Part III - Programs Which Assist Businesses and Nonprofit Organizations

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PART III - PROGRAMS WHICH ASSIST BUSINESSES AND NONPROFIT ORGANIZATIONS

[See also Part II, Section B, 5.b. on page II-7 regarding taking disaster losses into account for tax purposes.]

INSURANCE

The philosophy of FEMA and OEM is that individuals, families, government agencies, as well as businesses and private nonprofit organizations should purchase and maintain insurance coverage for the risks posed by natural hazards in all cases for which insurance is reasonably available. For businesses and most private nonprofit organizations, federal disaster assistance grants are not available; hence, insurance coverage and loans are the two main sources of recovery assistance post-disaster. Also, most natural disasters are not widespread enough to result in the implementation of federal disaster assistance programs. Hence, in the vast majority of cases, insurance coverage and loan assistance are the only avenues for helping businesses and private nonprofit organizations to recover from natural disasters.

Wind, lightning, hail, winter storm, fire damage, and even volcanic hazards are common standard coverages on property insurance policies, but *most property policies exclude certain perils, namely flood, earthquake, and landslide hazards.* Coverage for these perils can be purchased to varying degrees, as described below and on the pages that follow. Flood coverage is very commonly available.

1. **National Flood Insurance Program** [1]

   Standard property insurance policies for businesses, governmental and private nonprofit organizations, homeowners, and renters typically do *not* provide coverage for the flood hazard. Instead, flood coverage can be purchased as a separate policy via the National Flood Insurance Program (NFIP).

   NFIP insurance is available to any property owner located in a community participating in the National Flood Insurance Program.[2] Coverage is available for residential and commercial buildings and contents, and can also be purchased by renters. Many areas inside and outside of mapped floodplains are susceptible to flooding. In fact, 25% of all flood claims occur in low to moderate risk areas, often outside mapped floodplains. Flooding can be caused by heavy rains, melting snow, debris or ice jams, storm surge caused by wind, inadequate drainage systems, failed protective devices such as levees and dams, and in other ways, and can be exacerbated by frozen ground.

   In order to obtain financing from a federally regulated or insured lender to buy, build, or improve structures located in Special Flood Hazard Areas (SFHAs)[3] one is required to purchase flood insurance. Lending institutions that are “federal” in this sense must determine if the structure in question is located in a SFHA and must provide written notice requiring flood insurance. In addition to requirements to buy flood insurance because the law says one must, many businesses and private nonprofits buy flood coverage because it's in their best interest to do so; flood insurance coverage always provides better and less expensive recovery from flood losses than disaster recovery loans, the only kind of disaster assistance available for businesses and most private nonprofit organizations.

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[1] Also see http://www.fema.gov/nfip/whonfip.shtm and http://www.fema.gov/fima/nfip.shtm

[2] All counties and all cities with mapped floodplains in Oregon participate in the NFIP.

[3] SFHAs are essentially mapped 100-year floodplains, which means a 1% chance of equaling or exceeding the mapped flood elevations each and every year.

NFIP insurance limits for non-residential buildings are:

- Up to $500,000 for the structure
- Up to an additional $500,000 for contents

Limits for single family homes are:

- Up to $250,000 for the structure
- Up to an additional $100,000 for contents

FEMA works closely with the insurance industry to facilitate the sale and servicing of flood insurance policies. Flood insurance is sold to owners of property located in NFIP communities through two mechanisms:

- State-licensed property/casualty insurance agents and brokers who work directly with FEMA.
- Private insurance companies via a program known as "Write Your Own" (WYO).

The WYO Program was started to increase the NFIP policy count and geographic distribution of policies by taking advantage of the private insurance industry's marketing channels and existing policy base to sell flood insurance. Eighty-six private insurance companies issue policies and adjust flood claims in their own names under the NFIP. The insurers receive an expense allowance and remit premium income in excess of this allowance to the federal government. FEMA pays losses through a letter of credit and sets the rates, coverage limitations, and eligibility requirements. The premium charged for NFIP flood coverage by a WYO company is the same as that charged by the federal government through the direct program. Currently about 95% of the flood policies issued under the NFIP are written through the WYO Program.

