



# Tribal Declarations Interim Guidance

FP 104-009025-001 | December 2024



FEMA

Photo depicts Tribal emergency managers from across Indian Country and FEMA staff at the 2024 Inter-Tribal Emergency Management Coalition (ITEMC) Summit.

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# Executive Summary

Tribal Nations are the first and sometimes only responders to disasters that take place in Indian Country. This document provides essential information and resources for Tribal Nations seeking supplemental federal disaster assistance through a Tribal Declaration. Under the *National Response Framework*<sup>1</sup> and the *National Disaster Recovery Framework*,<sup>2</sup> affected Tribal Nations, along with states and local governments, typically manage response and recovery from incidents based on individual capabilities. However, some incidents are so significant that they are beyond the capabilities of the affected communities. In these situations, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, (hereafter referred to as the Stafford Act)<sup>3</sup> authorizes the President to provide assistance to supplement Tribal Nations, along with state and local governments, during events where resources have been or may be overwhelmed. This assistance is made available through an emergency or a major disaster declaration.

Through the Sandy Recovery Improvement Act of 2013 (SRIA),<sup>4</sup> the Stafford Act was amended to give federally recognized Indian Tribal Governments<sup>5</sup> (hereafter referred to as Tribal Nations) the option to request emergency and major disaster declarations and receive supplemental federal assistance from the Federal Emergency Management Agency (FEMA). In 2017, FEMA published the Tribal Declarations Pilot Guidance<sup>6</sup> to comply with these amendments and manage tribal declaration requests accounting for the unique considerations of Tribal Nations. FEMA has used this updated guidance to enhance accessibility and streamline the process for Tribal Nations impacted by disasters.

Throughout 2023, FEMA worked in a Nation-to-Nation manner with Tribal Nations across the country through consultations and listening sessions to develop updates to the *Tribal Declarations Pilot Guidance*. This consultation process was completed in accordance with the commitments and requirements found in Executive Order 13175 and FEMA's *Tribal Consultation Policy*. During this time, FEMA conducted nine formal government-to-government tribal consultations and listening

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<sup>1</sup> [National Response Framework](#), FEMA, 2019.

<sup>2</sup> [National Disaster Recovery Framework](#), FEMA, 2024.

<sup>3</sup> 42 U.S.C. §§ 5121 *et seq.*

<sup>4</sup> Section 1110 of Pub. L. 113-2, 127 Stat. 47 (2013).

<sup>5</sup> Indian Tribal Government means any federally recognized governing body of an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Tribe List Act of 1994, 42 U.S.C. §§ 5122(6). This does not include Alaska Native corporations, the ownership of which is vested in private individuals. 44 C.F.R. § 206.201.

<sup>6</sup> [Tribal Declarations Pilot Guidance](#), FEMA, 2017.



sessions, both in person and virtually, with 118 Tribal Nations. The input FEMA received from Tribal Nations on the guidance also took the form of a tribal focus group, working groups, tribal resolutions, formal written Tribal Nation responses, and informal discussions with tribal leadership.

This *Tribal Declarations Interim Guidance* (hereafter referred to as *Tribal Declarations Guidance*) is an update from the *2017 Tribal Declaration Pilot Guidance*.<sup>7</sup> The purpose of this *Tribal Declarations Guidance* is to provide clear and succinct information on the processes for Tribal Nations seeking supplemental federal assistance in the form of an emergency or a major disaster declaration. This version of the guide incorporates the extensive input provided by Tribal Nations, simplifies standards, and streamlines information. By updating federal processes to better address Tribal Nations' unique challenges, FEMA will be in a position to help Tribal Nations more effectively meet the needs of their communities, ultimately improving survivor and tribal community outcomes.

This guidance outlines the declaration factors FEMA uses to evaluate whether a Tribal Nation is overwhelmed by a disaster, the process Tribal Nations use during a declaration request, and the difference between the three options of (1) acting as a recipient under their own presidential disaster declaration; (2) becoming a recipient under a presidential disaster declaration for a state; or (3) becoming a subrecipient under a presidential disaster declaration for a state. As sovereign governments, Tribal Nations have the right to choose to request their own disaster declaration or partner with a state government.<sup>8</sup> FEMA will provide relevant information needed to support Tribal Nation self-determination and choice to request their own disaster declaration or partner with a state government.

In addition, this guidance provides background context, brief overviews of programs, and other useful information for Tribal Nations that may not be as familiar with FEMA's programs or assistance process. This document is not intended to provide detailed, program-specific information for Tribal Nations navigating Public Assistance (PA), Individual Assistance (IA), Hazard Mitigation Grant Program (HMGP), and Fire Management Assistance Grants (FMAGs) after a declaration and when program management begins. Additionally, this guidance does not include changes or revisions to the policies for FMAGs. If a Tribal Nation is seeking additional information about any of these different types of assistance programs, they may review the policies cited in this guidance or contact the FEMA Tribal Affairs staff located in their region for additional information (See **Appendix F: FEMA Regions**).<sup>9</sup> The Tribal Declarations Interim Guidance has been amended to reflect the issuance of Executive Orders on and after January 20, 2025.

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<sup>7</sup> [Tribal Declarations Pilot Guidance](#), FEMA, 2017.

<sup>8</sup> Section 1110 of Pub. L. 113-2, 127 Stat. 47 (2013).

<sup>9</sup> Tribal Nations can locate the contact information for FEMA Headquarters Tribal Affairs staff, FEMA Regional Tribal Liaisons, and Tribal FEMA Integration Teams on FEMA's online [Tribal Affairs Hub](#).

# 1. Summary of Key Changes

FEMA made the changes from the *Tribal Declarations Pilot Guidance* consistent with the 2013 Sandy Recovery Improvement Act (SRIA)<sup>10</sup> and based on lessons FEMA learned after implementing the Pilot Guidance regarding the extensive challenges that Tribal Nations face when they try to access resources to protect people before, during, and after disasters.<sup>11</sup> These changes reflect extensive Tribal Nation input provided during the nine government to government tribal consultations and listening sessions FEMA hosted on the guidance throughout 2023. Tribal Nations during the consultations and for years have shared in great detail how extremely difficult it has been for them to request disaster assistance from FEMA due to several factors including but not limited to: the chronic shortfalls of federal funding to build tribal emergency management capacity across the country; the \$250,000 PA declaration threshold that many Tribal Nations could not meet; the burden of covering non-federal cost shares without a tax base; tight FEMA timelines that are extremely difficult for them to meet and even harder for them to seek an extension from their tribal leadership; declaration factors that do not truly reflect the reality of the unique needs of Tribal Nations, complex federal requirements they have to navigate without tribal emergency management staff; and more.<sup>12</sup> Tribal Nations directly requested various changes throughout the guidance to overcome these

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<sup>10</sup> Pub. L. 113-2, 127 Stat. 4 (2013).

<sup>11</sup> See Allis, Kevin J., Chief Kirk Francis, Shannon Keller O'Loughlin, Tim Zientek, Del Ostenberg, Jake Heflin, Robert J. Des Rosier, Lynda Zambrano. May 26, 2020. "COVID-19 Recovery Legislative Proposal (Phase #4)". Letter to US Senate Mitch McConnell Majority Leader and Chuck Schumer Minority from Leader from Association on American Indian Affairs, Inter-Tribal Emergency Management Coalition of Oklahoma, National Congress of American Indians, National Tribal Emergency Management Coalition, North West Tribal Emergency Management Council, Montana Tribal Emergency Management Council, Tribal Emergency Management Association, ITEMA, and United South and Eastern Tribes Sovereignty Protection Fund. [https://archive.ncai.org/Covid-19/legislative-updates/Tribal\\_Homeland\\_Security\\_and\\_Emergency\\_Services\\_Needs\\_and\\_Priorities\\_for\\_COVID-19\\_Phase\\_4\\_-\\_Senate\\_Letter.pdf](https://archive.ncai.org/Covid-19/legislative-updates/Tribal_Homeland_Security_and_Emergency_Services_Needs_and_Priorities_for_COVID-19_Phase_4_-_Senate_Letter.pdf); National Congress of American Indians. 2021. "The National Congress of American Indians Resolution #AK-21-029." <https://ncai.assetbank-server.com/assetbank-ncai/action/viewAsset?id=222>; National Congress of American Indians. 2024. "The National Congress of American Indians Resolution #NC-24-026." <https://ncai.assetbank-server.com/assetbank-ncai/action/viewAsset?id=5511>; National Congress of American Indians. 2021. "The National Congress of American Indians Resolution #SAC-21-042.;" <https://ncai.assetbank-server.com/assetbank-ncai/action/viewAsset?id=182> (Last accessed Sept. 26, 2024).

<sup>12</sup> See, e.g. Allis, Kevin J., Chief Kirk Francis, Shannon Keller O'Loughlin, Tim Zientek, Del Ostenberg, Jake Heflin, Robert J. Des Rosier, Lynda Zambrano. May 26, 2020. "COVID-19 Recovery Legislative Proposal (Phase #4)". Letter to US Senate Mitch McConnell Majority Leader and Chuck Schumer Minority from Leader from Association on American Indian Affairs, Inter-Tribal Emergency Management Coalition of Oklahoma, National Congress of American Indians, National Tribal Emergency Management Coalition, North West Tribal Emergency Management Council, Montana Tribal Emergency Management Council, Tribal Emergency Management Association, ITEMA, and United South and Eastern Tribes Sovereignty Protection Fund. [https://archive.ncai.org/Covid-19/legislative-updates/Tribal\\_Homeland\\_Security\\_and\\_Emergency\\_Services\\_Needs\\_and\\_Priorities\\_for\\_COVID-19\\_Phase\\_4\\_-\\_Senate\\_Letter.pdf](https://archive.ncai.org/Covid-19/legislative-updates/Tribal_Homeland_Security_and_Emergency_Services_Needs_and_Priorities_for_COVID-19_Phase_4_-_Senate_Letter.pdf); National Congress of American Indians. 2024. "The National Congress of American Indians Resolution #NC-24-026." <https://ncai.assetbank-server.com/assetbank-ncai/action/viewAsset?id=5511>.



challenges and ensure that they are able to support and protect everyone within their tribal communities.

The *Tribal Declarations Guidance* includes several important updates to FEMA policy, and key updates that are noted below:<sup>13</sup>

- The minimum damage amount for PA disaster declaration requests has been reduced from \$250,000 to \$100,000.
- FEMA will take a holistic view of housing damage for both Tribal Nation owned and individually owned housing. When a Tribal Nation is requesting PA, FEMA will also recommend that IA be approved when all the following conditions are met:
  - The Tribal Nation requests IA (there is a statutory cost share for Other Needs Assistance [ONA] that cannot be waived by the President of the United States [hereafter referred to as “the President”]);
  - The President approves PA; and
  - Tribally-owned (PA-eligible) housing and individually-owned (Individuals and Households Program [IHP] eligible) housing are both impacted at a major or destroyed damage level as determined by the Joint Preliminary Damage Assessments (PDAs).
- For Tribal recipients, FEMA will automatically recommend a 98% federal cost share adjustment for the PA Program when the PA actual federal obligation, excluding administrative costs, reaches \$200,000.
- The deadline for requesting a major disaster declaration has been extended from 30 days to 60 days from the last day of the incident period.
- The deadline for requesting PA or any add-ons has been extended from 30 days to 60 days from the end of the incident period or the date of declaration, whichever is later.
- The deadline for submitting a Tribal Mitigation Plan has been extended from 30 days to 90 days from the date of declaration for Tribal Nations with a disaster declaration and from 30 to 90 days from the day the FEMA-Tribe Agreement is signed for Tribal Nations choosing to be recipients under a state declaration.

