Tribal Declarations Pilot Guidance

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I. Background

A. Implementation of Tribal Declarations

The Sandy Recovery Improvement Act of 2013 (SRIA) amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5121 et seq. (Stafford Act), to provide federally recognized Indian tribal governments (tribal governments) the option to request a Presidential emergency or major disaster declaration.[1]

The Federal Emergency Management Agency (FEMA) is implementing this authority in three phases:

(1) Use of existing regulations (2013-2016): In order to allow tribal governments the choice to use the new authority immediately and to provide time for consultation on drafts of the Tribal Declarations Pilot Guidance, FEMA processed tribal declaration requests using adapted state declarations regulations.

(2) Pilot period: FEMA will use the Tribal Declarations Pilot Guidance to manage tribal declaration requests, reflecting some of the unique circumstances that impact tribal communities.

(3) Rulemaking: FEMA will promptly follow the notice and rulemaking process to develop regulations informed by the pilot program.

The publication of this guidance starts the pilot phase of tribal declarations implementation. The guidance serves as a comprehensive resource for tribal governments on Stafford Act declarations, disaster assistance, and related requirements. It also includes the criteria FEMA will use to evaluate declaration requests from tribal governments and make recommendations to the President regarding whether to declare an emergency or major disaster.

B. Tribal Consultation

In early 2013, FEMA sought input from tribal governments on the Stafford Act declarations process to inform the development of the Tribal Declarations Pilot Guidance. In April 2014, FEMA initiated tribal consultation on a draft and held 60 meetings around the country to discuss the first draft in-person with tribal governments. Over 540 attendees representing over 220 tribal governments participated in the meetings. FEMA received over 1,000 comments, which were used to develop the second draft version of the guidance.

In January 2016, FEMA sought input from tribal governments on a second draft of the guidance[2]. FEMA mailed hard copies and emailed soft copies of the guidance, and an overview of the proposed changes, to the Chief Executive of all 567 federally recognized tribal governments, and posted the document to the Federal Register for 90 days. FEMA held 54 meetings around the country to discuss the document in-person with tribal governments, including at national tribal conferences. More than 500 attendees representing over 178 tribal governments participated in the meetings. In addition, FEMA's Regional Tribal Liaisons utilized existing relationships and communication channels to encourage feedback by phone, email, mail or participation in webinar or in-person listening sessions. FEMA received approximately 800 comments, which it used in combination with the previous comments to develop this final document.

[1] P.L.113-2, § 1110.
[2] 81 FR 943.

C. Background on the Stafford Act

Under the National Response Framework and the National Disaster Recovery Framework, affected tribal, state, and local governments typically handle response to and recovery from most incidents without any federal assistance. However, some incidents are *so significant* that they are beyond the capabilities of the affected governments. The Stafford Act authorizes the President to provide assistance to supplement tribal, state, and local resources during situations where those resources have been or will be overwhelmed.

The Stafford Act authorizes the President to make certain programs of assistance available to support tribal, state, and local efforts to respond to and recover from an incident, typically after all other potential resources have been explored. The President approves the provision of disaster assistance by declaring an emergency or major disaster. The Stafford Act also authorizes the President to make available fire management assistance, which is available upon a Fire Management Assistance Grant (FMAG) declaration by the FEMA Administrator. This guidance does not address FMAG declarations.

The President delegated to the Secretary of the Department of Homeland Security, who in turn delegated to the FEMA Administrator, authority to administer Stafford Act assistance and coordinate response and recovery activities after the President declares an emergency or major disaster. Through this delegation, and in her or his role as the President's Principal Advisor for Emergency Management and her or his authority to assist the President in carrying out the functions under the Stafford Act,[3] the Administrator processes declaration requests and also recommends to the President whether or not to declare an emergency or major disaster in order to make Stafford Act assistance available.

Disaster assistance is also part of the mission of many other federal departments/agencies, including the U.S. Department of Agriculture, U.S. Department of Interior, U.S. Department of Health and Human Services, the U.S. Environmental Protection Agency, the U.S. Coast Guard, the U.S. Small Business Administration, U.S. Department of Transportation, and the U.S. Army Corps of Engineers. These federal entities often implement their own disaster response or assistance programs pursuant to these agencies' laws, regulations, and policies, and such assistance may be available regardless of a Stafford Act declaration. Unless there are significant unmet needs that other federal assistance cannot address, the FEMA Administrator will generally not recommend a declaration when the authority to respond to an incident is within the statutory authority of another federal entity.

D. Impacts of the Amendment to the Stafford Act

1. Reflect Tribal Governments' Status as Sovereign Entities

Pursuant to Sandy Recovery Improvement Act (SRIA), all references in the Stafford Act to "State and/or local" also now include "Indian tribal government,"[4] as appropriate.[5] Previously, the Stafford Act defined tribal governments as "local governments." The Stafford Act now reflects that tribal governments are sovereign and acknowledges the government-to-government relationship between the United States and tribal governments.

[3] 6 U.S.C. §§ 313 and 314.
[4] See "Definitions" section for definition of "Indian tribal government."
[5] FEMA has not promulgated new regulations incorporating the statutory changes prescribed in the SRIA; however, we are referring to "Indian tribal government" when our regulations refer to "State and/or local."

2. Promotes Tribal Self-Determination

The amendment authorizes tribal governments to determine for themselves how they want to seek Stafford Act assistance. The Chief Executive of a tribal government may request a declaration specifically for the tribal government or elect to be considered as part of a state's declaration request. The tribal government, however, cannot receive the same type of assistance (i.e., Public Assistance (PA), Individual Assistance (IA), and the Hazard Mitigation Grant Program (HMGP)) through both tribal and state declarations for the same incident. This is necessary to ensure that FEMA does not provide duplicative benefits.[6]

Although tribal governments have the choice to seek Stafford Assistance on their own, tribal governments are not required to request a declaration independently of a state. If a state receives a declaration which includes tribal lands, then the tribal government may freely choose to be either a sub-recipient or recipient for PA and/or HMGP funding.[7]

3. Cost Share Adjustments for Tribal Governments

The amendment authorizes the President to waive or adjust only the non-federal cost share for PA, for tribal declarations.[8] The President does not have the authority to waive or adjust the cost share for other Stafford Act disaster assistance programs. Further, the amendment instructs the President to establish criteria to evaluate the need for cost share adjustments for tribal declarations. The criteria will be established in tribal government declarations regulations.

4. Issue Regulations

Finally, the amendment instructs the President to issue regulations to carry out the amendment, and when issuing the regulations, to consider the unique conditions that affect the general welfare of tribal governments.[9] As discussed above, FEMA will issue regulations in phase three of implementation.

5. Coordination with and Inclusion of the Whole Community

Successful preparedness, response, recovery, and mitigation operations require a whole community approach. The whole community includes both tribal governments and state/local governments, many of whom have existing, long-standing relationships. Whole community also

[6] 42 U.S.C. § 5155.

[7] Some state laws do not allow tribal governments to serve as subrecipients for federal funding. In addition, under existing regulations, a tribal government may decide to be a grantee (recipient) rather than a subgrantee (subrecipient) under a State declaration. Note that FEMA regulations currently use the terms "grantee" and "subgrantee," although new grant regulations at 2 C.F.R. part 200, which provides uniform administrative requirements that are applicable to all federal awards, now use the terms "recipient" and "subrecipient." This guidance adopts the new terminology.

[8] Cost share adjustment criteria are found in 44 C.F.R. § 206.47. In 2016, FEMA will recommend an increase in the Federal cost-share percentage from 75% to not greater than 90% for PA if the per capita amount of eligible permanent and emergency work under a Stafford Act declaration exceeds $137. 81 FR 7558, February 12, 2016. If warranted by the needs of the disaster, FEMA may recommend up to one hundred percent (100%) federal funding for emergency work under section 403 and section 407, including Direct Federal Assistance (DFA), for a limited period in the initial days of the disaster irrespective of the per capita impact.

[9] P.L.113-2, § 1110(e)(1) and (2).

includes people with disabilities, families and older citizens. 44 C.F.R., Part 16 requires FEMA to provide access to all programs or activities for people with disabilities which includes physical access (e.g., facilities), effective communication access (e.g., written, Braille, audio, televised, web-based, alternative formats, etc.), as well as program access.[10] The Sandy Recovery Improvement Act (SRIA) amendment to the Stafford Act is not intended to alter or reduce the importance of the relationships that tribal governments may have with state and local partners. From localized disasters to multi-jurisdiction Stafford Act declarations, coordination between all levels of government and non-governmental organizations is critical to successful response and recovery efforts.

FEMA strives to include people with disabilities and others with access and functional needs in all aspects of emergency management. FEMA would like to work with tribal representatives to identify courses of action to help afford all tribal members equal access and equal participation in all activities or programs during a Stafford Act event.

FEMA has ten regional offices located throughout the United States. FEMA Regions work closely with tribal, state, and local leadership, emergency management partners, and regional interagency counterparts in the areas they serve to prepare for, protect against, respond to, recover from and mitigate all hazards. Each FEMA Region is led by a FEMA Regional Administrator. The Regional office receives and processes Joint Preliminary Damage Assessments (Joint PDAs) and declaration requests and, in the event of a declaration, administers disaster assistance.

Tribal governments submit requests for Joint PDAs and declaration requests to the FEMA Regional office in which the tribal government seat is located, but assistance can be provided across FEMA Regions. Tribal governments that want to be considered part of a state's Joint PDA or declaration request should work with the Regional Administrator and office in the Region in which the requesting state is located.