In order to be eligible for flood insurance, a structure must have at least two solid walls and a roof, be principally above ground, and not entirely over water. This includes manufactured homes that are anchored to permanent foundations and travel trailers without wheels that are anchored to permanent foundations and are regulated under the community's floodplain management and building ordinances or laws. Contents of insurable walled and roofed buildings are insurable under the policy as a separate coverage. In addition to providing coverage for building and personal property, the NFIP also provides other coverage for debris removal, loss avoidance measures, and pollution damage if the damage results from a flood. All of these coverages are provided within the purchased policy limits.

All policy forms provide Increased Cost of Compliance (ICC) coverage, which helps pay for the increased costs to comply with state or community floodplain management laws or ordinances after a flood in which a building has been declared substantially damaged or repetitively damaged. When an insured building is damaged by a flood and the community declares the building to be substantially or repetitively damaged, thus triggering the requirement to comply with a community floodplain management ordinance, ICC will help pay for the cost to elevate, relocate, demolish, or floodproof (non-residential buildings only) up to a maximum of $30,000. This coverage is in addition to the building coverage for the repair of actual physical damages.

In addition, an ICC claim payment can sometimes be used to complement and supplement funds which may be available under other hazard mitigation programs such as the Flood Mitigation Assistance (FMA) Program and FEMA's Hazard Mitigation Grant Program (HMGP) to assist communities in implementing measures to reduce or eliminate the long-term risk of flood damage to buildings insured under the NFIP.

Unlike other property insurance, agents who write policies under the NFIP cannot "bind" coverage. A purchaser of flood insurance must wait 30 days from the date the application is completed and the premium presented before the policy becomes effective.

2. Earthquake Insurance [4]

Earthquakes are generally not covered under standard homeowners or renters insurance policies. It is more common for commercial insurance policies to cover earthquake damage. Standard commercial glass-window coverage usually includes earthquakes as a peril. Most often, however, coverage needed for earthquake damage and losses is accomplished by means of an endorsement to a home or business insurance policy or a separate policy purchased from the same company. Large businesses can sometimes have earthquake coverage added to a commercial insurance policy by paying an additional premium. Consumers should shop around for the best package deal, changing companies if necessary. Immediately following an earthquake, many companies refuse to sell new policies in the affected area for up to ninety days, mostly due to aftershocks.

In cases for which a landlord has earthquake coverage for the structure, lessee or tenant improvements, equipment, inventory, and personal possessions generally won't be covered if they are damaged or destroyed by an earthquake unless covered under that lessee or tenant's policy. Adding earthquake coverage to a business or renters policy can cover these things.

The cost of earthquake insurance varies from carrier to carrier and depends greatly on where a business, private nonprofit, or dwelling is located. Areas are graded by insurance companies on a scale of "1" to "5," used to calculate risk. Premiums also differ widely based on the type of structure that is covered. Generally, older buildings cost more to insure than new ones. Wood frame structures generally benefit from lower rates than unreinforced masonry buildings (e.g., brick, blocks, etc.) because they tend to withstand earthquake stresses better.

Earthquake insurance carries a deductible, generally in the form of a percentage rather than a dollar amount. Deductibles can range anywhere from 5% to 25% of the replacement value of the structure. Insurers in states with higher than average risk of earthquakes sometimes set minimum deductibles around 10%. In recent years, the trend has been toward higher deductibles. In most cases, consumers can obtain higher deductibles to save money on earthquake premiums. Deductibles often apply separately to inventory or contents. This can mean that the deductible applies separately to the total amount of the loss for contents, to the total amount of the loss for the structure, and to the total amount of the loss for unattached structures like garages, sheds, driveways or retaining walls.