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<sup>13</sup> For additional information on requirements for the different pathways to receive federal disaster assistance, please see Table 3: Evaluating Assistance Options and Table 4: Plan Requirements for Tribal Nations Under Different Declaration Options.

- The deadline for requesting an appeal to the denial of a declaration request has been extended from 30 days to 60 days from the date of the denial letter.
- FEMA is honoring the self-determination that Tribal Nations have to define “tribal community member” during IA disaster declarations to make sure the full community is served.

## 1.1. Document Structure

The *Tribal Declarations Guidance* is organized into nine chapters, along with an executive summary, and contains the following information:

- **Executive Summary:** Provides a summary and roadmap for the updated *Tribal Declarations Guidance*, describing what types of information is included in the guidance and where to find information.
- **Chapter 1: Introduction and Background:** Describes the historical information on the initial implementation of the *Tribal Declarations Guidance*, how FEMA consulted Tribal Nations for the first iteration of the *Tribal Declarations Guidance*, and how Tribal Nations are affected by amendments to the Stafford Act.
- **Chapter 2: Stafford Act Presidential Declarations, Tribal Nation Options for Receiving Assistance, and Available Assistance:** Provides information on the types of Stafford Act Presidential Declarations, emergency and major disaster declarations, and the types of Stafford Act Assistance (i.e., PA, IA, HMGP, and FMAGs).
- **Chapter 3: Who/What is Eligible for Assistance in a Tribal Declaration:** Describes the eligibility criteria for PA and IA for a Tribal Declaration.
- **Chapter 4: Pre-Declaration Considerations and Requirements for Tribal Nations:** Describes the different considerations and administrative requirements for Tribal Nations deciding whether to seek assistance through a disaster declaration.
- **Chapter 5: Process to Request Major Disaster Declarations:** Outlines the process for requesting a major disaster declaration and describes the timeline and requirements for each step in the process.
- **Chapter 6: FEMA Criteria for Recommending Major Disaster Declarations:** Describes the criteria and minimum damage amounts FEMA uses to consider recommendations for major disaster declarations and different types of assistance.
- **Chapter 7: Process to Request Emergency Declarations:** Outlines the process for requesting an emergency declaration and describes how the emergency declaration process differs from the major disaster declaration request process.

- **Chapter 8: Presidential Declaration Determination:** Outlines the initial actions the federal government takes once the President grants or denies the declaration request, including information on notifications and designation of a Federal Coordinating Officer (FCO).
- **Chapter 9: Post-Declaration Activities:** Describes different activities and opportunities for Tribal Nations after a declaration request is granted or denied.

The *Tribal Declarations Guidance* also includes appendices that function as additional resources for Tribal Nations as they evaluate post-disaster needs and navigate the declaration request process.

All documents referenced in this guidance may be obtained via email or postal mail by contacting FEMA Regional Tribal Liaisons or Tribal FEMA Integration Teams (FITs).

# Chapter 1: Introduction and Background

## 1. Federal Emergency Management Agency's (FEMA) Treaty and Trust Responsibilities to Tribal Nations

The federal government's tribal trust and treaty obligations constitute foundational principles in the relationship between the United States and Tribal Nations.<sup>14</sup> Tribal trust responsibility refers to the legal and moral obligation of the federal government toward Tribal Nations.<sup>15</sup> These obligations stem from historical treaties and agreements forged between the federal government and Tribal Nations. Through these treaties, the federal government recognizes the sovereignty of Tribal Nations and pledges to protect their land, welfare, resources, cultural rights, and more.<sup>16</sup> The concept of trust responsibility means that the federal government has a legal duty to function as a trustee for Tribal Nations, ensuring that their rights are upheld and that they receive adequate support and services.<sup>17</sup> This includes managing Tribal Nation lands, preserving natural resources, providing healthcare, education, and other services to tribal communities, and consulting with Tribal Nations on matters affecting their rights and interests. FEMA's trust responsibilities encompass assistance and support actions provided to tribal communities and individuals affected by disasters.<sup>18</sup>

Trust responsibility plays a significant role in the context of FEMA's engagement with Tribal Nations. FEMA is required to consult and collaborate with Tribal Nations as sovereign entities for FEMA actions or policy proposals bearing tribal implications.<sup>19</sup> Respecting tribal self-determination is of

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<sup>14</sup> See Pub. L. 113-2, 127 Stat.4 (2013); *Seminole Nation v. United States*, 316 U.S. 286, 297, 62 S. Ct. 1049, 1054, 86 L. Ed. 1480 (1942); "Consultation and Coordination with Indian Tribal Governments," 65 FR 67249 (Nov. 6, 2000); "Establishing the White House Council on Native American Affairs" 78 FR 39539 (Jun 26, 2013); [FEMA Tribal Policy, FEMA Policy 305-111-1](#), Dec. 2016;[Consultation and Coordination with Tribal Nations, DHS Directive 071-04](#), Dec. 2022.;[FEMA Policy: FEMA Tribal Consultation, FEMA Policy 101-002-02](#), July 2019;

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

paramount importance. Consultation is a communicative and cooperative process intended to exchange information, receive input, and consider views on actions that affect Tribal Nations.<sup>20</sup>

## 2. Purpose and Audience

The primary audience for this guidance is federally recognized Tribal Nations who are preparing for, considering, or requesting a major disaster or emergency declaration. Furthermore, this *Tribal Declarations Guidance* supersedes the January 2017 *Tribal Declaration Pilot Guidance*.

The purpose of this *Tribal Declarations Guidance* is to clearly outline the declaration factors FEMA uses to evaluate whether a Tribal Nation is overwhelmed by a disaster, the process Tribal Nations use to request a declaration, and the different options to receive assistance. The three options to receive disaster assistance are (1) acting as a recipient under their own presidential disaster declaration, (2) becoming a recipient under a state declaration, or (3) becoming a subrecipient under a state declaration.

This updated guidance incorporates the extensive input provided by Tribal Nations, simplifies standards, and streamlines information. By updating federal processes to better address Tribal Nations' unique challenges, Tribal Nations can more effectively meet the needs of their communities, ultimately improving survivor and tribal community outcomes.

FEMA issues guidance to articulate the Agency's intent and direction in applying statutory and regulatory authority to achieve desired outcomes. The purpose of the *Tribal Declarations Guidance* is to define FEMA's Recovery Program policy and procedural requirements for Tribal Nations declaring an emergency or major declaration. Separate FEMA policies and guidance documents that apply to Tribal Nations requesting disaster assistance are referenced in the *Tribal Declarations Guidance*, where applicable, and listed in the References and Resources section. Only the Administrator of FEMA or Secretary of the Department of Homeland Security have the authority to modify or waive this guidance.

## 3. 2024 Guidance Update

In January 2023, FEMA began the process of updating the *Tribal Declarations Pilot Guidance*. Through a focus group of tribal emergency managers, tribal consultations, and tribal listening sessions, FEMA and Tribal Nations identified and discussed the unique barriers and challenges tribal communities encounter when seeking assistance from the federal government during disaster and steady-state environments. By December 2023, FEMA conducted nine consultations and listening sessions with Tribal Nations and received nine letters of written feedback from a total of 118 Tribal Nations from all FEMA Regions. FEMA used the feedback from these tribal engagements to inform

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<sup>20</sup> *Id.*

an internal working group with headquarters, regional, and tribal liaison partners to identify methods to ease the declaration request process and eliminate barriers for Tribal Nations.



## FEMA Tribal Policy

For more information on FEMA tribal policy, refer to the [FEMA Tribal Policy \(FEMA, 2020\)](#).

## 4. Impacts of the Amendments to the Stafford Act

### 4.1. Reflects Tribal Nations' Status as Sovereign Entities

Pursuant to the Sandy Recovery Improvement Act of 2013 (SRIA),<sup>21</sup> all references in the Stafford Act to “State and/or local” also now include “Tribal Nation”<sup>22</sup> as appropriate.<sup>23</sup> Previously, the Stafford Act defined Tribal Nations as “local governments.” The Stafford Act, as amended by SRIA, now reflects that Tribal Nations are sovereign governments and acknowledges the direct government-to-government relationship between the United States and Tribal Nations. Further, in recognition of FEMA’s trust responsibility, this *Tribal Declarations Guidance* is part of the President’s responsibility under SRIA to establish Tribal Nation criteria for disaster declaration process and in doing so “consider the unique conditions that affect the general welfare of Tribal Nations.”<sup>24</sup>

### 4.2. Promotes Tribal Sovereignty and Self-Determination

The SRIA amendment authorizes Tribal Nations to determine for themselves how to seek Stafford Act assistance. The Chief Executive of a Tribal Nation (“Tribal Chief Executive”) may request a declaration specifically for the Tribal Nation, including what specific Individual Assistance (IA) programs it feels best meet the needs of its tribal community members (if IA is being requested), or elect to be considered as part of a state’s declaration request. A Tribal Nation may seek different types of assistance through Tribal Nation and state declarations; for example, a Tribal Nation may seek Public Assistance (PA) and the Hazard Mitigation Grant Program (HMGP) through the state, while seeking IA through a tribal declaration. The Tribal Nation, however, cannot receive the same

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<sup>21</sup> Pub. L. 113-2, 127 Stat. 4 (2013).

<sup>16</sup> Stafford Act §§ 102(2) and 103, 42 U.S.C. §§ 5122(2) and 5123.

<sup>23</sup> FEMA has not promulgated new regulations incorporating the statutory changes prescribed in the SRIA; however, we are referring to “Indian tribal government” (Tribal Nation) when our regulations refer to “State and/or local.” Pursuant to Section 1110(a)(b)(2) of Pub. L. 113-2 for major disaster declaration requests and section 1110(b)(c)(2) of Pub. L. 113-2 for emergency declaration requests, any references to “state(s) and/or local(s) government(s)” also refer to “Indian tribal governments” (Tribal Nations). See Stafford Act § 103; 42 U.S.C. § 5123.

<sup>24</sup> Pub. L. 113-2, 127 Stat. 4 (2013).



type of assistance (i.e., PA, IA, and HMGP) through both tribal and state declarations for the same incident. This is necessary to ensure that FEMA does not provide duplicative benefits.<sup>25</sup>

Tribal Nations have the choice to seek Stafford Assistance on their own, but they are not required to request a declaration independently of a state. If a state receives a declaration which includes Tribal Nation lands, then the Tribal Nation may freely choose to be a recipient for PA and/or HMGP funding under a state declaration. Based on state law, Tribal Nations may also choose to be a subrecipient of a state declaration.<sup>26</sup> For more information on eligibility, see **Chapter 3: Who/What is Eligible for Public Assistance and Individual Assistance**.

Throughout this guidance, Tribal Nations can learn about the advantages and requirements associated with seeking assistance either as a recipient under a Tribal Declaration or as a recipient or subrecipient under a state declaration. Tribal Nations are empowered by FEMA to make their own determination on what kinds of assistance best fits their community needs and how to receive this assistance either through a Tribal Declaration or working with a state.

### 4.3. Cost Share Adjustments for Tribal Nations

The SRIA amendment authorizes the President to waive or adjust only the non-federal cost share for PA for Tribal Declarations.<sup>27</sup> For more information on cost shares, see: **Chapter 9, Post-Declaration Activities, Section 4, Cost Share Adjustments**. The President does not have the authority to waive or adjust the cost share for certain Stafford Act disaster assistance programs (e.g., IA, HMGP, FMAG). Further, the Stafford Act instructs the President to establish criteria to evaluate the need for cost share adjustments for Tribal Declarations. The *Tribal Declarations Guidance* provides criteria to evaluate cost share adjustments for PA.

