigation” funding for projects to reduce damages from future storms.²¹ The Administration proposes allowing the Corps to transfer the funds to other agencies, states, or local governments to implement elements of plans resulting from the studies funded in the Investigation account. The House and Senate bills agreed with the Administration’s request for \$9 million for repair of existing projects, but included \$3.46 billion for all other construction needs, approximately \$360 million less than the Administration’s request. The two bills differ in their direction regarding the use of the funding. The House bill designates the overall funding allocation for rehabilitation, repair, and construction of Corps projects, while the Senate bill would have provided the funding for these same efforts as they relate to the “consequences of natural disasters.” The Senate bill would have allowed for the transfer of up to \$499 million in funds to other Corps accounts “to address damages from previous natural disasters, following normal policies and cost sharing.”²² The House bill includes no such provision.

Both bills designate \$2.90 billion of the \$3.83 billion for specific construction purposes. The House bill sets the funding aside for projects that reduce future flood risk and support long-term sustainability in coastal areas of the North Atlantic Division affected by Sandy, while the Senate bill’s funding also would have been available for projects in Gulf Coast areas of the Mississippi Valley Division affected by Hurricane Isaac. Any project “under study” by the Corps in the North Atlantic Division for reducing flooding and storm damage in areas affected by Sandy that the Secretary determines is “technically feasible, economically justified, and environmentally feasible,” would be eligible for the funding, provided House and Senate appropriations committees approve such a recommendation. Eligibility for the construction funding in the Senate bill would have been based on the study demonstrating “that the project will cost-effectively reduce those risks and is environmentally acceptable and technically feasible.” The Senate bill would have allowed for similar projects, but would have added coastal areas of the Mississippi Valley Division affected by Hurricane Isaac, with no requirement for congressional approval.

The three proposals also differ in their approach to construction cost sharing. The construction costs of Corps projects for flood control and coastal storm damage reduction generally are shared 65% federal, 35% nonfederal (33 U.S.C. 2213), with the nonfederal entity receiving credit toward its share for the provision of lands, easements, rights-of-way, relocations, and disposal areas (known collectively as LEERDs).²³ The Senate bill proposed to alter this practice, and instead require that nonfederal sponsors provide 10% of project costs, plus the LEERD costs.²⁴ The

²¹ The Administration used the term “mitigation” for Corps construction projects. Most Corps projects reduce flood risk by reducing the vulnerability to the flood hazard (i.e., structures that reduce the probability of an area flooding), not by reducing the consequence if a flood event occurs (i.e., limits the value of the damaged property). Typically it is the latter type of activity that has been referenced to as “mitigation” among federal programs and floodplain managers.

²² The Senate bill did not define “previous natural disasters” or further spell out the terms for use of this funding.

²³ Nonfederal cost shares, as specified in statute, are 35% for Corps flood and coastal storm damage reduction projects and 50% for beach renourishment components projects that have been authorized since 2003. Notably, in those cases nonfederal LEERD costs are counted toward the nonfederal share.

²⁴ The Administration Request also proposed a 90/10 cost share, but did not provide directions on the treatment of (continued...)

House bill proposes a waiver that construction activities be undertaken at 100% federal expense, but only for ongoing construction activities funded by the bill, not for other construction projects.²⁵ Both bills would allow nonfederal costs be repaid over a 30-year period. Both bills also would waive a requirement for congressional approval for projects that exceed 120% of their authorization of appropriations under §902 of the Water Resources Development Act (WRDA) of 1986 (33 U.S.C. 2280).

Other differences between the three proposals include differences in the Corps Operation and Maintenance (O&M) and the Flood Control and Coastal Emergencies (FCCE) accounts. The House and Senate both proposed \$821 million for the O&M account, which includes expenses for dredging of navigation channels and project repair. The President had requested \$899 million. The House bill would limit availability to expenses related to the consequences of Hurricane Sandy, while the Senate bill O&M funding would have been available nationally.

Both bills provide \$1.01 billion for the FCCE account, \$409 million more than the Administration requested.²⁶ While the House bill limits these funds to expenses related to Hurricane Sandy, the FCCE amounts in the Senate bill would have been for “flood, hurricane, or other natural disasters,” with \$430 million of that amount specified to restore projects impacted by Hurricane Sandy to their “design profiles.” Therefore, under the Senate bill, remaining FCCE funds would have been available to support Corps emergency expenditures nationwide, including emergency operations preparations for future events. The House bill also sets aside \$430 million to restore projects impacted by Hurricane Sandy to their “design profiles,” but makes these funds contingent on completion of one of the studies funded under the Investigations Account. Both bills also waive FCCE project cost limits under §902 of WRDA 1986, similar to the proposed provisions for the Construction Account.

Finally, both bills would provide \$10 million for the Corps and Assistant Secretary of the Army (Civil Works) expenses for oversight of emergency response and recovery activities. The Assistant Secretary would use these funds to report monthly to the House and Senate Appropriations Committees on allocations and obligations of the provided funds, beginning 60 days after enactment. The Administration’s request included no such funding or reporting requirement.

Financial Services and General Government²⁷

One consequence of Hurricane Sandy is that properties under the control of the General Services Administration (GSA) may have been damaged or deemed uninhabitable until repairs are made.

(...continued)

LEERD costs.

²⁵ While not specified in the bill, all other construction projects that are not “ongoing” potentially would be subject to the typical cost sharing requirements referenced above. This would exclude from the cost-share waiver later beach renourishment activities for coastal storm damage reduction projects that is carried out with funds other than those provided in the supplemental legislation.

²⁶ Many repairs to existing coastal storm damage reduction projects are eligible for 100% funding under the Corps FCCE account for repair to their pre-storm conditions. Improvements that go beyond repair would not be eligible for FCCE funding, and would have to be funded by the Construction account.

²⁷ SBA component prepared by Bruce Lindsay, Analyst in American National Government, 7-3752, and Robert Dilger, Senior Specialist in American National Government, 7-3110.

The President requested \$7 million to be deposited in the Federal Buildings Fund (FBF) at GSA for the repair and alteration of GSA properties damaged by Sandy. House-passed H.R. 152 and Senate-passed H.R. 1 would both provide GSA \$7 million for repair and alteration of damaged properties.

The provisions for the Small Business Administration (SBA) in House-passed H.R. 152 provide \$804 million in budget authority. Senate-passed H.R. 1 would have provided \$805 million in budget authority, along with legislative language sought by the Administration. Although House-passed H.R. 152 contains similar provisions to Senate-passed H.R. 1, there are some slight differences between the two bills and the Administration's request. These differences are discussed below and include:

- House-passed H.R. 152 provides \$20 million for salaries and expenses as well as a provision for grants for cooperative agreements with organizations (such as Small Business Development Centers and Women's Business Centers) to provide technical assistance related to disaster recovery, response, and long-term resiliency to small businesses that are recovering from Hurricane Sandy. However, House-passed H.R. 152 does not specify—as Senate-passed H.R. 1 did—how the funds are to be disbursed between salaries and expenses and grants for cooperative agreements.²⁸
- With respect to grants for cooperative agreements and technical assistance, House-passed H.R. 152 retains the provision to waive matching requirements that was proposed in Senate-passed H.R. 1. The designated recipients of the cooperative agreements and grants differ between the two bills. H.R. 1 explicitly directs the grants and cooperative agreements for only current recipients of grants and cooperative agreements. H.R. 152, on the other hand, directs the grants and cooperative agreements for small businesses that are recovering from Hurricane Sandy. Both H.R. 152 and H.R. 1 contain provisions to expedite the delivery of assistance. H.R. 1 would expedite the delivery of assistance by using a process that relies, to the maximum extent practicable, upon previously submitted documentation. H.R. 152 does not mention the use of previously submitted documents as a method for expediting assistance.
- House-passed H.R. 152 provides \$5 million—the same amount proposed in Senate-passed H.R. 1—to the SBA's Office of Inspector General.
- House-passed H.R. 152 provides \$520 million for the Disaster Loan Program Account for the cost of direct loans to small businesses. It also provides \$260 million for administrative expenses to carry out the direct loan program, of which \$250 million is for direct administrative expenses of loan making and servicing (including salaries), and \$10 million is for indirect administrative expenses (such as information technology security, staffing, and financial management expenses). Senate-passed H.R. 1 would have provided \$500 million for the Disaster Loan Program Account as well as \$260 million for direct and indirect administrative expenses of loan making.

²⁸ Senate-passed H.R. 1 provided \$40 million for salaries and expenses of which, \$20 million was for grants or cooperative agreements for public-private partnerships to provide economic development assistance to industries and/or regions affected by Hurricane Sandy.

The Administration requests for response, recovery, and mitigation funding in the wake of Hurricane Sandy included a provision for surety bond guarantees. This provision was not included in H.R. 152 because a similar provision was included in P.L. 112-239, the National Defense Authorization Act for Fiscal Year 2013.

Senate-passed H.R. 1 also would have amended the Small Business Act to prohibit the SBA from requiring small business owners to use their primary residence as collateral for disaster loans of up to \$200,000 relating to damage to or destruction of the small business, or for economic injury to the small business if the SBA determines that the small business owner has other assets with a value equal to or greater than the amount of the loan that could be used as collateral for the loan. The President's request does not address this issue, and this provision is not included in House-passed H.R. 152.

Homeland Security

The Administration requests \$12,085 million for the Department of Homeland Security (DHS), as well as \$9,700 million in additional borrowing authority for the National Flood Insurance Fund. In the opening days of the 113th Congress, both the House and Senate passed P.L. 113-1, a separate piece of legislation providing the additional borrowing authority.

House-passed H.R. 152 includes \$12,072 million for DHS, with several slight changes in its structure from the Administration's request. As compared to the President's request, House-passed H.R. 152 includes almost \$11,488 million for the Disaster Relief Fund (DRF),²⁹ approximately \$12 million less than the request. In addition, House-passed H.R. 152 includes a transfer of \$3 million from the DRF to the Office of the Inspector General for DHS. Both House-passed H.R. 152 and Senate-passed H.R. 1 designate \$5,379 million of the appropriation for the DRF as "disaster relief" under the Budget Control Act, as requested by the Administration. The remainder of the funding for the DRF (and in this section) is designated as an emergency requirement, and therefore none of the funding in this section counts against the discretionary budget caps.

House-passed H.R. 152 includes \$0.7 million less for replacement of Customs and Border Protection equipment (down from the \$2.4 million request). It includes a larger appropriation and transfer authority for the Coast Guard's Acquisition, Construction and Improvements function to meet costs in the Operating Expenses function, rather than providing the \$67 million requested by the President as a separate appropriation.

The Administration requests \$300 million in subsidy loan authority for the Disaster Assistance Direct Loan Program account, which funds the Community Disaster Loan (CDL) program. The CDL program provides loan assistance to local governments in declared disaster areas to help them overcome a loss in revenues. In H.R. 152, the House appropriates \$300 million to the account to subsidize no more than \$400 million in direct loan obligations. The House also directs that \$4 million of the amount can be used for administration of the program.

²⁹ The DRF provides funding for the majority of disaster assistance programs authorized under the Stafford Act (42 U.S.C. 5121 et seq), including Public Assistance, Individual Assistance, and Hazard Mitigation Assistance. For more, see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by Francis X. McCarthy.

In Section 401 of House-passed H.R. 152, the House also repurposes funds provided to the account for CDLs following Hurricane Katrina in the Community Disaster Loan Act of 2005 (P.L. 109-88). According to FEMA, there is approximately \$146.3 million in unobligated funds for subsidy loan authority left in the account from this appropriation.³⁰ It is unclear how much this additional subsidy amount would authorize in direct loan obligations. As the eligibility of local governments following Hurricane Katrina has since expired, the unobligated funds of P.L. 109-88 will remain unused until rescinded or repurposed.

In Senate-passed H.R. 1, the Senate included the same \$300 million appropriation to the CDL program as the House, but did not include language to repurpose unobligated funds.³¹

Otherwise, Senate-passed H.R. 1 had identical funding levels for these accounts, plus the \$9,700 million in additional borrowing authority for the National Flood Insurance Fund (which was separately enacted in P.L. 113-1). The Senate also included a number of general provisions in Senate-passed H.R. 1 that would have amended programs funded through the DRE. The House passed many of these provisions in H.R. 219, which passed the House on January 14, 2013, and was appended to House-passed H.R. 152 at engrossment as directed by the rule governing floor consideration of the supplemental appropriations bill.

Homeland Security Legislative Provisions

Senate-passed H.R. 1 included a number of legislative provisions in its section on homeland security, some of which had been requested by the Administration. One of these—\$9,700 million in additional borrowing authority for the National Flood Insurance Program—was enacted separately. Another—Section 609, or the Disaster Recovery Act of 2012—the House has responded to by passing separately the Sandy Recovery Improvement Act, and sending it to the Senate engrossed with H.R. 152.³² Several others have not been taken up by the House.