3. Landslide Insurance

Insurance coverage for landslides is uncommon. It is almost never a standard coverage, and is difficult to purchase inexpensively as a policy endorsement, in part because insurance actuaries find it difficult to establish reliable recurrence intervals upon which to base rates. Therefore, landslide insurance is available only from insurance brokers who purchase it from international underwriter Lloyd's of London, and is generally comparatively expensive. In Oregon, landslide insurance isn't something that can be found in the admitted market; however, if one is willing to pay the premium in the surplus lines market one can usually find an underwriter.

4. Business Interruption Insurance

Coverage for loss of earnings in case a policyholder's business is shut down by fire, windstorm, explosion or other insured peril can usually be added as a rider to a standard business policy and pays for such expenses as the rebuilding of an accounts receivable data base, cleaning computers, leasing temporary office space, and similar losses associated with covered perils.

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[4] For more information, see http://www.cbs.state.or.us/external/ins/docs/wisechoi/wcquake.htm (Oregon Dept. of Consumer and Business Services) and http://www.insurance.wa.gov/factsheets/earthquakefacts.asp (WA. State Office of Insurance Commissioner)

U.S. SMALL BUSINESS ADMINISTRATION (SBA)

Small Business Administration disaster loans can be made available to persons or businesses in the State of Oregon with or without a Presidential major disaster declaration. Under its own authority (13 CFR Part 123), the SBA defines disasters as "...sudden events which cause severe physical damage, and do not include slower physical occurrences such as shoreline erosion or gradual land settling. Sudden physical events that cause substantial economic injury may be disasters even if they do not cause physical damage to a victim's property. Past examples include ocean conditions causing significant displacement (major ocean currents) or closure (toxic algae blooms) of customary fishing waters..." [5]

For disaster damage to the private property of homeowners, renters, and businesses which is not fully covered by insurance, the SBA is the primary source of federal funds for recovery. This assistance is in the form of low interest long-term loans.

Federal law gives the SBA several powerful tools to make disaster loans affordable. In addition to low interest rates and long-terms, in some cases, the SBA can refinance existing debt. The SBA establishes an affordable monthly payment to fit each borrower's budget, and then writes the loan for the number of years needed, unlike conventional lending institutions that generally set the maturity first and then calculate the payment.

SBA Loan Limits and Terms at a Glance *

Physical Disaster Loans

Homes: real estate	up to $200,000
personal property	up to $40,000
Renters: personal property	up to $40,000
repayment terms:	up to 30 years
interestrate:	2.562% or 5.125%
Businesses (of all sizes):	
real estate, machinery, equipment, and inventory	up to $1,500,000
repayment terms:	up to 30 years
interest rate:	3.1% or 6.199%
Private nonprofit organizations:	up to $1,500,000
repayment terms:	up to 30 years
interest rate:	3.1 or 5.5%

Hazard mitigation: code required improvements *plus* up to a 20% increase in the loan amount for other cost effective hazard mitigation measures - this applies to both home and business loans

Economic Injury Disaster Loans (EIDL)
(small businesses only)

Necessary working capital	up to $1,500,000
repayment terms:	up to 30 years
interest rate:	3.1%

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There is a $1,500,000 statutory limit for businesses with both physical and economic injury disaster loans; this applies to all disaster loans to a business and its affiliates. If a business is a major source of employment, SBA has the authority to waive this limit.

1. **Physical Disaster Loans**

   SBA physical disaster loans are covered in this part of the *Guidebook* rather than splitting the information between Part II and Part III. Physical disaster loans can be made available to businesses of all sizes, to private nonprofit organizations, *and to homeowners and renters.* In some cases, public utility districts and utility co-ops can be considered nonprofit corporations for SBA purposes. An interpretation is made by SBA Legal Counsel on a case-by-case basis. Nonprofit corporations are eligible only under SBA physical disaster loan provisions.