## 5. Implementation of Tribal Declarations

The SRIA provided federally recognized Indian tribal governments (Tribal Nations) the option to request a Presidential emergency or major disaster declaration.<sup>28</sup> FEMA is implementing this authority in three phases:

**Use of existing regulations (2013-2016):** To allow Tribal Nations the choice to use the new authority immediately and to provide time for consultation on drafts of the *Tribal*

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<sup>25</sup> Stafford Act § 312; 42 U.S.C. § 5155.

<sup>26</sup> Tribal Nations should be aware that states may have laws that prohibit passing federal funding to Tribal Nations as subrecipients. In these cases, the Tribal Nation may not be able to choose to be a subrecipient under a state declaration.

<sup>27</sup> Stafford Act § 401(c); 42 U.S.C. § 5170(c).

<sup>28</sup> Section 1110 of Pub. L. 113-2, 127 Stat. 47 (2013).

*Declarations Pilot Guidance*, FEMA processed Tribal Declaration requests using adapted state declarations regulations.

**Guidance period:** From 2017 to 2024, FEMA used the *Tribal Declarations Pilot Guidance* to manage Tribal Declaration requests, assessing the unique challenges that impact Tribal Nations and their communities. The FEMA *Tribal Declarations Guidance* supersedes the *Tribal Declarations Pilot Guidance* and will be used moving forward to assist Tribal Nations in navigating the declarations process.

**Rulemaking:** FEMA will promptly follow the notice and rulemaking process to develop regulations informed by the guidance program.

The *Tribal Declarations Interim Guidance* serves as a comprehensive resource for Tribal Nations on Stafford Act declarations, disaster assistance, and related requirements. It clearly outlines the declaration factors FEMA uses to evaluate whether a Tribal Nation is overwhelmed by a disaster, the process Tribal Nations use to request a disaster declaration, and the different options to receive assistance.

This FEMA Policy (FP 104-009025-001), the *Tribal Declarations Interim Guidance*, will be reviewed, revised, and/or extended within four years of the issue date. FEMA is requesting comments from the public to inform future Guidance development and will update as appropriate based on public comment.

# Chapter 2: Stafford Act Presidential Declarations, Tribal Nation Options for Receiving Assistance, and Available Assistance

Tribal Nations, states, local governments, and territories typically oversee 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 Nation, state, and territory resources when those resources have been or will become overwhelmed.<sup>29</sup>

## 1. Types of Stafford Act Presidential Declarations

When the President of the United States determines that a Tribal Nation requires federal assistance under the Stafford Act to supplement response and recovery activities, the President may declare an emergency or a major disaster.<sup>30</sup> Each type of declaration activates a separate set of resources for the Tribal Nation.

Once a Tribal Nation receives a declaration, the Tribal Nation becomes the recipient and administrator 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 Nation assumes all responsibilities of the recipient which are in current regulations<sup>31</sup> and further interpreted in this guidance. Alternatively, a Tribal Nation that elects to be considered as part of a state's declaration may seek assistance as either a recipient or, in some states, as a subrecipient. For assistance in navigating this process, Tribal Nations may contact their FEMA Regional Tribal Liaisons or Tribal FEMA Integration Teams (FITs).

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<sup>29</sup> Stafford Act §§ 401 and 501; 42 U.S.C. §§ 5170 and 5191.

<sup>30</sup> Stafford Act § 102(1) and (2); 42 U.S.C. § 5122(1) and (2).

<sup>31</sup> See, for example, 44 C.F.R. §§ 206.201(m) (Public Assistance) and 206.431 (Hazard Mitigation).

## 1.1. Emergency Declaration

The Tribal Chief Executive may submit a request for a Presidential declaration for an existing or anticipated emergency.<sup>32</sup>

### Emergencies

An “emergency” is any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement Tribal Nation, state, and territory 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.<sup>33</sup>

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.<sup>34</sup> Emergency declarations do not authorize long-term mitigation assistance (e.g., HMGP) or permanent restoration of infrastructure that may be included in a major disaster declaration (e.g., PA categories C-G). The description of PA categories C-G is outlined in **Table 1**.

Assistance under an emergency declaration is usually limited to PA Categories A (debris removal) and Category B (emergency protective measures), and often further limited to direct federal assistance. 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 **Chapter 7: Process to Request Emergency Declarations**.

## 1.2. Major Disaster Declaration

The Tribal Chief Executive may submit a request to the President to declare a major disaster.<sup>35</sup>

### Major Disasters

A “major disaster” is any natural catastrophe,<sup>36</sup> 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

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<sup>32</sup> Stafford Act § 501; 42 U.S.C. § 5191.

<sup>33</sup> Stafford Act §§ 102(1) and 103; 42 U.S.C. §§ 5122(1) and 5123.

<sup>34</sup> Stafford Act § 502; 42 U.S.C. § 5192.

<sup>35</sup> Stafford Act § 401; 42 U.S.C. § 5170(b).

<sup>36</sup> Including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought.

Stafford Act to supplement the efforts and available resources of Tribal Nation, state, local and/or territory governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.<sup>37</sup>

The types of assistance that may be available to a Tribal Nation as the result of a major disaster declaration include the full IA program, all damage categories of PA (Categories A-G), HMGP, or a combination of these programs. More information on the Categories of PA is included in **Table 1: PA Categories** below. 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 **Chapter 5: Process to Request Major Disaster Declarations**. More information on the IA, PA, and HMGP programs is also included in **Chapter 3: Who/What is Eligible for Public Assistance and Individual Assistance**.

Under the Stafford Act, FEMA is authorized to provide assistance for emergency protective measures, debris removal, and the repair and replacement of eligible facilities, and to support the disaster-related needs of individual disaster survivors. There are some disaster impacts that FEMA is not authorized to address through the Stafford Act, including assistance for economic impacts or damage to crops or livestock. However, assistance not authorized by the Stafford Act may be authorized for other federal agencies (OFAs).

Below is a list of some OFAs that also have disaster assistance missions that can support Tribal Nations during a disaster:

- U.S. Department of Agriculture;
- U.S. Department of the Interior;
- U.S. Agency for International Development;
- U.S. Department of Health and Human Services;
- U.S. Department of Housing and Urban Development;
- U.S. Environmental Protection Agency;
- U.S. Coast Guard;
- U.S. Small Business Administration;
- U.S. Department of Transportation;

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<sup>37</sup> Stafford Act § 102(2) and 103, 42 U.S.C. § 5122(2) and 5123.

- U.S. Department of the Treasury; and
- U.S. Army Corps of Engineers.

These OFAs often implement their own disaster response or assistance programs pursuant to their applicable authorities, including agency-specific, regulations, and policies. Some authorities are only available when there is a Presidential emergency or major disaster declaration; others may also be made available through another agency’s discretionary authority. The FEMA Administrator generally does not recommend to the President a Stafford Act declaration when the authority to respond to an incident is within the statutory authority of another federal agency.

### 1.3. Fire Management Assistance Grants (FMAG)

The Stafford Act authorizes the President to make certain programs of assistance available to support Tribal Nation, state, and territory efforts to respond to and recover from an incident, typically after all other potential resources have been explored. This guidance does not address Fire Management Assistance Grant (FMAG) declarations and the current regulations and policies for FMAGs are not changed by the updates in this guidance. For more information about FMAGs and their declaration process, refer to the *FEMA Fire Management Assistance Grant Program and Policy Guide*.<sup>38</sup> Additional resources for fire mitigation for Tribal Nations can be found in **Appendix D: Additional Resources, Programs, and References**.

#### **FMAGs and Tribal Nations**

Pursuant to 44 C.F.R. § 204.22, Governors and Governor’s Authorized Representatives (GARs) are the only officials authorized to request FMAG declarations. Tribal Nations are not authorized to make their own direct FMAG declaration request at this time. While Tribal Nations typically receive fire suppression assistance through other federal agencies, they may seek assistance as a recipient or as a subrecipient under a declared FMAG to the extent the requested assistance is not available from another federal source. After a state FMAG declaration is approved, a Tribal Nation may act as a recipient under a state FMAG declaration or it may act as a subrecipient under the state. A Tribal Nation acting as a recipient assumes all responsibilities of a “state” for the purpose of administering the grant as outlined in 44 C.F.R. § 204.

## 2. Tribal Nation Options for Receiving Assistance

Tribal Nations have several options for requesting and receiving FEMA assistance after a disaster. Throughout this guidance, FEMA uses several terms, outlined below, to explain how Tribal Nations

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<sup>38</sup> [Fire Management Assistance Grant Program and Policy Guide](#), FEMA, 2021.



can request and receive assistance depending on the type of declaration and whether they seek assistance through their own declaration or through a state declaration:

- **Recipient:** A recipient is a non-federal entity (i.e., a Tribal Nation) that receives a federal award **directly** from FEMA. Recipients have direct relationships with FEMA. There are two ways that Tribal Nations can become recipients:
  - **Tribal Declaration Recipient:** A Tribal Nation has requested and received their own major disaster or emergency declarations and therefore have a direct relationship with FEMA.
  - **Recipient under a State Declaration:** A Tribal Nation covered under a state declaration can choose to become a recipient through the state declaration, sign a FEMA-Tribe Agreement, and have a direct relationship with FEMA.
- **Subrecipient:** A subrecipient is a non-federal entity (e.g., a Tribal Nation) that receives FEMA assistance in the form of a subaward from a pass-through entity (e.g., a state). While subrecipients can receive technical assistance support from FEMA, they do not have direct funding relationships with FEMA.

### 3. Types of Stafford Act Assistance

#### 3.1. Public Assistance

The PA Program provides funding, typically through reimbursement, for emergency work and/or permanent work, including the repair, replacement, or restoration of disaster-damaged, to Tribal Nation 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.<sup>39</sup>

Emergency work and permanent work are further divided into the seven categories listed in **Table 1**.

**Table 1: PA Categories**

Category	Scope
<b>Emergency Work</b>	
Category A	Debris Removal
Category B	Emergency Protective Measures
<b>Permanent Work</b>	
Category C	Roads and Bridges

<sup>39</sup> Deferred maintenance and damage from other events are not eligible for assistance under Public Assistance.

Category	Scope
Category D	Water Control Facilities
Category E	Buildings and Equipment <sup>40</sup>
Category F	Utilities
Category G	Parks, Recreational, Other

Under emergency declarations, the President of the United States may authorize one or both categories of emergency work (Categories A and B); permanent work assistance (Categories C-G) is not available under an emergency declaration. Under major disaster declarations, the President may authorize some or all categories of emergency work and/or permanent work.

All categories of work generally have a 75% federal and 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 under Tribal Declarations. For further information, see: **Chapter 9, Post-Declaration Activities, Section 4, Cost Share Adjustments.**



#### FEMA PA Resources

For a more detailed overview of the PA Program, review the Public Assistance Program and Policy Guide (FEMA) on the [FEMA PA](#) website.

### 3.1.1. DIRECT FEDERAL ASSISTANCE

PA typically provides reimbursement for the costs associated with eligible work; however, if the Tribal Nation is unable to perform the work itself or contract for the work, the Stafford Act authorizes the federal government to provide direct assistance, also known as Direct Federal Assistance (DFA). Upon request from the Tribal Nation and approval from FEMA, FEMA may direct other federal agencies to conduct eligible emergency work (PA Categories A and B) that the Tribal Nation cannot perform.<sup>41</sup> When FEMA directs other federal agencies to conduct work, it does so through Mission Assignments. Work that may be performed through DFA includes, but is not limited to, debris

<sup>40</sup> This category includes subsistence structures (e.g., fish wheels, fish racks, smoking racks, subsistence cabins, etc.).