*NFIP Borrowing Authority*³³

In an attempt to protect the financial integrity of the National Flood Insurance Program (NFIP), and ensure that the FEMA has the financial resources to cover its existing commitments following the devastation caused by Hurricane Sandy, both the President's request and Senate-passed H.R. 1 as amended would have provided for an increase of an additional \$9.7 billion in borrowing authority for the NFIP, which is now capped at \$20.725 billion.

On January 4, both the House and Senate passed H.R. 41, a separate piece of legislation providing this \$9.7 billion in additional borrowing authority. This legislation was signed by the President on January 6, 2013 as P.L. 113-1, and no further borrowing authority for the NFIP is included in H.R. 152.

³⁰ E-mail correspondence with FEMA staff, January 11, 2013.

³¹ For more on the Community Disaster Loan program (Sec. 417 of the Stafford Act), see CRS Report R42527, *FEMA's Community Disaster Loan Program: History, Analysis, and Issues for Congress*, by Jared T. Brown.

³² H.R. 219.

³³ Prepared by Rawle O. King, Specialist in Financial Economics and Risk Assessment, 7-5975.

As background, in the aftermath of Hurricane Katrina in 2005, Congress passed and the President signed into law legislation to increase the NFIP's borrowing authority to allow the agency to continue to pay flood insurance claims: first to \$3.5 billion on September 20, 2005;³⁴ to \$18.5 billion on November 21, 2005;³⁵ and finally to \$20.725 billion on March 23, 2006.³⁶ The NFIP is currently about \$18 billion in debt largely as a result of the claims from Hurricane Katrina.³⁷

By law, the NFIP does not operate under the traditional definition of insurance solvency—that is, it has not been capitalized, rates are set at levels that make the program self-supporting for the historic average loss year, losses and operating expenses are paid out of policyholder premiums, and the program does not generate sufficient premium income to cover flood insurance claims and expenses and build a reserve fund for future catastrophic loss years.³⁸ Consequently, while the program typically generates a surplus in less-than-average-loss years, when faced with insufficient funds to pay claims and expenses in catastrophic loss years, such as occurred in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005, Midwest floods of 2008, Hurricane Irene and Tropical Storm Lee in 2011, and Hurricane Sandy in 2012, the NFIP must resort to its statutory authority to borrow from the Treasury to pay approved claims.³⁹

Disaster Recovery Act of 2012 and the Sandy Recovery Improvement Act of 2013⁴⁰

The final general provision in Senate-passed H.R. 1's homeland security title, Section 609, was entitled the "Disaster Recovery Act of 2012" and included a number of legislative provisions that are beyond the scope of this report to discuss at length. The Disaster Recovery Act of 2012 included a number of provisions that are similar to H.R. 219, the "Sandy Recovery Improvement Act of 2013." These provisions are not necessarily identical, but in general, the provisions of these bills speak to a number of Stafford Act programs, including:

³⁴ P.L. 109-65; 110 Stat. 1998.

³⁵ P.L. 109-106; 119 Stat. 2288.

³⁶ P.L. 109-208; 120 Stat. 317.

³⁷ Under current law, FEMA must repay any borrowed funds (with interest) as it collects premiums. However, FEMA is unlikely to repay the funds borrowed to pay 2005 hurricane-related claims within the next 10 years. Even if FEMA increased flood insurance rates up to the maximum amount allowed by law (20% per year), the program would still not have sufficient funds to cover future obligations for policyholder claims, operating expenses, and interest on debt stemming from recent catastrophic flood events. Some experts have suggested that Congress consider forgiving some or all of NFIP's Treasury borrowing. Supporters of debt forgiveness point to billions of dollars in flood losses that would otherwise have been paid by the Treasury and thus taxpayers. According to FEMA, the NFIP saves taxpayers over \$1.7 billion annually in flood losses that, in the absence of the program, would be paid by taxpayers. Debt forgiveness could, however, be judged an explicit subsidy from general taxpayer funds, with federal budgetary consequences.

³⁸ The Biggert-Waters Flood Insurance Reform Act of 2012 (P.L. 112-141) includes provisions to: (1) phase out long-running premium subsidies for vacation homes, businesses, and repetitive loss properties (those that have made repeated claims on the program); (2) direct FEMA to include catastrophic loss years when assessing flood risk in order to set annual premium rates; and (3) establish a reserve fund to offset claims during catastrophic loss years.

³⁹ For more on the NFIP, see CRS Report R42850, *The National Flood Insurance Program: Status and Remaining Issues for Congress*, by Rawle O. King.

⁴⁰ For information and support on the Disaster Recovery Act of 2012 in H.R. 1 as amended or on the draft Sandy Recovery Improvement Act of 2013, please contact any of the following analysts: Francis X. McCarthy, fmcCarthy@crs.loc.gov, 7-9533; Jared T. Brown, jbrown@crs.loc.gov, 7-4918; and Edward C. Liu, eliu@crs.loc.gov, 7-9166.

- the Hazard Mitigation Grant Program⁴¹—Section 1104 of House-passed H.R. 152, and Section 609(b) of Senate-passed H.R. 1;
- the Public Assistance program⁴²—Sections 1102, 1106, 1107, and 1108(b) of House-passed H.R. 152, and Section 609(c), (d), (e), and (f) of Senate-passed H.R. 1;
- the Individual Assistance program⁴³—Sections 1103, 1108(a), and 1109 of House-passed H.R. 152, and Sections 609(h), (i), and (j); and
- the Community Disaster Loan program⁴⁴—Section 609(l).

Section 1105 of House-passed H.R. 152 and Section 609(g) of Senate-passed H.R. 1 would direct the Administrator of FEMA to establish procedures under which an applicant may request the use of alternative dispute resolution.

Section 1110 of House-passed H.R. 152 and Section 609(k) of Senate-passed H.R. 1 would allow the President to declare major disasters upon the request of a chief executive of affected Indian tribal government, instead of only at the request of a governor of a state.

Section 609(l) and (m) of the Senate bill did not have corresponding sections in the House legislation, and the House bill's Section 1111 does not correspond to a section in the Senate legislation.

The terms of the Disaster Recovery Act of 2012 (as included in Senate-passed H.R. 1) would have applied to any disaster declared on or after the date of the bill's enactment. It also would have applied to previously declared disasters for which the period for processing requests for assistance has not ended, as of the date of enactment. The Sandy Recovery Improvement Act of 2013 (as included in the engrossed H.R. 152) includes no generally applicable statement on when its provisions would apply, although some provisions contain effective dates that are provision-specific.

Provisions Unique to Senate-Passed H.R. 1

Senate-passed H.R. 1 included a number of provisions not requested by the Administration that were not included in House-passed H.R. 152. Some of these mirrored proposed legislation in the 112th Congress. These included:

- Section 602—Would have allowed the Administrator of FEMA, in consultation with state, tribal, and local governments, to give greater weight to the effects of a disaster on special populations in making determinations on Individual Assistance;⁴⁵

⁴¹ Section 404 of the Stafford Act.

⁴² Sections 403(a)(3)(A), 406, 407, and 502(a)(5) of the Stafford Act. Respectively these sections of the Stafford Act refer to essential assistance debris removal; repair, restoration, and replacement of damaged facilities; non-essential debris removal; and debris removal (via an emergency declaration).

⁴³ Section 408 of the Stafford Act.

⁴⁴ Section 417 of the Stafford Act.

⁴⁵ For details on this program, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by Francis (continued...)

- Section 603—Would have broadened eligibility of certain costs for reimbursement under the Public Assistance program;
- Section 604—Would have accelerated FEMA’s cost-share adjustment process for Section 406 and 407 (generally Public Assistance and Debris Removal) of the Stafford Act for Hurricane Sandy;
- Section 605—Would have established a pilot program for the relocation of state facilities from disaster-prone areas;
- Section 606—Would have authorized construction of permanent flood-risk reduction levees on land purchased with Hazard Mitigation Grant Program (HMGP) funds in West North Central States.⁴⁶
- Section 607—Would have directed the FEMA Administrator to re-evaluate Community Disaster Loans (CDLs) issued to local governments in Louisiana and Mississippi following Hurricane Katrina;
- Section 608—Would have allowed Louisiana communities to request DHS Inspector General audits of post-Gustav debris removal projects.

Interior, Environment, and Related Agencies⁴⁷

Both the President’s request and the Senate-passed bill from the 112th Congress include \$1.45 billion for accounts within agencies typically funded by the Interior, Environment, and Related Agencies Appropriations bill. The House-passed bill from the 113th Congress contains slightly less—\$1.44 billion for these accounts. The House-passed total includes \$829.2 million for specified accounts of agencies within the Department of the Interior (DOI), \$0.2 million more than the President’s request of \$829.0 million and \$200.2 million more than the \$629.0 million in the Senate-passed bill. The House-passed total also contains \$607.7 million for certain accounts within the Environmental Protection Agency (EPA), \$10.0 million less than the \$617.7 million requested and \$210.0 million less than the \$817.7 million in the Senate-passed bill. Finally, the House-passed total, like the President’s request and Senate-passed bill, contains \$6.4 million for “related agencies,” namely the Forest Service (\$4.4 million) and the Smithsonian Institution (\$2.0 million).

At the account level, the President’s request contains funding for 10 accounts within six agencies/offices, while the House- and Senate-passed bills include funding for 11 accounts within seven agencies/offices, as reflected in **Table 1**. The request, House-passed bill, and Senate-passed bill propose the same level of funding for seven accounts. The differences are as follows. The President seeks \$1.09 billion for three accounts, including \$78 million for Construction within the Fish and Wildlife Service (FWS). The remaining \$1.01 billion is for “mitigation projects” through the Resource Management account within the FWS (\$400.0 million) and the State and Tribal Assistance Grants (STAG) account within EPA (\$610.0 million). Together with mitigation funding requested for agencies funded through other appropriations subcommittees, such funding would be used for projects that would reduce the risk or damage from future disasters, according

(...continued)

X. McCarthy.

⁴⁶ Defined by the Census Bureau as Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

⁴⁷ Prepared by Carol Hardy-Vincent, Specialist in Natural Resources Policy, 7-8651.

to the President. The Senate-passed bill also included \$1.09 billion, but for four accounts as follows: FWS Construction (\$78.0 million); Historic Preservation Fund, within the National Park Service (\$50.0 million); Departmental Operations, within the Office of the Secretary of DOI (\$150.0 million); and EPA STAG (\$810.0 million). The House-passed bill seeks slightly less—\$1.08 billion—for the same four accounts: FWS Construction (\$68.2 million); NPS Historic Preservation Fund (\$50.0 million); Departmental Operations (\$360.0 million); and EPA STAG (\$600.0 million). The Administration did not request funding for the Historic Preservation Fund or Departmental Operations, while neither the House-passed bill nor the Senate-passed bill include funding for FWS Resource Management.

The President specified a need for legislative language for one account for which funds were requested. Specifically, of the Administration's \$610.0 million request for EPA STAG funding for states affected by Hurricane Sandy, \$600.0 million is for capitalization grants for the State Revolving Fund (SRF) programs under the Clean Water Act and the Safe Drinking Water Act. The Administration states that legislative language would be needed to target this assistance, but no specific language accompanies the request. The remaining \$10.0 million of the STAG request is for wetlands restoration and other ecosystem enhancements. The House's \$600.0 million and the Senate's \$810.0 million for EPA's STAG account would be allocated entirely to SRF capitalization grants.

Of the 11 accounts which would receive funding in the House- and Senate-passed bills, eight do not contain any specific terms and conditions. The three accounts with terms and conditions are in the NPS; DOI, Office of the Secretary; and EPA. First, both the House- and Senate-passed bills similarly condition appropriations for the NPS Historic Preservation Fund, which provides funds for restoring historic districts, sites, buildings, and objects significant in American history and culture. The bills would limit funding to expenses related to the consequences of Hurricane Sandy, including costs to administer the program and costs to states to ensure compliance with Section 106 of the Historic Preservation Act. Section 106 requires federal agencies to consider the effects of projects they carry out, approve, or fund on historic properties. The bills also state that grants could be provided only in areas that have a major disaster declaration under the Stafford Act, and that grant recipients would not be required to provide a match for federal funding, which typically is required.

Second, the House- and Senate-passed bills contain differing provisions for the DOI Office of the Secretary, Departmental Operations, regarding the purposes for which the funds are to be used. The Senate-passed provision was broader. Under both bills, for instance, DOI bureaus and offices are to use funds for necessary expenses related to the consequences of Hurricane Sandy, but under the Senate-passed bill they also could be used for other activities related to storms and natural disasters. Under both bills, funds also are to be used for increasing the capacity of coastal habitat and infrastructure to withstand storms, and for restoring and rebuilding parks, refuges, and other public assets. However, the House-passed bill specifies that these entities are to be national/federal. The Senate-passed bill further provided for other uses of the funds, namely protecting natural and cultural values, and assisting state, tribal, and local governments. Other House- and Senate-passed bill language is similar. In particular, both bills authorize the Secretary of the Interior to transfer the funds to any account in the Department, and require the Secretary to submit to the Appropriations Committees a detailed spending plan for the funds within 60 days of enactment.

