



## Tribal Consultation on Proposed Legislative Changes to the Homeland Security Act of 2002

### Framing Paper

*November 9, 2022, 1:30-3:00 p.m. Eastern Time*

#### Overarching Consultation Questions

*Do the proposed legislative changes to the [Homeland Security Act of 2002](#) meet tribal priorities and needs in accessing preparedness grant funding? What additional changes would tribal leaders want to make to the legislative proposal?*

#### Background

Over the past few decades, FEMA has received tribal feedback about the lack of access to DHS/FEMA preparedness grant funding, including the [Emergency Management Performance Grant \(EMPG\)](#) and the [Tribal Homeland Security Grant Program \(THSGP\)](#). We have heard that Tribal Nations experience limited access to DHS/FEMA preparedness grant funding to prepare for all hazards, build and maintain their emergency management capabilities, and meet the minimum requirements of the [Homeland Security Act of 2002](#), [the Stafford Act](#), and FEMA programs to receive assistance. This lack of access compounds pre-existing and historical inequities for Tribal Nations.

FEMA remains committed to its responsibility under Executive Order 13175: Consultation and Coordination with Indian Tribal Governments, reaffirmed by President Biden's [January 26, 2021, Memorandum](#) on *Tribal Consultation and Strengthening Nation-to-Nation Relationships*, and reflected in the 2022-2026 [FEMA's National Tribal Strategy](#), to engage in meaningful consultation and collaboration with tribal officials. In addition, [FEMA's Tribal Policy](#) outlines a framework for nation-to-nation relations between FEMA and Tribal Nations that recognizes tribal sovereignty, self-governance, and FEMA's responsibilities, consistent with applicable authorities.

The purpose of the November 9, 2022 tribal consultation is to discuss key aspects of a draft legislative proposal to amend the [Homeland Security Act of 2002](#) to increase tribal access to the THSGP and to gather your feedback on the proposal. The virtual consultation will be hosted on the Zoom for Government platform. Please register [here](#) to attend.

#### Tribal Feedback

Tribal leaders shared several important points and suggestions during the June 2022 tribal consultation about their experiences and needs as applicants and recipients of DHS/FEMA preparedness grant programs, including a need for legislative changes to the authorizing statutes. This valuable feedback included that:

- The tribal cost-share requirement for FEMA grant programs should be eliminated for Tribal Nations;
- More time should be given to Tribal Nations to apply for a funding opportunity;
- The scope of the EMPG and THSGP should expand to include other hazards, such as drought, fires, flooding, and irrigation activities that relate to crop production and related to traditional farming and subsistence, and the loss of habitat that causes loss of medicinal plants;
- Financial support should be available to Tribal Nations to assist them in meeting the [National Incident Management System](#) (NIMS) requirement;
- The eligibility requirement to live within 100 miles of a U.S. border should be eliminated for the

THSGP;

- Tribal governments should be able to apply for EMPG funding without going through a State, per their sovereign status and FEMA's government-to-government relationship with Tribal Nations;
- Separate funding should be provided to finance the requirement for a Tribal Nation to complete a [Threat and Hazard Identification and Risk Assessment \(THIRA\)/Stakeholder Preparedness Review \(SPR\)](#) that is part of the award of a THSGP.

## Discussion Questions

FEMA seeks tribal input on the proposed summary of legislative changes (attached) to amend the [Homeland Security Act of 2002](#). Below are questions for your consideration. These questions are not in order of priority and are not meant to be an exhaustive list of discussion topics. FEMA welcomes broader input on our activities in support of Tribal Nations.

1. Does the proposed expansion of what a "directly eligible tribe" is meet tribal needs?
2. Does the proposed expansion in scope of the program to include "all hazards" (and removal of the required connection to terrorism) meet tribal needs?
3. Does the removal of the requirement that tribes send their applications to state governments for review meet tribal needs?
4. Does the proposed amount of 5% of funds for expenses directly related to the administration of a grant meet tribal needs?
5. Does adding the acquisition of acquiring land, constructing buildings, or altering/remodeling existing buildings as eligible costs meet tribal needs?
6. Does expanding the program to allow for increased personnel costs meet tribal needs?
7. Does exempting the program from the Paperwork Reduction Act and Federal Advisory Committee Act meet tribal needs?
8. Does funding the program as its own standalone grant program (not as a carve-out of other programs) meet tribal needs?
9. Does the proposed increase in funding meet tribal needs?
10. What additional changes would tribal leaders like to see be made to the legislative proposal?

All consultation materials may be found at: [www.fema.gov/about/tribes/consultations](http://www.fema.gov/about/tribes/consultations). The consultation record will remain open for 30 days after the virtual session for tribal leaders to submit feedback or comments to [gpd-comms@fema.dhs.gov](mailto:gpd-comms@fema.dhs.gov). Final feedback and comments are due by Friday, December 9, 2022.