

STATEMENT

OF

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BEFORE  
THE

COMMITTEE ON INDIAN AFFAIRS  
U.S. SENATE  
WASHINGTON, D.C.

**“WHEN CATASTROPHE STRIKES: RESPONDING TO NATURAL DISASTERS IN  
INDIAN COUNTRY”**

Submitted  
By

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## **Introduction**

Good afternoon, Chairman Tester, Vice Chairman Barrasso and members of the Committee. I am Elizabeth Zimmerman, Deputy Associate Administrator of the Office of Response and Recovery (ORR) of the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). Thank you for the opportunity to discuss FEMA's partnerships with federally recognized tribal governments, and how we are implementing new authorities to work directly with tribal governments as part of the "Sandy Recovery Improvement Act of 2013" (SRIA).

I would like to take this opportunity to thank the Committee for the authority established in SRIA, including the provision that allows a federally recognized tribe the choice to request Stafford Act emergency and major disaster declarations independently of states. I would also like to thank Senator Tester for his leadership in this area.

The engagement of tribal governments is a top priority for Administrator Fugate. He advocated for changes in the Stafford Act to reflect tribal self-determination and provide tribal governments the choice to seek federal disaster assistance through a state or directly to FEMA. The passage of SRIA was a major milestone in these efforts, but was just the first step in fully implementing this important authority. FEMA continues consulting with tribal governments on tribal declarations implementation, including the development of the Tribal Declarations Pilot Guidance.

FEMA supports federally recognized tribal governments, and their sovereignty and rights of self-determination as a part of the federal trust responsibility to Tribal Nations. In addition, inclusion of Tribal Nations is an essential component of FEMA's whole community emergency management strategy.

## **Foundational Policies and Strategic Context**

### ***Foundational Policies***

FEMA has a historical commitment to enhancing government-to-government relations with tribal nations. The first FEMA Tribal Policy was created in 1998 and revised in 2010. FEMA further revised and reissued the policy in late 2013 for an additional three years. This policy forges a commitment to strong and lasting partnerships by outlining the guiding principles of engagement and collaboration between FEMA and federally recognized American Indian and Alaska Native Tribal governments.

FEMA follows guidance outlined in the President's November 5, 2009 Memorandum on Tribal Consultation. This Memorandum reaffirms Executive Order (E.O.) 13175, directing agencies to engage in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and to strengthen the government-to-government relationship between the United States and Tribal Nations. FEMA is drafting, in

coordination and consultation with Tribal Nations, a Tribal Consultation Policy, which will supplement the DHS Tribal Consultation Policy. FEMA received valuable input and comments that are being adjudicated into the final Tribal Consultation Policy, which will be used as a framework for future consultation between FEMA and Tribal Nations.

### ***Strategic Context***

FEMA's whole community approach reinforces the fact that FEMA is only one part of our nation's emergency management team. We must leverage all of our collective team resources in preparing for, protecting against, responding to, recovering from and mitigating against all hazards. Tribal Nations are critical components in our whole community, and our commitment to addressing their needs is evident in our strategic priority to be survivor-centric in mission and program delivery. To further survivor-centric goals, FEMA leadership adopted a "cut the red tape" posture to focus on the needs of survivors and to develop and execute programs and policies with survivors' perspectives in mind.

FEMA recognizes that the consistent participation and partnership of tribal governments is vital in helping FEMA achieve its mission.

### **Tribal Declarations Under the Sandy Recovery Improvement Act**

On January 29, 2013, President Obama signed into law, the "Disaster Relief Appropriations Act, 2013" (Division A) and SRIA (Division B) respectively of Public Law 113-2, a legislative package authorizing several significant changes to the way FEMA delivers disaster assistance. SRIA is one of the most significant pieces of legislation impacting disaster response and recovery since the Post-Katrina Emergency Management Reform Act of 2006.

Section 1110 of SRIA, "Tribal Requests for a Major Disaster or Emergency Declaration under the Stafford Act" authorized federally recognized tribal governments the option to request a Stafford Act emergency or major disaster declaration independent of the State where their lands are located. This new authority also requires the federal government to "consider the unique conditions that affect the general welfare of tribal governments" when developing regulations to implement this new authority. FEMA has developed a phased implementation to ensure we consider the unique needs of tribal governments, which are further outlined below.