<sup>41</sup> See 44 C.F.R. § 206.208, which describes the process for requesting DFA.

removal, search and rescue, and provision of temporary medical facilities. DFA is subject to the same non-federal cost share requirement as other PA-eligible emergency work.<sup>42</sup>



### DFA and Mission Assignment Resources

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

### 3.1.2. STATE DECLARATIONS – TRIBAL RECIPIENT VS. SUBRECIPIENT FOR PUBLIC ASSISTANCE

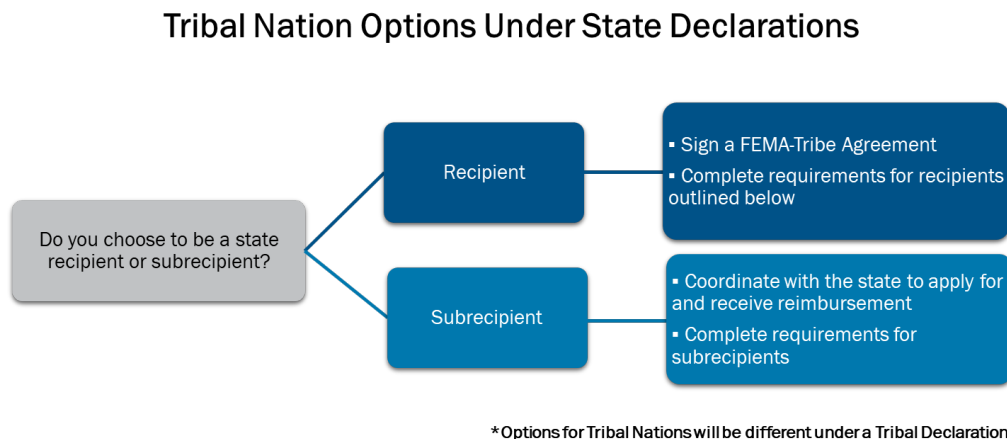
As an alternative to seeking PA under a Tribal Declaration, Tribal Nations may elect to seek PA under a state's request for a major disaster declaration. Tribal Nations that elect to seek PA through a state's request for a major disaster declaration can choose to receive PA either as a recipient or a subrecipient.<sup>43</sup> **Figure 1** outlines some of the different requirements of Tribal Nations acting as a recipient or subrecipient of PA.

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<sup>42</sup> The federal government and Tribal Nations may resolve the non-federal cost share at a later date, potentially months or years after the incident, based on the immediate response and recovery requirements prioritized for the affected communities.

<sup>43</sup> Before deciding whether to be a recipient or subrecipient under a state declaration, Tribal Nations should thoroughly investigate the rules, regulations, and laws that might prevent them from receiving federal funds from the state.

**Figure 1. Tribal Nation Options Under a State Declaration**



### 3.1.3. RECIPIENT

As a PA recipient under a state declaration, a Tribal Nation will be required to sign a FEMA-Tribe Agreement, a formal legal document stating the understandings, commitments, and binding conditions for assistance, will work directly with FEMA, and will be subject to all the requirements of a recipient. These long-standing requirements include:

1. Adherence to all financial and grants management requirements;
2. Ensuring compliance with the Stafford Act, FEMA's regulations, and all other applicable laws;
3. Monitoring any subrecipients.
4. Meeting the non-federal cost share requirement; and
5. Maintaining an approved Tribal Mitigation Plan.<sup>44</sup>

As a recipient, a Tribal Nation is accountable for the statutory and regulatory requirements for all funds dispersed to or through the Tribal Nation for that program. For more information on eligibility and pre-declaration requirements, see **Chapter 3: Who/What is Eligible for Public Assistance and Individual Assistance** and **Chapter 4: Pre-Declaration Considerations and Requirements for Tribal Nations**.

<sup>44</sup> [Tribal Mitigation Plan Review Guide](#), FEMA, 2017.

### 3.1.4. SUBRECIPIENT

As a PA subrecipient, the Tribal Nation will coordinate with the state to apply for assistance and receive reimbursement. The state receives the funding from FEMA and serves as the recipient and completes the above requirements of a recipient and provides additional technical assistance to subrecipients.

## 3.2. Individual Assistance

IA is supplemental assistance which may be provided to individuals and households adversely affected by a major disaster. FEMA recently implemented several reforms to Individual Assistance to improve survivor access to resources, as described below.<sup>45</sup> The President may authorize all or some of the IA programs summarized in **Table 2: Overview of IA Programs**. Pursuant to the Stafford Act, the Individuals and Households Program (IHP) and/or the Crisis Counseling Program (CCP) are the only IA programs that the President may authorize for an emergency declaration. The IHP and CCP are also available in addition to Disaster Unemployment Assistance (DUA), Disaster Legal Services (DLS), and the Disaster Case Management (DCM) Program under major disaster declarations.

The Tribal Nation may choose which IA programs best meet their recovery needs and request specific IA program components or all IA programs.



### Resources on FEMA IA Programs

For more information on each IA program, including program requirements, relevant timelines, and eligibility considerations, refer to the Individual Assistance Program and Policy Guide (IAPPG) (FEMA)<sup>46</sup> on the [FEMA IA](#) website.

If the President authorizes IHP for a major disaster declaration, then the forms of assistance listed below in this table are available if selected by the Tribal Chief Executive during the declaration request. **Table 2: Overview of IA Programs** is not a full list of IA programs; a full list can be found in the IAPPG linked above.

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<sup>45</sup> For more information about the reforms to IA, please visit [Reforming Individual Assistance: New Benefits and Streamlined Processes to Help Disaster Survivors | FEMA.gov](#) and the [2024 IA Program Updates: FEMA Tribal One Pager](#).

<sup>46</sup> In March 2024, FEMA updated the IA program to reduce barriers for disaster survivors seeking assistance. More information on these updates can be found in the FEMA Press Memo: [FEMA Press Memo: Biden-Harris Administration Reforms Disaster Assistance Program to Help Survivors Recover Faster](#) and in the [FEMA Reforms Disaster Assistance to Help Disaster Survivors across Indian Country Fact Sheet](#).

**Table 2: Overview of IA Programs**

Program	Description	
Individuals and Households Program	<p>Individuals and Households Program (IHP) assistance provides financial or direct services to eligible individuals and households who have uninsured or underinsured necessary expenses and serious needs as a result of a Presidentially declared disaster. IHP assistance comprises two provisions, Housing Assistance and Other Needs Assistance (ONA).</p> <p>After the President authorizes the IHP, disaster survivors must apply for the program before they can receive assistance. Disaster survivors <b>may not</b> receive assistance through multiple declarations for the same incident and Tribal Nations have the authority to identify who their tribal community members are for eligibility for IA assistance.</p>	
	Housing Assistance	Other Needs Assistance
	<p>Housing Assistance<sup>47</sup> may be provided in the form of financial assistance (funds provided to an applicant) or direct assistance (housing provided to the applicant by FEMA). Examples of financial assistance include Lodging Expense Reimbursement, Rental Assistance, Home Repair Assistance, and Home Replacement Assistance. Examples of direct assistance include Multi-Family Lease and Repair; Transportable Temporary Housing Units such as Recreational Vehicles or Manufactured Housing Units; Direct Lease; and Permanent Housing Construction. There is <b>no Tribal cost share requirement</b> for Housing Assistance.</p>	<p>Types of ONA include Serious Needs Assistance, Clean and Sanitize Assistance, Displacement Assistance, Child Care Assistance, Medical and Dental Assistance, Personal Property Assistance, Moving and Storage Assistance, Transportation Assistance, Funeral Assistance, and Assistance for Miscellaneous Expenses.</p> <p>Financial assistance provided through ONA has a <b>75% federal-25% non-federal cost share</b> as mandated by the Stafford Act, which the President cannot waive or adjust. The Tribal Nation pays the non-federal cost share, not the individuals who receive ONA.</p>
Disaster Unemployment Assistance	<p>The Disaster Unemployment Assistance (DUA) program 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.</p> <p>For Tribal Nations receiving a declaration, the DUA program is administered through the state in which the tribal headquarters is located. Any approved</p>	

<sup>47</sup> When providing housing assistance, FEMA understands that Tribal Nations may live in geographic areas without hotels or motels, and FEMA may provide assistance for individuals to travel to hotels/motels in such circumstances.



Program	Description
	<p>funding is processed through the same state or territorial workforce agency that processes regular unemployment insurance claims.</p> <p>There is <b>no tribal cost share requirement</b> for DUA.</p>
Disaster Legal Services	<p>The Disaster Legal Services (DLS) program 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: 1) assistance with insurance claim for loss of life; 2) drawing up new wills and other legal papers lost in the disaster; 3) assistance with insurance claims for doctor and hospital bills and loss of property; 4) advice on problems with landlords; and 5) assistance with home repair contracts and contractors.</p> <p>The Tribal Nation will need to administer DLS through the American Bar Association (ABA). If FEMA is administering DLS on behalf of the Tribal Nation, then the Tribal Nation must also administer DLS through the ABA.</p> <p>There is <b>no tribal cost share</b> for DLS.</p>
Crisis Counseling Assistance and Training Program <sup>48</sup>	<p>The Crisis Counseling Assistance and Training Program (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 an emergency or major disaster by the President. The Center for Mental Health Services, within the Substance Abuse and Mental Health Services Administration, 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 Nations must comply with 2 C.F.R. part 200 and 44 C.F.R. § 206.171.</p> <p>Supplemental funding for crisis counseling is available to designated tribal authorities through two grant mechanisms: (1) the Immediate Services Program which provides funds for up to 60 days of services immediately following a disaster declaration; and (2) the Regular Services Program which provides for up to nine months of services following a Presidential disaster declaration.</p> <p>There is <b>no tribal cost share</b> for CCP.</p>
Disaster Case Management Program	<p>The Disaster Case Management (DCM) program, in partnership with the affected Tribal Nation, 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.</p>

<sup>48</sup> For more information on FEMA's Crisis Counseling Program, please review [Tribal Access to Crisis Counseling Programs Factsheet \(fema.gov\)](#).

Program	Description
	<p>This program 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 medical needs, 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.</p> <p>There is <b>no tribal cost share</b> for DCM.</p>

### 3.3. Hazard Mitigation Grant Program (HMGP)

The HMGP provides Tribal Nations, state, local, and territorial 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 Nation acting as a recipient<sup>49</sup> 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. An Enhanced Tribal Mitigation Plan will allow for increased mitigation funding of up to 20%.<sup>50</sup> Additionally, only areas listed in the FEMA-approved Tribal Mitigation Plan may be eligible for projects.

When a Tribal Nation seeks and receives HMGP assistance through the state, it has the option to do so as a recipient or a subrecipient. If a Tribal Nation elects to be a recipient, they must sign a FEMA-Tribe Agreement (FTA) and must accept all responsibilities of a recipient. As a recipient under a state declaration, a Tribal Nation must have an approved Tribal Mitigation Plan.<sup>51</sup> The Tribal Nation has 90

<sup>49</sup> See Hazard Mitigation Assistance Program and Policy Guide 2024 at Part 10.A.3 – A.4.

<sup>50</sup> Tribal Nations with ongoing efforts to proactively implement a comprehensive mitigation program may want to pursue enhanced status with an Enhanced Tribal Mitigation Plan. Enhanced status results in eligibility for increased HMGP funding. Enhanced tribal plans must meet the standard plan requirements and demonstrate integrated planning, strong mitigation capabilities, and thorough grants management performance. Additional information about enhanced plan requirements is found in [Section 3 of the Tribal Mitigation Plan Review Guide](#).

<sup>51</sup> 44 C.F.R. § 201.7.

days after signing the FTA for both types of HMGP grants: planning grants and project grants.<sup>52</sup> If the Tribal Nation cannot get its plan complete in 90 days, it may request a 30-day extension.

