

CRS Report for Congress

Received through the CRS Web

Community Development Block Grant Funds in Disaster Relief and Recovery

Eugene Boyd
Analyst
Government and Finance Division

Summary

In the aftermath of previous, presidentially-declared disasters, Congress has used the Community Development Block Grant (CDBG) program to help states and local governments finance recovery efforts, whether from natural or man-made disasters. Congress has appropriated supplemental CDBG funds to assist states and communities recover from such natural disasters as hurricanes, earthquakes, and tornadoes. In addition, CDBG funds have supported recovery efforts of New York City following the terrorist attacks of September 11, 2001, Oklahoma City following the bombing of the Alfred Murrah Building in 1995, and the city and county of Los Angeles following the riots of 1992. In response to these calamities, CDBG funds have been made available for short-term relief efforts, mitigation actions, and long-term recovery, and have been used to provide housing and business assistance, infrastructure reconstruction, and public services. This report will provide a general overview of the CDBG program and its use in disaster relief. This report will be updated as events warrant.

Background

The CDBG program, administered by the Department of Housing and Urban Development (HUD), is the federal government's largest and most widely available source of financial assistance to support state and local government-directed neighborhood revitalization, housing rehabilitation, and economic development activities. These formula-based grants are allocated to more than 1,100 entitlement communities (metropolitan cities with populations of 50,000 or more, and urban counties), the 50 states, Puerto Rico, and the insular areas of American Samoa, Guam, the Virgin Islands, and the Northern Mariana Islands. Grants are used to develop and implement community development plans intended to address local housing, community development, and public services and infrastructure needs, as determined by local officials with citizen input.

Because of the block grant nature of the program, local and state officials exercise a great deal of discretion in determining which combination of eligible activities (in 25

categories) to undertake when developing their community development plans. Eligible CDBG activities include: historic preservation; real property acquisition, demolition, site preparation and disposition; economic development and job creation, including assistance to for-profit entities and establishment of revolving loan funds; housing assistance, including rehabilitation loans and grants; public service activities, including job counseling and employment training; and assistance to not-for-profit entities, including community development corporations and faith-based institutions.

Any of the eligible activities undertaken by a community must address at least one of the program's three national objectives. The activity must:

- principally benefit low and moderate income persons;
- aid in eliminating or preventing slums or blight; or
- meet particularly urgent community development needs because existing conditions pose a serious and immediate threat to the health, safety, or welfare of residents of the community.

It is this third program objective — meeting an urgent threat — that allows CDBG funds to be used to assist in disaster response activities.

The program's authorizing statute requires each state and entitlement community to allocate 70% of its CDBG funding to activities that principally benefit low- and moderate-income persons. In response to previous disasters, HUD has waived this provision in order to allow a community to address an urgent threat to the health and safety of residents.

CDBG Disaster Assistance

The CDBG program has been used frequently by the federal government to respond to natural and man-made catastrophes. In general, Congress has provided increased flexibility and allocated additional CDBG funds to affected communities and states to help them respond to and recover from presidentially-declared disasters. This includes allowing communities to reprogram CDBG funds to meet disaster-related needs, including short-term disaster relief, mitigation activities, and long-term recovery activities. In assisting communities and states to respond to disasters, HUD may expedite grant awards for affected communities in presidentially-declared disaster areas, including allowing affected grantees to move up their CDBG program start date.

Short-term disaster relief. Past disaster relief legislation generally has allowed CDBG funds to fill gaps in Federal Emergency Management Agency (FEMA) and Small Business Administration (SBA) emergency relief activities. In general, such legislation prohibited CDBG funds from substituting for FEMA or SBA funding, but allowed CDBG funds to be used for activities that are not reimbursable by FEMA or SBA. Typically, CDBG has been used to finance the removal of debris, the provision of extra security patrols, and the emergency restoration of essential services, such as water, sewer, electrical, and telecommunications. For instance, approximately \$250 million in CDBG funds was used to finance the emergency, temporary restoration of utilities in the affected areas of Lower Manhattan following the destruction of the World Trade Center, and an

additional \$500 million was made available for permanent utility restoration and infrastructure improvements.¹

Mitigation activities. Mitigation activities are intended to lessen the impact of a disaster, and can range from such physical measures as the construction of levees to protect against flooding to buildings designed to withstand earthquakes. Mitigation activities may also involve training exercises and public awareness programs. Less typical is the use of CDBG to compensate businesses and workers for lost wages or revenues. Mitigation take place at any time — before a disaster occurs, during an emergency, or after disaster, during recovery or reconstruction.