### ***Phased Implementation of Direct Tribal Declarations***

In consultation with our nation's federally recognized tribes, we are working thoughtfully and deliberately to develop procedures that best reflect the unique situation of tribal governments. Therefore, FEMA is implementing direct tribal declarations in three phases: (1) through the use of current regulations; (2) through the development and implementation of pilot guidance; and (3) through notice and comment rulemaking.

### *Use of Current Regulations*

Immediately after SRIA’s enactment, FEMA used existing declaration regulations and criteria to process declaration requests from tribal governments. Eight disaster requests have been made, with six major disaster declarations issued for five tribes: the Eastern Band of Cherokee Indians, the Navajo Nation, the Standing Rock Sioux Tribe, the Karuk Tribe, and the Santa Clara Pueblo Tribe, which has received two disaster declarations. Through these declarations, Public Assistance and Hazard Mitigation Grant Program funding is being provided directly to the tribes. The damage assessment information regarding these declarations is outlined in Table 1 below in the order of their declaration date.

TABLE 1: PUBLIC ASSISTANCE PRELIMINARY DAMAGE ASSESSMENT ESTIMATES - TRIBAL DECLARATIONS

<b>Tribal Government</b>	<b>Declaration Date</b>	<b>Preliminary Damage Assessment Estimate</b>
Eastern Band of Cherokee Indians (DR-4103)	3/1/2013	\$3,161,875
Navajo Nation (DR-4104)	3/5/2013	\$5,223,234
Standing Rock Sioux Tribe (DR-4123)	6/25/2013	\$1,277,493
Karuk Tribe (DR-4142)	8/29/2013	\$1,021,557
Santa Clara Pueblo (DR-4147)	9/27/2013	\$5,393,852
Santa Clara Pueblo (DR-4151)	10/24/2013	\$1,984,960

Through these declarations, FEMA gathered critical information, best practices, and process challenges that have informed the development of the Tribal Declarations Pilot Guidance, which is the second phase of tribal declarations implementation.

### *Pilot Guidance Development*

We recognize that FEMA’s current declarations regulations were developed to evaluate States’ capacity and their need for supplemental disaster assistance. Since these parameters may not be indicative of a Tribal Nation’s ability to respond and recover from a disaster, FEMA determined the need to develop procedures and criteria that reflect the capacity and needs of tribal governments. Before entering the rulemaking process to codify the tribal-specific procedures, FEMA will initiate a pilot program to ensure that final regulations sufficiently reflect the unique needs of tribal governments.

Soon after SRIA was signed, FEMA engaged tribal governments on the current procedures to process declarations and whether those procedures should be revised for direct tribal declarations. FEMA used this initial input to develop a first draft of the Tribal Declarations Pilot Guidance.

Tribal participation and input is critical to the development of the Tribal Declarations Pilot Guidance. On April 3, 2014, we initiated tribal consultation on the draft guidance. FEMA sent written correspondence from Administrator Fugate to all 566 federally recognized tribes and issued advisories to national and regional tribal organizations and associations to advise them of

the consultation. FEMA Regional and Headquarters leadership also presented at numerous tribal conferences to provide an overview of the declaration process and the draft guidance.

Between April 3 and July 8, 2014, FEMA conducted 45 listening sessions around the country, from Northern Alaska to Montana, Oklahoma to Florida, and to Maine with 445 participants and 189 tribes represented. Through these listening sessions, FEMA gathered input on the draft guidance as well as strengthened relationships with tribal governments. We learned more about the challenges that tribal communities face, the response and recovery capabilities of tribal governments, and their understanding of Stafford Act assistance. FEMA regions have been extremely proactive in meeting consultation requests of Native Alaskan Villages and Indian tribal governments. For instance, FEMA Region X consulted with the Aleut Communities of St. Paul and St. George Islands on St. Paul Island Alaska.

The information gathered in these sessions will be used to revise the draft guidance. This revised draft will be published for public comment and a second round of tribal consultation, continuing our commitment to engage tribal governments in the implementation of tribal declarations.