Third, for the EPA STAG account, several terms and conditions are identified, among the following. The House-passed bill includes a requirement that the states must use not less than

20% but not more than 30% of the SRF capitalization grant funds to provide additional subsidization to SRF loan recipients in the form of forgiveness of principal, negative interest loans, or grants, or any combination of these. The Senate-passed bill included a requirement that the states must use not less than 50% of the capitalization grant funds for this purpose. Additionally, the Senate-passed bill would have waived the normal requirement that states provide a 20% match for the SRF capitalization funds, which is not waived in the House-passed bill. Both the House- and Senate-passed bills also would require the SRF funds to be used only for purposes that currently are not eligible under the SRF programs: to reduce flood damage risk and vulnerability, to enhance resiliency to rapid hydrologic change or natural disaster at a treatment works, or other necessary tasks to further such purposes. Further, the Senate-passed bill would have allowed states to use clean water SRF funds for purchase of land and easements necessary for siting of treatment works projects, which is currently not an eligible activity under the Clean Water Act program. This provision was not included in the House-passed bill. Finally, under the House-passed bill, SRF funds would be allocated entirely to states in EPA Region 2 for wastewater and drinking water treatment works and facilities impacted by Hurricane Sandy, rather than allocated according to the existing state-by-state allotment formula under the clean water SRF program or according to needs surveys under the drinking water SRF program. The Senate-passed bill would have allocated SRF funds only to states that have received a major disaster declaration for Hurricane Sandy under the Stafford Act. The President's request does not include a similarly explicit statement, but does indicate that funds for SRF grants would be allocated to "affected states."

Finally, provisions of the House-passed bill would prohibit the use of funds for two different purposes. First, the bill bars the Secretary of the Interior and the Secretary of Agriculture from using funds in the bill to acquire land. Second, the bill prohibits FWS Construction funds from being used to repair seawalls or buildings on islands in the Stewart B. McKinney National Wildlife Refuge.

Labor, Health and Human Services, Education, and Related Agencies

Both the President's request and House-passed H.R. 152 call for supplemental funding to be provided to several programs typically funded by the Labor, Health and Human Services (HHS), Education, and Related Agencies' appropriations bill (see **Table 1**). The majority of these funds (\$800 million) would go to HHS to support health, mental health, and social services needs in affected states, including costs related to the construction and renovation of damaged health, mental health, biomedical research, child care, and Head Start facilities. However, the mechanism for providing these funds differs between the request and House-passed H.R. 152, with the President calling for these funds to be appropriated directly to three separate accounts, while House-passed H.R. 152 would appropriate the entire \$800 million to one account and require that some of these funds be transferred elsewhere. In addition to funding for HHS, both the President's request and House-passed H.R. 152 would provide funds (of differing amounts) to the Department of Labor to support dislocated workers. The President's request also calls for funds to cover administrative costs at the Social Security Administration (SSA) due to storm damage, which H.R. 152 derives from certain unobligated balances at the SSA. In some cases, the President's request calls for special legislative provisions to expand or target the eligible uses of proposed supplemental funds. House-passed H.R. 152 generally incorporates text for these provisions, with some adjustments, and includes several additional legislative provisions that are

not specified in the Administration's proposal. The Senate-passed H.R. 1, as amended, from the 112th Congress aligned more closely with the President's request than with H.R. 152.

Department of Labor⁴⁸

Both the President's request and the House-passed bill include funds for the Training and Employment Services account within the Employment and Training Administration of the Department of Labor. The President's request and the House-passed bill are similar but not identical. The House-passed bill includes \$25 million for the Workforce Investment Act (WIA) Dislocated Worker (DW) National Reserve, while the President requests \$50 million for the WIA DW National Reserve to support National Emergency Grants (NEG). The House-passed bill does not specify that funds for the DW National Reserve are to be used solely for NEG. Funds from the NEG are used to support employment and training activities, such as job search assistance and job training, for workers dislocated from employment by major economic dislocations, including natural disasters.⁴⁹ In addition, the House-passed bill provides that the Secretary of Labor may transfer up to \$3.5 million of the appropriated funds to any other DOL account for other reconstruction and recovery needs related to Hurricane Sandy. The President's request does not contain this transfer provision. Senate-passed H.R. 1 differed slightly, in that it contained \$50 million for the DW National Reserve, but did not specify that the funds were to be used solely for NEGs, which are funded out of the National Reserve, and the Senate bill also provided that the Secretary of Labor may transfer up to \$3.5 million of the appropriated funds to any other DOL account for other reconstruction and recovery needs related to Hurricane Sandy.

Department of Health and Human Services⁵⁰

The President's request and House-passed H.R. 152 both call for \$800 million in supplemental disaster funding for HHS programs, for ultimate distribution as follows: \$500 million for the Social Services Block Grant (SSBG), \$100 million for the Head Start program, and \$200 million for the Public Health and Social Services Emergency Fund (PHSSEF) for other HHS programs. However, the request and House-passed H.R. 152 would use two different approaches for appropriating these funds. The request calls for the \$800 million to be spread across the three separate HHS appropriations accounts. By contrast, House-passed H.R. 152 would appropriate the full \$800 million directly to one account (for the PHSSEF) and would then require the HHS Secretary to transfer portions of these funds to the other programs and activities in amounts largely consistent with the request: \$500 million to the SSBG, \$100 million to the Head Start program, at least \$5 million to the HHS Office of the Inspector General (OIG), and the remaining \$195 million to the HHS Secretary for other activities. In addition, House-passed H.R. 152 would make the \$800 million available for two fiscal years. Both the request and House-passed H.R. 152 also include special provisions targeting and/or expanding the eligible uses of funds. Separately, Senate-passed H.R. 1 would also have appropriated \$800 million to HHS, spread across three programs. This bill was generally consistent with the President's request, with a few differences.

⁴⁸ Prepared by David Bradley, Specialist in Labor Economics, 7-7352.

⁴⁹ For more information, see CRS Report R41135, *The Workforce Investment Act and the One-Stop Delivery System*, by David H. Bradley.

⁵⁰ Prepared by Karen Lynch, Specialist in Social Policy, 7-6899 and Sarah A. Lister, Specialist in Public Health and Epidemiology, 7-7320.

As noted, the President's request, House-passed H.R. 152, and Senate-passed H.R. 1 each use the PHSSEF to fund all or part of HHS's response efforts. The PHSSEF is an account managed by the HHS Secretary and used by appropriations committees to fund certain emergency management activities, and to provide one-time funds through emergency supplementals. It is not authorized in law except through annual appropriations, and has no accompanying regulations or guidance. PHSSEF funds are intended for transfer to HHS institutes, agencies, and offices to carry out activities specified in appropriations laws. The President's request would provide \$200 million to the PHSSEF for transfer to support a number of health-related activities throughout HHS, including (1) National Institutes of Health (NIH) grantees for losses to their NIH-funded biomedical research programs; (2) substance abuse and mental health programs; (3) environmental and public health support; and (4) other activities the Secretary deems necessary for response and recovery from storm-related damage. House-passed H.R. 152 would provide \$800 million (the entire HHS amount) to the PHSSEF, for transfer as noted elsewhere in this section, including at least \$5 million to the HHS OIG, and \$195 million to accounts within HHS as determined by the Secretary. The latter amount could be used, in unspecified amounts, for repair and rebuilding of non-federal biomedical research facilities (presumably NIH grantees). None of the PHSSEF funds could be used for costs that are reimbursable by FEMA or covered by insurance. Except for the \$5 million transfer to the HHS OIG, Senate-passed H.R. 1 would have allowed the \$200 million provided to the PHSSEF to be used in a manner similar to that proposed in H.R. 152.

The President's request and House-passed H.R. 152 both include \$500 million for the SSBG at the HHS Administration for Children and Families. The SSBG is a flexible source of funding used by states to support a wide variety of social services, ranging from child care to special services for the disabled.⁵¹ The President's request calls for the \$500 million to be directly appropriated to the SSBG, while House-passed H.R. 152 calls for these funds to be transferred to the SSBG from an \$800 million appropriation to the PHSSEF. Both House-passed H.R. 152 and the President's request include special language targeting supplemental SSBG funds to states directly affected by Hurricane Sandy (i.e., waiving the statutory allocation formula) and allowing states to use these funds for the provision of health services (including mental health services), and costs of renovating, repairing, or rebuilding health care facilities, child care facilities, and other social services facilities. In addition, House-passed H.R. 152 includes several other provisions applicable to the SSBG. For instance, the bill would give states up to three years to expend these funds, one year longer than the SSBG's standard two-year expenditure period. In addition, as with other funds in the PHSSEF appropriation, House-passed H.R. 152 would allow SSBG funds to be used for obligations incurred prior to the bill's enactment (provided these costs align with purposes specified in the bill) and would prohibit these funds from being used for costs that are reimbursable by FEMA or covered by insurance. The Senate-passed H.R. 1 included similar (though not always identical) provisions, along with several others not included in House-passed H.R. 152. For instance, unlike House-passed H.R. 152, the Senate-passed H.R. 1 included language allowing states to use up to 10% of their allotments to supplement any other funds available for the costs of compensating employees of health care providers for lost wages as a result of Hurricane Sandy and for supporting the viability of health care providers whose facilities were substantially damaged. Senate-passed H.R. 1 also included language requiring states to follow certain federal regulations on establishing a Notice of Federal Interest in real property, where applicable.

⁵¹ For more information, see CRS Report 94-953, *Social Services Block Grant: Background and Funding*, by Karen E. Lynch.

The President's request and House-passed H.R. 152 both include \$100 million for the Head Start program, funded within the Children and Families Services Programs account at the HHS Administration for Children and Families. The Head Start program provides comprehensive early childhood development services to low-income children.⁵² The President's request calls for the \$100 million to be directly appropriated to Head Start, while House-passed H.R. 152 calls for these funds to be transferred to Head Start out of the \$800 million appropriation to the PHSSEF. The President's request specifies that funds are to be made available to affected Head Start agencies for costs of renovating, repairing, or rebuilding damaged facilities, as well as for certain services for affected children and families, including costs of transporting children enrolled in now-closed centers to other Head Start programs. House-passed H.R. 152 does not include any language about damaged Head Start facilities or affected children. However, the overall PHSSEF appropriations language makes it clear that these funds are for disaster response and recovery in affected state. To this end, House-passed H.R. 152 includes language explicitly waiving the statutory Head Start allocation formula and clarifying that funds awarded from this supplemental appropriation would not be considered part of a Head Start program's "base grant" in subsequent fiscal years. As with other funds in the PHSSEF appropriation, House-passed H.R. 152 would allow Head Start funds to be used for obligations incurred prior to the bill's enactment (provided these costs align with purposes specified in the bill) and would prohibit these funds from being used for costs that are reimbursable by FEMA or covered by insurance. Senate-passed H.R. 1 included similar (though not always identical) provisions, along with several others not included in H.R. 152. For instance, unlike H.R. 152, Senate-passed H.R. 1 included language specifying that these funds could be used for costs of renovating, repairing, or rebuilding damaged facilities; costs of supportive and mental health services for affected children and families; and costs of technical assistance for affected Head Start centers. Senate-passed H.R. 1 also included a provision (not in House-passed H.R. 152) that would have waived the program's non-federal matching rules for these funds. According to a press release on the draft Senate bill from the 112th Congress, these funds were expected to support approximately 265 Head Start centers damaged by the hurricane.⁵³

Military Construction, Veterans Affairs and Related Agencies

The Administration is seeking \$259 million for military construction activities and the Department of Veterans Affairs (VA) in its request for FY2013 supplemental appropriations for repair and replacement of damaged equipment and facilities. The request seeks \$24 million for Army National Guard military construction efforts to repair damaged facilities and utilities at Sea Girt National Guard Training Center, and \$236 million for the VA. The largest single project is a \$207 million request through the Major Construction account for renovation and repair of the Manhattan VA Medical Center, which experienced severe flooding. This project would ordinarily require congressional authorization to be funded.

House-passed H.R. 152 included \$260 million for these accounts, the only difference from the request being an additional \$1 million for the VA's National Cemetery Administration to repair storm damage. Senate-passed H.R. 1 proposed \$259 million for these accounts. Both House and Senate bills included language that would have allowed the Army National Guard Military

⁵² For more information, see CRS Report RL30952, *Head Start: Background and Issues*, by Karen E. Lynch.

⁵³ Senate Appropriations Committee, "Summary: Fiscal Year 2013 Disaster Assistance Supplemental," press release, December 12, 2012, <http://www.appropriations.senate.gov>, p. 7.

