



# FY2013 Supplemental Funding for Disaster Relief

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## Summary

On January 29, 2013, the Disaster Relief Appropriations Act, 2013, a \$50.5 billion package of disaster assistance largely focused on responding to Hurricane Sandy, was enacted as P.L. 113-2.

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, 2013, the House of Representatives passed H.R. 152, the Disaster Relief Appropriations Act, 2013. This bill included \$50.5 billion in disaster assistance. This was the third piece of disaster legislation considered by the House in the 113<sup>th</sup> 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 with H.R. 152 upon its engrossment, to send them to the Senate as a single package.

The Senate passed H.R. 152 unchanged on January 28, 2013 by a vote of 62-36, and it was signed into law as P.L. 113-2 the next day.

H.R. 152 was not the initial legislative response to the storm. In the 112<sup>th</sup> Congress, the Senate passed a separate package of disaster assistance totaling \$60.4 billion, as well as several legislative provisions reforming federal disaster programs. While appropriations legislation generally originates in the House of Representatives, 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. The House did not act on the legislation before the end of the 112<sup>th</sup> Congress.

This report analyzes the Administration's request, the initial Senate position from the 112<sup>th</sup> Congress, and H.R. 152, the legislative package developed in the House that was ultimately enacted as Division A of P.L. 113-2. It includes information on legislative provisions as well as funding levels. The report also includes a list of CRS experts available to provide more in-depth analysis of the implications of the legislation. Division B of P.L. 113-2, which amends several disaster assistance programs managed by FEMA, is discussed separately in CRS Report R42991, *Analysis of the Sandy Recovery Improvement Act of 2013*.

## Contents

Introduction.....	1
Legislative History.....	1
112 <sup>th</sup> Congress .....	1
113 <sup>th</sup> Congress .....	2
Analysis of the Administration’s Supplemental Request and the Legislative Response .....	3
Disaster Relief and Emergency Funding Under the Budget Control Act.....	10
P.L. 113-2 Appropriations by Subcommittee .....	11
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies .....	11
Commerce, Justice, Science, and Related Agencies.....	12
Defense.....	14
Energy and Water Development, and Related Agencies .....	15
Financial Services and General Government .....	17
Homeland Security .....	19
Homeland Security Legislative Provisions .....	20
Interior, Environment, and Related Agencies.....	22
Labor, Health and Human Services, Education, and Related Agencies .....	24
Department of Labor .....	24
Department of Health and Human Services .....	25
Military Construction, Veterans Affairs and Related Agencies .....	27
Transportation, Housing and Urban Development, and Related Agencies .....	27
Department of Transportation .....	27
Housing and Urban Development.....	29
General Legislative Provisions .....	31
Internal Control Plans.....	32
Improper Payments .....	32
Trigger to De-Obligate Unexpended Grant Funding.....	33
Planning for and Projecting Future Vulnerabilities and Risks.....	34
Mitigation of Future Power Outages .....	35
Embassy Security .....	35

## Tables

Table 1. FY2013 Disaster Supplemental Request and Congressional Action .....	4
Table 2. Selected CRS Experts by Supplemental Request.....	36
Table A-1. Survey of FY2013 Hurricane Sandy Supplemental Request .....	42

## Appendixes

Appendix. Summary of the Administration’s Request .....	40
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## **Contacts**

Author Contact Information..... 46

## 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. 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.<sup>1</sup> 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.<sup>2</sup>

The storm was responsible for at least 131 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.<sup>3</sup> As of January 31, 2013, the President had 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).<sup>4</sup>

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.<sup>5</sup>

## Legislative History

### 112<sup>th</sup> Congress

On December 12, 2012, the Senate Appropriations Committee published a draft amendment to H.R. 1<sup>6</sup> on its website that would have provided \$60.41 billion in supplemental appropriations. The amendment also included a variety of authorizing provisions sought by the Administration as

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

<sup>2</sup> Voiland, Adam, "Comparing the Winds of Sandy and Katrina," November 9, 2012, [http://www.nasa.gov/mission\\_pages/hurricanes/archives/2012/h2012\\_Sandy.html](http://www.nasa.gov/mission_pages/hurricanes/archives/2012/h2012_Sandy.html).

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

<sup>4</sup> 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>.

<sup>5</sup> 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.pdf](http://www.whitehouse.gov/sites/default/files/supplemental__december_7_2012_hurricane_sandy_funding_needs.pdf.pdf).

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

well 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.<sup>7</sup> 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 112<sup>th</sup> Congress.

However, one facet of the Administration's request did become law through the 112<sup>th</sup> 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.<sup>8</sup>

## **113<sup>th</sup> 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.<sup>9</sup> 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 of the original request. The House Appropriations Committee described 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.<sup>10</sup>

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.

The Senate passed H.R. 152 unchanged on January 28, 2013 by a vote of 62-36, and it was signed into law as P.L. 113-2 the next day. P.L. 113-2 is split into two divisions. Division A provides the supplemental funding for disaster relief, while Division B contains the originating text of H.R. 219 amending a number of disaster assistance programs authorized in the Stafford Act.

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

<sup>8</sup> For more information, see CRS Report R42037, *SBA Surety Bond Guarantee Program*, by (name redacted).

<sup>9</sup> For more information, see CRS Report R42850, *The National Flood Insurance Program: Status and Remaining Issues for Congress*, by (name redacted).

<sup>10</sup> The analysis in this report of the House position is based on those texts from the House Rules Committee website.

## 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.

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 appropriations that would have been provided if Senate-amended H.R. 1 from the 112<sup>th</sup> Congress had been enacted. This is provided only for historical reference, as the bill expired with the end of the 112<sup>th</sup> Congress. The last column reflects the amount of funding provided in H.R. 152 as it passed both House and Senate and was ultimately signed into law. Where accounts are funded through transfers, that number is shown in the table and the donor account is reduced accordingly.

After the table is an analysis of this supplemental appropriations bill in the context of the Budget Control Act, and a more detailed discussion of the contents of the request and the positions taken by the House and Senate in response to it.

**Table I. 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	112 <sup>th</sup> Congress	113 <sup>th</sup> Congress
			Senate-passed H.R. 1	P.L. 113-2 (H.R. 152)
<b><i>Agriculture, Rural Development, Food and Drug Administration, and Related Agencies</i></b>				
<b>DEPARTMENT OF AGRICULTURE</b>				
Farm Service Agency	Emergency Conservation Program	15	25.09	15
Farm Service Agency	Emergency Forest Restoration Program <sup>a</sup>	23	58.855	23
Natural Resources Conservation Service	Emergency Watershed Protection Program <sup>b</sup>	180	125.055	180
Food and Nutrition Service	Commodity Assistance Program	6	15	6
<b><i>Commerce, Justice, Science, and Related Agencies</i></b>				
<b>DEPARTMENT OF COMMERCE</b>				
National Oceanographic and Atmospheric Administration	Operations, Research and Facilities	393	373	140
National Oceanographic and Atmospheric Administration	Procurement, Acquisition, and Construction	100	109	186
<b>DEPARTMENT OF JUSTICE</b>				
General Administration	Office of the Inspector General	0.02	0.02	0
Federal Bureau of Investigation	Salaries and Expenses	4	4	10.02
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
<b>NATIONAL AERONAUTICS AND SPACE ADMINISTRATION</b>				
	Construction and Environmental Compliance and Restoration	4	15	15