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[5] 13 CFR 123.2

These loans are made at low rates of interest, which are determined based on the availability of loans from other sources and other economic factors, and can change at any time. It is also important to note that SBA loans are not automatic. To be approved, an applicant must show the ability to repay the loan. If over $10,000, a loan must be secured by collateral.

If the President declares a major disaster and provides Individual Assistance Programs, SBA physical disaster and economic injury disaster loans will be part of the package of assistance offered to the state. When the damage, impacts, and disaster-related unmet needs are insufficient for the state to request a major disaster declaration, the Governor can instead ask the SBA Area Director to make physical disaster and economic injury loans available under a SBA Administrator's declaration.[6]

Criteria used by the SBA in analyzing a request for an Administrator's physical disaster declaration are: in a county or other subdivision of a state, a combination of at least 25 homes, businesses, or other eligible institutions have each sustained uninsured losses of 40% or more of their estimated fair market replacement value or pre-disaster fair market value, whichever is lower.

For example, the eligibility criteria will have been met if 25 families are tenants in one apartment building, and each suffers a 40% uninsured loss. Likewise, if 25 separate businesses are tenants of one building, and each business suffers a 40% uninsured loss, the criteria have been met.

The physical disaster criteria can also be met if at least three businesses have sustained uninsured losses of 40% or more of their estimated fair market replacement value or pre-disaster fair market value, whichever is lower; and as a direct result of the physical damage, 25% or more of the work force in the community would be unemployed for at least 90 days.

The two types of physical disaster loans are as follows:

a. Home Loans

Home loans can be made to homeowners or renters to repair disaster related damage to primary homes or replace personal property. Refinancing of existing mortgages is also possible under certain conditions. Renters are eligible for personal property loans only. Real property loans are limited to $200,000. However, the loan amount can be increased by up to 20% for actions which will mitigate future damage to real property. Personal property loans are limited to $40,000. With the exception of meeting codes and hazard mitigation, loan proceeds cannot be used to upgrade or make additions. Loan proceeds may not be used to replace luxury items or recreation vehicles. Functional antiques must be replaced by modern items. Dollar limitations apply to hobby and other unnecessary items. The repayment period depends on the size of the loan, and the repayment capability of the applicant. The maximum term is thirty years. When this *Guidebook* went to press, interest rates on these loans were 2.562% (credit not available elsewhere) or 5.125% (credit available elsewhere).

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[6] Under an SBA Administrator's physical disaster declaration, individuals, families, and businesses in contiguous counties will also be eligible for both physical disaster loans and EIDL (see page III-6). However, if the SBA is involved in conjunction with a Presidential declaration, then these entities in contiguous counties are eligible to apply only for EIDL assistance.

b. Business Loans

Business loans are available to non-farm businesses of all sizes and to private nonprofit organizations to repair disaster-related damage to property. The maximum possible amount under this program is $1,500,000. Loan proceeds may be used to fund repair or replacement of real estate, leasehold improvements, inventory, machinery, equipment, furniture, and fixtures to pre-disaster condition. Upgrading is not authorized except to meet building codes or finance mitigation measures. Mitigation measures are limited to 20% of the loan amount and do not increase the maximum limit. The applicant can be allowed up to thirty years to repay if there was no credit available from other sources. However, if credit was available from other sources, the loan must be repaid within three years. When this *Guidebook* was published, interest rates on these loans were 3.1% (credit not available elsewhere) or 6.199% (credit available elsewhere).

2. Economic Injury Disaster Loans (EIDL)

[Forms required to pursue EIDL under an SBA Administrator's declaration may be found in the Forms Appendix.]

When disaster damage is insufficient to meet physical disaster criteria, or in cases where there is little or no physical damage to businesses, but rather a loss of sales and revenue due to the disaster,[7] the Governor may request that Economic Injury Disaster Loans (EIDL) be made available. Economic injury loans can only be made available to small businesses.