Below is a list of the ten FEMA Regions, their location, and the states that they serve:

Region	Location	States[11] Served
I	Boston, MA	CT, MA, ME, NH, RI, VT
II	New York, NY	NJ, NY, PR, USVI
III	Philadelphia, PA	DC, DE, MD, PA, VA, WV
IV	Atlanta, GA	AL, FL, GA, KY, MS, NC, SC, TN
V	Chicago, IL	IL, IN, MI, MN, OH, WI
VI	Denton, TX	AR, LA, NM, OK, TX
VII	Kansas City, MO	IA, KS, MO, NE
VIII	Denver, CO	CO, MT, ND, SD, UT, WY
IX	Oakland, CA	AZ, CA, HI, NV, GU, AS, CNMI, RMI, FSM
X	Bothell, WA	AK, ID, OR, WA

E. Availability of Technical Assistance

FEMA encourages tribal governments to coordinate with the appropriate FEMA Regional

[10] See 44 C.F.R. Part 16.
[11] The Republic of Marshall Islands and the Federated States of Micronesia are independent nations which receive Stafford Act assistance through their respective Compacts of Free Association with the United States.

Administrator when they consider whether to request a declaration. Regional Administrators and their staff can provide technical assistance and guidance to Chief Executives and tribal governments throughout the declaration process. Specifically, the Regions can help the tribal government determine whether to request assistance under the Stafford Act independently of a state request and if the request for Stafford Act assistance is legally sufficient. In advance of an incident, the FEMA Regions can also provide - at no cost - technical assistance in the development of mitigation plans and other administrative requirements to receive Stafford Act assistance. This technical assistance may include, as appropriate, providing sample and template documents to the tribal governments, reviewing tribal government drafts of documents, providing planning assistance, and providing other information relating to administrative requirements.

Available technical assistance also includes FEMA assistance from Regional Disability Integration Specialists or other Disability Integration Advisors to help tribal representatives identify and meet the access needs of all people with disabilities and other people who have access and functional needs, to afford participation in Stafford Act assistance.

Technical assistance from FEMA will be subject to FEMA staff availability and disaster activity at the Regional and national levels. Even with FEMA provided technical assistance, it is important to recognize that the administrative requiments related to Stafford Act assistance and the development and maintenance of mitigation plans can be expensive and time consuming endeavors.

All documents referenced in this guidance may be obtained via postal mail by contacting FEMA Regional Tribal Liaisons.[12] Information regarding the Emergency Management Institute's Tribal Curriculum[13] and other FEMA training courses may also be obtained by contacting FEMA Regional Tribal Liaisons.

II. Definitions

The following definitions apply for the purposes of this guidance[14]:

Access and Functional Needs: Circumstances that are met for providing physical, programmatic, and effective communication access to the whole community by accommodating individual requirements through universal accessibility and/or specific actions or modifications. (DHS Office of Policy, DHS Lexicon, Terms and Definitions 2015 Edition)

Chief Executive: The person who is the Chief, Chair, Chairman, Chairwoman, Governor, President, or similar executive official of an Indian tribal government. (42 U.S.C. § 5122(12))

Chief Executive's Authorized Representative: The person empowered by the Chief Executive or other officially-designated process under tribal law to execute, on behalf of the Indian tribal government, all necessary documents for disaster assistance (Adapted from the definition of Governor's Authorized Representative at 44 C.F.R. § 206.2(a)(13))

[12] https://www.fema.gov/tribal-contacts
[13] https://training.fema.gov/tribal/
[14] All definitions in this section are identical to the definitions in the Stafford Act or FEMA's implementing regulations, or are FEMA's existing interpretation of the Stafford Act or FEMA's implementing regulations, with the exception of the definitions for "enrolled tribal member" and "tribal lands," which FEMA developed specifically for this guidance.

Enrolled Tribal Member: A person that the Indian tribal government recognizes as an enrolled member of that Indian tribe at the beginning of the incident period.

Emergency: Any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state, local, and Indian tribal government efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of catastrophe in any part of the United States. (42 U.S.C. § 5122(1))

Federal Coordinating Officer (FCO): The person appointed by the Administrator, or in her or his absence, the Deputy Administrator, to coordinate federal assistance in an emergency or major disaster. (44 C.F.R. § 206.2(a)(11))

FEMA-Tribe Agreement: A formal legal document stating the understandings, commitments, and binding conditions for assistance applicable as a result of the major disaster or emergency declared by the President. (Adapted from the definition of FEMA-State Agreement at 44 C.F.R. § 206.32(d))

Hazard Mitigation: A sustained action taken to reduce or eliminate the long-term risk of future damage to human life and property from hazards. (44 C.F.R. § 201.2)

Hazard Mitigation Grant Program: Supplementary federal assistance provided under the Stafford Act to state, Indian tribal, and local governments or certain private, non-private organizations for the purpose of hazard mitigation. (44 C.F.R. § 206.430)

Incident Period: The time interval during which the disaster-causing incident occurs. (44 C.F.R. § 206.32(f))

Individuals with Disabilities: Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. (44 C.F.R. §16.102)

Indian Tribal Government or Tribal Government: The governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe under the federally Recognized Indian Tribe List Act of 1994. (25 U.S.C. §§ 479a to 479a-1) (42 U.S.C. § 5122(6))

Individual Assistance: Supplementary federal assistance provided under the Stafford Act to individuals and families adversely affected by a major disaster or an emergency. (44 C.F.R. § 206.2(a)(15))

Local Government: (1) A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under state law), regional or interstate government entity, or agency or instrumentality of a local government; (2) an Indian tribe or authorized tribal organization, or Alaska Native village or organization, that is not an Indian tribal government, as defined in 42 U.S.C. § 5122(6); and (3) a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a state or political subdivision of a state. (42 U.S.C. § 5122(8))

Major Disaster: Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which

in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act to supplement the efforts and available resources of states, Indian tribal, and local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. (42 U.S.C. § 5122(2))

Pass-through Entity: A non-federal entity that provides a subaward to a subrecipient to carry out part of a federal award. (2 C.F.R. §200.74). A recipient is the pass-through entity, responsible for any subawards made to subrecipients."

Public Assistance: Supplementary federal assistance provided under the Stafford Act to state, Indian tribal, and local governments or certain private, non-profit organizations other than assistance for the direct benefit to individuals and families. (44 C.F.R. § 206.2(a)(20))

Recipient: A non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. (2 C.F.R. § 200.86) (In this instance, a federally recognized tribal government is a non-federal entity. See 2 C.F.R. § 200.69)

Stafford Act: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended. (42 U.S.C. §§ 5121 et seq.)

State: Any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. (42 U.S.C. § 5122(4))

Subrecipient: A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. (2 C.F.R. § 200.93)

Tribal Coordinating Officer: The person appointed by the Chief Executive to act in cooperation with the Federal Coordinating Officer to administer disaster recovery efforts. (Adapted from the definition of State Coordinating Officer at 44 C.F.R. § 206.2(a)(23))

Tribal Lands: Reservations, lands held in trust by the United States government for the tribal government (trust land) and for individual Indians (allotted land), as well as land owned by the tribal government (fee simple land).[15]

III. Stafford Act Presidential Declarations and Available Assistance

A. Types of Stafford Act Presidential Declarations

The Stafford Act authorizes the President to make certain federal assistance available to support tribal, state and local government efforts to respond to and recover from an incident that overwhelms their capabilities. If the President determines that federal assistance under the Stafford Act is needed to supplement tribal and/or state and local government resources, then he or she may declare an emergency or a major disaster.

[15] Fee simple land does not need to be in the process of transitioning to trust in order to be considered tribal land.

Once a tribal government receives a declaration, the tribal government becomes the recipient for the administration of assistance of any assistance authorized by the President which may include Public Assistance (PA), Individual Assistance (IA), and the Hazard Mitigation Grant Program (HMGP). As such, the tribal government assumes all responsibilities of the recipient (see, *e.g.*, 44 C.F.R. § 206.201(e)), which are in current regulation and further interpreted in this guidance.

1. Emergency

The Chief Executive of a tribal government may submit a request for a declaration by the President that an emergency exists or an emergency could occur.[16] An "emergency" is any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement tribal, state, and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.[17]

An emergency declaration is intended to provide immediate and short-term assistance essential to save lives, protect public health, safety, and property, or to lessen or avert the threat of a catastrophe.[18] Therefore, emergency declarations do not authorize long term mitigation assistance (HMGP) or permanent restoration of infrastructure (PA) that may be included in a major disaster declaration. Moreover, IA will not typically be made available under an emergency declaration. Generally, funding and/or direct federal assistance will be provided to meet specific unmet emergency needs or to help prevent a major disaster from occurring. The process for submitting a request for an emergency declaration is described in detail below.

2. Major Disaster

The Chief Executive of a tribal government may submit a request to the President to declare a major disaster.[19] A "major disaster" is any natural catastrophe[20], or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act to supplement the efforts and available resources of tribal, state, and/or local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.[21]

The types of assistance that may be available to a tribal government as the result of a major disaster declaration include IA, PA, HMGP, or a combination of these programs (see next section). The types of assistance authorized by the major disaster declaration will depend on the impacts of the incident and the resulting unmet needs.

The process for submitting a request for a major disaster declaration is discussed in section VI. More information on the IA, PA, and HMGP programs is also included in section VII.

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[16] Stafford Act § 501; 42 U.S.C. § 5191.
[17] Stafford Act §§ 102 and 103; 42 U.S.C. §§ 5122 and 5123.
[18] Stafford Act § 502; 42 U.S.C. § 5192.
[19] Stafford Act § 401; 42 U.S.C. § 5170.
[20] Including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought.
[21] Stafford Act §§ 102(2) and 103, 42 U.S.C. §§ 5122(2) and 5123.