Subcommittee / Bureau	Account/ Program	President's Request	112 <sup>th</sup> Congress	113 <sup>th</sup> Congress
			Senate-passed H.R. 1	P.L. 113-2 (H.R. 152)
<b>LEGAL SERVICES CORPORATION</b>				
	Payment to LSC	1	1	1
<i>Defense</i>				
<b>DEPARTMENT OF DEFENSE</b>				
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
<i>Energy &amp; Water Development, and Related Agencies</i>				
<b>U.S. ARMY CORPS OF ENGINEERS</b>				
	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
<i>Financial Services and General Government</i>				
<b>GENERAL SERVICES ADMINISTRATION</b>				
Real Property Activities	Federal Buildings Fund	7	7	7
<b>SMALL BUSINESS ADMINISTRATION</b>				

Subcommittee / Bureau	Account/ Program	President's Request	112 <sup>th</sup> Congress	113 <sup>th</sup> Congress
			Senate-passed H.R. 1	P.L. 113-2 (H.R. 152)
	Salaries and Expenses	50	40	20
	Office of the Inspector General	5	5	5
	Disaster Loan Program Account	750	760	779
<b>Homeland Security</b>				
<b>DEPARTMENT OF HOMELAND SECURITY</b>				
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
	National Flood Insurance Fund <sup>c</sup>	9,700	9,700	0
	General Provisions for this title	0	13	0
<b>Interior, Environment, and Related Agencies</b>				
<b>DEPARTMENT OF THE INTERIOR</b>				
US Fish and Wildlife Service	Resource Management	400	0	0
US Fish and Wildlife Service	Construction	78	78	68.2
National Park Service	Historic Preservation Fund	0	50	50

Subcommittee / Bureau	Account/ Program	President's Request	112 <sup>th</sup> Congress	113 <sup>th</sup> Congress
			Senate-passed H.R. 1	P.L. 113-2 (H.R. 152)
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	150	360
<b>ENVIRONMENTAL PROTECTION AGENCY</b>				
	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	810	600
<b>DEPARTMENT OF AGRICULTURE (FOREST SERVICE)</b>				
Forest Service	Capital Improvement and Maintenance	4.4	4.4	4.4
<b>SMITHSONIAN INSTITUTION</b>				
	Salaries and Expenses	2	2	2
<i>Labor, Health and Human Services, Education, and Related Agencies</i>				
<b>DEPARTMENT OF LABOR</b>				
Employment and Training Administration	Training and Employment Services	50	50	25
<b>DEPARTMENT OF HEALTH AND HUMAN SERVICES</b>				
Administration for Children and Families	Social Services Block Grant	500	500	500 <sup>f</sup>
Administration for Children and Families	Children and Families Services Programs	100	100	100 <sup>f</sup>
Departmental Management	Public Health and Social Services Emergency Fund	200	200	195 <sup>f</sup>
Office of the Inspector General	(by transfer)	0	0	5 <sup>f</sup>
<b>SOCIAL SECURITY ADMINISTRATION</b>				
	Limitation on Administrative Expenses	2	2	2 <sup>e</sup>

Subcommittee / Bureau	Account/ Program	President's Request	112 <sup>th</sup> Congress	113 <sup>th</sup> Congress
			Senate-passed H.R. 1	P.L. 113-2 (H.R. 152)
<b><i>Military Construction, Veterans Affairs and Related Agencies</i></b>				
<b>DEPARTMENT OF DEFENSE (MILITARY CONSTRUCTION)</b>				
Military Construction	Military Construction, Army National Guard	24.235	24.2	24.235
<b>DEPARTMENT OF VETERANS AFFAIRS</b>				
Veterans Health Administration	Medical Services	21	21	21
Veterans Health Administration	Medical Facilities	6	6	6
National Cemetery Administration		1.1	1.1	2.1
Departmental Administration	IT Systems	0.531	0.5	0.531
Departmental Administration	Construction, Major Projects	207	207	207
<b><i>Transportation, Housing and Urban Development, and Related Agencies</i></b>				
<b>DEPARTMENT OF TRANSPORTATION</b>				
Federal Aviation Administration	Facilities and Equipment	30	30	30
Federal Highway Administration	Emergency Relief Program	308	921	2,022
Federal Railroad Administration	Grants to the National Railroad Passenger Corporation	32	336	118
Federal Transit Administration	Public Transportation Emergency Relief Program	11,700	10,777	10,894
Office of the Inspector General	(by transfer)	0	6	6
<b>DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b>				
Community Planning and Development	Community Development Fund	17,000	16,990	15,990
Office of the Inspector General	(by transfer)	0	10	10
	<b>TOTAL</b>	<b>\$60,408.669</b>	<b>\$60,407.418</b>	<b>\$50,507.684</b>

**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, 112<sup>th</sup> Congress; H.R. 152, 113<sup>th</sup> Congress.

**Notes:**

- a. 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.
- b. This is described as funding for “Watershed and Flood Prevention Operations” in the Administration’s request.
- c. 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. P.L. 113-2 appropriates \$800 million to the PHSSEF account, but requires 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 remains available to the HHS Secretary for other activities in the PHSSEF account.

## Disaster Relief and Emergency Funding Under the Budget Control Act

The Budget Control Act (BCA)<sup>11</sup> 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,<sup>12</sup> 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.<sup>13</sup>

This disaster relief allowable adjustment for FY2013 is \$11.8 billion. Under the terms of the continuing resolution signed into law on September 28, 2012 (P.L. 112-175), 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.

The Administration proposed 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 was 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. Senate-passed H.R. 1 proposed that \$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)<sup>14</sup> of the remaining funding in the bill designated as emergency funding.

P.L. 113-2 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.<sup>15</sup>

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<sup>11</sup> P.L. 112-25.

<sup>12</sup> 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).

<sup>13</sup> For a more extensive discussion of this structure, see CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by (name redacted), (name redacted), and (name redacted).

<sup>14</sup> 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.

<sup>15</sup> CBO, “Estimate of the Disaster Relief Appropriations Act, 2013 (H.R. 152) as Cleared by Congress for the President’s Signature on January 28, 2013,” January 29, 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.

## **P.L. 113-2 Appropriations by Subcommittee**

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 Agencies<sup>16</sup>**

Both the President's request and H.R. 152 as enacted (P.L. 113-2) included \$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 received funding under the President's proposal and P.L. 113-2 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 P.L. 113-2 are similar, they are not identical. The difference between the two is that the President's proposal would have provided \$150 million for watershed protection mitigation efforts, while P.L. 113-2 added 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 P.L. 113-2 provided \$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.<sup>17</sup>

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 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 have provided \$30 million for EWP recovery and response and

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<sup>16</sup> This section prepared by (name redacted), Specialist in Agricultural Conservation and Natural Resources Policy (7-....) and Randy Aussenberg, Analyst in Nutrition Assistance Policy (7-....).

<sup>17</sup> 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>.

\$150 million for EWP floodplain easements for mitigation. P.L. 113-2 did not include funding for EWP floodplain easements and instead added \$150 million to the general EWP program. Similarly, Senate-passed H.R. 1 did not include funding for EWP floodplain easements, but rather would have 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.<sup>18</sup> The EWP floodplain easement program has not received funding since FY2009 and has no current funding available for mitigation.<sup>19</sup>

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 was present in P.L. 113-2 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 P.L. 113-2's requirement that funds only be used for Hurricane Sandy expenses.