Construction funding and the VA Major Construction funding to be expended on otherwise unauthorized projects.⁵⁴

Transportation, Housing and Urban Development, and Related Agencies⁵⁵

Both the President's request and H.R. 152 as passed by the House include over \$29 billion for accounts within agencies typically funded by the Transportation, HUD and Related Agencies bill, as did Senate-passed H.R. 1. While the total funding requested and proposed is the same, the allocation of funds and accompanying guidance on the use of funds differ.

Department of Transportation⁵⁶

The President's request includes \$12.07 billion for accounts within the Department of Transportation (DOT), as did Senate-passed H.R. 1. The House-passed H.R. 152 includes \$13.07 billion for DOT accounts, \$1 billion more than requested. In each case the vast majority of funding was for public transit. While the request and the Senate-passed bill were similar in total funding, they differed in funding allocation, and the House-passed bill differs from both, as shown in **Table 1**. Briefly, the House-passed bill would provide (a) more funding for Amtrak than the President requested but less than Senate-passed H.R. 1 provided, and (b) more funding for highway repair than either the President requested or the Senate-passed H.R. 1 provided.

For transit assistance, the President requested a total of \$11.7 billion, divided between repair and mitigation funding. Both types of funding would go into the recently created Public Transportation Emergency Relief Program (previously, some public transit emergency relief funding could have been provided under the Stafford Act). The President requested \$6.2 billion for repairs and \$5.5 billion for mitigation; the repair funding request specified that the funding would be provided as a 90% federal match; that funding could also be transferred for use for highway and bridge repairs at the discretion of the Secretary of Transportation; that funding should not supplant private insurance coverage, and that \$3 million would go to the Department of Transportation Inspector General for oversight.

Senate-passed H.R. 1 would have provided \$10.78 billion, up to \$5.38 billion of which could be transferred by the Secretary of Transportation to be used to mitigate damage to highway and transit facilities from future disasters (which, by inference, assures that at least \$5.4 billion is available for repairs). The President's request would allow the repair money to also be used for highway infrastructure, with no language concerning mitigation funding, while the Senate bill reversed that, making the mitigation funding available for transfer to highway projects, with no corresponding language for the repair funding. Also, as with the Amtrak section, Senate-passed H.R. 1 did not include language addressing the issue of not supplanting private insurance.

⁵⁴ H.R. 1, EAS, p. 83, and H.R. 152, EH, p. 21.

⁵⁵ Note that while Title 8 of H.R. 152 also includes appropriations for the Departments of Transportation and Housing and Urban Development, Section 1094 provides that Title 10 Chapter 9 shall apply in place of Title 8.

⁵⁶ Prepared by D. Randy Peterman, Analyst in Transportation Policy, 7-3267.

House-passed H.R. 152 provides \$10.9 billion for the Public Transportation Emergency Relief Program, \$2 billion to be made available immediately and the remainder after the Federal Transit Administration publishes interim regulations for the program. Of the total, the Secretary of Transportation may transfer up to \$5.383 billion to fund transportation projects to reduce the risk of damage from future disasters in the areas impacted by Hurricane Sandy. This bill also is silent about the issue of not supplanting private insurance money.

For repairs to Federal Aviation Administration (FAA) equipment, the President requested \$30 million; the House-passed H.R. 152 provides this, as did Senate-passed H.R. 1. This funding would be drawn from the Airport and Airway Trust Fund.

The President requested \$308 million for highway repairs, and called for a portion of the funding requested for the Public Transportation Emergency Relief Program to be available for highway repairs in areas affected by Hurricane Sandy at the discretion of the Secretary of Transportation. House-passed H.R. 152 provides \$2.022 billion, over six times the amount requested, and also allows a portion of the funding provided for the Public Transportation Emergency Relief Program to be available for highway (and other types of transportation) disaster mitigation projects. Senate-passed H.R. 1 would have provided \$921 million for highway repair, and also allowed for funds to be made available for mitigation projects.

The President requested \$32 million for Amtrak, while Senate-passed H.R. 1 would have provided \$336 million. Amtrak has estimated that its property damage and business interruption losses will be around \$60 million; it has insurance to cover this, with a \$10 million deductible, though it may be some time before the insurance claim can be settled. Amtrak has also identified \$276 million in mitigation and capacity-expanding activities for rail tunnels into New York City that it would like to undertake. The President's request includes language providing that federal funding should not be used to supplant insurance coverage for Amtrak's damages. Senate-passed H.R. 1 would have provided Amtrak the entire sum (\$60 million for repairs and \$276 million for mitigation and improvements), with no language addressing the insurance issue. House-passed H.R. 152 provides \$32 million for repairs and \$86 million for recovery and resiliency projects in the affected area, a total of \$118 million, which is more than requested by the President but considerably less than would have been provided by Senate-passed H.R. 1.

Some transit agencies have proposed that, instead of using emergency relief funding to simply restore infrastructure to its pre-disaster condition by replacing equipment that may be antiquated, they take this opportunity (and funding) to install equipment that makes their systems more functional (such as, for example, increasing capacity) as well as more resilient in coping with future emergencies. The new Federal Transit Administration Emergency Relief Program may provide grantees this flexibility, as both Congress and recent administrations have provided similar flexibility for the Federal Highway Administration Emergency Relief Program. Such an approach may raise questions about how the costs of repairs that include system improvements should be allocated between the federal Emergency Relief programs and state and local governments.⁵⁷

⁵⁷ For additional background on this issue, see CRS Report R42804, *Emergency Relief Program: Federal-Aid Highway Assistance for Disaster-Damaged Roads and Bridges*, by Robert S. Kirk.

Housing and Urban Development⁵⁸

Both the President's request and Senate-passed H.R. 1 included \$17 billion for HUD, all of which was provided to the Community Development Fund (CDF), the account that funds the Community Development Block Grant (CDBG) program. House-passed H.R. 152 included \$16 billion for HUD, all for the CDF.

While both H.R. 152 as amended and the Administration's request would set aside CDBG funds for the activities of the Office of the Inspector General (OIG), the House bill recommends transferring \$10 million for OIG activities while the Administration's request is \$4 million. A provision in Senate-passed H.R. 1 also proposed transferring \$10 million to fund OIG activities.

The House-passed bill does not include a proposed Administration request that would set aside \$2 billion of the total CDBG disaster aid request for mitigation activities. The Senate-passed proposal also included a proposed set-aside of \$2 billion for mitigation activities. Both the House-passed bill and the Administration's request would set aside \$10 million for salaries and expenses to be used to fund technical assistance and cover the costs incurred by HUD's Office of Community Planning and Development (OCPD) in administering CDBG disaster funds. The Senate-passed bill also recommended transferring \$10 million to the OCPD for such activities. House-passed H.R. 152 would allow HUD to distribute CDBG disaster funds appropriated under the act to the most impacted and distressed areas affected by Hurricane Sandy and other eligible disaster events occurring during calendar years 2011, 2012, and 2013. A similar provision included in Senate-passed H.R. 1 recommended setting aside a specific amount—\$500 million—in CDBG disaster funds to address the unmet needs resulting from other (non-Hurricane Sandy) major disasters declared via the Stafford Act that occurred during 2011 or 2012, or for small, economically distressed areas with a disaster declared in 2011 or 2012.

House-passed H.R. 152 includes several terms and conditions that vary from the rules governing the regular CDBG program, but are consistent with language included in Senate-passed H.R. 1. These can be grouped into three broad areas governing the submission and content of disaster plans, allocation and use of funds, and waiver authority. The bill would:

- direct HUD to promulgate regulations governing the distribution and use of funds within 45 days after passage of this act, including establishing minimum allocations for CDBG grantees;
- require states and local government grantees to submit, and for HUD to approve, disaster plans before CDBG disaster funds may be obligated;
- require that a grantee's disaster plans articulate how proposed activities will support long-term recovery efforts;
- require HUD to certify that state and local government grantee disaster plans include adequate financial controls and procurement processes that would prevent duplication of benefits; waste, fraud, and abuse; and encourage timely expenditure of funds; and

⁵⁸ Prepared by Maggie McCarty, Specialist in Housing Policy, 7-2163, and Eugene Boyd, Analyst in Federalism and Economic Development Policy, 7-8689.

- direct HUD to allocate one-third of CDBG disaster appropriations provided in the bill to states and local government grantees within 60 days after passage of the bill.

House-passed H.R. 152 would also establish conditions and terms for the use of funds, including:

- allowing grantees to use up to 5% of their CDBG disaster grant allocation for administrative expenses;
- prohibiting grantees from contracting out the responsibility for administering the CDBG disaster programs;
- requiring grantees to include performance requirements and penalties when eligible activities are undertaken through the use of contractors or procurement services;
- prohibiting disaster funds from being used for activities that are reimbursable by, or made available by, FEMA or the Army Corps of Engineers;
- requiring grantees to maintain a publicly accessible website identifying how all grant funds are used, including information on contracting and procurement processes; and
- holding harmless a state or community's regular CDBG allocation by ensuring that the amount of such funds awarded to grantees would not be affected by CDBG disaster-assistance allocations.

The House-passed bill does not include two provisions that were included in Senate-passed H.R. 1. Specifically, the bill does not include provisions removing the \$250,000 ceiling on the amount of CDBG disaster funds that may be used to meet the non-federal cost share of a disaster-related project funded by the Army Corps of Engineers; or limiting disaster recovery assistance to for-profit entities to businesses that meet the Small Business Administration's definition of small business and to public utilities.

Finally, House-passed H.R. 152 would grant HUD broad authority to waive or establish alternative program requirements, except for provisions governing fair labor standards, fair housing, civil rights, and environmental review. However, the House bill includes two exceptions related to environmental review requirements. Specifically, the bill would allow CDBG disaster fund grantees who use their funding to meet certain FEMA matching requirements to adopt, without public review, environmental reviews performed by other federal agencies. In cases where a grantee has already performed an environmental review or the activity or project is excluded from an environmental review, the bill would explicitly allow for the expedited release of funds. The House-passed bill would allow HUD to reduce, from 70% to 50%, the percentage of funds that must be targeted to activities benefiting low and moderate income (LMI) persons, and would allow HUD to reduce the LMI-targeting requirement below 50% only if the grantee can demonstrate a compelling need. Similar provisions were included in Senate-passed H.R. 1.

The President also requests legislative language for one HUD account for which funds were not sought: the tenant-based rental assistance account, which funds the Section 8 Housing Choice Voucher program. Specifically, the President requests that Congress "hold harmless" program administrators (public housing authorities, or PHAs) affected by the disaster when allocating FY2013 voucher renewal and administrative fee funding provided through the regular annual appropriations process. The President requests that disaster-affected PHAs be funded no lower

than their FY2012 funding levels. Section 1001 of Senate-passed H.R. 1 included similar language. It would have provided the Secretary the authority to make adjustments to PHAs' funding levels to "avoid funding impacts that would otherwise result from the disaster," at a PHA's request and provision of supporting documentation. House-passed H.R. 152 provided language similar to Senate-passed H.R. 1.

Additional legislative provisions in the THUD section of Senate-passed H.R. 1 would have (1) required DOT and HUD to submit implementation plans within 45 days of enactment and biannually thereafter and (2) required DOT and HUD to notify the House and Senate Committees on Appropriations not less than three full business days before the announcement that a project, state, or locality has been selected to receive a grant award totaling \$500,000 or more. House-passed H.R. 152 included similar provisions, except that the threshold for notifying the congressional appropriations committees about individual grants was raised to \$1 million.

General Legislative Provisions

While the Administration indicated a need for legislative language on a number of issues, no draft texts of proposed language was circulated publicly.

There are four general provisions that apply to the appropriations division of House-passed H.R. 152. Three of these were generally administrative in nature, as were two of the nine included in Senate-passed H.R. 1—provisions traditionally carried in supplemental appropriations bills with emergency funding.

Internal Control Plans⁵⁹

The President's request includes a proposal to require the Office of Management and Budget (OMB) to direct federal agencies to submit internal control plans for the programs receiving supplemental appropriations.⁶⁰ The President's request states that the internal control plans should contain *enhanced* grant management protocols, including quarterly program and financial monitoring, timely submission of single audit reports and grants closeout, and improper payments testing and reporting.

Existing statutory and regulatory provisions, and OMB guidance, already address these grants management practices, so it is unclear what enhancement of grant management protocols might entail.⁶¹ Additionally, the President's request does not include specific provisions for additional

⁵⁹ Prepared by Natalie M. Keegan, Analyst in American Federalism and Emergency Management Policy, nkeegan@crs.loc.gov, 7-9569.

⁶⁰ Internal controls are measures that the federal agency takes to ensure that the federal agency and grant recipients are in compliance with applicable statutes, regulations, and OMB circulars. Internal control standards seek to ensure that the use of funds comply with applicable laws, that assets are appropriately protected against waste, fraud, and abuse, and that federal agencies have efficient and effective financial and program administration systems that allow for appropriate accountability of funds.