Events that have primarily economic impacts or that primarily impact crops or livestock may not be appropriate for a Stafford Act declaration. As discussed in the section below, the Stafford Act authorizes assistance to repair public facilities and/or support individual disaster survivors in the repair of their homes. The Stafford Act does not authorize FEMA to provide assistance that would address economic impacts or damage to crops or livestock. Other federal agencies, such as the U.S. Small Business Administration or U.S. Department of Agriculture, may have programs to address such events.

B. Types of Stafford Act Assistance

1. Public Assistance

The Public Assistance (PA) program provides funding, typically through reimbursement, for emergency work and/or permanent work, including the repair, replacement, or restoration of disaster-damaged, government-owned/operated facilities and the facilities of certain private nonprofit organizations. PA eligibility is based on work and damage which occurred as a direct result of the declared incident.[22]

Emergency work and permanent work are further divided into the seven categories shown below:

Emergency Work
Category A: Debris Removal
Category B: Emergency Protective Measures

Permanent Work
Category C: Roads and Bridges
Category D: Water Control Facilities
Category E: Buildings and Equipment
Category F: Utilities
Category G: Parks, Recreational Facilities, and Other Items

All categories of work generally have a 75% federal-25% non-federal cost share. The Stafford Act gives the President authority to adjust or waive the cost share for all categories of PA work. Generally, the federal share will not be increased to more than 90% (see 'Cost Share Adjustments' in section VII).

For more information, see the FEMA Public Assistance Program and Policy Guide (PAPPG).[23] The PAPPG incorporates all PA policy in a single volume and provides an overview of the PA program implementation process.

Public Assistance in Emergency Declarations vs. Major Disaster Declarations

Under emergency declarations, the President may authorize one or both categories of emergency work (Category A & B); permanent work assistance (Categories C-G) are not available under an emergency declaration.

[22] Deferred maintenance and damage from other events are not eligible for assistance.
[23] https://www.fema.gov/media-library/assets/documents/111781

Under major disaster declarations, the President may authorize some or all of the categories of emergency work or permanent work, or both.

Direct Federal Assistance

PA typically provides reimbursement for the costs associated with eligible work; however, if the tribal government is unable to perform the work itself, or contract for the work, the Stafford Act provides the federal government with the authority to provide direct assistance, also known as Direct Federal Assistance (DFA). Upon request from the tribal government, FEMA may direct other federal agencies to carry out eligible emergency work that the tribal government cannot perform[24]. When FEMA directs other federal agencies to carry out work, it does so through Mission Assignments. Work that may be performed through DFA includes, but is not limited to, debris removal, search and rescue, and provision of temporary medical facilities. It is important to note that DFA is subject to the same non-federal cost share requirement as other PA-eligible emergency work. Once a DFA mission is complete, the tribal government will be billed for the non-federal share of the total cost of that mission.

For more information on DFA and Mission Assignments see FEMA's regulations at 44 C.F.R. §206.208 and FEMA's Mission Assignment Policy.[25]

State Declarations – Tribal Recipient vs. Subrecipient for Public Assistance

In a state declaration, the procedures remain the same as prior to the enactment of the Sandy Recovery Improvement Act (SRIA). The state generally receives the PA funding from FEMA and serves as the "recipient." The recipient's responsibilities include but are not limited to:

(1) Distributing funds to subrecipients,
(2) Monitoring and tracking funds, and
(3) Ensuring compliance with all grant requirements.[26]

However, tribal governments that elect to seek PA through a state declaration can choose to receive assistance either as a subrecipient or a recipient. As a subrecipient, the tribal government will coordinate with the state to apply for assistance and receive reimbursement.[27]

Consistent with existing regulations, even if the tribal government seeks PA through the state, tribal governments can still choose to serve as a recipient for PA[28] and the Hazard Mitigation Grant Program[29] – just as they could prior to the enactment of the SRIA. If a tribal government elects to serve as recipient, then it will work directly with FEMA, largely without state involvement. As a recipient, a tribal government will be required to sign a FEMA-Tribe Agreement and will be subject to all of the responsibilities of a recipient. These responsibilities include all financial and grants management requirements; ensuring compliance with the Stafford Act, FEMA's regulations, and all other applicable laws; monitoring any subrecipients; meeting the non-federal cost share requirement; and have an approved Tribal Mitigation Plan. As a

[24] See 44 C.F.R. § 206.208, which describes the process for requesting DFA.
[25] https://www.fema.gov/media-library/assets/documents/112564
[26] See the FEMA-State Agreement and 2 C.F.R. part 200.
[27] See the FEMA-Tribe Agreement and 2 C.F.R. part 200.
[28] See 44 C.F.R. § 206.201(e).
[29] See 44 C.F.R. § 201.7.

recipient, a tribal government is accountable for the statutory and regulatory requirements for all funds dispersed to or through the tribal government for that program. For more information, see section IX, 'Declaration Decision Support.'

A tribal government recipient must have a FEMA-approved Tribal Mitigation Plan in order to receive PA Categories C-G. A mitigation plan is not required for a tribal government recipient to receive PA Category A or B. As a sub-recipient under a state declaration, the tribal government may be eligible to receive all categories of PA without a Tribal Mitigation Plan. See the table 'Mitigation Plan Requirements for FEMA Grants.'

2. Individual Assistance

IA is supplemental assistance provided to individuals and households adversely affected by a major disaster.[30] The President may authorize all or some of the following IA programs.

Individuals and Households Program

The Individuals and Households Program (IHP) provides financial or direct assistance to those disaster survivors whose primary residence has been impacted by the disaster and who have necessary expenses and serious needs not met through other means, such as insurance or Small Business Administration loans. The Stafford Act established a maximum amount of IHP financial assistance that may be made available to disaster survivors; the maximum amount is adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.[31]

After the President authorizes the IHP, disaster survivors must apply for the program before they can receive assistance. If a tribal government and a state have been granted IA declarations for the same incident, then disaster survivors must choose whether to apply for the IHP under either the tribal or the state declaration – but not both. Disaster survivors may not receive assistance through multiple declarations for the same incident.

If the President authorizes the IHP, then the following forms of assistance may be made available:

Housing Assistance

Examples include:

- Financial assistance to homeowners to repair or replace their disaster-damaged primary residence.
- Temporary Housing, in the form of financial assistance to rent an accessible temporary place to live, or direct assistance by providing a temporary accessible housing unit when rental properties are not available and applicants are unable to use their financial assistance.
- Permanent Housing Construction in the form of financial or direct assistance to construct permanent or semi–permanent accessible housing in insular areas outside the continental United States and in other locations where no alternative housing resources are available

[30] Pursuant to the Stafford Act, the IHP is the only IA program that the President may authorize for an emergency declaration. Disaster Unemployment Assistance, Disaster Legal Services, the Crisis Counseling Program (CCP), and the Disaster Case Management Program (DCM) are available for major disasters only.
[31] Stafford Act § 408(h)(1), 42 U.S.C. § 5174(h)(1)

and traditional temporary housing assistance is unavailable, infeasible, or not cost-effective.

There is no requirement for a non-federal cost share for the Housing Assistance program.

Other Needs Assistance

Examples include:

- Financial assistance to disaster survivors for disaster-related medical, dental, child care, disability and funeral expenses.
- Financial assistance to disaster survivors for disaster-related loss of or damage to durable medical equipment and assistive devices or equipment.
- Financial assistance to address personal property, transportation, and other necessary expenses or serious needs.

Financial assistance provided through Other Needs Assistance (ONA) has a 75% federal-25% non-federal cost share as mandated by the Stafford Act, which the President cannot waive or adjust. The non-federal cost share is paid by the tribal government, not the individuals who receive ONA.

Disaster Unemployment Assistance

Disaster Unemployment Assistance, administered by state workforce agencies on behalf of the Department of Labor, provides unemployment benefits and re-employment services to individuals who have lost work or become unemployed as a result of a major disaster and who are not eligible for regular state unemployment insurance. Disaster Unemployment Assistance does not have a non-federal cost share.

Disaster Legal Services

Disaster Legal Services provides legal assistance to low-income individuals who, prior to or as a result of a major disaster, are unable to secure legal services adequate to meet their disaster-related needs, such as:

- Assistance with insurance claim for loss of life;
- Drawing up new wills and other legal papers lost in the disaster;
- Assistance with insurance claims for doctor and hospital bills and loss of property, etc.;
- Advice on problems with landlords; and
- Assistance with home repair contracts and contractors.

FEMA provides Disaster Legal Services through an agreement with the Young Lawyers Division of the American Bar Association, which administers Disaster Legal Services. Disaster Legal Services does not have a non-federal cost share.

Crisis Counseling Program

The Crisis Counseling Assistance and Training Program (Crisis Counseling Program or CCP) is a federally funded supplemental program administrated by FEMA. Section 416 of the Stafford Act authorizes FEMA to fund mental health assistance and training activities in areas that have been declared a major disaster by the President. The Center for Mental Health Services (CMHS),

within the Substance Abuse and Mental Health Services Administration (SAMHSA), works with FEMA through an interagency agreement to provide technical assistance, consultation, grant administration, program oversight, and training for state mental health authorities, U.S. territories, and designated tribal authorities. With respect to FEMA assistance, tribal governments must comply with 2 C.F.R part 200 and CFR §206.171.

Supplemental funding for crisis counseling is available to designated tribal authorities through two grant mechanisms: (1) the Immediate Services Program (ISP) which provides funds for up to 60 days of services immediately following a disaster declaration; and (2) the Regular Services Program (RSP) which provides for up to nine months of services following a Presidential disaster declaration. The ISP application is due to FEMA within 14 days following a Presidential declaration while the RSP application is due 60 days from the date of declaration. SAMSHA and FEMA will provide technical support to the tribal government through-out the life cycle of the grant period of performance.