A Tribal Nation can request HMGP assistance as a subrecipient through the state before they have an approved Tribal Mitigation Plan, but they will not be able to receive any funding for projects until a Tribal Mitigation Plan has been approved by FEMA.<sup>53</sup> Tribal Nations participating as a subrecipient under a state declaration may receive HMGP funds for planning grants without a Tribal Mitigation Plan. The FEMA Regional Administrator may grant an exception to the plan requirements for subrecipients in extraordinary circumstances when the appropriate justification is provided; in these cases, a plan must be completed within 12 months of the award of the project grant or the project grant will be closed.<sup>54</sup> If a plan is not provided within this timeframe, the project grant will be closed, and any costs incurred after notice of the grant's close will not be reimbursed by FEMA.<sup>55</sup>

A Tribal Nation that requests and receives a major disaster declaration will be the recipient for the HMGP. In addition to the Tribal Nation, private nonprofit organizations that provide an essential government service, as defined in 44 C.F.R. § 206.221(e) and that are doing business under Tribal Nation law may apply for the HMGP assistance through the Tribal Nation.



#### FEMA HMGP Resources

- For more information on HMGP eligibility and administrative requirements, reference the Hazard Mitigation Assistance Program and Policy Guide (FEMA) on the [Hazard Mitigation Assistance Grants](#) website.

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<sup>52</sup> See [Hazard Mitigation Assistance Program and Policy Guide 2024](#).

<sup>53</sup> 44 C.F.R. § 206.434(b)(1)

<sup>54</sup> 44 C.F.R. § 201.6(a)(3), 44 C.F.R. § 201.7(a)(2).

<sup>55</sup> *Id.*

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# Chapter 3: Who/What is Eligible for Public Assistance and Individual Assistance

Through the Public Assistance (PA) program, FEMA provides supplemental federal grant assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities and specific facilities for private non-profit organizations. FEMA's Individual Assistance (IA) Program provides assistance to individuals, households, and governments during emergency and major disaster declarations, aimed to support individual survivors.

The following chapter outlines the different eligibility criteria and responsibilities of Tribal Nations and applicants for both PA and IA. This information can be used to help Tribal Nations determine what kinds of assistance they require for their specific disaster needs and what criteria they must meet to receive PA and/or IA.

## 1. Public Assistance Eligibility

If a Tribal Nation receives an emergency declaration, they may be eligible for the following categories of PA:

- Category A: Debris removal activities that the Tribal Nation has legal responsibility to perform.
- Category B: Emergency protective measure activities (e.g., sheltering, feeding, search and rescue, evacuations) performed by the Tribal Nation:
  - This includes emergency assistance provided to individuals affected by the event (i.e., tribal community members).
  - This includes debris clearance, when the incident causes damage or debris blockage to access routes to an essential community service or to a community with survivors.<sup>56</sup>

If a Tribal Nation receives a major disaster declaration, they may be eligible for the same categories available under an emergency declaration (Categories A and B), in addition to the following categories of PA:

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<sup>56</sup> Debris clearance is the clearance of debris to allow passage only. It does not include hauling and disposing of debris. Debris removal (Category A) includes hauling and disposing of debris at a temporary or final disposal site.

- Categories C-G: Damage to roads and bridges, facilities, and spiritual and cultural assets for which the Tribal Nation has legal responsibility, including water control facilities, tribal public buildings and equipment, tribal utilities, parks, recreational, and other facilities.

Assistance for these categories of work may also be available for private nonprofit organizations structured or doing business under Tribal Nation law that has PA eligible damage.<sup>57</sup>

FEMA recognizes that Tribal Nations' lands and jurisdictions may overlap with state or local government owned or operated facilities. FEMA also recognizes that Tribal Nations often support state or local government owned or operated facilities that are located within or cross Tribal Nation lands, such as roads, bridges, and waterways, etc. While Tribal Nations usually cannot be reimbursed for repairing damage to state and local government-owned or government-operated facilities under tribal declarations, FEMA can provide funding under a Tribal Declaration where joint legal responsibility can be established or where it is demonstrated that there is an impact to public safety, public health, or the tribal economy. This can be established through the following records:

- A lease or form of agreement where the Tribal Nation is responsible for repairing the disaster damages;
- A record of regular maintenance by the Tribal Nation for the facility or infrastructure that solely supports the Tribal Nation that demonstrates the joint legal responsibility of the Tribal Nation, the state and/or local government; or
- A damage assessment or other documentation that displays the damage to the state or local government facility impacts public safety, health or the tribal economy when an agreement or record of regular maintenance does not exist.

### **1.1. Reimbursement through Mutual Aid Agreements and Memoranda of Understanding**

Tribal Nations with an emergency or major disaster declaration may also be reimbursed for assistance received from other jurisdictions through a mutual aid agreement (MAA) or a memorandum of understanding (MOU).<sup>58</sup> Both MAAs and MOUs are essential mechanisms for facilitating the sharing of resources and assistance between different jurisdictions during and after incidents.

The preference is that the MAA and MOU are written and agreed to by the participating jurisdictions before a disaster strikes. However, if there is no pre-existing written agreement, or if the existing

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<sup>57</sup> See 44 C.F.R. § 206.2(19) for the definition of a private nonprofit organization. Note that the Tribal Nation may provide the evidence required by 44 C.F.R. § 206.2(19).

<sup>58</sup> See [Recovery Program Enhancements to Support Tribal Nations](#), 2023.



agreement is silent on reimbursement, they are not precluded from engaging in mutual aid activities eligible for reimbursement through PA.<sup>59</sup>

In such situations, these entities can enter into a verbal agreement to define the resources to be provided and to establish the terms, conditions, and costs of the assistance to be rendered.<sup>60</sup> This allows flexibility in responding to the incident's specific needs.



## FEMA PA Resources

For the most up to date information on PA, refer to the [FEMA PA](#) website.

## 2. Individual Assistance Eligibility

Generally, eligibility for the IA program is limited to tribal community members—meaning, anyone the Tribal Nation designates as being a member of their community—including but not limited to—tribal members, tribal citizens, tribal descendants, tribal employees, non-tribal members, or non-Natives who reside in the home located within the tribal jurisdictional boundaries. Tribal Nations may also have the option to extend eligibility to include tribal community members living outside of Tribal Nation lands who were impacted by the same disaster. Tribal Nations 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 (PDAs) and the post-declaration FEMA housing inspection process, Tribal Nations should identify affected individuals and households by these categories to aid the Tribal Nation and FEMA in planning and decision making. Once the Tribal Nation has identified to FEMA that an applicant is a tribal community member, absent extraordinary circumstances such as fraud, waste or abuse, FEMA will not change that determination.

Tribal Nations should specify the categories of individuals to be considered for IA eligibility and assist FEMA in confirming that applicants belong to those categorizations. Once FEMA approves an IA declaration, assistance is almost immediately available and gaps in information can hinder aid. Providing the information as soon as possible will streamline the process for all parties involved.

The following general conditions must be met for an applicant to be eligible to receive Individuals and Households Program (IHP) assistance:<sup>61</sup>

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<sup>59</sup> See [Recovery Program Enhancements for Tribal Nations](#), 2023.

<sup>60</sup> For more information about the verbal agreement, please view the [Public Assistance Program and Policy Guide Version 4](#) (FEMA, 2020) and the [2023 Recovery Enhancements for Tribal Nations](#).

<sup>61</sup> Stafford Act §408; 42 U.S.C. §5174; 44 C.F.R. § 206.113.

- The applicant must be a U.S. citizen, U.S. national, or qualified alien.<sup>62</sup>
- FEMA must be able to verify the applicant's identity.<sup>63</sup>
- The applicant's insurance, or other forms of disaster assistance received, cannot meet the applicant's disaster-caused needs.<sup>64</sup>
- The applicant's necessary expenses are serious needs and directly caused by a declared disaster.<sup>65</sup>

An individual or household may not apply for or receive assistance through both a Tribal Nation and state declaration for the same event. If an individual or household applies for assistance under the Tribal Nation's declaration, they will be ineligible for assistance through the state's declaration, and vice versa.



### FEMA IA Resources

For the most up to date information on IA, refer to the [FEMA IA](#) website.

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<sup>62</sup> Qualified alien is defined in 8 U.S.C. § 1641.

<sup>63</sup> Stafford Act § 408(i); 42 U.S.C. § 5174(i).

<sup>64</sup> Stafford Act § 408(a)(1), 42 U.S.C. § 5174(a)(1). Disaster Operations Legal Reference, Version 2.0, Department of Homeland Security, June 1, 2013.

<sup>65</sup> *Id.*

# Chapter 4: Pre-Declaration Considerations and Requirements for Tribal Nations

## 1. Considerations Prior to a Declaration Request

Before requesting a declaration, Tribal Nations may consider whether to seek assistance on their own or to be included in a state declaration.

For emergency declarations or major disaster declarations, Tribal Nations have the option to seek assistance:

- By **requesting a declaration**: Each Tribal Nation has the option of requesting an emergency declaration or major disaster declaration directly from the President through FEMA.
- As a **recipient under a state declaration**: Each Tribal Nation has the option of signing a FEMA-Tribe Agreement and becoming a recipient under the state declaration with a direct relationship with FEMA.
- As a **subrecipient under a state**: A Tribal Nation may have the option to be a subrecipient under a state's federally declared emergency or major disaster declaration. In this case, a State-Tribal Agreement may be required, as dictated by applicable state laws.

### 1.1. Minimum Damage Amount for Public Assistance

Absent extraordinary circumstances, FEMA will consider a declaration request for Public Assistance (PA) from a Tribal Nation only if it is determined that the Tribal Nation sustained at least \$100,000 in PA-eligible estimated damage or cost.<sup>66</sup> If a Tribal Nation sustains damage or costs that meet or exceed the \$100,000 minimum damage amount and cannot identify resources to meet those needs, then a Tribal Nation can request a Joint Preliminary Damage Assessment (PDA).

This amount does not constitute an automatic approval for a declaration request, rather it is the minimum damage amount for which a request for a major disaster declaration will be considered. More information of declaration factors can be found in **Chapter 6: FEMA Criteria for Recommending Major Disaster Declarations**.

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<sup>66</sup> Section 1110 of Pub. L. 113-2, 127 Stat. 47 (2013).

## 1.2. Tribal Mitigation Plan Requirement

A FEMA-approved Tribal Mitigation Plan is required when a Tribal Nation request a Presidential declaration on its own or serves as a state recipient prior to receiving Hazard Mitigation Grant Program (HMGP) assistance or PA permanent work (Categories C-G). For a complete description of the PA permanent work categories C-G, refer to **Table 1: PA Categories**.

If electing to be a subrecipient under a state, then the Tribal Nation may be eligible to receive PA permanent work through the state without a Tribal Mitigation Plan. In addition, a Tribal Nation participating as a subrecipient under a state may be eligible to receive HMGP funds for planning grants without a FEMA-approved Tribal Mitigation Plan. However, the Tribal Nation as a subrecipient will have to receive planning grant funding through the state and will not be able to receive the funding directly from FEMA. In general, the Tribal Nation must have an approved Tribal Mitigation Plan to receive HMGP project grants. However, in extraordinary circumstances,<sup>67</sup> an exception to the Tribal Mitigation Plan requirement for HMGP project grants may be approved by the FEMA Regional Administrator. The FEMA Regional Administrator may grant an exception to the plan requirement for subrecipients in extraordinary circumstances when the appropriate justification is provided;<sup>68</sup> in these cases, a plan must be completed within 12 months of the award of the project grant or the project will be closed.<sup>69</sup> If a plan is not provided within this timeframe, the project grant will be closed, and any costs incurred after notice of the grant's closure will not be reimbursed by FEMA.<sup>70</sup> See **Section 2, Subsection 3.1 Plan Requirements** and **Table 4: Plan Requirements for Tribal Nations Under Different Declaration Options** for the specific timelines and details for different declaration options for Tribal Nation recipients and subrecipients.