⁶¹ For example, there are statutory provisions for single audit reporting are contained in the Single Audit Act of 1984 (P.L. 98-502), as amended, and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Examples of statutory provisions for improper payments can be found in the Improper Payments Act of 2002 (P.L. 107-300). Examples of internal control provisions can be found in the Federal Managers' Financial Integrity Act of 1982, as codified in 31 U.S.C. 3512, with OMB guidance contained in Circular A-123, *Managements Responsibility for Internal Controls*.

resources for federal agencies to implement grants oversight, such as supplemental funds for federal agency inspector general offices or an increase in the allowable management and administration percentage for individual grant programs. The Administration's request does not identify which programs would be affected by the enhanced protocols.

In the 112th Congress, Senate-passed H.R. 1 included a provision that would have required OMB to issue guidance to federal agencies to develop internal control plans for funds provided by the bill.⁶² The bill also included funding for oversight of supplemental funding and certain management and administration activities, however the amounts were provided at the program level and not all programs received additional funding for these activities.⁶³ In the 113th Congress, House-passed H.R. 152 would require federal agencies to submit internal control plans to OMB, GAO, agency Inspectors General, and House and Senate Appropriations Committees for all supplemental funding provided in the bill; and would direct GAO to develop the template for the internal control plans.⁶⁴

Improper Payments

The President's request does not specifically address improper payments, but includes a provision to ensure the integrity of federal spending. Both House-passed H.R. 152 and Senate-passed H.R. 1 include a provision⁶⁵ that designates all programs and activities funded through the legislation as "susceptible to significant improper payments" under the provisions of the Improper Payments Information Act of 2002 (IPIA).⁶⁶ This designation requires federal agencies to estimate the annual amount of improper payments made under the program and submit the estimates to Congress annually. Additionally, for programs that have estimated improper payments that exceed \$10 million, the federal agency would be required to develop a report that identifies the causes and corrective actions the agency would take to reduce the improper payments.⁶⁷ It is likely that several programs that would receive funding under the bill are not currently identified as "susceptible to significant improper payments." This provision, therefore, would potentially increase the administrative burden on agencies and grant recipients. Neither the request nor legislation responding to the request has included specific appropriations to fund compliance with this provision.

Two provisions were added to Senate-passed H.R. 1 through the floor amendment process that seek to prohibit payments from funds provided in the bills. One provision would have prohibited payments to individuals who were deceased at the time funds were made available,⁶⁸ and another

⁶² 112th Congress, H.R. 1, section 1103(a).

⁶³ Examples of funding provided for oversight of grant funds include \$1 million for the Environmental Protection Agency's State and Tribal Assistance Grants for management and oversight, and an allowance for a percentage (less than 1%) of funds provided to the Federal Transit Administration's Public Transportation Emergency Relief Program and the Federal Railroad Administration's National Railroad Passenger Corporation grant to be used for management and oversight.

⁶⁴ H.R. 152, EH, section 904(a)(1) and 904(a)(2).

⁶⁵ H.R. 152, EH, section 904(b).

⁶⁶ P.L. 107-300, *Improper Payments Information Act of 2002*, as amended by P.L. 111-204, *Improper Payments Elimination and Recovery Act of 2010*.

⁶⁷ 31 U.S.C. 3321.

⁶⁸ H.R. 1, EAS, 112th Congress, Sec. 1109. Funeral costs were exempted from this provision, though funeral costs are traditionally funded under the "other needs assistance" provisions of the Stafford Act and are provided to the surviving family member rather than to the deceased individual (42 U.S.C. 5174).

would have prohibited payments to an individual or entity using funds provided under the bill if the individual or entity had a pending “seriously delinquent tax debt.”⁶⁹ In regards to the tax provision, it is unclear how agencies would have implemented this provision, though there is some question regarding federal agencies’ ability to access IRS tax records to screen disaster recipients prior to providing federal disaster assistance. Neither the President’s request nor House passed H.R. 152 included these provisions.

Trigger to De-Obligate Unexpended Grant Funding

The President’s request recommends the withdrawal of grant funds awarded through certain programs if funds are not expended within 24 months of the award. It is unclear which federal grant programs, and what types of grant awards, would be affected by this provision.

Senate-passed H.R. 1 would have directed agencies to identify (for application of the trigger) grants funded through the legislation where funds should have been expended within the 24-month period following the federal agency obligation of funding. The bill would also have required the Director of OMB to issue guidance establishing the methods federal agencies would use to identify grant awards affected by the trigger. Recipients of identified grants would have had to expend funds in the 24-month period following the award. The federal agency would have had to de-obligate any funds remaining unexpended after the 24-month period. Federal agency heads could have requested a waiver of the 24-month expenditure requirement after consultation with the Director of OMB to discuss exceptional circumstances that might justify an extension. It is unclear whether the Senate provision would have required the director to approve the waiver, and what “consultation” might have entailed. Additionally, in the absence of specific language establishing a time frame for the waiver process, grant recipients could have faced uncertainty about whether they could have continued expending funds once the 24-month period had elapsed. This could have resulted in disaster recovery activities coming to a halt while federal agencies debate approval of the waiver.

House-passed H.R. 152, as amended, contains a provision requiring grant recipients to expend funds within the 24-month period following the federal agency obligation of funds for the grant award unless the OMB Director waives the requirement. If the requirement is waived, the OMB Director must submit written justification to the House and Senate Appropriations Committees. Grant recipients that receive a waiver would be required to return any funds remaining unexpended after 24 months to the awarding federal agency.⁷⁰

Planning for and Projecting Future Vulnerabilities and Risks⁷¹

The Administration’s request proposes that federal agencies

work in partnership with State, local, and tribal officials to develop mutually agreed upon assessments of future risks and vulnerabilities facing the region, including extreme weather,

⁶⁹ 112th Congress, H.R. 1, as amended, section 1108.

⁷⁰ H.R. 152, as amended, Section 904(c).

⁷¹ Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-4918.

sea level rise, and coastal flooding and incorporate these into their recovery planning and implementation.⁷²

While the House did not address these specific factors in H.R. 152, the language of the request was reflected in the text of Section 1104 of Senate-passed H.R. 1. For example, Section 1104(a) would have directed federal agencies, in partnership with state, tribal, and local governments to “*inform* plans for response, recovery, and rebuilding to reduce vulnerabilities from and build long-term resiliency to future extreme weather events, sea level rise, and coastal flooding” (italics added). Further, the provision stated that with respect to “repairing, rebuilding, or restoring infrastructure and restoring land, project sponsors *shall consider, where appropriate*, the increased risks and vulnerabilities associated with future extreme weather events, sea level rise and coastal flooding” (italics added). Section 1104(b) would also have made available funds under the legislation for the coordinated development of “regional projections and assessments of future risks” to help improve the plans required under 1104(a). In general, the impact of this full provision would have depended on how the relevant federal agencies interpreted and implemented the directive to *inform* their plans, and how recipient project sponsors interpreted and implemented the directive to *consider* these increased risks. It is possible, for example, that a requirement, or choice, to take into account the risks delineated in the provision, could have resulted in the need for new flood hazard maps that reflect new flood insurance zones based on the future impact of extreme weather events, sea level rise, and coastal flooding; and also possibly new floodplain management standards requiring communities under the NFIP that reflect new land-use planning and construction standards in Special Flood Hazard Areas (SFHA). Also by example, in interpreting and implementing this provision, the U.S. Army Corps of Engineers could have adjusted their plans for the level of flood protection needed along the eastern seaboard.

Mitigation of Future Power Outages⁷³

Section 1105 of Senate-passed H.R. 1 as amended would have required the Secretary of HUD, as the chair of the Hurricane Sandy Rebuilding Task Force,⁷⁴ to issue guidelines on how recipients of federal funds for reconstruction should “to the greatest extent practicable ... maximize the utilization of technologies designed to mitigate future power outages, continue delivery of vital services and maintain the flow of power to facilities critical to public health, safety and welfare.” These guidelines could have been issued in a number of ways. However, depending on the scope of the guidelines and whether recipients were required to follow them, the guidelines could have impacted the expenditure of funds for a number of programs. For example, recipients may have been more likely to invest funds received from FEMA’s Hazard Mitigation Grant Program or HUD’s Community Development Block Grant program in technologies that would mitigate power outages, such as backup generators. The Administration’s proposal does not specifically request this provision, but it is arguably consistent with the Administration’s emphasis on using funding to mitigate future damages. No similar provision was included in House-passed H.R. 152.

⁷² Office of Management and Budget, *Hurricane Sandy Funding Needs*, Washington, DC, December 7, 2012, second page of *Appendix: Detailed Estimates of Necessary Federal Resources*.

⁷³ Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-4918.

⁷⁴ The Secretary of HUD was designated as the chair in Executive Order 13632, “Establishing the Hurricane Sandy Rebuilding Task Force,” 77 *Federal Register* 74341, December 14, 2012, <https://www.federalregister.gov/articles/2012/12/14/2012-30310/establishing-the-hurricane-sandy-rebuilding-task-force>.

Embassy Security⁷⁵

Section 1107 of Senate passed H.R. 1 would have authorized the Department of State to transfer up to about \$1 billion in Overseas Contingency Operations (OCO) funds, previously appropriated in FY2012 for operations in Iraq, for increased security at U.S. embassies and other overseas posts identified in the Department's security review after the Benghazi attack. These unobligated funds are no longer needed because of reduced operations in Iraq, according to Senator Mikulski. CBO had determined that the amendment had no outlay scoring impact, but the legislation did require the Department of State to follow congressional notification requirements prior to using the funds. House-passed H.R. 152 carried no such provision, and it was not included in the Administration's formal request.

Considerations for Congress

Disaster Relief and Emergency Funding Under the Budget Control Act⁷⁶

The Budget Control Act (BCA)⁷⁷ changed the way Congress accounted for federal funding for disaster response and recovery. In previous years, Congress provided funds over and above limits on discretionary appropriations by designating additional appropriations as being for emergency needs. Budget authority provided in this manner did not count against funding limitations on discretionary spending in budget resolutions.

Although the BCA included legislation allowing for emergency appropriations, the new law included provisions that outlined separate treatment for disaster relief,⁷⁸ as distinct from emergency funding. Funding designated as disaster relief in future spending bills could be "paid for" by adjusting upward the discretionary spending caps. This allowable adjustment for disaster relief is limited, however, to an amount based on the 10-year rolling average of what has been spent by the federal government on relief efforts for major disasters.⁷⁹

This disaster relief allowable adjustment for FY2013 was \$11.8 billion. Under the current continuing resolution, the amount of disaster relief that would be provided under the BCA if the CR extended for the year was \$6.4 billion. The Administration proposed using the remainder of the allowable adjustment for disaster relief in its supplemental request, and using an emergency funding designation to ensure the remaining resources provided through the request do not count against the FY2013 budget caps.

⁷⁵ Prepared by Susan B. Epstein, Specialist in Foreign Policy, 7-6678.

⁷⁶ Prepared by William L. Painter, Analyst in Homeland Security Policy and Emergency Management, 7-3335.

⁷⁷ P.L. 112-25.

⁷⁸ The BCA also specifically redefined "disaster relief" as being federal government assistance provided pursuant to a major disaster declared under the Stafford Act, not to be confused with funding provided for other types of incidents, or exclusively resources provided through the Disaster Relief Fund (DRF).

⁷⁹ For a more extensive discussion of this structure, see CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy.

The Administration proposes designating all of the supplemental funding it sought as an emergency requirement, with the exception of a portion of the request for the DRF, which would be designated as being for disaster relief under the BCA. The Administration noted in the letter accompanying the request that it is unclear how much of the disaster relief allowable adjustment might be available pending the finalization of general FY2013 appropriations, and that therefore these numbers could require adjustment. H.R. 1 as amended proposed \$5,379 million in DRF funding be designated as being for disaster relief under the BCA, with all but \$3,461 million (for Army Corps of Engineers construction activities)⁸⁰ of the remaining funding in the bill being designated as emergency funding.

House-passed H.R. 152 contains \$41,669 million in emergency funding, \$5,379 million for the DRF designated as disaster relief, and \$3,461 million for Army Corps of Engineers construction activities that would count against the discretionary budget caps.⁸¹

Offsetting Disaster Relief⁸²

One potential method for accommodating disaster response and recovery costs beyond the allowable adjustment for disaster relief would be offsetting the additional spending through rescissions or other means that would reduce the net budgetary scoring of the bill.

Traditionally, supplemental funding for the Disaster Relief Fund (DRF) has been treated as emergency spending—it was not counted against discretionary budget caps, nor was an offset required. However, supplemental spending packages have at times carried rescissions or transfers that have offset, to one degree or another, the budgetary impact of other forms of disaster assistance that could be defined as “disaster relief” under the BCA.