Key Principles for the Crisis Counseling model include:

- Strength Based – CCP services promote resilience, empowerment, and recovery.
- Anonymous – Crisis counselors do not classify, label or diagnose people; no records or case files are kept.
- Outreach Oriented – Crisis counselors are recruited mostly from the communities impacted and trained to deliver services in the communities rather than wait for survivors to seek their assistance.
- Culturally Sensitive – The CCP model embraces cultural and spiritual diversity as reflective in culturally relevant outreach activities that represent the communities served.
- Conducted in Nontraditional Settings – Crisis counselors make contact in homes and communities, not in clinical or office settings.
- Designed to Strengthen Existing Community Support Systems – The CCP supplements, but does not supplant or replace existing community systems.

The CCP encourages linkages with other individuals and agencies that may help survivors in their recovery process. CCP funding is dependent upon the tribal government submitting a grant application that is approved by FEMA. The CCP does not have a non-federal cost share.

Disaster Case Management Program

The Disaster Case Management (DCM) program, in partnership with the affected tribal government, enables a whole community approach through funding support to voluntary, faith-based, and nonprofit organizations. The program provides funding and technical assistance, when requested and approved, to ensure holistic services to disaster survivors. The DCM program is a Stafford Act funded program promoting:

- Effective delivery of post-disaster case management services;
- Partner integration;
- Provider capacity building; and
- Tribal-level program development.

Immediate Disaster Case Management Services
Immediate DCM (IDCM) services include technical assistance, outreach, initial triage, and DCM casework. There are various implementation alternatives that are determined by the results of the DCM assessment and concurrence from FEMA Headquarters.

Disaster Case Management Program Grant
The Disaster Case Management Program (DCMP) Grant is federal funding made available to the state, U.S territory and tribal government to implement a DCMP by utilizing case management providers to supply services to survivors with long-term disaster-caused unmet needs. Pursuant to program guidance the DCMP Grant application must be submitted within 90 days from the date of an IA declaration. A long-term DCMP's period of performance shall not exceed 24 months from the date of declaration.[32]

Disaster case management is a time-limited process that involves a partnership between a disaster case manager and a survivor to develop and carry out a Disaster Recovery Plan. This partnership provides the survivor with a single point of contact to facilitate access to a broad range of resources. The process involves an assessment of the survivor's verified disaster-caused unmet needs, including needs based on pre-existing disabilities, supports and services, development of a goal-oriented plan that outlines the steps necessary to achieve recovery, organization and coordination of information on available resources that match the disaster-caused need, and the monitoring of progress toward reaching the recovery plan goals, and when necessary, client advocacy. DCM funding is dependent upon the tribal government submitting a grant application that is approved by FEMA. The DCMP does not have a non-federal cost share.

3. Hazard Mitigation Grant Program

The Hazard Mitigation Grant Program (HMGP) provides tribal, state, and local governments assistance to implement hazard mitigation measures to reduce the risk of loss of life and property from future disasters during the reconstruction process following a disaster. The President may authorize the HMGP under a major disaster declaration. The HMGP is not available under an emergency declaration.

The amount of HMGP funding available to the tribal government is based upon the estimated total of other Stafford Act assistance for the declared disaster, subject to the sliding scale formula outlined in 44 C.F.R. § 206.432(b). It is also based on the type of Tribal Mitigation Plan submitted and approved. For a Standard Tribal Mitigation Plan, the allocation is 15% of the estimated aggregate amount of PA and IA. Additionally, only areas listed in the FEMA-approved Tribal Mitigation Plan will be eligible for projects.

A FEMA-approved Enhanced Tribal Mitigation Plan will allow for increased mitigation funding. Tribal governments interested in the increased HMGP funding of up to 20% of the aggregate amounts of disaster assistance must have a FEMA approved *Enhanced* Tribal Mitigation Plan meeting the requirements in 44 C.F.R. § 201.5 at the time of declaration. See the Fiscal Year 2015 Hazard Mitigation Assistance Guidance for additional information on HMGP eligibility.[33] For more information on mitigation planning requirements, see the Tribal Multi-Hazard

[32] http://www.fema.gov/media-library-data/20130726-1908-25045-2403/dcm_pg_final_3_8_13.pdf
[33] https://www.fema.gov/media-library/assets/documents/103279

Mitigation Planning Guidance.[34] For more information on the enhanced mitigation planning requirements, see the State Mitigation Plan Review Guide.[35]

The President is authorized to contribute up to 75% of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. The President does not have the authority to waive or reduce the non-federal cost share for the HMGP.

As in the PA program, if a tribal government seeks and receives the HMGP through a state declaration, then the tribal government may do so as a subrecipient or a recipient. Again, if a tribal government elects to be a recipient, then it must sign a FEMA-Tribe Agreement and must accept all responsibilities of a recipient.

A HMGP Administrative Plan is a procedural guide that details how the Recipient will administer its HMGP. Recipients must have a current HMGP Administrative Plan approved by FEMA before receiving HMGP funds.

In addition, a tribal government participating as a subrecipient under a state declaration may be eligible to receive HMGP funds for planning grants without a Tribal Mitigation Plan. The tribal government must have an approved Tribal Mitigation Plan in order to receive HMGP project grants. However, in extraordinary circumstances an exception to the mitigation plan requirement for HMGP project grants may be approved. For more information, refer to the Hazard Mitigation Assistance Guidance.[36]

4. Fire Management Assistance Grants

The Stafford Act authorizes the President to provide assistance, including grants, equipment, supplies, and personnel, to any state, tribal, or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.[37] This assistance is known as Fire Management Assistance Grant (FMAG) program.

Unlike emergency and major disaster declarations, which are made by the President, FMAG declarations are issued by FEMA. The Governor of a state or the Governor's Authorized Representative first submits a request for a FMAG declaration to the FEMA Regional Administrator while the fire is burning uncontrolled and is threatening such destruction that would constitute a major disaster.

During the pilot period, there will be no changes to the process for requesting FMAGs. FEMA will, however, evaluate the FMAG program and fire management needs unmet by other federal agency programs to determine if any changes are needed to the FMAG program.

Fire suppression assistance is available to tribal governments through the National Interagency Fire Center (NIFC). The Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), USDA Forest Service, Fish and Wildlife Service, (FWS), and National Park Service (NPS) are the Federal government agenies primarily responsible for coordination with tribal governments in

[34] https://www.fema.gov/media-library/assets/documents/18355
[35] https://www.fema.gov/media-library/assets/documents/101659#
[36] https://www.fema.gov/media-library/assets/documents/103279
[37] Stafford Act § 420, 42 U.S.C. § 5187.

wildfire suppression activities. Tribal governments should coordinate with the appropriate state Governors in the event the tribal government is impacted by a fire and has fire management needs not met by the tribal government or other federal agencies. For more information on fire suppression resources please see: https://www.nifc.gov/policies/policies_documents/GIFWFMP.pdf

IV. Who/What Is Eligible for Assistance in a Tribal Declaration?

A. Public Assistance

For tribal major disaster[38] declarations that authorize Public Assistance (PA), eligibility include:

- Damage to facilities owned by the tribal government (Categories C-G);
- Damage to facilities that the tribal government has legal responsibility to repair (Categories C-G);
- Debris removal activities that the tribal government has legal responsibility to perform (Category A);
- Emergency protective measure activities (e.g., sheltering, feeding, search and rescue, evacuations) performed by the tribal government (Category B);
    - This includes emergency assistance provided to individuals affected by the event - both enrolled members and individuals who are not enrolled members.
- Private Nonprofit organizations organized or doing business under tribal law.[39]

Damage to state and local government-owned or government-operated facilities are not eligible under tribal declarations.[40]

B. Individual Assistance

Generally eligibility for the Individual Assistance (IA) program is limited to enrolled tribal members (meaning, at least one enrolled member of the tribal government must reside in the home). At the request of the tribal government, FEMA may expand eligibility for an event to non-enrolled individuals who are members of the tribal community, such as adopted children, widows and widowers, and descendants. Tribes are encouraged to identify these categories of individuals and plan for the provision of assistance to them prior to the onset of an event. During Joint Preliminary Damage Assessments (Joint PDAs), affected individuals and households should be identified by these categories in order to aid the tribe and FEMA in planning and decision making. Once the tribal government has verified to FEMA that an applicant is an enrolled member or member of the tribal community, absent extraordinary circumstances such as fraud, waste or abuse, FEMA will not change that determination.

The tribal government must specify in its request for IA the categories of individuals to be considered for eligibility, and must assist FEMA in confirming that the IA applicants belong to those categories.

[38] PA Categories C-G are not available under emergency declarations.
[39] See 44 C.F.R. § 206.3(19) for the definition of a private nonprofit organization. Note that the tribal government may provide the evidence required by 44 C.F.R. § 206.3(19).
[40] There is an exception when there is a lease or another form of agreement through which the tribal government is legally responsible for repairing the disaster damage.

project worksheets and HMGP applications that were under development. In this case, the HMGP and PA Categories C-G funding will not be made available to a tribal government for the disaster, and FEMA will not reimburse a tribal government for costs associated with the development of PA project worksheets or applications for HMGP funding.[43]

Tribal governments interested in the increased HMGP funding of up to 20% of the aggregate amounts of disaster assistance must have a FEMA approved Tribal Mitigation Plan meeting the requirements for Enhanced State Mitigation Plans in 44 C.F.R. § 201.5 at the time of declaration.[44] See the State Mitigation Plan Review Guide for information on enhanced mitigation plan requirements.