The President requested and P.L. 113-2 provided \$6 million for the Commodity Assistance Program account—specifically for The Emergency Food Assistance Program (TEFAP).<sup>20</sup> The Senate-passed H.R. 1 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. P.L. 113-2 did not include this extended availability of funding. In addition, P.L. 113-2 granted USDA flexibility to allocate foods and funds for administrative expenses to the Sandy-affected areas beyond the TEFAP authorizing law's parameters. Senate-passed H.R. 1 carried the same provision.

## Commerce, Justice, Science, and Related Agencies<sup>21</sup>

The Administration's request included \$513.3 million for the accounts that are traditionally funded by the Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill. The Senate-passed H.R. 1 would have provided \$513.3 million for these accounts. P.L. 113-2 provided

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<sup>18</sup>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>.

<sup>19</sup> 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*.

<sup>20</sup> 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.

<sup>21</sup> Prepared by (name redacted), Analyst in Crime Policy (7-....).



\$363.3 million for the CJS accounts. As outlined in **Table 1**, the Administration's request for the CJS agencies included \$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). 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. P.L. 113-2 provided \$167.0 million less than the Administration's request for NOAA, \$6.0 million more for DOJ, and \$11 million more for NASA.

Some of the specific differences between the Administration's request, Senate-passed H.R. 1, and P.L. 113-2 are as follows.

- The Administration requested \$4.0 million for NASA's Construction and Environmental Compliance and Protection account. The Senate-passed H.R. 1 would have provided \$15.0 million for this account. P.L. 113-2 provided \$15.0 million for this account.
- The Administration requested a total of \$393.0 million for NOAA's Operations, Research, and Facilities (ORF) account. The Administration's request would have allocated most funding to mitigation projects that would have enhanced resiliency of coastal communities and ecosystems. The Senate bill would have allocated more funding to repairs, replacement, and enhancement of equipment and facilities. P.L. 113-2, like the Senate bill, allocates more funding to repairs, replacement, and enhancement of equipment and facilities.
  - Specifically, the Administration requested \$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 requested \$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 requested \$20.0 million to evaluate impacts on natural resources, support mapping and charting missions, and conduct marine debris assessments.
  - 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.<sup>22</sup>

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<sup>22</sup> 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.

- P.L. 113-2 provided \$140.0 million for the ORF account, of which \$50.0 million was for mapping, charting, geodesy services and marine debris surveys for coastal states impacted by Hurricane Sandy, \$7.0 million was to repair and replace ocean observing and coastal monitoring assets damaged by Hurricane Sandy, \$3.0 million was for providing technical assistance to support state assessments of coastal impacts of Hurricane Sandy, \$25.0 million was for improving weather forecasting and hurricane intensity forecasting capabilities, \$50.0 million was for laboratories and cooperative institutes research activities associated with sustained observations weather research programs, and ocean and coastal research, and \$5.0 million was for necessary expenses related to fishery disasters declared in 2012 that were the direct result of Hurricane Sandy.<sup>23</sup>
- The Administration's request for NOAA included \$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. Senate-passed H.R. 1 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. P.L. 113-2 provided \$186.0 million for the PAC account, of which \$9.0 million was to repair NOAA facilities damaged in the storm, \$44.5 million was for repairs and upgrades to NOAA hurricane reconnaissance aircraft, \$8.5 million was for improvements to weather forecasting equipment and supercomputer infrastructure, \$13.0 million was to accelerate the National Weather Service ground readiness project, and \$111.0 million was for a weather satellite data mitigation gap reserve fund.

## **Defense**

The Administration sought \$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 Senate-passed H.R. 1 and P.L. 113-2 provided \$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.

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<sup>23</sup> 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.

## Energy and Water Development, and Related Agencies<sup>24</sup>

The President's request, Senate-passed H.R. 1 in the 112<sup>th</sup> Congress and H.R. 152 as enacted (P.L. 113-2) all included \$5.35 billion in supplemental funds for the U.S. Army Corps of Engineers (Corps) Civil Works program. The Corps receives annual appropriations through the Energy & Water Development Appropriations bill. Major differences between the bills and the President's request are summarized below.<sup>25</sup>

While the three proposals shared the same total level of Corps funding, they differed in distribution of funds across Corps accounts, eligible uses, and availability of funds.<sup>26</sup> The Senate bill and P.L. 113-2 as enacted both designated Corps funding as an "emergency requirement," with the exception of the Corps Construction Account funding.<sup>27</sup> Thus, while the bills' funding for the Corps Construction Account counted against discretionary budget caps, their funding for other Corps accounts did not count against the caps.

For the Investigations account, the President requested \$30 million, while the Senate-passed H.R. 1 and P.L. 113-2 both provided \$50 million. P.L. 113-2 set 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). Senate-passed H.R. 1 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). Senate-passed H.R. 1 also 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. P.L. 113-2 provided the Corps \$20 million to conduct a comprehensive coastal flood risk study of the Hurricane Sandy-impacted areas of the Corps North Atlantic Division.

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.<sup>28</sup> The Administration proposed allowing the Corps to transfer the funds to other agencies, states, or local governments to implement elements of plans that would have resulted from the studies funded in the Investigation account. Senate-passed H.R. 1 and P.L. 113-2 both agreed with the Administration's request for \$9 million for repair of existing projects, but included \$3.46 billion for all other construction needs,

<sup>24</sup> Prepared by Charles Stern, Specialist in Natural Resources Policy (7-....), and Nicole Carter, Specialist in Natural Resources Policy (7-....).

<sup>25</sup> 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.

<sup>26</sup> 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 upgrades; and the General Expenses account for administrative and oversight.

<sup>27</sup> The Administration request did not specify whether the Corps funding was an "emergency requirement." For more information on this designation, see above section, "Disaster Relief and Emergency Funding Under the Budget Control Act."

<sup>28</sup> 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.

approximately \$360 million less than the Administration's request. The two bills differed in their direction regarding the use of the funding. P.L. 113-2 designated the overall funding allocation for rehabilitation, repair, and construction of Corps projects, while Senate-passed H.R. 1 would have provided the funding for these same efforts as they relate to the "consequences of natural disasters." It would have also 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."<sup>29</sup> P.L. 113-2 included no such provision.

Both Senate-passed H.R. 1 and P.L. 113-2 designated \$2.90 billion of the \$3.83 billion for specific construction purposes. The enacted bill set 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 under Senate-passed H.R. 1 funding would have also been available for projects in Gulf Coast areas of the Mississippi Valley Division affected by Hurricane Isaac. The enacted bill provided that 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," is eligible for funding, provided House and Senate appropriations committees approve such a recommendation. Eligibility for the construction funding in Senate-passed H.R. 1 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 three proposals also differed 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).<sup>30</sup> Senate-passed H.R. 1 proposed to alter this practice, and instead required that nonfederal sponsors provide 10% of project costs, plus the LEERD costs.<sup>31</sup> P.L. 113-2 included a waiver for ongoing construction activities to be undertaken at 100% federal expense. This waiver applied only to ongoing construction activities funded by the bill, not for other construction projects.<sup>32</sup> Both bills allowed nonfederal costs to be repaid over a 30-year period. Both bills waived 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 included differences in the Corps Operation and Maintenance (O&M) and the Flood Control and Coastal Emergencies (FCCE) accounts. While the President had requested \$899 million for the O&M account, both P.L. 113-2 and Senate-passed H.R. 1 provided \$821 million. This account includes expenses for dredging of navigation channels and project repair. P.L. 113-2 limited availability for these funds to expenses related to

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<sup>29</sup> The Senate bill did not define "previous natural disasters" or further spell out the terms for use of this funding.