### FEMA Hazard Mitigation Resources

For more information, refer to the Hazard Mitigation Assistance Program and Policy Guide (FEMA) on the [Hazard Mitigation Assistance Grants](#) website.

## 1.3. Impacts

The Tribal Nation may consider whether the impacts from the incident are consistent with the FEMA factors needed to make recommendations to the President on whether to make Stafford Act

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<sup>67</sup> For more information on extraordinary circumstances, please view Section C.2.1. Extraordinary Circumstances of the [Hazard Mitigation Assistance Program and Policy Guide \(FEMA, 2023\)](#).

<sup>68</sup> *Id.*

<sup>69</sup> 44 C.F.R. §§ 201.6(a)(3) and 201.7(a)(2).

<sup>70</sup> *Id.*

assistance available. The Tribal Nation may consider whether unmet needs can be addressed more efficiently by other resources, such as insurance, non-governmental organizations (NGOs), or assistance from other Tribal Nations and/or organizations, state or local governments, or other federal agencies. The Stafford Act addresses immediate threats to life, safety, and damaged facilities and housing. Therefore, events resulting in purely economic impacts are unlikely to receive Stafford Act declarations but may be eligible for disaster declarations under other federal authorities. Examples of this include damage to the stumpage value of timber resources, damage to privately owned businesses and related property, and damage to the value of privately owned food crops and livestock.<sup>71</sup>

#### **1.4. Non-Federal Cost Share Requirement for Stafford Act Assistance**

The Tribal Nation that requests a Stafford Act declaration must certify that it will cover the non-federal cost share.<sup>72</sup> PA, the Other Needs Assistance (ONA) provision of Individual and Households Program (IHP) under IA, and the HMGP have a non-federal cost share. Further information regarding cost share requirements and adjustments can be found in **Chapter 9, Section 4: Cost Share Adjustments**. After the President declares an emergency or major disaster declaration for a state, some states cover part of or all of the cost share for PA and HMGP subrecipients, including Tribal Nations. If a Tribal Nation is considering becoming a subrecipient or recipient under a state declaration, the Tribal Nation should discuss with states if they will pass the cost share on to the Tribal Nation, the extent to which they will fund the non-federal share, and the potential benefits. If a Tribal Nation is included under the state designation for IA, the state is responsible for the non-federal share for IA ONA to FEMA.

#### **1.5. Compliance with Records Management and Auditing Requirements**

If the Tribal Nation receives a Presidential declaration, then the Tribal Nation will be responsible for the distribution and oversight of grant funding that FEMA obligates to the disaster. As such, the Tribal Nation must have the capability to function as a recipient and manage recipient responsibilities under federal laws and regulations. For more information, see 2 C.F.R. Part 200. Failure to comply with grants management requirements may result in the de-obligation of funding.

#### **1.6. Staffing Needs After a Declaration**

The Tribal Nation will need staff to partner with FEMA to administer PA and the HMGP and support the implementation of Individual Assistance (IA) programs. Specifically, the Tribal Nation will need

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<sup>71</sup> For an example of disaster declaration resources provided by other federal authorities, view the [U.S. Department of Agriculture \(USDA\) Disaster Resource Center](#).

<sup>72</sup> Stafford Act § 401; 42 U.S.C. § 5170.

staff to develop PA projects, participate in environmental and historic preservation reviews, identify, and implement eligible mitigation projects, and submit grant applications for desired IA programs. Tribal Nations must also identify a Hazard Mitigation Officer to administer the HMGP,<sup>73</sup> and for those Tribal Nations that participate in the National Flood Insurance Program, a Floodplain Manager can assist with post-event development in the floodplains.

## 2. Available Technical Assistance and Regional Resources

FEMA encourages Tribal Nations to coordinate with the appropriate FEMA Regional Administrator when they consider whether to request a declaration. Regional Administrators and their Tribal Affairs teams and program staff can provide, at no cost, technical assistance and guidance to Tribal Chief Executives and Tribal Nations throughout the declaration process. Specifically, the FEMA Region can provide the Tribal Nation with the information tribal leadership needs to assist them in making their determination on whether to request assistance under the Stafford Act directly as a Tribal Nation, independent of a state request, and if the Tribal Nation's request for Stafford Act assistance would meet the legal requirements to be processed internally with FEMA.<sup>74</sup> In advance of an incident, the Tribal Nations may request and 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 requested technical assistance may include, but is not limited to:

- Training for tribal leaders and staff;
- Quarterly reviews of tribal plans (e.g., PA plans, Tribal Mitigation Plans);
- Mutual aid agreements (MAA), memorandum of understanding (MOU);
- ONA Administrative Option Selection Forms;
- Providing sample and template documents to the Tribal Nations;
- Reviewing Tribal Nation drafts of documents; and
- Providing planning assistance, procurement guidance, legal guidance, financial guidance, and providing other information relating to administrative requirements.

Available technical assistance also includes FEMA assistance from Regional Disability Integration Specialists and Disability Integration Advisors from the Office of Disability Integration and Coordination Cadre, or Civil Rights Advisors from the Office of Equal Rights' Civil Rights Cadre to help

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<sup>73</sup> See 44 C.F.R. § 206.433; [Hazard Mitigation Assistance Program and Policy Guide](#) 2024.

<sup>74</sup> Tribal Nations can find more information about what is required in a Stafford Act request in Chapter 5.

authorized Tribal Nation representatives identify and meet the needs of all people with disabilities and other people who have access and functional needs, to allow their participation in Stafford Act assistance.

At any time prior to, during, and after a Tribal Declaration request, Tribal Nations may request from the Regional Administrator the deployment of a Tribal Liaison Officer (TLNO), when available, to provide direct, onsite technical assistance. TLNOs are a critical resource, often a person who is already known to the Tribal Nation, for onsite technical assistance while a Tribal Nation is weighing their options and organizing a potential request.

All documents referenced in this guidance may be obtained via email or postal mail by contacting FEMA Regional Tribal Liaisons or Tribal FEMA Integration Teams (FITs). Information on other training and technical resources such as the Center for Domestic Preparedness' Tribal Nations Training Week, Emergency Management Institute's Tribal Curriculum, personalized training for the Tribal Nation, and other FEMA training may also be obtained by contacting and coordinating with FEMA Regional Tribal Liaisons and Tribal FITs.

Tribal Nations are encouraged to collaborate with their Regional Administrators and Regional Tribal Liaisons to identify available resources prior to, in anticipation of, and post-impact an incident. The FEMA Region is in the unique position to assist in identifying available regional resources that may be more readily available compared to other out-of-region federal resources after an incident which may fit the needs of the Tribal Nation more efficiently, based on the size of the incident.



#### FEMA Regional Resources

For more information on regional resources, contacts, and Regional Tribal Liaisons, visit [FEMA's Tribal Affairs Contact Page](#). Tribal Nations can also find additional information about FEMA tribal disaster declaration resources, grants, mitigation planning resources, and tribal consultations by visiting the [FEMA Tribal Affairs Hub](#).

### 3. Evaluating Assistance Options

Selecting a choice among available options for requesting a major disaster or emergency declaration depends on several factors, summarized in **Table 3: Evaluating Assistance Options**. Table 3 does not encompass all considerations that a Tribal Nation may evaluate before deciding which option to choose.

**Table 3: Evaluating Assistance Options**

	<b>Tribal Declaration</b>	<b>State Declaration when Tribal Nation is a <u>Recipient</u></b>	<b>State Declaration when Tribal Nation is a <u>Subrecipient</u><sup>75</sup></b>
<b>Who receives the Declaration Letter from the President?</b>	Tribal Nation receives letter from the President.	State receives letter from the President.	State receives letter from the President.
<b>Who pays the non-federal cost share (25%) for PA/HMGP?</b>	25% paid by Tribal Nation.*	25% paid by Tribal Nation.*	The state, as a recipient for PA and HMGP, determines how the 25% cost share is passed through to the Tribal Nation. The Tribal Nation may be able to discuss this arrangement with the state prior to deciding whether to be a recipient or subrecipient.
<b>Who pays the non-federal cost share (25%) for IA ONA?</b>	25% paid by the Tribal Nation.	If a Tribal Nation is included under the state designation for IA, the state is responsible for the non-federal share for IA ONA to FEMA.	If a Tribal Nation is included under the state designation for IA, the state is responsible for the non-federal share for IA ONA to FEMA.
<b>Is a FEMA-Tribe Agreement required?</b>	YES.	YES (Will not apply to state).	NO. All subrecipients are covered by the FEMA-State Agreement as a local entity.  There may also be a State-Tribal Agreement, as required by applicable laws.

<sup>75</sup> Some states, based on state law, do not allow pass through of federal funding to Tribal Nations and will not take on a Tribal Nation as a subrecipient.



	<b>Tribal Declaration</b>	<b>State Declaration when Tribal Nation is a <u>Recipient</u></b>	<b>State Declaration when Tribal Nation is a <u>Subrecipient</u><sup>75</sup></b>
<b>Is a FEMA-State Agreement required?</b>	NO.	YES (Will not apply to Tribal Nation recipient).	YES (There may also be a State-Tribal Agreement).
<b>What is the Public Assistance Minimum Damage Amount?</b>	\$100,000 minimum damage amount to request a Joint PDA.	State subject to \$1 million minimum damage amount, in addition to a per capita indicator that is updated annually.	State subject to \$1 million minimum damage amount, in addition to a per capita indicator that is updated annually.
<b>Who will the Federal Coordinating Officer (FCO) work with?</b>	FCO works directly with the Tribal Coordinating Officer (TCO) / Tribal Chief Executive's Authorized Representative.	One FCO will be designated to work with the State Coordinating Officer and the Tribal Chief Executive's Authorized Representative.  As a tribal recipient, the Tribal Nation will designate a respective TCO and Tribal Chief Executive's Authorized Representative to coordinate with FCO.	One FCO, one State Coordinating Officer, and a Governor's Authorized Representative will work with all entities under the disaster declaration.  As a subrecipient the Tribal Nation will not have a separate FCO designated.  The FCO designated for the State declaration remains the Regional Administrators representative for addressing Nation-to-Nation communication requirements and is responsible for ensuring assistance is provided to Tribal Nations.

\*Tribal Nations can seek cost share adjustments based on their specific disaster circumstances. Tribal Nations who are recipients under a state declaration, are able to seek their own federal cost share adjustments separately from the state. However, Tribal Nations that are subrecipients under a state declarations are not able to seek their own cost share adjustments separately from the state. See: **Cost Share Adjustments** for further information.

In addition, Tribal Nations 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 Nations that want to be considered part of a state's Joint PDA or declaration request should work with the Regional Administrator and Recovery office in the Region in which the requesting state is located.

### 3.1. Plan Requirements

The various plan requirements for Tribal Nations serving as a recipient under a Tribal Nation Declaration, a recipient under a state declaration, or a subrecipient under a state declaration are summarized below in **Table 4**. None of the plans are required to request a disaster declaration or to apply for the respective programs. They are required before funding can be provided. If a Tribal Nation does not have any of these plans in place, FEMA will work with the Tribal Nation to help develop the plan before the appropriate deadlines.