### ***Regulations***

As required by SRIA, FEMA will begin development of regulations after the pilot guidance is finalized. This will follow the standard notice and comment rulemaking process.

### **Tribal Grants**

Tribal governments and their members are an essential part of our nation's emergency management team, and FEMA is committed to supporting our tribal partners in its efforts to build more resilient and better prepared communities. The Tribal Homeland Security Grant Program (THSGP) supports the building, sustainment, and delivery of core capabilities to enable tribes to strengthen their capacity to prepare for, protect against, respond to, recover from, and mitigate potential terrorist attacks and other hazards. Federally recognized tribes that meet the criteria as outlined in the Homeland Security Act of 2002, as amended, are eligible for direct funding. This law prescribes a minimum allocation of .01 percent of the total funds allocated for all grants under Sections 2003 and 2004 of the Homeland Security Act of 2002, as amended. However, FEMA and Department of Homeland Security Headquarters increased that amount to an average of \$10 million per year for the past three years. Since the program was initiated in FY 2008, more than 150 tribal applications have been funded with approximately \$50 million for capacity and capability building under the THSGP.

Federally recognized tribes are eligible for other pre-disaster grant funding such as Assistance to Firefighters Grants and Hazard Mitigation.

## **Tribal Consultation Policy**

In recognition of the federal government's trust responsibilities and to honor and continue to enhance our partnerships with federally recognized tribes and in accordance with the 2009 Presidential Memorandum and E.O. 13175, FEMA is collaborating with tribes to develop a Tribal Consultation Policy. This policy supplements the DHS Tribal Consultation Policy by providing additional instructions and guidance to FEMA employees on engagement of tribal governments for consultation on FEMA actions with tribal implications. It also ensures FEMA is effectively engaging in regular and meaningful consultation and collaboration with our tribal partners.

The policy is being developed based on discussion, input and consultation with tribes to ensure it addresses their concerns and reflects a government-to-government relationship with Tribal Nations. The consultation period for the proposed Tribal Consultation Policy ended on March 30, 2014. FEMA is currently in a thoughtful review of the input received, and is revising the Policy as appropriate. FEMA will notify tribes when the policy is published, which is planned for later this year. The Tribal Consultation Policy will help govern how FEMA undertakes future consultation with tribes.

## **Training, Outreach and Technical Assistance Efforts**

FEMA is committed to helping tribes prepare for, protect against, respond to, recover from, and mitigate against disasters through its training, outreach and technical assistance efforts. FEMA's National Tribal Affairs Advisor, Milo Booth, works closely with the FEMA Regional Tribal Liaisons and programs to ensure that tribes are informed about these opportunities for assistance.

### ***Training***

FEMA's Emergency Management Institute (EMI) offered the first tribal-specific course, titled "Emergency Management Framework for Tribal Governments" in January of 2002. This course was developed in collaboration with tribal emergency services and emergency management personnel. In the 12 years since, EMI's Tribal Curriculum has grown to five tribal-specific courses. Continuing from the success of the first tribal course, all of these courses were designed with input from tribal representatives and associations and are intended to help build emergency management capability in tribal communities. To date, more than 3,000 certificates of completion have been issued for courses in the EMI Tribal Curriculum. These courses include "Emergency Management Framework for Tribal Governments," "Emergency Operations for Tribal Governments," "Mitigation for Tribal Governments," "Continuity of Operations (COOP) for Tribal Governments," and "Emergency Management Overview for Tribal Leaders." Between fiscal year (FY) 2011 and 2013, 1,174 students, of which 998 are tribal government employees and 715 are American Indian or Alaska Native members, completed the five tribal-specific courses. In FY 2013, 466 students participated in these courses, which were held in locations across the country, including Arizona, California, Nevada, North Carolina, Oklahoma,

and Washington. Additionally, tribal emergency management officials have access to 550 active courses offered through EMI.