<sup>30</sup> 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.

<sup>31</sup> The Administration Request also proposed a 90/10 cost share, but did not provide directions on the treatment of LEERD costs.

<sup>32</sup> 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 carried out with funds other than those provided in the supplemental legislation.

the consequences of Hurricane Sandy, while O&M funding in Senate-passed H.R. 1 would have been available nationally.

Both bills provided \$1.01 billion for the FCCE account, or \$409 million more than the Administration requested.<sup>33</sup> While P.L. 113-2 limited these funds to expenses related to Hurricane Sandy, the FCCE amounts in Senate-passed H.R. 1 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 Senate-passed H.R. 1, remaining FCCE funds would have been available to support Corps emergency expenditures nationwide, including emergency operations preparations for future events. P.L. 113-2 also set aside \$430 million to restore projects impacted by Hurricane Sandy to their “design profiles,” but made these funds contingent on completion of one of the major studies required pursuant to language in the Investigations Account.<sup>34</sup> Both bills also waived FCCE project cost limits under §902 of WRDA 1986, similar to the proposed provisions for the Construction Account.

Finally, both P.L. 113-2 and Senate-passed H.R. 1 provided \$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 is to use these funds to facilitate monthly reporting to the House and Senate Appropriations Committees on the allocations and obligations of all the aforementioned Corps funding, beginning 60 days after enactment. The Administration’s request included no such funding or reporting requirement.

## **Financial Services and General Government<sup>35</sup>**

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. 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. Senate-passed H.R. 1 would have provided the amount the President requested. P.L. 113-2 provides \$7 million to GSA for repairs to properties damaged by Sandy and other real property activities.

The provisions for the Small Business Administration (SBA) in P.L. 113-2 provided \$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 P.L. 113-2 contained 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

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<sup>33</sup> 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.

<sup>34</sup> Specifically, receipt of these funds is contingent upon the Corps completing and providing to Congress an interim report that includes an assessment of authorized Corps projects for reducing flooding and storm risks in the area affected by the storm that have been constructed or are under construction. The deadline for this report is March 1, 2013.

<sup>35</sup> GSA component prepared by (name redacted), Specialist in American National Government, 7-..... SBA component prepared by Bruce Lindsay, Analyst in American National Government, 7-....., and Robert Dilger, Senior Specialist in American National Government, 7-.....

- P.L. 113-2 provided \$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, P.L. 113-2 did not specify—as Senate-passed H.R. 1 did—how the funds should be disbursed between salaries and expenses and grants for cooperative agreements.<sup>36</sup>
- With respect to grants for cooperative agreements and technical assistance, P.L. 113-2 retained the provision to waive matching requirements that was proposed in Senate-passed H.R. 1. The designated recipients of the cooperative agreements and grants differed between the two bills. H.R. 1 would have explicitly directed the grants and cooperative agreements for only current recipients of grants and cooperative agreements. P.L. 113-2, on the other hand, directed the grants and cooperative agreements for small businesses that are recovering from Hurricane Sandy. Both P.L. 113-2 and H.R. 1 contained provisions to expedite the delivery of assistance. H.R. 1 would have expedited the delivery of assistance by using a process that relied, to the maximum extent practicable, upon previously submitted documentation. P.L. 113-2 did not mention the use of previously submitted documents as a method for expediting assistance.
- P.L. 113-2 provided \$5 million—the same amount proposed in Senate-passed H.R. 1—to the SBA’s Office of Inspector General.
- P.L. 113-2 provided \$520 million for the Disaster Loan Program Account for the cost of direct loans to small businesses. It also provided \$260 million for administrative expenses to carry out the direct loan program, of which \$250 million was for direct administrative expenses of loan making and servicing (including salaries), and \$10 million was 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.

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 P.L. 113-2 as enacted 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 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 determined that the small business owner had other assets with a value equal to or greater than the amount of the loan that could be used as collateral for the loan.

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<sup>36</sup> Senate-passed H.R. 1 would have 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 President's request did not address the issue concerning the use of collateral for the loans, and the provision was not included in P.L. 113-2.

## Homeland Security

The Administration requested \$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 113<sup>th</sup> Congress, both the House and Senate passed P.L. 113-1, a separate piece of legislation providing the additional borrowing authority.

P.L. 113-2 included \$12,072 million for DHS, with several slight changes in its structure from the Administration's request. P.L. 113-2 provided almost \$11,488 million for the Disaster Relief Fund (DRF),<sup>37</sup> approximately \$12 million less than the request. P.L. 113-2 also included a transfer of \$3 million from the DRF to the Office of the Inspector General for DHS. \$5,379 million of the appropriation for the DRF was designated 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) was designated as an emergency requirement, and therefore none of the funding in this section counts against the discretionary budget caps.

P.L. 113-2 included \$0.7 million less for replacement of Customs and Border Protection equipment (down from the \$2.4 million request). It included 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.

Senate-passed H.R. 1 had included the same funding levels for these accounts.

The Administration requested \$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 Senate-passed H.R. 1, \$300 million would have been appropriated to the account to subsidize no more than \$400 million in direct loan obligations. The Senate also directed that \$4 million of the amount can be used for administration of the program.

P.L. 113-2 included these amounts, as well as an additional provision (Section 401) that repurposed approximately \$146 million in unused subsidy loan authority for CDLs in the wake of Hurricane Katrina provided in the Community Disaster Loan Act of 2005 (P.L. 109-88). As the eligibility of local governments to get loans under this act had expired, the unobligated subsidy loan authority would have remained unused without this provision, which allows it to be used for CDLs sought pursuant to a major disaster declaration for Hurricane Sandy. Senate-passed H.R. 1 did not include this provision.<sup>38</sup>

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<sup>37</sup> 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 (name redacted).

<sup>38</sup> 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 (name redacted).

## **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. The Senate also included a number of general provisions in Senate-passed H.R. 1 that would have amended programs funded through the DRF. 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. These provisions were ultimately enacted as part of P.L. 113-2. Several other provisions from Senate-passed H.R. 1 were not taken up by the House as part of their legislative response to Hurricane Sandy.

### ***NFIP Borrowing Authority***<sup>39</sup>

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 P.L. 113-2.

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;<sup>40</sup> to \$18.5 billion on November 21, 2005;<sup>41</sup> and finally to \$20.725 billion on March 23, 2006.<sup>42</sup> The NFIP is currently about \$18 billion in debt largely as a result of the claims from Hurricane Katrina.<sup>43</sup>

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,

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<sup>39</sup> Prepared by (name redacted), Specialist in Financial Economics and Risk Assessment, 7-.....

<sup>40</sup> P.L. 109-65; 110 Stat. 1998.

<sup>41</sup> P.L. 109-106; 119 Stat. 2288.

<sup>42</sup> P.L. 109-208; 120 Stat. 317.

<sup>43</sup> 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.



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.<sup>44</sup> 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.<sup>45</sup>

### ***Disaster Recovery Act of 2012 and the Sandy Recovery Improvement Act of 2013***

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 were similar to H.R. 219, the "Sandy Recovery Improvement Act of 2013." These provisions were not necessarily identical, but in general, the provisions amended a number of disaster assistance programs authorized in the Stafford Act. For a full discussion of the Sandy Recovery Improvement Act of 2013, passed as Division B of P.L. 113-2, see CRS Report R42991, *Analysis of the Sandy Recovery Improvement Act of 2013*, by (name redacted), (name redacted), and (name redacted).