Mitigation activities have involved the use of CDBGs to fund buyouts of real property in areas prone to a recurrence of the event. For instance, following the Midwest floods of 1993, CDBG and Hazard Mitigation Grants from the FEMA were used to acquire privately-held real property within flood plain areas in the nine affected states² and to convert the land to public uses, such as recreation or allowing it to return to its natural state.³ CDBG funds were also used to construct and repair levees in an effort to reduce the area's vulnerability to future flood losses. Following the Midwest floods of 1997, Congress again appropriated CDBG funds to cover buyouts of privately-held land in flood-prone areas in the affected states.⁴

Following the terrorist attacks of September 11, 2001, Congress appropriated \$2 billion under P.L. 107-117 for disaster relief and recovery assistance to New York.⁵ The act earmarked at least \$500 million for economic losses to individuals, businesses, and nonprofit organizations in an effort to mitigate the attack's economic impact. That provision required HUD to implement the program within 45 days after passage of the act. It limited economic loss grants to small businesses located within a designated area to no more than \$500,000. In addition, the act earmarked at least \$10 million for the tourism and travel industry.⁶

¹ Lower Manhattan Development Corporation, *Partial Action Plan S-2 for Utility Restoration and Infrastructure Rebuilding*, prepared by the Lower Manhattan Development Corporation in partnership with Empire State Development and New York City Economic Development Corporation, available at [<http://www.renewnyc.com/content/pdfs/PAP%20S-2%20As%20Approved%20by%20HUD%20as%20of%20091503.pdf>] visited October 5, 2005, p. 1.

² States affected by the 1993 floods included Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

³ 108 Stat. 13; U.S. Federal Emergency Management Agency and State of Missouri Emergency Management Agency, *Success Stories from the Missouri Buyout Program*, (Washington: August 2002) available at [http://www.fema.gov/pdf/reg-vii/mo_buyoutreport.pdf] visited October 5, 2005, p. 2.

⁴ 111 Stat. 198.

⁵ In total, Congress appropriated \$3.483 billion in CDBG disaster relief assistance. These funds were made available in three separate appropriations acts: \$700 million in P.L. 107-38; \$200 million in P.L. 107-117; and \$783 million in P.L. 107-206.

⁶ 115 Stat. 2336.

Long-term recovery activities. The third set of activities eligible for CDBG assistance are those associated with long-term recovery and reconstruction efforts. This would include assistance to businesses and residents affected by a presidentially-declared disaster, as well as grants intended to attract new businesses to the area. The forms of assistance may range from business loans to infrastructure improvements.

For instance, to assist in the redevelopment of the Lower Manhattan area of New York following the terrorist attack on the World Trade Center on September 11, 2001, Congress appropriated \$3.5 billion in CDBG funds. Of the \$3.5 billion in CDBG funds made available, \$1.49 billion has been allocated to recovery assistance including \$350 million in business recovery grants (to compensate businesses for lost revenue) and small firm attraction and retention grants (awarding incentives to businesses agreeing to stay in Lower Manhattan).⁷ The \$1.49 billion also included \$280.5 million in residential grant assistance to encourage renters and owners to stay in the area.⁸ In exchange for a two-year commitment to stay in the area, renters and owners in designated Lower Manhattan neighborhoods received residential grants that covered up to 30% of their housing costs.⁹ In addition, \$330 million in CDBG funds were made available to cover some portion of Con Edison's and Verizon's cost for restoring utility and telecommunication services to the Lower Manhattan area.

Other Actions by HUD in Support of Disaster Recovery

In addition to providing CDBG funding assistance, Congress has included a number of other provisions in past disaster relief appropriations to facilitate relief and recovery efforts and to ensure accountability. These have included the use of waivers, funding transfers, matching funds, and reporting requirements.

Authority to Waive Program Requirements. Previous disaster relief appropriations have granted the Secretary of Housing and Urban Development significant authority to waive program requirements, but have generally prohibited waivers in four areas: nondiscrimination; environmental review; labor standards; and fair housing. This is consistent with the program's authorizing legislation which states that:

For funds designated under this title by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that

⁷ Lower Manhattan Development Corporation, *Partial Action Plan 002: New York Business Recovery and Economic Revitalization*, prepared by the Lower Manhattan Development Corporation in partnership with Empire State Development and New York City Economic Development Corporation, available at [<http://www.renewnyc.com/content/pdfs/PAP%2010%2029%202002.pdf>], visited October 5, 2005, p. 2.

⁸

Lower Manhattan Development Corporation, *Partial Action Plan 001: Residential Grant Program*, prepared by the Lower Manhattan Development Corporation in cooperation with the State of New York and the City of New York, available at [http://www.renewnyc.com/content/pdfs/Partial_Action_Plan_Final_Amended.pdf], visited October 7, 2005, p.1.