**Table 4: Plan Requirements for Tribal Nations Under Different Declaration Options**

	Tribal Declaration	State Declaration when Tribal Nation is a Recipient	State Declaration when Tribal Nation is a Subrecipient
Programs	Plans required	Plans required	Plans required
<i>PA Emergency Work (Cat A-B)</i>	N/A	N/A	N/A
<i>PA Permanent Work (Cat C-G)</i>	✓ Tribal Mitigation Plan ✓ PA Administrative Plan	✓ Tribal Mitigation Plan ✓ PA Administrative Plan	N/A
<i>HMPG Planning Grant</i>	✓ Tribal Mitigation Plan ✓ HMGP Administrative Plan	✓ Tribal Mitigation Plan ✓ HMGP Administrative Plan	N/A
<i>HMGP Project Grant</i>	✓ Tribal Mitigation Plan ✓ HMGP Administrative Plan	✓ Tribal Mitigation Plan ✓ HMGP Administrative Plan	✓ Tribal Mitigation Plan
<i>Housing Assistance</i>	N/A	N/A	N/A
<i>ONA (FEMA Administered)</i>	✓ ONA Administrative Option Selection Form	N/A	N/A
<i>ONA (Joint or Tribal Nation Administered)</i>	✓ ONA Administrative Option Selection Form	N/A	N/A

	✓ Tribal Nation Administrative Plan <sup>76</sup>		
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### 3.2. Tribal Mitigation Plan

In the event of a declared disaster, a recipient Tribal Nation must have a FEMA-approved Tribal Mitigation Plan that meets the requirements in 44 C.F.R. § 201.7 to receive disaster funding for HMGP and PA Categories C-G. A Tribal subrecipient under a state declaration must also have an approved Tribal Mitigation Plan to receive funding for HMGP Projects.<sup>77</sup> The Tribal Nation does not need to have an approved Tribal Mitigation Plan to receive PA Categories C-G funding or Hazard Mitigation Planning grants when choosing to be a subrecipient under a state declaration.



#### Mitigation Plan Requirement Resources

See **Table 5: Mitigation Plan Requirements for FEMA Grant Funding** and for additional information on the planning requirement, and see the Hazard Mitigation Assistance Program and Policy Guide (FEMA) on the [Hazard Mitigation Assistance Grants](#) website.

**Table 5: Mitigation Plan Requirements for FEMA Grant Funding**

FEMA Assistance Program	Is a Tribal Mitigation Plan Required?		
	Tribal Declaration	State Declaration when Tribal Nation is a Recipient	State Declaration when Tribal Nation is a Subrecipient
<a href="#">Individual Assistance</a>	No	No	No
<a href="#">Public Assistance</a> Categories A and B (e.g., debris removal, emergency protective measures).	No	No	No
<a href="#">Public Assistance</a> Categories C through G (e.g., repairs to damaged infrastructure, publicly owned buildings).	Yes	Yes	No

<sup>76</sup> The IA ONA Administrative Plan should not be confused with the ONA Administrative Option Selection Form. When a Tribal Nation selects the joint or Tribal Nation option in its ONA Administrative Option Selection Form, it is required to have an approved ONA Administrative Plan to help administer the program.

<sup>77</sup> 44 C.F.R. § 201.7.

FEMA Assistance Program	Is a Tribal Mitigation Plan Required?		
	Tribal Declaration	State Declaration when Tribal Nation is a Recipient	State Declaration when Tribal Nation is a Subrecipient
<a href="#">Fire Management Assistance Grants</a>	N/A	Yes	No
<a href="#">Hazard Mitigation Grant Program</a> Planning Grant	Yes	Yes	No
<a href="#">Hazard Mitigation Grant Program</a> Project Grant	Yes	Yes	Yes

The development or an update of a mitigation plan may take considerable time as well as financial resources. Therefore, Tribal Nations should include the development and maintenance of a Tribal Mitigation Plan as an essential part of a Tribal Nation's pre-disaster preparations and resilience planning.

If a Tribal Nation still does not have an approved plan at the time of the Tribal Declaration, the President may authorize assistance under the HMGP and PA Categories C-G in the declaration. However, FEMA will not obligate funds for PA Categories C-G and the HMGP until the Tribal Nation has a FEMA-approved Tribal Mitigation Plan. A Tribal Nation has 90 days after the declaration to submit an approved plan. An "approved plan" is a Tribal Mitigation Plan that a Tribal Nation has adopted, and FEMA has reviewed and approved. If a Tribal Nation is unable to submit an approved plan within 90 days of the declaration, then a Tribal Nation may request an extension of up to 30 additional days. If an extension is needed, then the Tribal Nation 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. Applicants should request the extension before the initial 90-day period expires.

During this period of up to 120 days, a Tribal Nation may work with FEMA to develop PA project worksheets or applications for the HMGP. However, if no Tribal Mitigation Plan is submitted, adopted, and approved within this timeframe, then FEMA will stop work on any PA Category C-G 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 Nation for the disaster, and FEMA will not reimburse a Tribal Nation for costs associated with the development of PA project worksheets or applications for HMGP funding.

Tribal Nations 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.<sup>78</sup>



### Mitigation Planning Resources

For information on enhanced mitigation plan requirements, reference the [Tribal Mitigation Plan Review Guide \(FEMA\)](#).

## 3.3. Public Assistance Administrative Plan

Tribal Nations must develop a disaster-specific PA Administrative Plan after the President declares an emergency or major disaster authorizing PA. Tribal Nations do not need an Administrative Plan to receive a declaration, but they must have one to receive federal financial assistance.<sup>79</sup> A Tribal Nation that has received its own declaration authorizing PA are strongly encouraged to submit an updated administrative plan to the FEMA regional office every year. The annual submission ensures the Tribal Nation has an updated plan on file should the Tribal Nation receive another Presidential declaration authorizing PA.<sup>80</sup> The Tribal Nation will submit a disaster-specific PA administrative plan for each new Tribal Nation declaration. The Tribal Nation may request technical assistance, at no cost, from the regional office to develop this plan, both before and after a declaration. The administrative plan must:<sup>81</sup>

- Designate the tribal agency which will function 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.

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<sup>78</sup> 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.

<sup>79</sup> 44 C.F.R. § 206.207(b); See also Public Assistance Program and Policy Guide, Version 4, 2020.

<sup>80</sup> Tribal Nations that serve as PA subrecipients or recipients under state declarations are encouraged to submit a PA Administrative Plan annually.

<sup>81</sup> 44 C.F.R. § 206.207(b); [Public Assistance Program and Policy Guide, Version 4](#), 2020.

While a PA Administrative Plan is not required for a Tribal Nation to receive a disaster declaration, FEMA cannot obligate PA funding to a Tribal Nation until this disaster-specific plan is signed by the Tribal Chief Executive or Tribal Chief Executive's Authorized Representative and approved by FEMA.<sup>82</sup>



### PA Administrative Plan Requirement Resources

If Tribal Nations elect to be a recipient under a state declaration, the Tribal Nation must also submit a PA Administrative Plan to FEMA to receive PA. For more information, see [Public Assistance Project Templates and Forms](#).

## 3.4. Hazard Mitigation Grant Program Administrative Plan

The HMGP Administrative Plan is a procedural guide that details how the Tribal Nation recipient will administer its HMGP. Tribal Nation recipients under a Tribal Declaration and Tribal Nation recipients under a state declaration must have a current HMGP Administrative Plan approved by FEMA before HMGP funds can be obligated.<sup>83</sup> The HMGP Administrative Plan may become an annex or chapter of the Tribal Nation's overall emergency response and operations plan or comprehensive mitigation program strategy.

At a minimum, the HMGP Administrative Plan must:<sup>84</sup>

- Designate the tribal agency that will function 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.

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<sup>82</sup> 44 C.F.R. § 206.207.

<sup>83</sup> 44 C.F.R § 201.7(a)(1).

<sup>84</sup> 44 C.F.R § 206.436. See [Hazard Mitigation Assistance Program and Policy Guide](#), 2024.

The Tribal Nation may request technical assistance from the Regional Office to develop this plan, both before and after a declaration.

### **3.5. Other Needs Assistance Administrative Option Selection Form**

In order to provide ONA to eligible disaster survivors, the Tribal Nation first needs to determine who (i.e., FEMA, Tribal Nation, or Joint) is going to administer the program and be responsible for each functional element listed in the ONA Administrative Option Selection Form.<sup>85</sup> Tribal Nations can also use the ONA Administrative Option Selection Form to identify limits for specific ONA items and establish maximum award amounts for Transportation Assistance, Funeral Assistance, Child Care Assistance, and Displacement Assistance. Additional line items, other than those on FEMA's Standard Personal Property Line Items list, may be requested when submitting or updating the ONA Administrative Option Selection Form.<sup>86</sup>

The Tribal Chief Executive or designee chooses an administrator for ONA by completing FEMA Form FF-104-FY-21-114: Individuals and Households Program (IHP) Other Needs Assistance Administrative Option Selection. Upon completion and signature, 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 because FEMA and the Tribal Nation both need to know which entity will be administering ONA.<sup>87</sup> FEMA strongly encourages Tribal Nations to contact the appropriate FEMA regional office to discuss the differences between, and responsibilities required for, the FEMA Option, Joint Option, and Tribal Nation Option.

#### **3.5.1. FEMA OPTION**

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

#### **3.5.2. JOINT OPTION**

Under this option, the Tribal Nation will be the administrator of ONA with FEMA acting as a partner in providing the ONA. Both FEMA and the Tribal Nation have specific responsibilities when implementing ONA.

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<sup>85</sup> [FEMA Form FF-104-FY-21-114 \(1\).pdf](#).

<sup>86</sup> Stafford Act § 408; 42 U.S.C. § 5174. See also [Individual Assistance Program and Policy Guide, Version 1.1, 2021](#).

<sup>87</sup> 44 C.F.R. § 206.120(b).

Additionally, under the Joint Option, the Tribal Nation must submit a Tribal Administrative Plan.<sup>88</sup> The Tribal Administrative Plan must describe the procedures the Tribal Nation 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 Nation 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.<sup>89</sup> If the Tribal Nation does not have a Tribal Administrative Plan, FEMA will provide technical assistance, at no cost, to the Tribal Nation to create such a plan.

### **3.5.3. TRIBAL NATION OPTION**

Under this option, the Tribal Nation will be the administrator of ONA. The Tribal Nation will be responsible for implementing all functional elements and must also submit a Tribal Administrative Plan describing the procedures the Tribal Nation 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.<sup>90</sup> If the Tribal Nation does not have a Tribal Administrative Plan, FEMA will provide technical assistance, at no cost, to the Tribal Nation to create such a plan.

Tribal Nations that choose the Joint or Tribal Option must submit an updated Tribal Administrative Plan every three years.<sup>91</sup>

### **Annual Submission of the Form**

FEMA strongly encourages Tribal Nations to submit an updated ONA Administrative Option Selection Form by November 30th of each year if the Tribal Nation anticipates that it may directly request a Presidential declaration. This annual submission ensures FEMA has an updated form on file to expeditiously deliver ONA to disaster survivors should the President authorize the IHP. The form should be submitted to the FEMA Regional Administrator.

### **Disaster-Specific Adjustments to the Form**

The ONA Administrative Option Selection Form provides an opportunity for the recipient to adjust the established personal property line items. FEMA uses a standardized list of personal property items to determine which disaster-damaged items may be eligible for ONA. Tribal Nations have the option to

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<sup>88</sup> 44 C.F.R. § 206.120.

<sup>89</sup> 44 C.F.R. § 206.120(c).

<sup>90</sup> Stafford Act § 408; 42 U.S.C. § 5174 and 44 C.F.R. § 206.120(c).

<sup>91</sup> 44 C.F.R. § 206.120.



modify these lists and may request additional line items other than those on FEMA's standard personal property line-item list when submitting or updating the ONA Administrative Option Selection Form. This can include culturally significant line items, for example, subsistence items such as smoke houses and fishing and hunting gear, or specialized transportation, regalia, eagle feathers, traditional medicines, etc. FEMA recognizes that certain tribal cultural or ceremonial items are almost impossible to assign a dollar value. FEMA will work with the Tribal Nation to designate an appropriate value that aligns with the significance of the Tribal Nation item. A Tribal Nation determines how much individuals will be reimbursed for these items and is responsible for a 25% non-federal cost share.