### ***Provisions Unique to Senate-Passed H.R. 1***<sup>46</sup>

Senate-passed H.R. 1 also included a number of provisions not requested by the Administration that were not included P.L. 113-2. Some of these mirrored proposed legislation in the 112<sup>th</sup> 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;<sup>47</sup>
- 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;

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<sup>44</sup> 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.

<sup>45</sup> For more on the NFIP, see CRS Report R42850, *The National Flood Insurance Program: Status and Remaining Issues for Congress*, by (name redacted).

<sup>46</sup> For information and support on these provisions of H.R. 1, please contact any of the following analysts: (name redacted), /redacted/@crs.loc.gov, 7-....; (name redacted), /redacted/@crs.loc.gov, 7-....; and (name redacted), /redacted/@crs.loc.gov, 7-....

<sup>47</sup> For details on this program, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by (name redacted).

- 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.<sup>48</sup>
- 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 Agencies<sup>49</sup>**

P.L. 113-2 contained \$1.44 billion for accounts within agencies typically funded by the Interior, Environment, and Related Agencies Appropriations bill. Both the President's request and Senate-passed H.R. 1 (from the 112<sup>th</sup> Congress) had included slightly more—\$1.45 billion for these accounts. Of the total in the law, \$829.2 million was 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 Senate-passed H.R. 1. The law also contained \$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 Senate-passed H.R. 1. Finally, the total in the law, like the President's request and Senate-passed H.R. 1, contained \$6.4 million for "related agencies," namely the Forest Service (\$4.4 million) and the Smithsonian Institution (\$2.0 million).

At the account level, P.L. 113-2 included funding for 11 accounts within seven agencies/offices, as had Senate-passed H.R. 1. The President's request had contained funding for 10 accounts within six agencies/offices, as reflected in **Table 1**. The law, President's request, and Senate-passed H.R. 1 proposed the same level of funding for seven accounts. The differences were as follows. The President sought \$1.09 billion for three accounts, including \$78 million for Construction within the Fish and Wildlife Service (FWS). The remaining \$1.01 billion would have been 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 was to be used for projects that would reduce the risk or damage from future disasters, according to the President. Senate-passed H.R. 1 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). P.L. 113-2 provided 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). Neither the law nor Senate-passed H.R. 1 included funding for FWS Resource Management, while the Administration's request did not include funding for the Historic Preservation Fund or Departmental Operations.

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<sup>48</sup> Defined by the Census Bureau as Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

<sup>49</sup> Prepared by Carol Hardy-Vincent, Specialist in Natural Resources Policy, 7-.....

The \$600.0 million in P.L. 113-2 for EPA's STAG account are allocated entirely for capitalization grants for the State Revolving Fund (SRF) programs under the Clean Water Act (CWSRF), which received \$500.0 million and the Safe Drinking Water Act (DWSRF), which received \$100.0 million. Similarly, all of the \$810.0 million in Senate-passed H.R. 1 would have been allocated to CWSRF (\$700.0 million) and DWSRF (\$110.0 million) capitalization grants. The Administration had requested \$600.0 million for clean water and drinking water SRF capitalization grants but did not specify an allocation between the two, and \$10.0 million for wetlands restoration and other ecosystem enhancements. The Administration stated that legislative language would be needed to target the \$600.0 million for the SRF capitalization grants to the affected states for mitigation projects. While no specific language accompanied the Administration's request, P.L. 113-2 contained several terms and conditions for the EPA STAG account.

P.L. 113-2 included a requirement that the states 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. Senate-passed H.R. 1 had included a requirement that the states must use not less than 50% of the capitalization grant funds for this purpose. Both the law and Senate-passed H.R. 1 also required the SRF funds to be used only for "...eligible projects whose purpose is to reduce flood damage risk and vulnerability or to enhance resiliency to rapid hydrologic change or a natural disaster at treatment works..." or eligible facilities, and other eligible tasks necessary to further such purposes.

Finally, SRF funds in the law are 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 Act for the CWSRF or according to needs surveys under the Safe Drinking Act's for the DWSRF. H.R. 1 as passed by the Senate would have allocated CWSRF and DWSRF funds only to states that have received a major disaster declaration for Hurricane Sandy under the Stafford Act. The President's request did not include a similarly explicit statement, but did indicate that funds for SRF grants would be allocated to "affected states."

Senate-passed H.R. 1 also would have waived the normal requirement that states provide a 20% match for the SRF capitalization funds, and would have allowed states to use CWSRF 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. Neither of these provisions was included in P.L. 113-2.

Two other accounts that received funding in P.L. 113-2 also contained specific terms and conditions. One account is in the NPS, while the second is in the DOI, Office of the Secretary. First, both the law and H.R. 1 similarly conditioned appropriations for the NPS Historic Preservation Fund, which provides funds for restoring historic districts, sites, buildings, and objects significant in American history and culture. They limited 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. They also stated 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 law and Senate-passed H.R. 1 contained differing provisions for the DOI Office of the Secretary, Departmental Operations, regarding the purposes for which the funds are to be used. The provision in H.R. 1 was broader. Under both the law and H.R. 1, for instance, DOI bureaus and offices are to use funds for necessary expenses related to the consequences of Hurricane Sandy, but under H.R. 1 they also could have been used for other activities related to storms and natural disasters. Under both the law and H.R. 1, 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 law specified that these entities are to be national/federal. Senate-passed H.R. 1 would have provided for other uses of the funds, namely protecting natural and cultural values, and assisting state, tribal, and local governments. Other language in the law and H.R. 1 as passed the Senate was similar. In particular, both measures authorized the Secretary of the Interior to transfer the funds to any account in the Department, and required the Secretary to submit to the Appropriations Committees a detailed spending plan for the funds within 60 days of enactment.

Finally, provisions of the law prohibited the use of funds for two different purposes. First, one provision barred the Secretary of the Interior and the Secretary of Agriculture from using funds in the bill to acquire land. Second, another provision prohibited 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**

The President's request, Senate-passed H.R. 1, and P.L. 113-2 each called 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) will 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, P.L. 113-2 included a different mechanism for providing these funds than did the President's request. The President proposed for these funds to be appropriated directly to three separate accounts, while P.L. 113-2 appropriated the entire \$800 million to one account and required that some of these funds be transferred elsewhere. In addition to funding for HHS, the President's request, Senate-passed H.R. 1, and P.L. 113-2 each called for funds (of differing amounts) to the Department of Labor to support dislocated workers. P.L. 113-2 provides \$25 million for employment services and job training for dislocated workers.