Of the 59 bills passed with supplemental appropriations from 1990 to the end of 2012, 6 were fully offset by rescissions. Only one of those actually provided net additional resources for the DRF—the Emergency Supplemental and Rescissions for Antiterrorism and Oklahoma City Disaster, 1995 (P.L. 104-19). In other cases, the DRF was used as an offset for disaster assistance provided through other federal entities.⁸³

Offsetting the Administration’s supplemental request, however, would be complicated by two key factors. First, as the federal government is operating under a continuing resolution, there is no baseline appropriation in the current fiscal year to offset from. It is also worth noting the scale of the offset required. The budget authority sought in the request is more than all but 3 of the 12 general appropriations bills for FY2012, and exceeds the 3 smallest appropriations bills from that year combined—even if none of the nearly \$13 billion in the Administration’s mitigation request were counted.

⁸⁰ The emergency designation for the Army Corps of Engineers Construction account was stricken by a point of order on the Senate floor. See *Congressional Record*, December 21, 2012, pp. S8341-S8342.

⁸¹ CBO, “Estimate of the Disaster Relief Appropriations Act, 2013 (H.R. 152) As Passed by the House on January 15, 2013,” January 16, 2013. The total score against the discretionary budget cap is \$2 million lower due to conversion of some unobligated balances of budget authority to emergency funding in the bill.

⁸² Prepared by William L. Painter, Analyst in Homeland Security Policy and Emergency Management, 7-3335.

⁸³ A fuller discussion of this issue can be found in CRS Report R42458, *Offsets, Supplemental Appropriations, and the Disaster Relief Fund: FY1990-FY2013*, by William L. Painter.

The Administration's request, House-passed H.R. 152, and Senate-passed H.R. 1 as amended did not include offsets, and the Administration's request letter and Statement of Administration Policy on H.R. 152 stated the Administration's position that the funding could and should be provided without offset.⁸⁴ However, an amendment was offered to offset \$17 billion of disaster assistance from H.R. 152 by making an across-the-board cut of 1.63% to FY2013 discretionary spending.⁸⁵ This failed by a vote of 162-258.⁸⁶

When the Senate struck the emergency designation for Army Corps of Engineers construction activities, it allowed \$3,461 million of H.R. 1 as amended to count against the FY2013 discretionary budget caps. The House legislation provides the same treatment to the \$3,461 million it provides for Army Corps of Engineers construction. If this provision is enacted without further changes, that discretionary budget authority will no longer be available to resolve the outstanding FY2013 appropriations bills. Therefore a similar accommodation will need to be made in the FY2013 appropriations endgame to avoid violating the budget caps.⁸⁷

Including Legislative Provisions in Supplemental Appropriations⁸⁸

The President's proposal for Hurricane Sandy funding included several requests for legislative revisions to existing programs. If Congress wishes to proceed with a supplemental appropriation and include some, all, or different legislative provisions as those suggested by the Administration, it may need to consider the internal rules of the House and the Senate on including legislative provisions in appropriations bills. The internal rules of the House and Senate distinguish between provisions that provide appropriations, and other types of legislation, including those that authorize the purposes for which such appropriations are provided.⁸⁹ Generally, such rules discourage the inclusion of authorization or "legislative" provisions in general appropriations bills.⁹⁰

Congress has previously chosen to include legislative provisions in supplemental appropriations acts, however. For example, Section 10101 of P.L. 110-329, created the Rural Development Disaster Assistance Fund, provided the Secretary with transfer authority with respect to specified prior and current year appropriations, and imposed congressional notification requirements. The

⁸⁴ Letter from Jeffrey D. Zients, Deputy Director for Management, to the Honorable John Boehner, Speaker of the House of Representatives, December 7, 2012, p. 2, and OMB, "Statement of Administration Policy: Disaster Relief Appropriations Act, 2013—H.R. 152," January 14, 2013.

⁸⁵ H.Amdt. 4.

⁸⁶ House Roll No. 14, January 15, 2013.

⁸⁷ An unrelated provision has the effect reducing discretionary spending by \$2 million in FY2013, so the net accommodation required would be \$3.459 billion.

⁸⁸ Prepared by Jessica Tollestrup, Analyst on Congress and the Legislative Process, 7-0941.

⁸⁹ For further information on the distinction between authorizations and appropriations generally, see CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh.

⁹⁰ In the House, "general appropriations bills" are the annual appropriations acts (or any combination thereof) and any supplemental appropriations acts that cover more than one agency. Continuing resolutions are not considered to be general appropriations bills. See William Holmes Brown and Charles W. Johnson, *House Practice: A Guide to the Rules, Precedents and Procedures of the House*, 112th Cong., 1st sess., (Washington: GPO, 2011), chapter 4, §3, p. 76-77. In the Senate, "general appropriations bills" are the annual appropriations acts (or any combination thereof) and any supplemental or continuing appropriations acts that cover more than one agency or purpose. See Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S. Doc. 101-28 (Washington: GPO, 1992), pp. 159.

inclusion of such provisions in supplemental appropriations bills, however, may create potential procedural issues under House and Senate rules during floor consideration.

In the House, clause 2(b) of Rule XXI prohibits the Committee on Appropriations from reporting legislative provisions in a general appropriations bill, making such provisions subject to a point of order during floor consideration.⁹¹ Under clause 2(c), an amendment to a general appropriations bill that contains legislative language is also not in order, and Rule XXII clause 5(b) bars House conferees from agreeing to Senate amendments that are legislative.⁹² These points of order, however, are not self-enforcing and would need to be made during floor consideration.⁹³ Such points of order can also be waived by a special rule, suspension of the rules, or unanimous consent.

In the Senate, paragraphs 2 and 3 of Rule XVI prohibit amendments containing legislative language in general appropriations measures, unless they are determined to be germane to legislative language passed by the House and already contained in the appropriations bill.⁹⁴ There is no Senate rule prohibiting the inclusion of legislative provisions in appropriations bills or conference reports. As in the House, these rules are enforced by points of order that must be raised on the Senate floor during consideration. Points of order against legislative language can be waived by unanimous consent or suspension of the rules.⁹⁵

Sharing the Cost of Disaster Assistance Projects⁹⁶

The Administration notes in the supplemental funding proposal that

The level of damage caused by Hurricane Sandy is expected to meet the regulatory threshold necessary to increase the Federal share of *most* disaster programs to 90 percent. In accordance with the whole community approach outlined in the Federal Emergency Management Agency's National Disaster Recovery Framework, impacted States and localities will share, *as appropriate*, the remaining 10 percent of costs. [italics added]⁹⁷

Beyond the information provided above by the Administration, it is currently difficult to estimate what amount of shared costs will be expected from state, local government, or other aid recipients for each of the requested disaster assistance programs. Generally, when people reference cost-

⁹¹ Rules of the House of Representatives, in *House Manual, One Hundred Eleventh Congress*, H.Doc. 110-162, 110th Cong., 2nd sess., [compiled by] John V. Sullivan, Parliamentarian (Washington: GPO, 2009), §1038. Exceptions are made under clause 2(b) for provisions providing rescissions or retrenchments. See Rules of the House of Representatives, in *House Manual, 111th Congress*, §1062 for a further explanation of how these exceptions operate.

⁹² See House Manual, 111th Congress, §1076-1077 for an explanation of current House practice regarding legislative amendments and conference reports.

⁹³ For further information on points of order in the House, see CRS Report 98-307, *Points of Order, Rulings, and Appeals in the House of Representatives*, by Valerie Heitshusen.

⁹⁴ *Riddick's Senate Procedure*, pp. 150-151. The defense of germaneness is explained in CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup.

⁹⁵ For further information on potential procedural issues related to the inclusion of authorization language in supplemental appropriations bills, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup.

⁹⁶ Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-4918.

⁹⁷ Office of Management and Budget, *Hurricane Sandy Funding Needs*, Washington, DC, December 7, 2012, first page of Appendix: *Detailed Estimates of Necessary Federal Resources*.

shares in disaster assistance, they are frequently referring to the percentages of federal assistance on the Public Assistance projects managed by FEMA.⁹⁸ However, as noted in the Administration's proposal, there are numerous other disaster assistance programs that also have cost share provisions both in statute and regulation.⁹⁹ In some past disasters, Congress has legislated that the federal government waive or eliminate the state or local government's share of the costs for several FEMA disaster assistance programs, meaning that the federal government has paid a full 100% of the eligible costs of the assistance.¹⁰⁰

As Congress evaluates the Administration's supplemental funding request, it may choose to allow the federal government to set cost shares as currently applicable under the law and regulations. However, it may also seek to address each disaster assistance program individually to determine the appropriate level of cost share for the recipient, as was done for several programs through provisions in H.R. 1 as amended.¹⁰¹ Congress could also decide to comprehensively set a single cost share percentage on disaster assistance dollars across a number of appropriate accounts and programs for Hurricane Sandy.

Comparing Past Disasters to Hurricane Sandy¹⁰²

As Congress evaluates the provision of supplemental funding in the wake of Hurricane Sandy, it may compare the scope and magnitude of Hurricane Sandy to past disasters. Generally, Hurricane Sandy has drawn numerous comparisons to other major disasters in recent memory, including Hurricane Irene of 2011 because of the similarities in geographic region impacted, and Hurricanes Katrina of 2005 and Andrew of 1992 because of their scope and magnitude of damage. Some measurements of comparison speak to the loss of life, the disruption of daily activities of citizens, or the economic impacts to the local and regional economies.¹⁰³ While these comparisons can help illustrate the scale of devastation from one disaster to another, it is important to note that all disasters, and especially disasters of the magnitude of Hurricane Sandy, are produced by a set of unique circumstances that result in an equally unique set of needs for assistance from the federal government.

Two major concepts should be considered when comparing the need for federal assistance following disasters. First, because of the federalism principles of emergency management—that

⁹⁸ Namely, Sections 406 and 407 of the Stafford Act, which provide assistance for debris removal and the repair and replacement of public and private non-profit facilities. For more, see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy.

⁹⁹ For instance, the Administration suggests that funding through the Federal Transit Administration's Emergency Relief Program will have a comparable cost-share to FEMA's Public Assistance program. See p. 43 of the proposal.

¹⁰⁰ For example, following Hurricane Katrina, Congress mandated that the federal share be 100% of eligible costs under four major FEMA disaster assistance programs. See Section 4501 of P.L. 110-28.

¹⁰¹ For example, H.R. 1 as amended includes language in Chapter 4 for the Corps of Engineers civil works program proposing that the federal government pay 90% of construction costs for projects to reduce future flood risk, with nonfederal project sponsors responsible for the remaining 10%. These nonfederal costs are to be financed over a period of 30 years. Under current law, cost share requirements for these same projects are generally 65% federal and 35% nonfederal, or 50% federal and 50% nonfederal for ongoing expenses for sand nourishment. Most other Corps activities funded in the Senate bill would be financed consistent with existing statute, which is 100% federal for emergency response and repair.

¹⁰² Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-4918.

¹⁰³ For a description of how economic damage is difficult to evaluate in particular, see <http://libertystreeteconomics.newyorkfed.org/2012/12/what-are-the-costs-of-superstorm-sandy.html>.

the federal government generally provides assistance to supplement the work of state, tribal, and local governments only after they become overwhelmed and only at their request—the varying capabilities of a state/tribal/local government can change the types and scope of assistance provided by the federal government. This issue was discussed by the Administrator of FEMA in recent testimony on Hurricane Sandy. In reference to the denial of an application for one form of disaster assistance (individual assistance), Administrator Fugate explained that decisions to provide federal assistance are based not upon the need of any particular individual, but upon the need of the state as whole and whether the state is capable of addressing that need without federal assistance.¹⁰⁴

Second, the relative levels of federal assistance required for each disaster depend on the proportional impact to various sectors of the community. For example, a particular disaster may destroy one community's business district and overwhelm the ability of the state to respond to that impact, while another may significantly damage the majority of the community's public facilities. In the first disaster, the assistance from the federal government may be noteworthy for the relatively large amount loan assistance provided by the Small Business Administration, while the second disaster may be noteworthy for the relatively large amount of assistance provided through the FEMA's Public Assistance (PA) program.

Some additional disaster specific factors that may inhibit the usefulness of general disaster to disaster comparisons include:

- The density and socioeconomic status of the impacted population;
- The percentage of properties and private/public losses that were insured, and the adequacy of the insurance coverage; and
- The number of jurisdictions impacted by the disaster, and whether these jurisdictions span multiple states requiring greater federal coordination of the response and recovery effort.

Understanding the Mitigation Funding in the Proposal¹⁰⁵

As summarized in **Table A-1**, the Administration's total request of approximately \$60.4 billion in funding is split into two portions. The first portion is approximately \$47.4 billion, and is necessary for the "recovery and repair of damage caused by Hurricane Sandy." The second portion is for about \$13 billion and is requested for "mitigation projects to reduce the risk of damage from future disasters."¹⁰⁶ Of note, there are four accounts that have funding requests for both "repair and recovery" and "mitigation," and five accounts where the request for mitigation is the only request.¹⁰⁷ The Administration is also requesting that the mitigation portion include legislative provisions that would allow monies to be flexibly transferred between programs.