B. Public Assistance Administrative Plan[45]

Tribal governments must develop a disaster-specific PA Administrative Plan after the President declares an emergency or major disaster authorizing PA for the tribal government. The plan must:

- Designate the tribal agency which will act as the recipient;
- Describe the staffing plan, including management and oversight responsibilities;
- Detail procedures for processing project appeal requests and requests for time extensions; and
- Describe procedures to comply with the administrative requirements of 44 C.F.R. § 206.207(b) and 2 C.F.R. part 200.

While a PA Administrative Plan is not required for a tribal government to receive a declaration, FEMA cannot obligate PA funding to a tribal government until this disaster-specific plan is signed by the Chief Executive or Chief Executive's Authorized Representative and approved by FEMA.

A tribal government that has received its own declaration, authorizing PA, must submit an updated administrative plan to the FEMA Regional office every year. The annual submission ensures the tribal government has an updated plan on file should the tribal government receive another Presidential declaration authorizing PA.[46] The tribal government will submit a disaster-specific administrative plan for each new tribal declaration. The tribal government may request technical assistance from the Regional office to develop this plan, both before and after a declaration.

C. Hazard Mitigation Grant Program Administrative Plan

The Hazard Mitigation Grant Program (HMGP) Administrative Plan is a procedural guide that details how the Recipient will administer its HMGP. Recipients must have a current HMGP Administrative

[43] A tribal government is not eligible to receive the same type of assistance (i.e., PA, IA, and HMGP) through both tribal and state declarations for the same incident. Therefore, if a tribal government receives a declaration authorizing PA and the HMGP, but does not develop a Tribal Mitigation Plan and FEMA stops work on PA project worksheets and HMGP applications, it will not be able to apply for PA or the HMGP through the state's declaration request. A tribal government may seek different types of assistance through tribal and state declarations, so a tribal government may seek PA and HMGP through the State, while seeking IA independently.

[44] Requirements for Standard State Mitigation Plans found at 44 C.F.R. § 201.4 are only applicable to States, as defined at 44 C.F.R. § 201.2, Definitions, including the District of Columbia and the U.S. Territories.

[45] If tribal governments elect to be recipients under a state declaration, the tribal government must also submit a PA Administrative Plan to FEMA in order to receive PA. PA Administrative Plan Template: http://www.fema.gov/media-library-data/20130726-1907-25045-2650/state_public_assistance_administrative_plan_template_2013.pdf

[46] Tribal governments that serve as PA recipients under state declarations are encouraged to submit a PA Administrative Plan annually.

Plan approved by FEMA before receiving HMGP funds. The HMGP Administrative Plan may become an annex or chapter of the tribal government's overall emergency response and operations plan or comprehensive mitigation program strategy.

At a minimum, the HMGP Administrative Plan must:

- Designate the tribal agency that will act as recipient;
- Identify the Tribal Hazard Mitigation Officer;
- Identify staffing requirements and resources, including a procedure for expanding staff temporarily following a disaster, if necessary;
- Establish procedures to guide implementation activities, including Recipient management costs and distribution of subrecipient management costs; and
- Describe procedures to comply with the administrative requirements of 44 C.F.R. § 206.437 and 2 C.F.R. part 200.

The tribal government may request technical assistance from the Regional office to develop this plan, both before and after a declaration.

D. Other Needs Assistance Administrative Option Selection

In order to provide Other Needs Assistance (ONA) to eligible disaster survivors, the tribal government first needs to determine who (i.e., FEMA, tribal government, or joint) is going to administer the program and be responsible for each functional element listed in the ONA Administrative Option Selection form. [47] To choose an administrator of ONA, the Chief Executive or designee must execute the Administrative Option Selection by completing FEMA Form 010-0-11 – Individuals and Households Program (IHP) - ONA Administrative Option Selection.[48] Upon completion, the form should be submitted to the FEMA Regional office for review and approval by the Regional Administrator. ONA cannot be administered to disaster survivors without this signed form. FEMA strongly encourages tribal governments to contact the appropriate FEMA Regional office to discuss the differences between and responsibilities of each option.

1. FEMA Option

Under this option, FEMA will be the administrator of ONA. The tribal government shall coordinate ONA activities with FEMA. FEMA is responsible for implementing all functional elements. Under this option, FEMA will bill the tribal government for their portion of the cost-share.

2. Joint Option

Under this option, the tribal government will be the administrator of ONA. FEMA shall participate in providing ONA with the tribal government. Both FEMA and the tribal government have specific functional elements they are responsible for implementing.

[47] See FEMA Form 010-0-11 – *IHP - ONA Administrative Option Selection* for more information on the ten functional elements for implementation of ONA.

[48] http://www.fema.gov/media-library-data/1457625066475-b9643e3708053a37a2f0495c15176286/508_Compliance_ONA_Administrative_Option_Selection_Form_(FF_010-0-11).pdf

Additionally, under the Joint Option, the tribal government must also submit a Tribal Administrative Plan. The Tribal Administrative Plan must describe the procedures the tribal government will use to implement the specific functional elements for which it is responsible in accordance with 44 C.F.R. § 206.120. Specifically, the Tribal Administrative Plan must describe the procedures the tribal government will use to deliver ONA (44 C.F.R. § 206.120(d)). The submission of the Tribal Administrative Plan is not optional; it is a requirement of receiving a grant to administer ONA. The plan must be submitted to the FEMA Regional Administrator for review and approval.

3. Tribe Option

Under this option, the tribal government will be the administrator of ONA. The tribal government will be responsible for implementing all functional elements and must also submit a Tribal Administrative Plan describing the procedures the tribal government will use to deliver ONA in accordance with 44 C.F.R. § 206.120(d). The submission of the Tribal Administrative Plan is not optional; it is a requirement of receiving a grant to administer ONA. The plan must be submitted to the FEMA Regional Administrator for review and approval.

Tribal governments that choose the Joint or Tribe Option must submit an updated Tribal Administrative Plan every three years.

Annual Submission of the Form[49]

FEMA requires tribal governments to submit an updated ONA Administrative Option Selection form by November 30 of each year, if the tribal government anticipates that it may directly request a Presidential declaration. This annual submission ensures FEMA has an updated form on file in order to expeditiously deliver ONA to disaster survivors should the President authorize the IHP. The form should be submitted to the FEMA Regional Administrator. Tribal governments that do not anticipate that they may request a Presidential declaration do not need to submit the form.

Disaster-Specific Adjustments to the Form[50]

After the President authorizes Individual Assistance (IA) in a tribal declaration, a tribal government may determine it wants to make adjustments to the *ONA Administrative Option Selection* form.[51] A tribal government has 72 hours after IA is authorized to make these changes. The changes must be submitted on a revised/updated *ONA Administrative Option Selection* form and provided to the FEMA Regional Office.

E. Federal Grants Management Compliance

With respect to FEMA assistance, tribal governments must comply with 2 C.F.R. part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. These regulations describe financial administration requirements for FEMA grants, as well as auditing and

[49] See FEMA Form 010-0-11 – *IHP - ONA Administrative Option Selection* for more information on the ten functional elements for implementation of ONA.
[50] See FEMA Form 010-0-11 –*IHP - ONA Administrative Option Selection* for more information on the ten functional elements for implementation of ONA.
[51] The *ONA Administrative Option Section* form and Tribal Administrative Plan may also be changed during non-disaster periods.

reporting requirements, among others. Failure to comply with grants management requirements may result in loss of funding.

FEMA Regional Administrators and their staff can provide technical assistance and guidance to Chief Executives and tribal governments throughout the declaration process. In advance of an incident, the FEMA Regions can also provide - at no cost - technical assistance in the development of Tribal Mitigation Plans and other administrative requirements to receive Stafford Act assistance.

Tribal governments should be aware that, even with FEMA technical assistance, complying with these requirements is a significant administrative burden. While FEMA does provide funding for management costs, such funding is provided at set percentage rates which may not cover the full cost of the administrative work required.[52]

VI. Process to Request Major Disaster Declarations

FEMA has established the following process to request a major disaster declaration. It is important for tribal governments to adhere to these procedures in order to avoid possible delays in processing the declaration request.

A. Emergency Plan Activation

Before, during, or immediately after an incident, a tribal government will take action to respond to the event. Typically, a tribal government will direct its disaster response through the activation of its emergency plan.[53] The emergency plan describes how a tribal government will provide resources to satisfy unmet needs. For more information on developing emergency plans, see the "Comprehensive Preparedness Guide 101, Developing and Maintaining Emergency Operations Plans."[54]

> If a tribal government anticipates that it will request a Stafford Act declaration independently of a state, then the tribal government must activate the tribal emergency plan.

The procedures for plan activation will vary based on a tribal government's law and the plan itself. It may involve a tribal declaration or proclamation of an emergency. However, such a declaration is not a legal prerequisite for requesting a Stafford Act declaration.

In most instances, a tribal government will be able to address disaster–related needs itself or through coordination with, or aid from other governments, government agencies, or organizations.

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[52] For more information regarding management costs, including the rates provided for PA and HMGP, see 44 C.F.R. part 207.

[53] "As part of a request, and as a prerequisite to major disaster assistance under this Act, the Governor [Chief Executive] shall take appropriate response action under State [tribal] law and direct execution of the State's [tribal government's] emergency plan." Stafford Act § 401(a), 42 U.S.C. § 5170(a). "The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that a major disaster exists consistent with the requirements of subsection (a)." Stafford Act § 401(b)(1), 42 U.S.C. § 5170(b)(1).