### **Department of Labor<sup>50</sup>**

The President requested funds for the Training and Employment Services account within the Employment and Training Administration of the Department of Labor. Specifically, the President requested \$50 million for the Workforce Investment Act (WIA) Dislocated Worker (DW) National Reserve to support National Emergency Grants (NEG). Funds from the NEG are used to support employment and training activities, such as job search assistance and job training, for

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<sup>50</sup> Prepared by David Bradley, Specialist in Labor Economics, 7-.....

workers dislocated from employment by major economic dislocations, including natural disasters.<sup>51</sup> Senate-passed H.R. 1 differed slightly in two ways from the President's request. First, Senate-passed H.R. 1 would have provided \$50 million for the DW National Reserve, but would not have specified that the funds were to be used solely for NEG, which are funded out of the National Reserve. Second, Senate-passed H.R. 1 would have allowed the Secretary of Labor to 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. P.L. 113-2 included \$25 million for the WIA DW National Reserve, did not specify that funds for the DW National Reserve are to be used solely for NEG, and provided that the Secretary of Labor has authority to 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 Services<sup>52</sup>

The President's request, Senate-passed H.R. 1, and P.L. 113-2 each called for \$800 million in supplemental disaster funding for HHS programs, for ultimate distribution as follows: \$500 million to the Social Services Block Grant (SSBG), \$100 million to the Head Start program, and \$200 million to the Public Health and Social Services Emergency Fund (PHSSEF) for other HHS programs. However, P.L. 113-2 used a different approach from the other two measures to appropriate these funds. The request and Senate-passed H.R. 1 called for the \$800 million to be appropriated directly to the three separate HHS appropriations accounts. By contrast, P.L. 113-2 appropriated the full \$800 million directly to one of the accounts (the PHSSEF), requiring 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, in contrast to the request and Senate-passed H.R. 1, P.L. 113-2 made the \$800 million available through FY2015.<sup>53</sup>

As noted, the President's request, Senate-passed H.R. 1, and P.L. 113-2 each used 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 supplemental appropriations. 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 requested \$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. Senate-passed H.R. 1 largely followed this approach. P.L. 113-2 provided \$800 million (the entire HHS amount) to the PHSSEF, for transfer as noted above,

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<sup>51</sup> For more information, see CRS Report R41135, *The Workforce Investment Act and the One-Stop Delivery System*, by (name redacted).

<sup>52</sup> Prepared by Karen Lynch, Specialist in Social Policy, 7-.... and (name redacted), Specialist in Public Health and Epidemiology, 7-.....

<sup>53</sup> The request did not specify when requested funds should be available. Senate-passed H.R. 1 would have made SSBG funds available for two succeeding fiscal years; Head Start program funds available through FY2014; and PHSSEF funds available until expended.

specifying that of the \$200 million for health-related activities, at least \$5 million be transferred to the HHS OIG, and the remaining \$195 million to other accounts within HHS as determined by the Secretary. The latter amount may be used, in unspecified amounts, for repair and rebuilding of non-federal biomedical research facilities (presumably NIH grantees). PHSSEF funds may not be used for costs that are reimbursable by FEMA or covered by insurance.

The President's request and P.L. 113-2 both included \$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.<sup>54</sup> The request called for the \$500 million to be directly appropriated to the SSBG, while P.L. 113-2 called for these funds to be transferred to the SSBG from an \$800 million appropriation to the PHSSEF. Both the request and P.L. 113-2 included 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, P.L. 113-2 included several other provisions applicable to the SSBG. For instance, the law gives 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, P.L. 113-2 allows 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 prohibits 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 enacted in P.L. 113-2. For instance, 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.

The President's request and P.L. 113-2 both included \$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.<sup>55</sup> The request called for the \$100 million to be directly appropriated to Head Start, while P.L. 113-2 called for these funds to be transferred to Head Start out of the \$800 million appropriation to the PHSSEF. The request specified that funds would 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. P.L. 113-2 did not include any language about damaged Head Start facilities or affected children. However, the overall PHSSEF appropriations language made it clear that these funds are for disaster response and recovery in affected states. To this end, P.L. 113-2 included 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, P.L.

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<sup>54</sup> For more information, see CRS Report 94-953, *Social Services Block Grant: Background and Funding*, by (name redacted).

<sup>55</sup> For more information, see CRS Report RL30952, *Head Start: Background and Issues*, by (name redacted).

113-2 allowed 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 prohibits 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 enacted in P.L. 113-2. For instance, 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 P.L. 113-2) 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 112<sup>th</sup> Congress, these funds were expected to support approximately 265 Head Start centers damaged by the hurricane.<sup>56</sup>

## **Military Construction, Veterans Affairs and Related Agencies**

The Administration sought \$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 sought \$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 was 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.

Senate-passed H.R. 1 proposed \$259 million for these accounts. P.L. 113-2 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. Both pieces of legislation included language to allow the Army National Guard Military Construction funding and the VA Major Construction funding to be expended on otherwise unauthorized projects.<sup>57</sup>

## **Transportation, Housing and Urban Development, and Related Agencies<sup>58</sup>**

As requested by the President and proposed in Senate-passed H.R. 1, P.L. 113-2 provided over \$29 billion for accounts within agencies typically funded by the Transportation, HUD and Related Agencies bill.

### **Department of Transportation<sup>59</sup>**

The President's request included \$12.07 billion for accounts within the Department of Transportation (DOT), as did Senate-passed H.R. 1. P.L. 113-2 included \$13.07 billion for DOT

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<sup>56</sup> Senate Appropriations Committee, "Summary: Fiscal Year 2013 Disaster Assistance Supplemental," press release, December 12, 2012, <http://www.appropriations.senate.gov>, p. 7.

<sup>57</sup> H.R. 1, EAS, p. 83, and H.R. 152, EH, p. 21.

<sup>58</sup> Note that while Title 8 of H.R. 152 also included 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.

<sup>59</sup> Prepared by D. Randy Peterman, Analyst in Transportation Policy, 7-.....

accounts, \$1 billion more than requested. In each case the vast majority of funding was for public transit. While the request and Senate-passed H.R. 1 were similar in total funding, they differed in funding allocation, and P.L. 113-2 differs from both, as shown in **Table 1**. Briefly, P.L. 113-2 provided (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 have been 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 have allowed the repair money to also be used for highway infrastructure, with no language concerning mitigation funding, while the Senate bill reversed that, proposing to make 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.

P.L. 113-2 provided \$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. The law 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; Senate-passed H.R. 1 included the President's requested funding level, as did P.L. 113-2. This funding will 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. P.L. 113-2 provided \$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 included 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. P.L. 113-2 provided \$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.<sup>60</sup>

## **Housing and Urban Development<sup>61</sup>**

During the last days of the 112<sup>th</sup> Congress the President requested, and the Senate-passed version of H.R. 1 included, \$17 billion in supplemental funding for HUD, all of which would have been appropriated to the Community Development Fund (CDF), the account that funds the Community Development Block Grant (CDBG) program. During the first weeks of the 113<sup>th</sup> Congress, the House and Senate considered and passed H.R. 152, which included \$16 billion for HUD, all allocated to the CDF. The President signed the measure into law as P.L. 113-2 on January 29, 2013.

While P.L. 113-2 and the Administration's request would have set aside CDBG funds for the activities of the Office of the Inspector General (OIG), P.L. 113-2 transferred \$10 million for OIG activities, significantly more than the \$4 million requested by the Administration. A provision in Senate-passed H.R. 1 also proposed transferring \$10 million to fund OIG activities.

P.L. 113-2 did not include a proposed Administration request that would have 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. Consistent with the Administration's request, P.L. 113-2 included a \$10 million set aside 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. P.L. 113-2 allowed HUD to distribute CDBG disaster funds appropriated under the act to the most impacted

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<sup>60</sup> For additional background on this issue, see CRS Report R42804, *Emergency Relief Program: Federal-Aid Highway Assistance for Disaster-Damaged Roads and Bridges*, by (name redacted).

<sup>61</sup> Prepared by (name redacted), Specialist in Housing Policy, 7-....., and (name redacted), Analyst in Federalism and Economic Development Policy, 7-.....