¹⁰⁴ U.S. Congress, House Committee on Transportation and Infrastructure, *A Review of the Preparedness, Response to and Recovery from Hurricane Sandy*, 112th Cong., 2nd sess., November 4, 2012.

¹⁰⁵ Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-4918.

¹⁰⁶ Office of Management and Budget, *Hurricane Sandy Funding Needs*, Washington, DC, December 7, 2012, p. 64.

¹⁰⁷ The accounts receiving requests for both "recovery and repair" and "mitigation" are: Dept. of Agriculture's Watershed and Flood Prevention Operations; NOAA's Operations, Research and Facilities; Federal Transit Administration's Public Transportation Emergency Relief Program; and HUD's Community Development Fund.

As Congress evaluates the mitigation portion of the Administration's request, it is useful to understand how the Administration may be defining "recovery and repair" and "mitigation." Using definitions drawn from Presidential Policy Directive 8 (PPD-8), "recovery" refers to

those capabilities necessary to assist communities affected by an incident to recover effectively, including, but not limited to, rebuilding infrastructure systems; providing adequate interim and long-term housing for survivors; restoring health, social, and community services; promoting economic development; and restoring natural and cultural resources.

In the same Directive, the Administration notes that "mitigation" refers to

those capabilities necessary to reduce loss of life and property by lessening the impact of disasters. Mitigation capabilities include, but are not limited to, community-wide risk reduction projects; efforts to improve the resilience of critical infrastructure and key resource lifelines; risk reduction for specific vulnerabilities from natural hazards or acts of terrorism; and initiatives to reduce future risks after a disaster has occurred.¹⁰⁸

If one relies on these definitions, the key difference between recovery funding and mitigation funding may be that the mitigation funding will be explicitly directed to "initiatives to reduce future risk after a disaster has occurred." However, some of the activities outlined in the Administration's proposal as "mitigation" appear to be orientated towards "recovery and repair," and vice versa. For example, the Administration is proposing \$400 million in mitigation funding for the Fish and Wildlife Service's Resource Management account that would be used, among other purposes, for "restoring and enhancing natural systems on State, local and private lands."¹⁰⁹ Further, the Administration's proposal for mitigation funds does not include at least one noteworthy program most traditionally linked with hazard mitigation, that being FEMA's Hazard Mitigation Grant Program (HMGP), which is funded through the Disaster Relief Fund.¹¹⁰

As Congress considers supplemental funding for Hurricane Sandy, it may seek to clarify or eliminate this distinction between funding for "mitigation" and the funding for "repair and recovery." In neither House-passed H.R. 152 nor Senate-passed H.R. 1 is there a distinct chapter or title that separately funds accounts for mitigation. However, in some circumstances, provisions include "mitigation" as part of the purpose of the funds, without separating that purpose from recovery.¹¹¹ In another circumstance, provisions in Senate-passed H.R. 1 specifically identified subset of funds from the total appropriation to an account that may be used exclusively for "mitigation."¹¹² In addition, Sections 1104 and 1105 of Senate-passed H.R. 1, which were general provisions applying to all funds in the legislation, may encourage the funds to be used in a manner that mitigates future risks.

¹⁰⁸ Office of Management and Budget, *Hurricane Sandy Funding Needs*, Washington, DC, December 7, 2012, p. 69.

¹⁰⁹ White House, *Presidential Policy Directive 8: National Preparedness*, Washington, DC, March 30, 2011, p.6, <http://www.dhs.gov/presidential-policy-directive-8-national-preparedness>.

¹¹⁰ The Administration does request \$11.5 billion for the Disaster Relief Fund (DRF) in the "recovery and repair" section of the request, of which some to be determined amount will be used for HMGP. The amount of assistance provided through HMGP is set through a statutory formula per disaster declaration. For more on this program, see CRS Report R40471, *FEMA's Hazard Mitigation Grant Program: Overview and Issues*, by Natalie Keegan.

¹¹¹ For example, see the designation of \$336 million in budget authority for the National Railroad Passenger Corporation in Chapter 10.

¹¹² For example, see the designation of \$2 billion in budget authority for the Community Development Fund in Chapter 10.

If the Congress chooses to clarify the Administration's distinction between mitigation and recovery, it may consider providing a separate list of authorized activities that would constitute a "mitigation" project so that the funding in these accounts could only be used for those approved reasons. Similarly, Congress may consider including reporting requirements that would detail the expenditure of "mitigation" funds by projects. Conversely, Congress may consider eliminating the distinction drawn by the Administration all together, and provide a single appropriation amount for each disaster assistance program for a single set of authorized activities. This may result in more flexibility for the Administration in providing disaster assistance.

Strategic Planning for Disaster Recovery and/or Rebuilding¹¹³

With or without additional funding, the rebuilding and recovery process following Hurricane Sandy will involve a significant number of communities, government jurisdictions and agencies, and stakeholders from the non-profit and private sectors. To maximize the efficient use of recovering, rebuilding, and mitigation funds, the efforts of all the impacted regions' stakeholders, to include the federal government, may need to be coordinated through a strategic plan. For example, several states may wish to invest in and build a system of physical infrastructure to protect their coastlines from future coastal flooding and storm surge incidents. Each state and community along the coast may pursue individual infrastructure projects. However, benefits may be gained from coordinated effort that creates an agreeable combination of infrastructure projects along the regions coastline (be it seawalls, sand dunes, beach re-nourishment projects, or otherwise) to address this need. Such coordination and strategic planning may impact the overall ability of the infrastructure system to mitigate future damages.

The federal government's role in the strategic planning process will be guided by two policies mentioned throughout the Administration's funding proposal. The first is the National Disaster Recovery Framework (NDRF) and associated guidance on planning for and coordinating disaster recovery.¹¹⁴ In brief, the NDRF was first mandated by Section 682 of Post-Katrina Emergency Reform Act of 2006 (P.L. 109-295) and is a component of the National Preparedness System established by Presidential Policy Directive 8.¹¹⁵ The NDRF "defines how Federal agencies will more effectively organize and operate to utilize existing resources to promote effective recovery and support States." In providing federal assistance to an impacted region, the NDRF organizes federal agencies into six Recovery Support Functions (RSFs)¹¹⁶ that are led by a Federal Disaster Recovery Coordinator (FDRC).¹¹⁷

¹¹³ Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-4918.

¹¹⁴ Department of Homeland Security, *National Disaster Recovery Framework*, Washington, DC, September 2011, http://www.fema.gov/sites/default/files/orig/fema_pdfs/pdf/recoveryframework/ndrf.pdf.

¹¹⁵ For more on the history of PPD-8, its other component policies, and the National Preparedness System, see CRS Report R42073, *Presidential Policy Directive 8 and the National Preparedness System: Background and Issues for Congress*, by Jared T. Brown. The NDRF is one of five National Planning Frameworks to be released under PPD-8, the others are frameworks for Prevention, Protection, and Mitigation. A National Response Framework pre-dates the release of PPD-8, but is currently being revised.

¹¹⁶ The six RSFs are: Community Planning and Capacity Building; coordinated by FEMA; Economic, coordinated by Department of Commerce; Health and Social Services, coordinated by HHS; Housing, coordinated by HUD; Infrastructure Systems; coordinated by USACE; and Cultural and Natural Resources, coordinated by Department of Interior.

¹¹⁷ The FDRC is similar to the position of a Federal Coordinating Officer, as established by §302 of the Stafford Act (42 U.S.C. §5143).

The second major policy guiding the federal government is the Hurricane Sandy Rebuilding Task Force, which was formally established by an Executive Order (E.O.) released in conjunction with the Administration's funding proposal.¹¹⁸ The Rebuilding Task Force's stated purpose is to

identify opportunities for achieving rebuilding success, consistent with the NDRF's commitment to support economic vitality, enhance public health and safety, protect and enhance natural and manmade infrastructure, and ensure appropriate accountability ... [and] work to ensure that the Federal Government continues to provide appropriate resources to support affected State, local, and tribal communities to improve the region's resilience, health, and prosperity by building for the future.¹¹⁹

The Task Force is chaired by the Secretary of Housing and Urban Development and includes the heads of 23 executive departments, agencies, and offices; or their designated representatives. The chair of the Task Force may also convene an Advisory Group of non-federal government elected officials to support the activities of the Task Force. The Task Force is also instructed to provide a Hurricane Sandy Rebuilding Strategy within six months of first convening.

Congress may consider evaluating the impact of these two policies on the regions' overall efforts to plan for and implement the disaster recovery and rebuilding process. It is possible that the leadership of the NDRF and the Task Force may be redundant, or it may provoke confusion among non-federal stakeholders as to who is "in charge" of the federal recovery and rebuilding efforts. Further, the various officials named and established under the NDRF and the Task Force may have (or may be perceived to have) competing or overlapping authority to coordinate and approve of the use of federal assistance in the recovery/rebuilding process.¹²⁰ It is also possible that actors working through the NDRF and the Rebuilding Task Force will provide inconsistent input to the regions' overall recovery and rebuilding plans.¹²¹ This may especially be problematic for areas that are recovering from multiple recent disasters, such as Hurricane Irene and Tropical Storm Lee. Many sources identified similar confusion with the federal leadership during the response to Hurricane Katrina, and therefore the potential confusion over the federal role and leadership in the recovery and rebuilding process for Hurricane Sandy may be evaluated closely by Congress.¹²²

¹¹⁸ Executive Order 13632, "Establishing the Hurricane Sandy Rebuilding Task Force," 77 *Federal Register* 74341, December 14, 2012, <https://www.federalregister.gov/articles/2012/12/14/2012-30310/establishing-the-hurricane-sandy-rebuilding-task-force>.

¹¹⁹ Executive Order 13632, "Establishing the Hurricane Sandy Rebuilding Task Force," 77 *Federal Register* 74341, December 14, 2012, p. 1.

¹²⁰ For example, the NDRF calls for the designation of a Federal Disaster Recovery Coordinator, as well as coordinators for each of the six Recovery Support Functions. The functions and authorities of these officials are described in Chapters 7 and 8 of the NDRF. The various roles and responsibilities of the Rebuilding Task Force, the Task Force Chair, the Task Force Executive Director, and the Task Force Advisory Body are outlined in E.O. XXX. If the impacted regions' stakeholders are confused over the roles and authorities of these positions, whether such confusion is warranted or not, may result in a less efficient strategic planning process.

¹²¹ For example, the NDRF calls for the development of long-term community recovery plans, and the Task Force calls for the creation of a Hurricane Sandy Rebuilding Strategy. It is also suggested in the Administration's proposal that mitigation projects will be guided by "regional response plans" (see p. 64 of the Proposal). If these plans are not well coordinated, it could result in a disjointed overall strategic plan for recovering and rebuilding the region.

¹²² See, for example, U.S. Government Accountability Office, *Enhanced Leadership, Capabilities, and Accountability Controls Will Improve the Effectiveness of the Nation's Preparedness, Response and Recovery System*, 06-618, September 2006, <http://www.gao.gov/assets/260/251287.pdf>; or U.S. Congress, House Select Bipartisan Committee to Investigate Preparation for and Response to Hurricane Katrina, *A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, 109th Cong., December 31, 2005, H.Rept. 109-377.