### ***Outreach***

The FEMA National Tribal Affairs Advisor and other FEMA leadership, regularly attend the annual and mid-year meetings hosted by the National Congress of American Indians (NCAI), the United South and Eastern Tribes (USET), the National Tribal Emergency Management Council (NTEMC), Tribal Assistance Coordination Group (TAC-G), and the Tribal Emergency Management Association (iTEMA) as well as other regional and national tribal organizations and associations. These meetings provide FEMA the opportunity to conduct outreach and establish a stronger working relationship with these organizations. FEMA's Office of External Affairs also facilitates information sharing across the Agency before, during and after disasters that impact tribal communities.

In 2011, FEMA announced an initiative through FEMA's Ready Campaign called "*Ready Indian Country*." *Ready Indian Country* is an initiative designed to promote preparedness within tribal communities through education and outreach in an effort to save lives and prevent property losses. The program, developed with the support of NCAI, uses public outreach and the support of tribal elders to encourage members of Tribal Nations to take the basic steps necessary to prepare themselves for potential emergencies. *Ready Indian Country* provides a foundation for tribal communities to enhance citizen preparedness while serving as a resource for the development and implementation of community pre-disaster policies and procedures.

*Ready Indian Country*'s resources include existing Ready Campaign messaging and build on existing capacity with specific tools customized for Indian Country. These include brochures, posters and billboards customized by geographic region to reflect diverse local conditions and American Indian and Alaska Native cultures; radio Public Service Announcements (PSAs) in 60, 30 and 15 second formats; and Tribal Leader Resources to help guide community emergency planning efforts. *Ready Indian Country* resources can be found at <http://www.ready.gov/IndianCountry>. This is one step in the ongoing actions on the part of FEMA and the Ready Campaign to nurture this partnership to help tribes and Native American communities build sustainable and resilient tribal neighborhoods.

### ***Technical Assistance***

The FEMA Regional Tribal Liaisons and the FEMA National Tribal Affairs Advisor serve as tribes' initial entry into FEMA to facilitate discussions between tribes and subject matter experts, to share information, or address questions or challenges. In addition to its dedicated liaisons and Advisor, FEMA as a whole is dedicated to ensuring we consult and effectively collaborate with tribal governments, whether during a disaster, the development of policy, or program implementation.

Additionally, in coordination with FEMA Regional Tribal Liaisons, the Technical Assistance (TA) Program provides specialized emergency management planning assistance to tribes across the nation. This helps tribes to develop operational plans and to be prepared for disasters or emergencies. Specifically, the TA program works with tribes to build capacity, educate their leaders in foundational emergency management concepts, and enhance relationships among emergency managers and planners across the state, local, tribal and federal levels of government.

Since 2011, FEMA has hosted 13 working sessions and workshops to engage tribes. When the Bureau of Indian Affairs stood up their Division of Emergency Management in 2013, FEMA increased its partnership effort with them to deliver tribal TA to the nation's federally recognized tribes, ensuring even stronger federal coordination in support of tribal governments.

### **Additional Tribal Efforts**

#### ***Tribal Integration Group***

FEMA established an internal Tribal Integration Group (TIG) this year, which serves as an internal coordinating body for tribal-related engagement and consultation across FEMA programs. The TIG, co-led by FEMA Senior Executives – the Deputy Director of the Office of External Affairs and the Director of the DHS Center for Faith-based & Neighborhood Partnerships – is working to ensure that the Agency meets requirements to consult and collaborate with and consider tribal governments needs in the Agency's program and policy development.

In addition, the TIG strengthens efforts to engage tribal governments in FEMA's processes, procedures and outreach. The TIG is also in the process of assessing long-term resource and organizational strategies to build a stronger relationship with tribal nations throughout the Agency.

The TIG not only serves as an internal coordinating body for tribal-related engagement and issues across FEMA programs and the Agency as a whole; it is also a tool for FEMA to discuss and consider high-level tribal issues for recommended action.

### **Conclusion**

FEMA is committed to consulting, coordinating, and engaging with federally recognized tribal governments in the development and implementation of policy and programs.

We are grateful to Congress for these new authorities and are actively working with the sovereign tribes as they prepare for, protect against, respond to, recover from, and mitigate against the hazards they may face.

We look forward to our continued collaboration to further support tribal governments as they build their emergency management capabilities. Thank you.