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.

P.L. 113-2 included 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. P.L. 113-2:

- directed 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;
- required states and local government grantees to submit, and for HUD to approve, disaster plans before CDBG disaster funds may be obligated;
- required that a grantee's disaster plans articulate how proposed activities will support long-term recovery efforts;
- required 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
- directed 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.

P.L. 113-2 also established 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.

P.L. 113-2 did not include two provisions that were included in Senate-passed H.R. 1. Specifically, P.L. 113-2 did 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, P.L. 113-2 granted 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, P.L. 113-2 included two exceptions related to environmental review requirements. Specifically, it allowed 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, P.L. 113-2 explicitly allowed for the expedited release of funds. The law also allowed 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 allows 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 requested 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 requested 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 requested that disaster-affected PHAs be funded no lower than their FY2012 funding levels. P.L. 113-2, like Senate-passed H.R. 1, included similar language. It provided the Secretary the authority to make adjustments to PHAs' funding levels to "avoid significant adverse funding impacts that would otherwise result from the disaster," at a PHA's request and provision of supporting documentation.

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. P.L. 113-2 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 provided in P.L. 113-2. 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 Plans<sup>62</sup>

The President's request included 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.<sup>63</sup> The President's request stated 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.<sup>64</sup> Additionally, the President's request did not include specific provisions for additional 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 also did not identify which programs would be affected by the enhanced protocols.

In the 112<sup>th</sup> 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.<sup>65</sup> 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.<sup>66</sup> P.L. 113-2 requires federal agencies to submit internal control plans to OMB, GAO, agency Inspectors General, and House and Senate Appropriations Committees for all supplemental funding provided therein; and directs GAO to develop the template for the internal control plans.<sup>67</sup>

## Improper Payments

The President's request did not specifically address improper payments, but included a provision to ensure the integrity of federal spending. Both P.L. 113-2 and Senate-passed H.R. 1 included a

<sup>62</sup> Prepared by Natalie M. Keegan, Analyst in American Federalism and Emergency Management Policy, /redacted/@crs.loc.gov, 7-.....

<sup>63</sup> 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.

<sup>64</sup> 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*.

<sup>65</sup> 112<sup>th</sup> Congress, H.R. 1, section 1103(a).

<sup>66</sup> 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.

<sup>67</sup> H.R. 152, EH, section 904(a)(1) and 904(a)(2).

provision<sup>68</sup> that designated 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).<sup>69</sup> 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 is required to develop a report that identifies the causes and corrective actions the agency will take to reduce the improper payments.<sup>70</sup> Several programs that receive funding under the bill are not currently identified as “susceptible to significant improper payments.” This provision, therefore, increases the administrative burden on agencies and grant recipients. No specific appropriations to fund compliance with this provision were requested or included.

Two provisions were added to Senate-passed H.R. 1 through the floor amendment process that sought 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,<sup>71</sup> and another 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.”<sup>72</sup> In regards to the tax provision, it was unclear how agencies would have implemented this provision, as 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 P.L. 113-2 included these provisions.

### **Trigger to De-Obligate Unexpended Grant Funding**

The President’s request recommended the withdrawal of grant funds awarded through certain programs if funds were not expended within 24 months of the award. It was unclear exactly which federal grant programs, and what types of grant awards, were the intended objects of this proposal.

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

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<sup>68</sup> H.R. 152, EH, section 904(b).

<sup>69</sup> 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*.

<sup>70</sup> 31 U.S.C. 3321.

<sup>71</sup> H.R. 1, EAS, 112<sup>th</sup> 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).

<sup>72</sup> 112<sup>th</sup> Congress, H.R. 1, as amended, section 1108.

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.

P.L. 113-2 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 are required to return any funds remaining unexpended after 24 months to the awarding federal agency.<sup>73</sup>

## Planning for and Projecting Future Vulnerabilities and Risks<sup>74</sup>

The Administration's request proposed 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, sea level rise, and coastal flooding and incorporate these into their recovery planning and implementation.<sup>75</sup>

While Congress did not address these specific factors in P.L. 113-2, the language of the request was reflected in the text of Section 1104 of Senate-passed H.R. 1. For example, Section 1104(a) of Senate-passed H.R. 1 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.

<sup>73</sup> H.R. 152, as amended, Section 904(c).

<sup>74</sup> Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-.....

<sup>75</sup> Office of Management and Budget, *Hurricane Sandy Funding Needs*, Washington, DC, December 7, 2012, second page of *Appendix: Detailed Estimates of Necessary Federal Resources*.

## Mitigation of Future Power Outages<sup>76</sup>

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,<sup>77</sup> 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, ranging from policy guidance to enforceable regulations. 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 did not specifically request this provision, but it was arguably consistent with the Administration’s emphasis on using funding to mitigate future damages. No similar provision was included in P.L. 113-2.

## Embassy Security<sup>78</sup>

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. P.L. 113-2 carried no such provision, and it was not included in the Administration’s formal request.

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<sup>76</sup> Prepared by Jared Brown, Analyst in Emergency Management Policy, 7-.....

<sup>77</sup> 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>.

<sup>78</sup> Prepared by (name redacted), Specialist in Foreign Policy, 7-.....

**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>	(name redacted), /redacted/@crs.loc.gov, 7-....
		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>	(name redacted), /redacted/@crs.loc.gov, 7-....
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, /redacted/@crs.loc.gov, 7-....
		Procurement, Acquisition, and Construction		
Department of Defense	Operations and Maintenance	Operations and Maintenance, Army		(name redacted), /redacted/@crs.loc.gov, 7-.... (name redacted), /redacted/@crs.loc.gov, 7-....
		Operations and Maintenance, Navy		
	Revolving and Management Funds	Working Capital Fund, Navy		
Corps of Engineers - Civil Works	Investigations		CRS Report R42841, <i>Army Corps Supplemental Appropriations: Recent History, Trends, and Policy Issues</i>	Nicole Carter, /redacted/@crs.loc.gov, 7-.... Charles Stern, /redacted/@crs.loc.gov, 7-....
	Construction			
	Operations and Maintenance			
	Flood Control and Coastal Emergencies			



<b>Agency</b>	<b>Bureau</b>	<b>Account</b>	<b>Background Report</b>	<b>Analyst, E-mail, and Phone</b>
General Services Administration	Federal Buildings Fund		CRS Report R42730, <i>Financial Services and General Government: FY2013 Appropriations</i>	(name redacted), /redacted/@crs.loc.gov, 7-....
Small Business Administration	Salaries and Expenses Office of the Inspector General Surety Bond Guarantees Revolving Fund Disaster Loan Program Account		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>	(name redacted), /redacted/@crs.loc.gov, 7-.... Bruce Lindsay, /redacted/@crs.loc.gov, 7-....
Department of Homeland Security	Coast Guard	Operating Expenses		(name redacted), /redacted/@crs.loc.gov, 7-....
		Acquisition, Construction and Improvements		
	FEMA	Disaster Relief Fund	CRS Report R40708, <i>Disaster Relief Funding and Emergency Supplemental Appropriations</i> CRS Report RL33053, <i>Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding, by (name redacted)</i>	Bruce Lindsay, /redacted/@crs.loc.gov, 7-.... (name redacted), /redacted/@crs.loc.gov, 7-.... (name redacted), /redacted/@crs.loc.gov, 7-....
		Disaster Assistance Direct Loan Program	CRS Report R42527, <i>FEMA's Community Disaster Loan Program: History, Analysis, and Issues for Congress</i>	(name redacted), /redacted/@crs.loc.gov, 7-....
	National Flood Insurance Fund	CRS Report R42850, <i>The National Flood Insurance Program: Status and Remaining Issues for Congress</i>	(name redacted), /redacted/@crs.loc.gov, 7-....	