[54] hhttp://www.fema.gov/media-library/assets/documents/25975

B. Initial Damage Assessment

In order to be considered for federal disaster assistance, an incident must be of such severity and magnitude that it is beyond the capability of the tribal government to provide effective response. Therefore, after an incident occurs, a tribal government should first assess the impacts of the disaster and determine if there are needs that cannot be addressed with its own resources or through insurance. If assistance is needed, then a tribal government should evaluate the availability of assistance from non-governmental disaster relief organizations, such as the American Red Cross or other members of Voluntary Organizations Active in Disaster. A tribal government should use existing mutual aid agreements with other tribal governments or tribal organizations, state, county and/or local governments. Depending on the type(s) of needs, a tribal government should also request assistance from other federal agencies that have their own authorities to provide assistance, such as the Department of Housing and Urban Development (HUD), Department of Health and Human Services (HHS), the Department of Interior (DOI), and others. FEMA cannot provide assistnce for activities that fall within the specific authority of these other federal agencies. Stafford Act assistance cannot duplicate support available from other sources, including insurance.

After conducting the initial damage assessments and exploring the various assistance options, a tribal government may identify needs or damage that are Stafford Act eligible (e.g., extensive damage to tribally-owned facilities, extensive damage to homes of enrolled tribal members). If the Stafford Act-eligible needs or damage are beyond the capabilities of a tribal government, then it may consider requesting Joint Preliminary Damage Assessments (Joint PDAs) from their FEMA Regional Administrator. FEMA Regional staff are available to provide technical assistance and guidance to Chief Executives and tribal governments throughout the declaration process.

C. Joint Preliminary Damage Assessments

Joint PDAs validate Stafford Act-eligible damage and evaluate the magnitude and impact of a disaster, to determine whether Stafford Act assistance may be needed. If a Joint PDA request is not submitted to the FEMA Regional Administrator in advance of a request for a declaration, then the declaration request processing may be delayed until damage assessments are carried out.

1. Requesting Joint Preliminary Damage Assessments

The Joint PDA request should be in writing and should describe the disaster event, the dates the event occurred, and type and severity of damage. It will specify the type of Joint PDAs needed (i.e., Individual Assistance (IA) and/or Public Assistance (PA)), include information on when and where a tribal government would like to conduct Joint PDAs, and the tribal point of contact for the Joint PDAs.[55] Generally, a tribal government's initial damage assessments will inform the Joint PDA request.

In most circumstances, FEMA may not conduct Joint PDAs without the information stated above. Absent extraordinary circumstances, FEMA will not conduct PA Joint PDAs if the initial damage assessments do not indicate that the damage exceeds the minimum damage amount of $250,000. For more information, see section VII, 'Criteria FEMA Uses to Make Declaration Recommendations to the President.'

The declaration request needs to be submitted within 30 days of the incident, so the Joint PDA

[55] Tribal governments can amend the Joint PDA request to add areas or programs.

request should be submitted as soon as possible to allow enough time to perform the Joint PDA and for the Chief Executive to develop and send the request within the 30-day period.

Once the FEMA Region receives the Joint PDA request, FEMA staff will schedule the Joint PDAs with the tribal government. FEMA recommends that Joint PDA teams include personnel from agencies and organizations that can evaluate damage and unmet needs, including tribal government officials familiar with the damaged area, FEMA and possibly other federal partners such as the Small Business Administration (SBA), and non-governmental disaster relief organizations. The tribal government and FEMA may also consider including other federal agencies or state and local representatives, where appropriate.

The information provided by other federal agencies, state, and local government representatives, and non-governmental organizations may help establish overall impacts to the affected areas and will likely expedite the damage assessment. They may also be able to provide information on the types of assistance that their respective agencies are capable of providing in the area affected by the disaster.

The tribal government will review the results of the Joint PDA to help determine whether the situation may exceed available resources and may warrant supplemental assistance under the Stafford Act. Should the Chief Executive request a major disaster declaration, the request should include the Joint PDA information. FEMA will include the results of the Joint PDA in its recommendation to the President.

2. Notification of Joint Preliminary Damage Assessment Request

When a tribal government submits a Joint PDA request, FEMA will ensure that the appropriate state government official(s) are aware of the request. FEMA will also ensure that the appropriate tribal government official(s) are aware when a state requests a Joint PDA that includes counties where tribal lands are located. These notifications will not affect the processing of the Joint PDA requests.

3. Expedited Major Disaster Declaration Requests[56]

The Joint PDA requirement may be waived for those incidents of unusual severity and magnitude that do not require damage assessments to determine the need for supplemental federal assistance. In these rare circumstances, the Chief Executive of a tribal government may submit an abbreviated written request for a major disaster declaration through the appropriate FEMA Regional Administrator.

If FEMA determines that the event does not rise to a level that would warrant an expedited major disaster declaration request, the agency may withhold its recommendation until a Joint PDA can be completed. Before a Chief Executive submits an expedited major disaster request, FEMA strongly encourages the tribal government to coordinate with the appropriate FEMA Regional office to determine whether an expedited request is appropriate.

[56] A Joint PDA will most likely be conducted after the request for an Expedited Major Disaster has been submitted to determine the scope and scale of the disaster, outline potential staffing requirements, and highlight any special considerations for providing disaster assistance to the tribal government.

4. Concurrent Preliminary Damage Assessments with Tribal Governments and States

Tribal governments may request a Joint PDA concurrent with or separate from a state's request for a Joint PDA. If tribal and state governments request overlapping Joint PDAs (i.e., the same areas), FEMA may recommend that the Joint PDA teams combine to assess those overlapping areas in order to more rapidly survey the damage. In this case, the teams will separate tribal-specific damage from state damage.

The state may request a Joint PDA before the tribal government requests a Joint PDA. The state's request may include counties which also have tribal lands within the county boundaries. In such instances, FEMA and the state will contact the Chief Executive or other appropriate tribal official of the affected tribal government and ask if the tribal government would like to participate in the Joint PDA. Even if a tribal government agrees to include tribal lands in a state-requested Joint PDA, the tribal government is not required to include its damage in a state's declaration request. When performing a Joint PDA, the Joint PDA teams will separate tribal-specific damage from state damage. This will ensure tribal government damage is appropriately documented and can be separated from the state's Joint PDA, if a tribal government later requests a Joint PDA or requests its own declaration.

Even if the tribal government and state request separate Joint PDAs, the two governments may combine damage to support a single declaration request. If the tribal government would like to combine damage with the state, the tribal government will need to be included in the state's declaration request. The tribal government cannot request assistance on behalf of the state or local jurisdictions.

5. Populations

If state and tribal governments request PA Joint PDAs for overlapping areas and a tribal government decides to request a separate declaration, then FEMA will remove the enrolled tribal members that live in the relevant counties from the county population for the purposes of calculating per capita damage in a state's request. This will more appropriately reflect the population used to determine the county's PA per capita damage indicator for a state request.[57] FEMA will use enrollment numbers from a tribal government to determine the appropriate population.

D. Declaration Request

Once Joint PDAs have concluded, a tribal government may find that the damage is of such severity and magnitude that effective response is beyond its capabilities and other available resources. If this is the case, then the Chief Executive may elect to request a major disaster declaration to authorize Stafford Act assistance to support the response and recovery from the incident.

To avoid delay in processing, the Chief Executive must submit declaration requests to the President through the appropriate FEMA Regional Administrator.

[57] FEMA uses a per capita damage indicator, among other factors, to evaluate state requests for PA. See 44 C.F.R. § 206.48(a).

Requests for major disaster declarations must be submitted within 30 days of the incident.[58] If the incident occurs over multiple days, the 30-day limit starts on the last day of the incident. More information on incidents and incident periods may be found further on in this document.

A Chief Executive can request additional time to submit a declaration request. If an extension is needed, then the Chief Executive must submit a written request for a time extension to the FEMA Regional Administrator and addressed to the Associate Administrator, Office of Response and Recovery, within 30 days of the date of the incident. An extension request must include the additional time needed and a justification for why additional time is needed. FEMA will not process requests submitted outside of these timeframes.

1. Who Can Submit Declaration Requests

Section 401 of the Stafford Act states, "All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State or Chief Executive of the affected Indian tribal government. Such a request shall be based on the finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments or the Indian tribal government and that Federal assistance is necessary."

This means that only the Chief Executive of a federally recognized tribal government may request a major disaster declaration.[59] It also means that the Chief Executive may only request assistance for the tribal government which he/she serves as the Chief Executive and cannot request assistance on behalf of another tribal government. Further, multiple tribal governments may not combine their damage to request a declaration because the request for assistance is based on each individual tribal government's capabilities.

FEMA will only process declaration requests from the Chief Executive or an individual authorized by tribal law to act on the Chief Executive's behalf in his/her absence. The tribal government will provide FEMA with the appropriate documentation stating that the "Chief Executive" is duly authorized by the tribal government to conduct relations with the United States government and legally bind the tribal government. Additionally, FEMA will only process declaration requests from entities[60] that are on the Department of Interior/Bureau of Indian Affairs (DOI/BIA) Federally Recognized Tribes List.[61]

If FEMA is informed by the tribal government that there is an internal tribal dispute over who is the tribal Chief Executive, then FEMA will consult with the regional or headquarters office of the BIA for their guidance and will specify a timeframe in which FEMA needs a response. If FEMA receives no guidance from the BIA within the requested timeframe, then FEMA will make a

[58] The Stafford Act does not specify that a tribal government must be federally recognized at the time of the incident itself. If the tribal government is acknowledged by the Department of Interior Bureau of Indian Affairs (DOI/BIA) after the incident period has expired and then requests a declaration, then FEMA will process the request, provided that the Chief Executive submits the request (or an extension request) within the regulatory timeframe.
[59] If the Chief Executive is not available for any reason, then the individual authorized by tribal law to act on the Chief Executive's behalf may submit a request. This person must demonstrate that he/she has legal authority to act on behalf of the Chief Executive by providing the legal documentation with the declaration request.
[60] Tribes that are recognized by a state, but not on the List, may be eligible to receive assistance as a sub-recipient through the state's declaration.
[61] 25 U.S.C. § 479a-1 requires the Secretary of the Interior to "publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

determination based on the following: (1) currently applicable governing documents of the tribal government including, but not limited to, any constitution, ordinances, statutes, regulations, resolutions, or other documents regarding the election, appointment, and removal of the tribal Chief Executive; and (2) a court of competent jurisdiction for an order determining the lawful Chief Executive of the tribal government. FEMA will use the documents to make the determination. FEMA's determination is solely for purposes of the agency processing requests for federal disaster or emergency assistance and is not an official federal government determination.