Table 2. Selected CRS Experts by Supplemental Request

Agency	Bureau	Account	Background Report	Analyst, E-mail, and Phone
Department of Agriculture	Farm Service Agency	Emergency Conservation Program	CRS Report R42854, <i>Emergency Assistance for Agricultural Land Rehabilitation</i>	Megan Stubbs, mstubbs@crs.loc.gov, 7-8707
		Commodity Credit Corporation Fund		
	Natural Resources Conservation Service	Watershed and Flood Prevention Operations		
	Food and Nutrition Service	Commodity Assistance Program	CRS Report R42353, <i>Domestic Food Assistance: Summary of Programs</i>	Randy Alison Aussenberg, raussenberg@crs.loc.gov, 7-8641
Department of Commerce	National Oceanographic and Atmospheric Administration	Operations, Research and Facilities	CRS Report R42440, <i>Commerce, Justice, Science, and Related Agencies: FY2013 Appropriations</i>	Harry Upton, hupton@crs.loc.gov, 7-2264
		Procurement, Acquisition, and Construction		
Department of Defense	Operations and Maintenance	Operations and Maintenance, Army		Pat Towell, ptowell@crs.loc.gov, 7-2122 Daniel H. Else, delse@crs.loc.gov, 7-4996
		Operations and Maintenance, Navy		
	Revolving and Management Funds	Working Capital Fund, Navy		

Agency	Bureau	Account	Background Report	Analyst, E-mail, and Phone
Corps of Engineers - Civil Works	Investigations		CRS Report R42841, <i>Army Corps Supplemental Appropriations: Recent History, Trends, and Policy Issues</i>	Nicole Carter, ncarter@crs.loc.gov, 7-0854 Charles Stern, cstern@crs.loc.gov, 7-7786
	Construction			
	Operations and Maintenance			
	Flood Control and Coastal Emergencies			
General Services Administration	Federal Buildings Fund		CRS Report R42730, <i>Financial Services and General Government: FY2013 Appropriations</i>	Garrett Hatch, ghatch@crs.loc.gov, 7-7822
Small Business Administration	Salaries and Expenses		CRS Report R42037, <i>SBA Surety Bond Guarantee Program</i> CRS Report R41309, <i>The SBA Disaster Loan Program: Overview and Possible Issues for Congress</i>	Sean Lowry, slowry@crs.loc.gov, 7-9154 Bruce Lindsay, blindsay@crs.loc.gov, 7-3752
	Office of the Inspector General			
	Surety Bond Guarantees Revolving Fund			
	Disaster Loan Program Account			

Agency	Bureau	Account	Background Report	Analyst, E-mail, and Phone
Department of Homeland Security	Coast Guard	Operating Expenses		John Frittelli, jfrittelli@crs.loc.gov, 7-7033
		Acquisition, Construction and Improvements		
	FEMA	Disaster Relief Fund	CRS Report R40708, <i>Disaster Relief Funding and Emergency Supplemental Appropriations</i> Bruce Lindsay, blindsay@crs.loc.gov, 7-3752 CRS Report RL33053, <i>Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding</i> , by Francis X. McCarthy Francis X. McCarthy, fmccarthy@crs.loc.gov, 7-9533 Jared T. Brown, jbrown@crs.loc.gov, 7-4918	
		Disaster Assistance Direct Loan Program	CRS Report R42527, <i>FEMA's Community Disaster Loan Program: History, Analysis, and Issues for Congress</i>	Jared T. Brown, jbrown@crs.loc.gov, 7-4918
		National Flood Insurance Fund	CRS Report R42850, <i>The National Flood Insurance Program: Status and Remaining Issues for Congress</i>	Rawle O. King, rking@crs.loc.gov, 7-5975

Agency	Bureau	Account	Background Report	Analyst, E-mail, and Phone
Department of the Interior	U.S. Fish and Wildlife Service	Resource Management	CRS Report R42466, <i>Fish and Wildlife Service: FY2013 Appropriations and Policy</i>	Lynne Corn, lcorn@crs.loc.gov, 7-7267
		Construction		
	National Park Service	Construction		Carol Hardy-Vincent, chvincent@crs.loc.gov, 7-8651
Environmental Protection Agency	Environmental Programs and Management		CRS Report R42520, <i>Environmental Protection Agency (EPA): Appropriations for FY2013</i>	Rob Esworthy, resworthy@crs.loc.gov, 7-7236
	Hazardous Substance Superfund			
	LUST Trust Fund			
	State and Tribal Assistance Grants			
Department of Labor	Employment and Training Administration	Training and Employment Services	CRS Report R41135, <i>The Workforce Investment Act and the One-Stop Delivery System</i>	David Bradley, dbradley@crs.loc.gov, 7-7352
Department of Health and Human Services	Administration for Children and Families	Social Services Block Grant	CRS Report 94-953, <i>Social Services Block Grant: Background and Funding</i>	Karen Lynch, klynch@crs.loc.gov, 7-6899
		Children and Families Services Programs	CRS Report RL30952, <i>Head Start: Background and Issues</i>	
	Departmental Management	Public Health and Social Services Emergency Fund		Sarah Lister, slister@crs.loc.gov, 7-7320
Department of Defense	Military Construction	Military Construction, Army National Guard	CRS Report R42586, <i>Military Construction, Veterans Affairs, and Related Agencies: FY2013 Appropriations</i>	Daniel H. Else, delse@crs.loc.gov, 7-4996
Department of Veterans' Affairs	Departmental Administration	Construction, Major Projects		Sidath Panangala, spanangala@crs.loc.gov, 7-0623

Agency	Bureau	Account	Background Report	Analyst, E-mail, and Phone
Department of Transportation	Federal Aviation Administration	Facilities and Equipment	CRS Report R42781, <i>Federal Civil Aviation Programs: An Overview</i>	Bart Elias, belias@crs.loc.gov, 7-7771
	Federal Highway Administration	Emergency Relief Program	CRS Report R42804, <i>Emergency Relief Program: Federal-Aid Highway Assistance for Disaster-Damaged Roads and Bridges</i>	Robert Kirk, rkirk@crs.loc.gov, 7-7769
	Federal Railroad Administration	Operating Subsidy Grants to NRPC	CRS Report RL33492, <i>Amtrak: Budget and Reauthorization</i>	D. Randall Peterman, dpeterman@crs.loc.gov, 7-3267
	Federal Transit Administration	Public Transportation Emergency Relief Program	CRS Report R42706, <i>Federal Public Transportation Program: An Overview</i>	William Mallett, wmallett@crs.loc.gov, 7-2216
Department of Housing and Urban Development	Public and Indian Housing Programs	Tenant-Based Rental Assistance		Maggie McCarty, mmccarty@crs.loc.gov, 7-2163
	Community Planning and Development	Community Development Fund	CRS Report R41754, <i>Community Development Block Grants: Funding Issues in the 112th Congress and Recent Funding History</i>	Eugene Boyd, eboyd@crs.loc.gov, 7-8689

Appendix. Summary of the Administration's Request

The Administration's proposal includes \$47.44 billion in funding for response and recovery, and \$12.97 billion specifically for mitigation of damage from potential future storms and flooding. The Administration proposed designating all of the funding in the bill as an emergency requirement, with the exception of \$5.4 billion of the request for the Disaster Relief Fund (DRF), which would be designated as disaster relief under the BCA. The Administration noted in the letter accompanying the request that it is unclear how much of the disaster relief allowable adjustment may be available pending the finalization of general FY2013 appropriations, and therefore these numbers could require adjustment. These designations would eliminate the need for an offset to avoid triggering sequestration under the BCA.

Requested funding levels are provided by appropriations account in **Table A-1**, below. It provides a summary and brief analysis of the Administration's budget request. A series of columns notes the agency, bureau, and account for which appropriations were requested. The table then notes how much the Administration sought as funds needed for recovery and repair of damage, as opposed to mitigation of future disaster impacts, and a total of the two categories. The table then notes what percentage that request is of the overall total sought. Finally the table includes a quick assessment of whether the appropriation is intended to pay for damaged federal government property, federal services, or needs of non-federal entities (noted as the "Recipient Type" category). These final categories on potential recipients are not mutually exclusive at the account level. Requests for appropriations of \$10 million or less are combined in a single line for the sake of brevity—as the table indicates, these 30 items represent less than 0.2% of the total request. They can be found in the more complete accounting of the request, and the Senate legislative response to date, in **Table 1**.

Table A-1. Survey of FY2013 Hurricane Sandy Supplemental Request

millions of dollars in budget authority

Recipient of Appropriation			Request				Recipient Type		
Agency	Bureau	Account	Response and Recovery	Mitigation	Total	% of Total Request	Federal Damage Recovery	Federal Services	Non-Federal Entities
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee									
Department of Agriculture	Farm Service Agency	Emergency Conservation Program	15.00		15.00	0.02%	No	No	Yes
	Farm Service Agency	Commodity Credit Corporation Fund	23.00		23.00	0.04%	No	No	Yes
	Natural Resources Conservation Service	Watershed and Flood Prevention Operations	30.00	150.00	180.00	0.30%	No	No	Yes
Commerce, Justice, Science and Related Agencies Subcommittee									
Department of Commerce	National Oceanographic and Atmospheric Administration	Operations, Research and Facilities	33.00	360.00	393.00	0.65%	Yes	Yes	Yes
	National Oceanographic and Atmospheric Administration	Procurement, Acquisition, and Construction		100.00	100.00	0.17%	No	No	Yes
Defense Subcommittee									
Department of Defense	Operations and Maintenance	Operations and Maintenance, Navy	41.20		41.20	0.07%	Yes	No	No
	Revolving and Management Funds	Working Capital Fund, Navy	24.20		24.20	0.04%	Yes	No	No

Recipient of Appropriation			Request				Recipient Type		
Agency	Bureau	Account	Response and Recovery	Mitigation	Total	% of Total Request	Federal Damage Recovery	Federal Services	Non-Federal Entities
Energy and Water Development and Related Agencies Subcommittee									
Army Corps of Engineers - Civil Works	Investigations			30.00	30.00	0.05%	No	Yes	No
	Construction			3,820.00	3,820.00	6.32%	No	Yes	No
	Operations and Maintenance	899.00			899.00	1.49%	Yes	Yes	No
	Flood Control and Coastal Emergencies	592.00			592.00	0.98%	No	No	Yes
Financial Services and General Government Subcommittee									
Small Business Administration	Salaries and Expenses		50.00		50.00	0.08%	No	Yes	Yes
	Surety Bond Guarantees Revolving Fund				0.00	0.00%	No	No	Yes
	Disaster Loan Program Account	750.00			750.00	1.24%	No	No	Yes
Homeland Security Subcommittee									
Department of Homeland Security	Coast Guard	Operating Expenses	66.84		66.84	0.11%	Yes	No	No
	Coast Guard	Acquisition, Construction and Improvements	207.39		207.39	0.34%	Yes	No	No
	FEMA	Disaster Relief Fund	11,500.00		11,500.00	19.04%	Yes	Yes	Yes
	FEMA	Disaster Assistance Direct Loan Program	300.00		300.00	0.50%	No	No	Yes
	FEMA	National Flood Insurance Fund	9,700.00		9,700.00	16.06%	No	No	Yes
Interior, Environment and Related Agencies Subcommittee									
Department of the Interior	U.S. Fish and Wildlife Service	Resource Management		400.00	400.00	0.66%	No	Yes	Yes
	U.S. Fish and Wildlife Service	Construction	78.00		78.00	0.13%	Yes	No	No
	National Park Service	Construction	348.00		348.00	0.58%	Yes	No	No

Recipient of Appropriation			Request				Recipient Type		
Agency	Bureau	Account	Response and Recovery	Mitigation	Total	% of Total Request	Federal Damage Recovery	Federal Services	Non-Federal Entities
Environmental Protection Agency	State and Tribal Assistance Grants			610.00	610.00	1.01%	No	No	Yes
Labor, Health and Human Services, Education, and Related Agencies Subcommittee									
Department of Labor	Employment and Training Administration	Training and Employment Services	50.00		50.00	0.08%	No	No	Yes
Department of Health and Human Services	Administration for Children and Families	Social Services Block Grant	500.00		500.00	0.83%	No	No	Yes
	Administration for Children and Families	Children and Families Services Programs	100.00		100.00	0.17%	No	No	Yes
	Departmental Management	Public Health and Social Services Emergency Fund	200.00		200.00	0.33%	No	Yes	Yes
C29386									
Department of Defense—Military Construction	Military Construction, Army National Guard		24.24		24.24	0.04%	Yes	No	No
Department of Veterans' Affairs	Veterans Health Administration	Medical Services	21.00		21.00	0.03%	Yes	No	No
	Departmental Administration	Construction, Major Projects	207.00		207.00	0.34%	Yes	No	No

Recipient of Appropriation			Request				Recipient Type		
Agency	Bureau	Account	Response and Recovery	Mitigation	Total	% of Total Request	Federal Damage Recovery	Federal Services	Non-Federal Entities
Transportation, Housing and Urban Development, and Related Agencies									
Department of Transportation	Federal Aviation Administration	Facilities and Equipment	30.00		30.00	0.05%	Yes	No	No
	Federal Highway Administration	Emergency Relief Program	308.00		308.00	0.51%	No	Yes	Yes
	Federal Railroad Administration	Operating Subsidy Grants to NRPC	32.00		32.00	0.05%	No	No	Yes
	Federal Transit Administration	Public Transportation Emergency Relief Program	6,200.00	5,500.00	11,700.00	19.37%	No	No	Yes
Department of Housing and Urban Development	Public and Indian Housing Programs	Tenant-Based Rental Assistance			N/A	N/A	No	No	Yes
	Community Planning and Development	Community Development Fund	15,000.00	2,000.00	17,000.00	28.14%	No	No	Yes
Requests for Appropriations of \$10 Million or Less									
30 Individual requests of \$10 million or less			108.80		108.80	0.18%	88.07	12.73	7.00
		TOTAL	47,438.67	12,970.00	60,408.67	100.00%			

Source: CRS analysis of the FY2013 Supplemental Appropriations Request, as transmitted in a letter from Jeffrey D. Zients, Deputy Director for Management, to The Honorable John Boehner, Speaker of the House of Representatives, December 7, 2012.

Author Contact Information

William L. Painter, Coordinator
Analyst in Emergency Management and Homeland
Security Policy
wpainter@crs.loc.gov, 7-3335

Jared T. Brown, Coordinator
Analyst in Emergency Management and Homeland
Security Policy
jbrown@crs.loc.gov, 7-4918