<b>Agency</b>	<b>Bureau</b>	<b>Account</b>	<b>Background Report</b>	<b>Analyst, E-mail, and Phone</b>
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>	(name redacted), /redacted/@crs.loc.gov, 7-....
		Construction		
	National Park Service	Construction	CRS Report R42757, <i>National Park Service: Recent Appropriations Trends</i>	Carol Hardy-Vincent, /redacted/@crs.loc.gov, 7-....
Environmental Protection Agency	Environmental Programs and Management		CRS Report R42520, <i>Environmental Protection Agency (EPA): Appropriations for FY2013</i>	Rob Esworthy, /redacted/@crs.loc.gov, 7-....
	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, /redacted/@crs.loc.gov, 7-....
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, /redacted/@crs.loc.gov, 7-....
		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, /redacted/@crs.loc.gov, 7-....
Department of Defense	Military Construction	Military Construction, Army National Guard	CRS Report R42586, <i>Military Construction, Veterans Affairs, and Related Agencies: FY2013 Appropriations</i>	(name redacted), /redacted/@crs.loc.gov, 7-....
Department of Veterans' Affairs	Departmental Administration	Construction, Major Projects		Sidath Panangala, /redacted/@crs.loc.gov, 7-....

<b>Agency</b>	<b>Bureau</b>	<b>Account</b>	<b>Background Report</b>	<b>Analyst, E-mail, and Phone</b>
Department of Transportation	Federal Aviation Administration	Facilities and Equipment	CRS Report R42781, <i>Federal Civil Aviation Programs: An Overview</i>	(name redacted), /redacted/@crs.loc.gov, 7-....
	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, /redacted/@crs.loc.gov, 7-....
	Federal Railroad Administration	Operating Subsidy Grants to NRPC	CRS Report RL33492, <i>Amtrak: Budget and Reauthorization</i>	D. Randall Peterman, /redacted/@crs.loc.gov, 7-....
	Federal Transit Administration	Public Transportation Emergency Relief Program	CRS Report R42706, <i>Federal Public Transportation Program: An Overview</i>	William Mallett, /redacted/@crs.loc.gov, 7-....
Department of Housing and Urban Development	Public and Indian Housing Programs	Tenant-Based Rental Assistance		(name redacted), /redacted/@crs.loc.gov, 7-....
	Community Planning and Development	Community Development Fund	CRS Report R41754, <i>Community Development Block Grants: Funding Issues in the 112<sup>th</sup> Congress and Recent Funding History</i>	(name redacted), /redacted/@crs.loc.gov, 7-....

## Appendix. Summary of the Administration's Request

The Administration's proposal included \$47.44 billion in funding for response and recovery, and \$12.97 billion specifically for mitigation of damage from potential future storms and flooding. This division is not typical of recent supplemental requests, and does not conform to either traditional definitions of "recovery and repair" versus "mitigation" or the recent patterns for funding mitigation.

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 was the only request.<sup>79</sup> The Administration also requested that the mitigation portion include legislative provisions that would allow monies to be flexibly transferred between programs.

In reading 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 noted 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.<sup>80</sup>

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" appeared to be orientated towards "recovery and repair," and vice versa. For example, the Administration proposed \$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."<sup>81</sup> Further, the Administration's proposal for mitigation funds did not include at least one

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<sup>79</sup> 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.

<sup>80</sup> Office of Management and Budget, *Hurricane Sandy Funding Needs*, Washington, DC, December 7, 2012, p. 69.

<sup>81</sup> 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>.

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.<sup>82</sup>

When Congress considered supplemental funding for Hurricane Sandy, it did not follow the Administration's format for providing a distinction between funding for "mitigation" and the funding for "repair and recovery." In Senate-passed H.R. 1 there was no distinct chapter or title that separately funded accounts for mitigation. As H.R. 152 worked its way through the House on its way to enactment, \$17.1 billion was identified by the House Appropriations Committee as being for "immediate needs." An amendment provided \$33 billion in additional funds, but the distinction between the "immediate needs" and other assistance was not clearly split between "repair and recovery" and "mitigation. Provisions in H.R. 152 as it passed the House included "mitigation" as part of the purpose of the funds, without separating that purpose from recovery.<sup>83</sup> 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."<sup>84</sup> In addition, Sections 1104 and 1105 of Senate-passed H.R. 1, which were general provisions applying to all funds in the legislation, would have encouraged funds provided in the bill to be used in a manner that mitigates future risks.

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 or provide other disaster assistance. 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**.

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<sup>82</sup> 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 (name redacted).

<sup>83</sup> For example, see the designation of \$336 million in budget authority for the National Railroad Passenger Corporation in Chapter 10.

<sup>84</sup> For example, see the designation of \$2 billion in budget authority for the Community Development Fund in Chapter 10.

**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	Other Assistance
<b>Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee</b>								
Department of Agriculture	Farm Service Agency	Emergency Conservation Program	15.00		15.00	0.02%	No	Yes
	Farm Service Agency	Commodity Credit Corporation Fund	23.00		23.00	0.04%	No	Yes
	Natural Resources Conservation Service	Watershed and Flood Prevention Operations	30.00	150.00	180.00	0.30%	No	Yes
<b>Commerce, Justice, Science and Related Agencies Subcommittee</b>								
Department of Commerce	National Oceanographic and Atmospheric Administration	Operations, Research and Facilities	33.00	360.00	393.00	0.65%	Yes	Yes
	National Oceanographic and Atmospheric Administration	Procurement, Acquisition, and Construction		100.00	100.00	0.17%	No	Yes
<b>Defense Subcommittee</b>								
Department of Defense	Operations and Maintenance	Operations and Maintenance, Navy	41.20		41.20	0.07%	Yes	No
	Revolving and Management Funds	Working Capital Fund, Navy	24.20		24.20	0.04%	Yes	No

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

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



Recipient of Appropriation			Request				Recipient Type	
Agency	Bureau	Account	Response and Recovery	Mitigation	Total	% of Total Request	Federal Damage Recovery	Other Assistance
<b>Transportation, Housing and Urban Development, and Related Agencies</b>								
Department of Transportation	Federal Aviation Administration	Facilities and Equipment	30.00		30.00	0.05%	Yes	No
	Federal Highway Administration	Emergency Relief Program	308.00		308.00	0.51%	No	Yes
	Federal Railroad Administration	Operating Subsidy Grants to NRPC	32.00		32.00	0.05%	No	Yes
	Federal Transit Administration	Public Transportation Emergency Relief Program	6,200.00	5,500.00	11,700.00	19.37%	No	Yes
Department of Housing and Urban Development	Public and Indian Housing Programs	Tenant-Based Rental Assistance			N/A	N/A	No	Yes
	Community Planning and Development	Community Development Fund	15,000.00	2,000.00	17,000.00	28.14%	No	Yes
<b>Requests for Appropriations of \$10 Million or Less</b>								
30 Individual requests of \$10 million or less			108.80		108.80	0.18%	88.07	19.73
<b>TOTAL</b>			<b>47,438.67</b>	<b>12,970.00</b>	<b>60,408.67</b>	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.

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