2. What to Submit When Requesting a Major Disaster Declaration

The Chief Executive's request must include FEMA Form 010-0-13[62]: Request for Presidential Disaster Declaration: Major Disaster or Emergency (OMB No. 1660-0009). The form includes the minimum necessary information and certifications legally required by the Stafford Act for a declaration request and must be signed by the Chief Executive or his/her authorized designee. Failure to complete the form may result in failure to meet those requirements and may delay the processing of the declaration request.

A cover letter in support of the Chief Executive's request typically accompanies the form. The cover letter provides the Chief Executive an opportunity to include additional information about the impacts of the event on the tribal government.

Pursuant to federal law, FEMA must comply with all federal privacy laws, including the Privacy Act. FEMA has limited ability to protect information, for example, in response to valid requests for information under the Freedom of Information Act (FOIA) and Privacy Act. Declaration request input information is routinely shared in public requests, however, Personally Identifiable Information (PII) is generally redacted under applicable FOIA exemptions. Specific questions about the data FEMA must collect should be directed to FEMA Regional Tribal Liaisons.

Tribal Emergency Plan Activation Requirement

If the tribal government anticipates that it will request a Stafford Act declaration independently of a state, then the tribal government must activate the tribal emergency plan.

Activation of the state's emergency plan does not satisfy the Stafford Act requirement that the tribal government direct execution of its own emergency plan.

The following must be included in any request for an emergency or major disaster declaration. Failure to meet any of these requirements will delay processing and may ultimately result in denial of the request.

Finding that the Event is Beyond the Capability of the Tribal Government
(Number 14a on FEMA Form 010-0-13)

The Chief Executive's request for a major disaster declaration must include a finding that the situation is of such severity and magnitude that effective response is beyond the capability of the tribal government, and that federal assistance is necessary to supplement resources of the tribal government.[63] The other required elements of the request support the Chief Executive's finding that the tribal government's capabilities are overwhelmed and further explain why supplemental federal assistance is needed. When evaluating the necessity of supplemental federal assistance, FEMA also considers the assistance available from other sources including disaster relief

[62]https://www.fema.gov/media-library/assets/documents/28122
[63] Stafford Act § 401; 42 U.S.C. § 5170.

organizations, other federal agencies, and insurance.

Direction of the Tribal Emergency Plan[64]
(Number 14b on FEMA Form 010-0-13)

The major disaster declaration request must include confirmation that the Chief Executive has taken appropriate action under tribal law and directed the execution of the tribal emergency plan. The request should also include the date on which the Chief Executive directed execution of the emergency plan.

FEMA understands that tribal law may not allow the Chief Executive to unilaterally execute the emergency plan and may require the Chief Executive to receive approval from the Tribal Council or other appropriate governing body in order to take such action. As long as the tribal government takes appropriate action under tribal law and the emergency plan is activated, this requirement will be satisfied. The Chief Executive must certify in the declaration request that these actions have been taken and list the date when the action was taken.

Description of Resources Committed to Disaster Response and Recovery
(Number 9 on FEMA Form 010-0-13)

Requests must include information describing tribal resources that have been or will be committed to alleviating the results of the disaster. Since the Stafford Act provides supplemental assistance, the tribal government must expend resources in the response to and recovery from the event. Activation of the tribal emergency plan, for example, may assign resources to the response, so these actions should be described in this section. Resources committed to the disaster may also include actions pending or taken by the Tribal Council or other governing body.

Specification of Incident Type and Incident Period

The request must indicate the incident type and incident period, which are defined as follows:

Incident Type (Number 7b on FEMA Form 010-0-13). The incident type is the category of event, meeting the Stafford Act definition of a major disaster or emergency, which caused the damage or situation for which the tribal government is requesting supplemental federal assistance. It is important to accurately identify the applicable incident types that are the basis for the request and include all elements that describe the incident (e.g., severe storms, flooding, mudslides). FEMA cannot make a recommendation to the President if the incident type has not been defined.

Incident Period (Number 7 on FEMA Form 010-0-13)

The incident period is the time interval during which the incident occurs. Disaster assistance will not be made available for damage that occur outside of the incident period. Therefore, it is important for the request to accurately reflect dates during which the incident impacted the tribal government. Work or actions undertaken in anticipation of the incident, typically immediately preceding the event, may be eligible for Stafford Act assistance.[65] The incident period is generally a narrow time frame.

[64] For more information on the development of emergency plans, see Comprehensive Preparedness Guide (CPG) 101, Developing and Maintaining Emergency Operations Plans, http://www.fema.gov/media-library/assets/documents/25975

[65] Stafford Act § 424; 42 U.S.C. § 5189b.

How to determine the incident type and incident period

A federal government agency acknowledged as a national authority in a specific incident field (e.g., National Weather Service (NWS) for flooding, severe storms, hurricanes; National Oceanic and Atmospheric Administration (NOAA) for tsunamis; United States Geological Survey (USGS) for seismic incidents) should be able to provide an incident description which can be used to support the Chief Executive's declaration request. FEMA Regional staff can assist the tribal government in identifying the appropriate federal agency to provide such information. As they relate to events such as tornadoes and severe storms, Stafford Act declarations are typically time-limited single events or may comprise a series of storms that are part of single storm system. FEMA generally will not consider a series of storms that result from longer term weather patterns to be a single event for Stafford Act purposes.[66]

Assistance from Other Federal Agencies (Number 13 on FEMA Form 010-0-13)

The request must include information describing other federal agency resources that have been or will be used in responding to the incident, if known. This will help describe the scope of the response and recovery and ensures that Stafford Act assistance does not duplicate resources provided, or that will be provided, by other federal agencies.

Types of Assistance Requested
(Number 11 on FEMA Form 010-0-13)

The Chief Executive must provide information indicating the types of federal assistance needed. The FEMA programs – Individual Assistance (IA), Public Assistance (PA), and/or the Hazard Mitigation Grant Program (HMGP) - should be specifically requested. The Chief Executive may request all IA Programs – Individuals and Households Program (IHP), Crisis Counseling Program (CCP), Disaster Unemployment Assistance, Disaster Case Management (DCM), and Disaster Legal Services, or the Chief Executive may select one or more of the programs. The Chief Executive may also select specific categories of PA or may select all of the categories of work.

To support the request for assistance, the Chief Executive should include a statement that a Joint Preliminary Damage Assessment (Joint PDA) was requested as well as when it was completed,[67] and a description of the damage,[68] including the adverse effect(s) the damage has on the public and private sectors as well as the results of the Joint PDA. The results of the Joint PDA, which both FEMA and the tribal government will receive, should be submitted with the request.

It is important for the Chief Executive to specify the types and estimated amounts of assistance requested as FEMA cannot recommend the President authorize assistance that the tribal government did not request.

Debris Removal

Pursuant to the Stafford Act, FEMA will fund or perform debris removal only when the tribal government agrees to indemnify the United States from any claims arising from the removal of

[66] According to current guidance from the National Weather Service, a series of storms are generally part of a single storm system if they occur within 72 hours of each other.
[67] Number 10 on FEMA Form 010-0-13.
[68] Number 8 on FEMA Form 010-0-13.

debris and/or wreckage, and the tribal government agrees that debris removal from public and private property will not occur without first arranging for unconditional authorization for the removal of the debris.[69] While FEMA does not require the indemnification agreement to be included in the request for a declaration, FEMA may not undertake or fund these activities until the tribal government agrees to these terms. As such, if debris removal is needed, FEMA recommends that tribal governments agree to the terms in its request or as early as possible in the process.

The Federal Coordinating Officer (FCO) is the Federal official who coordinates Federal assistance for debris removal in the entire affected area, including both tribal and state property, whether there is a tribal declaration, a state declaration, or declarations for both tribal and state governments. This coordination is essential to increase efficiency and lower costs of debris removal.

Direct Federal Assistance

If the tribal government requests Direct Federal Assistance (DFA), it must provide the following information and certifications before DFA can be provided:

- The specific type of work requested and intended outcome (e.g., debris removal or to shelter and feed 500 people for 3 days);
- The reasons the tribal government cannot perform or contract for performance of the work;
- That the tribal government will provide, without cost to the United States, all lands, easements, and rights of way necessary to accomplish the approved work;
- That the tribal government agrees to indemnify the United States from damages and claims arising from the requested work;
- That the tribal government will provide reimbursement for the non-federal share of the cost of work pursuant to the terms of the FEMA-Tribe Agreement; and
- That the tribal government will assist the performing federal agency in all support and local jurisdictional matters.

While FEMA does not require these certifications to be included in the request for a declaration, FEMA may not provide DFA until the tribal government meets these requirements. As such, FEMA recommends that tribal governments provide these certifications as early as possible in the process.

Areas Requested (Number 11 on FEMA Form 010-0-13)

This part of the request is used to describe the tribal lands and/or the entities for which assistance will be made available if the President makes a declaration. FEMA cannot recommend the President authorize assistance for an area or entities for which the Chief Executive did not request assistance.