⁹ *Ibid.*, p. 9.

area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.¹⁰

Congress, on a few occasions, has waived or modified the CDBG program's income targeting provisions, which requires grantees to allocate at least 70% of their funds for activities that benefit low- and moderate-income persons. For instance, in response to the Midwest floods of 1998 and the Florida hurricanes of 2004, the income targeting requirement was lowered to 50%.¹¹ In response to the 1992 Los Angeles riots, Congress increased the ceiling on the use of the CDBG funds for public service activities in Los Angeles from 15% to 25%.¹²

In addition to waivers, affected grantees in presidentially-declared disaster areas may request the suspension of certain statutory or regulatory provisions. This may include extension of the deadline for submitting annual performance reports, and changes in the time frame for measuring whether the community met the CDBG program's income-targeting requirement (that 70% of CDBG expenditures benefitted low- and moderate-income persons).¹³ Grantees may also seek a suspension or removal of the statutory provisions prohibiting the use of CDBG funds for new housing construction or for repair or for reconstruction of buildings used for the general conduct of local government. Several past disaster relief acts included language requiring HUD to publish in the *Federal Register*, five days in advance of the effective date, any waivers or suspensions of any statute or regulation governing the use of CDBG funds for disaster relief.¹⁴

Funding Transfers. Congress has included language in previous disaster relief appropriations allowing communities to transfer CDBG funds to other programs. For instance, disaster relief assistance legislation in response to the Northridge earthquake in 1994 included a provision allowing HUD to transfer \$75 million in CDBG assistance to the HOME Investment Partnership program (a housing block grant administered by HUD).¹⁵ In addition, Congress included language in appropriations dealing with the 1998 Midwest floods that transferred administrative authority over CDBG funds for land buyouts from HUD to FEMA as a part of a disaster mitigation strategy.¹⁶

Matching Funds. Congress has also included language in disaster relief appropriations requiring communities to meet a financial match requirement as a condition for receipt of CDBG-funded disaster relief assistance. For instance, disaster relief assistance in response to the Florida hurricanes of 2004 included a requirement that each state must "provide not less than 10 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the state

¹⁰ 42 U.S.C. 5321.

¹¹ 112 Stat. 76; 118 Stat. 1254.

¹² 42 U. S. C. 5306(a)(8).

¹³ The time frame for measuring low- and moderate-income benefits may not exceed three years.

¹⁴ 118 Stat. 1254.

¹⁵ 108 Stat. 13.

¹⁶ 111 Stat. 199; 116 Stat. 889.

under this heading.”¹⁷ CDBGs awarded to states following the 1998 Midwest floods were conditioned on each state providing not less than 25% in non-federal public matching funds.¹⁸

Reporting Requirements. Several past appropriations bills have included provisions requiring quarterly reports on the expenditure of funds in order to provide oversight and to ensure accountability in the allocation of disaster relief funds. Legislation providing CDBG disaster relief assistance to communities affected by the 1997 and 1998 Midwest floods included provisions that required the Secretary of HUD and the Director of FEMA to jointly submit quarterly reports to the House and Senate Appropriations Committees on the use of CDBG funds for land acquisition and buyouts.¹⁹ Legislation providing CDBG assistance to New York following the September 11, 2001 terrorist attacks also included quarterly reporting provisions.²⁰

Policy Considerations

The CDBG program’s broad list of eligible activities and its flexibility have allowed communities and states affected by disasters to undertake short-term disaster relief efforts, implement mitigation strategies, and finance long-term recovery activities. These funds have been used to support disaster recovery efforts spanning multiple states, as well as to respond to disaster recovery efforts in highly urbanized areas.

As Congress considers legislative proposals intended to finance long-term disaster recovery efforts, there are a number of CDBG-related policy questions that may be considered.

- Is the CDBG program an appropriate and effective means of providing federal support for long-term recovery efforts?
- If it is, what should be the level of CDBG assistance awarded to affected areas?
- Should CDBG assistance be controlled by the individual communities, by the states, or by a multi-state regional entity?
- Should Congress require states to meet a matching fund requirement as a condition for receiving disaster recovery-related CDBG funds?
- What, if any, additional compliance and accountability measures or actions should Congress require of CDBG recipients as a condition of receiving CDBG funds?

¹⁷ 118 Stat. 1254.

¹⁸ 112 Stat. 76.

¹⁹ 111 Stat. 199; 112 Stat. 77.

²⁰ 115 Stat. 221.