Criteria used by the SBA in analyzing a request for an Administrator's economic injury declaration are that at least five small businesses in the state have suffered substantial economic injury due to a sudden physical event, and there is not reasonable financial assistance available in the area. Only Economic Injury Disaster Loans are available under this criteria. With an EIDL declaration, small businesses in counties contiguous to declared counties are also eligible to apply. This contiguous county provision applies even if the counties in question are across a state line.

The Small Business Administration has a Memorandum of Understanding with the Secretary of Agriculture which makes Economic Injury Disaster Loans available in primary and contiguous counties under an agricultural disaster declaration, but only for non-farm small businesses that derive most of their income from the agricultural community. EIDL is always an automatic tie-on to physical disaster declarations.

EIDL are working capital loans to small businesses and small agriculture cooperatives to assist them through the disaster recovery period. These are available only if the business or its owners cannot obtain this type of assistance from non-government sources. Maximum loan amount is $1,500,000. When this *Guidebook* went to press, these loans were available for periods up to thirty years at an interest rate of 3.1%. The proceeds may be used to pay expenses, overhead, and fixed-debt installments which could have been paid if the disaster had not occurred.

[7] For example, a landslide has closed a highway for weeks: no businesses were directly damaged by the landslide, but their customers cannot travel to these businesses due to the road closure. These businesses are losing sales and revenue due to the landslide.

3. Delivery of SBA Assistance

If there is a Presidential major disaster declaration, application for SBA loan assistance is commenced by a call to the FEMA teleregistration toll-free number, 1-800-621-FEMA. For the hearing or speech impaired, the TDD/TTY teleregistration is 1-800-462-7585. If assistance is being provided under an SBA Administrator's declaration, or when tied to a Secretary of Agriculture declaration (see Farm Service Agency on p. I-17), application is made via the SBA toll-free number 1-800-488-5323 or TDD/TTY 1-916-566-7388.

In addition, if there is a major disaster declaration for Individual Assistance and Disaster Recovery Centers (DRCs) are open, the SBA will place staff at the DRCs to work with applicants on completing paperwork, and to be available to answer questions applicants may have about SBA disaster loan programs and the application process. Oftentimes, SBA staff are still providing customer service at DRCs long after other federal agencies have ended their presence.

If there is no major disaster declaration, or if there is and no DRCs are opened, the SBA will open its own Outreach Center(s) to work with applicants needing SBA assistance. The SBA works with local governments and OEM to identify appropriate buildings to serve as these temporary Outreach Centers (for Center requirements, see the Checklists Appendix). Sometimes the SBA will open several Outreach Centers and cover them with the same staff, e.g., one center might be open on Monday, Tuesday, and Wednesday, and the other - often many miles down the road - is open on Thursdays, Fridays, and Saturdays, the same SBA staff shuttling between centers. Outreach Centers are commonly open both daytime and evening hours to provide convenience and better service to applicants for SBA assistance.

In addition to the assistance and information provided at DRCs and Outreach Centers, the SBA utilizes a number of other methods to reach persons affected by the disaster:

< Field visits - These visits are usually in the business community; they include banks, chambers of commerce, local business groups, etc;

< Telephone calls - These are made to those affected by the disaster who have registered and not yet submitted their SBA loan application; these calls are very effective when FEMA teleregistration is used; calls are usually made by the SBA personnel assigned to the Outreach Centers;

< Meetings - Under Presidential major disaster declarations many of the meetings are coordinated though a joint speakers bureau that is established in conjunction with FEMA and other federal agencies; under SBA Administrator's declarations, they are organized under the direction of the SBA Officer in Charge at the disaster site;

< Flyers - Informational flyers are distributed and posted in the disaster communities;

< Press releases - A common form of information sharing;

< Newsletters - SBA sends newsletters to those affected by the disaster who have received an SBA loan application; these letters provide a wide range of information about the SBA's program; and

< Word of mouth - When accurate information is initially given, and the service provided is good, this becomes an effective means of sharing information.