The Chief Executive may request assistance for all tribal lands impacted by the event, for tribal government-owned facilities impacted off tribal lands, and/or for primary residences of enrolled tribal members and tribal community members as impacted by the event. The request should describe where impacts occurred, including the geographic range of the impacts.

[69] Stafford Act §§ 407(b) and 502(a)(5); 42 U.S.C. §§ 5173(b) and 5192(a)(5).

Cost Share Certification (Number 14c on FEMA Form 010-0-13)

The Stafford Act requires major disaster declaration requests include the Chief Executive's certification that the tribal government will comply with Stafford Act cost sharing requirements.[70] FEMA cannot process the request without this certification.

Designation of Disaster Officials (Numbers 4 and 5 on FEMA Form 010-0-13)

The request should include the designation of a Tribal Coordinating Officer and the person authorized to act on the Chief Executive's behalf, also referred to as Chief Executive's Authorized Representative. These two officials will serve the following functions should the President declare an emergency or major disaster declaration:

- The Chief Executive's Authorized Representative will be empowered with fiduciary responsibility for the tribal government during the disaster.
- The Tribal Coordinating Officer will coordinate tribal disaster assistance efforts with those of the federal government and state partners, as applicable.

Other information required on FEMA Form 010-0-13 (OMB No. 1660-0009)

- Request Date (Number 1)[71]
- Name of the tribal government requesting the declaration (Number 2a)
- Population of enrolled tribal members on or near tribal lands who may be impacted by the event – as reported by tribal government (Number 2b)[72]
- Name of the Tribal Chief Executive (Number 3)
- Whether the request is for an emergency or major disaster (Number 6)
- Description of Damage (Number 8)
- Preliminary Damage Assessment Information (Number 11)
- Tribal Mitigation Plan Information – Plan Expiration Date and Type of Plan (Number 12)
- List of Enclosures and Supporting Documentation (Number 15)
- Tribal Chief Executive's signature and date.

E. Processing the Declaration Request

After the FEMA Regional Administrator receives the request, the Regional Administrator will evaluate and provide his/her recommendation to FEMA Headquarters. The FEMA Administrator will also evaluate the request and make a recommendation for the President's determination. FEMA uses the criteria described below to evaluate the request and make recommendations.

Once the declaration request has been submitted to the FEMA Regional Administrator, the request is under internal Executive Branch review. Until the President makes the declaration determination, FEMA will not report to tribal, state, or local governments or any other entity the status of the request.

[70] Stafford Act § 401; 42 U.S.C. § 4170; 44 C.F.R. § 206.35(c)(5).
[71] The form and cover letter include several areas to insert the date (1) date requested on the form, (2) date when the Chief Executive signed the form, (3) date on the cover letter. Each of these dates should be the same.
[72] If needed, the Chief Executive may provide additional information explaining the population number reported.

F. Notification of Third Parties

When a tribal government submits a declaration request, FEMA will ensure that the appropriate state government official(s) are aware of the request. FEMA will also ensure that the appropriate tribal government official(s) are aware when a state requests a declaration which includes counties where tribal lands are located. These notifications will not affect the processing of declaration requests.

Pursuant to federal law, FEMA must comply with all federal privacy laws, including the Privacy Act[73]. FEMA has limited ability to protect information, for example, in response to valid requests for information under the Freedom of Information Act (FOIA) and Privacy Act. Declaration request input information is routinely shared in public requests, however, Personally Identifiable Information (PII) is generally redacted under applicable FOIA exemptions. Specific questions about the data FEMA must collect should be directed to FEMA Regional Tribal Liaisons.

VII. Criteria FEMA Uses to Make Declaration Recommendations to the President

The Stafford Act requires tribal governments to base requests for major disaster declarations on the "finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the tribal government and that federal assistance is necessary." In order to make a recommendation to the President whether or not to make a declaration, FEMA uses the following factors to evaluate whether an event has overwhelmed the capabilities of the tribal government and that Stafford Act assistance is necessary. No single factor is determinative. The Chief Executive should include information to assist FEMA in its evaluation of these factors.

A. Public Assistance

When FEMA reviews a Chief Executive's request for a major disaster declaration authorizing Public Assistance (PA), FEMA considers the factors below to measure the severity and magnitude and impact of the incident. FEMA recommends that the Chief Executive include in the declaration request information specifically addressing these factors. In addition, the Chief Executive should include in the cover letter a narrative of the impact of the disaster on the tribal government and disaster survivors.

1. Minimum Damage Amount

Absent extraordinary circumstances, FEMA will consider a declaration request from a tribal government only if it is determined that the tribal government sustained at least $250,000[74] in PA-eligible estimated damage or costs. This amount does not constitute a trigger point for a declaration; it is the minimum amount of damage for which a request for a major disaster declaration will be considered. Depending on the situation, an event that exceeds this amount may be within the tribal government's capability, and therefore, not warrant a major disaster

[73] The Privacy Act requires each agency to publish notice of its systems of records in the Federal Register. This notice is generally referred to as a System of Records Notice or (SORN). FEMA's SORNs may be found at https://www.dhs.gov/privacy-documents-fema. Each SORN has Routine Uses which describe common reasons for sharing information that is PII."

[74] Adjusted annually based on the Consumer Price Index for all Urban Consumers.

4. Concurrent Preliminary Damage Assessments with Tribal Governments and States

Tribal governments may request a Joint PDA concurrent with or separate from a state's request for a Joint PDA. If tribal and state governments request overlapping Joint PDAs (i.e., the same areas), FEMA may recommend that the Joint PDA teams combine to assess those overlapping areas in order to more rapidly survey the damage. In this case, the teams will separate tribal-specific damage from state damage.

The state may request a Joint PDA before the tribal government requests a Joint PDA. The state's request may include counties which also have tribal lands within the county boundaries. In such instances, FEMA and the state will contact the Chief Executive or other appropriate tribal official of the affected tribal government and ask if the tribal government would like to participate in the Joint PDA. Even if a tribal government agrees to include tribal lands in a state-requested Joint PDA, the tribal government is not required to include its damage in a state's declaration request. When performing a Joint PDA, the Joint PDA teams will separate tribal-specific damage from state damage. This will ensure tribal government damage is appropriately documented and can be separated from the state's Joint PDA, if a tribal government later requests a Joint PDA or requests its own declaration.

Even if the tribal government and state request separate Joint PDAs, the two governments may combine damage to support a single declaration request. If the tribal government would like to combine damage with the state, the tribal government will need to be included in the state's declaration request. The tribal government cannot request assistance on behalf of the state or local jurisdictions.

5. Populations

If state and tribal governments request PA Joint PDAs for overlapping areas and a tribal government decides to request a separate declaration, then FEMA will remove the enrolled tribal members that live in the relevant counties from the county population for the purposes of calculating per capita damage in a state's request. This will more appropriately reflect the population used to determine the county's PA per capita damage indicator for a state request.[57] FEMA will use enrollment numbers from a tribal government to determine the appropriate population.

D. Declaration Request

Once Joint PDAs have concluded, a tribal government may find that the damage is of such severity and magnitude that effective response is beyond its capabilities and other available resources. If this is the case, then the Chief Executive may elect to request a major disaster declaration to authorize Stafford Act assistance to support the response and recovery from the incident.

To avoid delay in processing, the Chief Executive must submit declaration requests to the President through the appropriate FEMA Regional Administrator.

[57] FEMA uses a per capita damage indicator, among other factors, to evaluate state requests for PA. See 44 C.F.R. § 206.48(a).

Requests for major disaster declarations must be submitted within 30 days of the incident.[58] If the incident occurs over multiple days, the 30-day limit starts on the last day of the incident. More information on incidents and incident periods may be found further on in this document.

A Chief Executive can request additional time to submit a declaration request. If an extension is needed, then the Chief Executive must submit a written request for a time extension to the FEMA Regional Administrator and addressed to the Associate Administrator, Office of Response and Recovery, within 30 days of the date of the incident. An extension request must include the additional time needed and a justification for why additional time is needed. FEMA will not process requests submitted outside of these timeframes.

1. Who Can Submit Declaration Requests

Section 401 of the Stafford Act states, "All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State or Chief Executive of the affected Indian tribal government. Such a request shall be based on the finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments or the Indian tribal government and that Federal assistance is necessary."

This means that only the Chief Executive of a federally recognized tribal government may request a major disaster declaration.[59] It also means that the Chief Executive may only request assistance for the tribal government which he/she serves as the Chief Executive and cannot request assistance on behalf of another tribal government. Further, multiple tribal governments may not combine their damage to request a declaration because the request for assistance is based on each individual tribal government's capabilities.

FEMA will only process declaration requests from the Chief Executive or an individual authorized by tribal law to act on the Chief Executive's behalf in his/her absence. The tribal government will provide FEMA with the appropriate documentation stating that the "Chief Executive" is duly authorized by the tribal government to conduct relations with the United States government and legally bind the tribal government. Additionally, FEMA will only process declaration requests from entities[60] that are on the Department of Interior/Bureau of Indian Affairs (DOI/BIA) Federally Recognized Tribes List.[61]

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determination based on the following: (1) currently applicable governing documents of the tribal government including, but not limited to, any constitution, ordinances, statutes, regulations, resolutions, or other documents regarding the election, appointment, and removal of the tribal Chief Executive; and (2) a court of competent jurisdiction for an order determining the lawful Chief Executive of the tribal government. FEMA will use the documents to make the determination. FEMA's determination is solely for purposes of the agency processing requests for federal disaster or emergency assistance and is not an official federal government determination.

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