After the President authorizes an IA declaration, a Tribal Nation may determine it wants to adjust the ONA Administrative Option Selection Form.<sup>92</sup> A Tribal Nation has 72 hours after IA is authorized to make these updates to the form, which is why it is important to consider the form before a disaster occurs. The changes need to be submitted on a revised/updated ONA Administrative Option Selection Form and provided to the FEMA Regional Administrator in order for FEMA to review the request and respond to the Tribal Chief Executive or designee.



### ONA Implementation Resources

See [FEMA Form FF-104-FY-21-114](#) to fill out an ONA Administrative Option Selection Form and to learn about the ten functional elements for implementation of ONA.

## 3.6. Federal Grants Management Compliance

With respect to FEMA assistance, Tribal Nations 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 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 Tribal Chief Executives and Tribal Nations 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 Nations should be aware that, even with FEMA technical assistance, complying with these requirements is a significant administrative burden. While FEMA does provide funding for

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<sup>92</sup> The ONA Administrative Option Section Form and Tribal Administrative Plan may also be changed during non-disaster periods.

management costs, such funding is provided at set percentage rates which may not cover the full cost of the administrative work required.<sup>93</sup>

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<sup>93</sup> For more information regarding management costs, including the rates provided for PA and HMGP, see 44 C.F.R. Part 207.

# Chapter 5: Process to Request Major Disaster Declarations

FEMA has established the following process to request a major disaster declaration. Tribal Nations must adhere to these procedures to avoid possible delays in processing the declaration request. In most cases, Tribal Nations can complete these steps in chronological order, but in certain disaster situations, some activities may occur simultaneously as needed.<sup>94</sup>

## 1. Pre-Major Disaster Declaration Request Activities

### 1.1. Tribal Emergency Plan

Prior to requesting a major disaster declaration, the Tribal Nation must direct execution of their Emergency Plan.<sup>95</sup> FEMA's approval of the Tribal Nation's emergency plan is not required; the Tribal Nation only need to confirm that it directed execution of the plan. Execution of the state's emergency plan does not meet the Stafford Act requirement that the Tribal Nation must oversee the execution of its own emergency plan when the Tribal Nation is seeking its own disaster declaration. The procedures for plan execution will vary based on a Tribal Nation'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.



#### Emergency Plan Development Resources

For more information on developing emergency plans, review [Developing and Maintaining Emergency Operations Plans](#).

### 1.2. Initial Damage Assessment

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 Nation to provide an effective response.<sup>96</sup> Therefore, after an incident occurs, a Tribal Nation should first assess the impacts of the disaster

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<sup>94</sup> [FEMA's Tribal Affairs Hub](#) has additional information on the disaster declarations process.

<sup>95</sup> Stafford Act § 401; 42 U.S.C. § 5170, 44 C.F.R. §§ 206.35(c)(1), and 206.36(c)(1).

<sup>96</sup> Stafford Act §§ 401 and 501; 42 U.S.C. §§ 5170 and 5191.

and determine if there are needs that cannot be addressed with its own resources or through insurance.

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

### 1.3. Joint Preliminary Damage Assessments

Before requesting a major disaster declaration and outside of expedited circumstances, a Tribal Nation must validate their damage through a Joint PDA with FEMA.<sup>97</sup> During the Joint PDA, the Tribal Nation and FEMA work together to validate Stafford Act-eligible damage and evaluate the magnitude and impact of a disaster to determine whether Stafford Act assistance may be needed. If an applicant does not submit a Joint PDA request 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 conducted.



#### PDA Resources

For more information on PDAs, refer to: [FEMA Preliminary Damage Assessment Guide \(FEMA, 2021\)](#).

#### 1.3.1. REQUESTING JOINT PRELIMINARY DAMAGE ASSESSMENTS

The Joint PDA request should be in writing and should describe the disaster event, the date(s) the event occurred, and the 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 Nation would like to conduct Joint PDAs, and the Tribal Nation's point of contact for the Joint PDAs.<sup>98</sup> Generally, a Tribal Nation's initial damage assessments will inform the Joint PDA request. Joint PDAs are conducted at no cost to the Tribal Nation.

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

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<sup>97</sup> Stafford Act §§ 401 and 501; 42 U.S.C. §§ 5191 and 5170; and 44 C.F.R. §§ 206.35(c)(4) and 206.36(c)(4).

<sup>98</sup> Tribal Nations can amend the Joint PDA request to add areas or programs.

assessments do not indicate that the damage exceeds the minimum damage amount of \$100,000. For more information, see **Chapter 6: FEMA Criteria for Requesting Major Disaster Declarations**.

The declaration request needs to be submitted within 60 days of the end of the incident; therefore, the Joint PDA request should be submitted promptly to allow enough time to perform the Joint PDA and for the Tribal Chief Executive to develop and send the major disaster declaration request within the 60-day period.

Once the FEMA Region receives the Joint PDA request, FEMA staff will schedule the Joint PDAs with the Tribal Nation. FEMA recommends that Joint PDA teams include the FEMA Regional Tribal Liaisons or Tribal FEMA Integration Teams (FITs), personnel from agencies and organizations that can evaluate damage and unmet needs, including Tribal Nation officials familiar with the damaged area, FEMA, the Small Business Administration (SBA), and if necessary, any nongovernmental disaster relief organizations. The Tribal Nation 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 on the affected areas and may expedite the damage assessment. The agencies and organizations may also be able to provide information on the types of assistance that their respective agencies can provide in the area affected by the disaster.

The Tribal Nation 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 Tribal Chief Executive request a major disaster declaration, the request will include the Joint PDA information. FEMA will include the results of the Joint PDA in its recommendation to the President.

### **1.3.2. NOTIFICATION OF JOINT PRELIMINARY DAMAGE ASSESSMENT REQUEST**

When a Tribal Nation 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 Nation official(s) are aware when a state requests a Joint PDA that includes counties/parishes where Tribal Nations are located. These notifications will not affect the processing of the Joint PDA request and are done because Tribal Nations and states often have concurrent damage and may influence how a Tribal Nation seeks to request a declaration (e.g., on its own or as a recipient and/or subrecipient under a state declaration). This may offer benefits for both the Tribal Nation and state, particularly in cases where either may be low in the amount of damage sustained.

### **1.3.3. EXPEDITED MAJOR DISASTER DECLARATION REQUESTS**

An expedited major disaster declaration may be requested for catastrophes of unusual severity and magnitude when Joint PDAs are not feasible or may not be necessary to determine the requirement for supplemental federal assistance, particularly for specific tribal areas, properties, or areas that

have been clearly decimated.<sup>99</sup> In these rare circumstances, the Tribal Chief Executive may submit an abbreviated written request for a major disaster declaration through the appropriate FEMA Regional Administrator. Expedited requests must still meet the minimum requirements for a declaration.<sup>100</sup>

A Tribal Chief Executive typically makes these requests to accelerate the delivery of extensive lifesaving and life-sustaining activities, including housing assistance, characteristic of large-scale and/or severe incidents. In such circumstances, the President of the United States may issue an expedited declaration to address immediate response needs. Federal assistance is generally limited under an expedited declaration to emergency work under the PA program until the formal joint PDA can be completed. FEMA may also recommend the authorization of IA if there is a clear need. In instances where there is not enough information to process a request for a particular program under an expedited request, FEMA may hold their recommendation for the program in abeyance until the Agency obtains the necessary information.

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. FEMA will notify the Tribal Nation when this determination is made as soon as possible. Before a Tribal Chief Executive submits an expedited major disaster request, FEMA strongly encourages the Tribal Nation to coordinate with the appropriate FEMA Regional office to determine whether an expedited request is appropriate and to provide a draft of the proposed declaration request for review.

#### **1.3.4. VERBAL DECLARATION REQUESTS**

Verbal requests for declarations are rare; however, they are permitted for incidents that are catastrophic or near catastrophic in nature when a written request from a Tribal Chief Executive is impractical due to the exigency of the event. Following a Tribal Chief Executive's verbal request for a declaration made to FEMA, the Regional Administrator consults with the Tribal Chief Executive and completes the Regional Administrator's checklist for a verbal request for an emergency or expedited major disaster. During these consultations, the Regional Administrator obtains and records the information and commitments required to process the declaration request under the Stafford Act.

#### **1.3.5. CONCURRENT PRELIMINARY DAMAGE ASSESSMENTS WITH TRIBAL NATIONS AND STATES**

A Joint PDA is conducted by a team consisting of FEMA, the Tribal Nation, and/or state and local staff to document the impact of a disaster and to assist in a Tribal Nation's decision to request a disaster

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<sup>99</sup> 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 Nation.

<sup>100</sup> 44 C.F.R. § 206.36(d).

declaration. Tribal Nations may request a Joint PDA concurrent with or separate from a state's request for a Joint PDA. If Tribal Nations 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 to survey the damage more rapidly.

The state may request a Joint PDA before the Tribal Nation requests a Joint PDA. The state's request may include counties, parishes, boroughs, or Regional Educational Attendance Areas (REAA) which also have Tribal Nation lands within the boundaries. In such instances, FEMA and the Regional Tribal Liaison or Tribal FEMA Integration Team (FIT) will contact the Tribal Chief Executive or other appropriate Tribal Nation official of the affected Tribal Nation and ask if the Tribal Nation would like to participate in the Joint PDA.

Even if a Tribal Nation agrees to join a state-requested Joint PDA, the Tribal Nation is not required to include its damage in a state's declaration request to help the state reach its own threshold for a declaration. When performing a Joint PDA, the Joint PDA teams will separate Tribal Nation-specific damage from state damage.<sup>101</sup> This will ensure Tribal Nation damage is appropriately documented and can be separated from the state's Joint PDA, if a Tribal Nation later requests a Joint PDA or requests its own declaration.

Even if the Tribal Nation and state request separate Joint PDAs, the two governments may combine damage to support a single declaration request. If the Tribal Nation would like to combine damage with the state, the Tribal Nation will need to be included in the state's declaration request. The Tribal Nation cannot request a disaster declaration on behalf of the state or local jurisdictions. Conversely, a state cannot request a disaster declaration on behalf of a Tribal Nation without the written consent of the Tribal Chief Executive.

### **1.3.6. POPULATIONS**

If Tribal Nations and state governments request PA Joint PDAs for overlapping areas and a Tribal Nation decides to request a separate declaration, then FEMA will not include tribal community members that live in the relevant areas in the population calculation 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.<sup>102</sup> In addition, should the Tribal Nation opt to request IA for any damage to independently owned homes of tribal community members in those areas, those homes will be subtracted from the state's IA PDA results and included only in the Tribal Nation's declaration request. FEMA will use tribal community member numbers from a Tribal Nation to determine the appropriate population for a Tribal Declaration.

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<sup>101</sup> More information about Joint PDAs can be found the in the [FEMA Preliminary Damage Assessment Guide](#) (2021).

<sup>102</sup> FEMA uses a per capita damage indicator, among other factors, to evaluate state requests for PA. See 44 C.F.R. § 206.48(a).

## 2. Pursuing a Major Disaster Declaration Request

Once Joint PDAs have concluded, a Tribal Nation 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 Tribal Chief Executive may elect to request a major disaster declaration to authorize Stafford Act assistance to support response and recovery for the incident.

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

Requests for major disaster declarations must be submitted within 60 days of the end of the incident.<sup>103</sup> If the incident occurs over multiple days, the 60-day limit starts on the last day of the incident. More information on incidents and incident periods may be found in **Chapter 9, Section 5: Amending the Incident Period**.

A Tribal Chief Executive can request additional time to submit a declaration request. If an extension is needed, the Tribal Chief Executive must submit a written request for a time extension, stipulating the reasons for the delay, to the FEMA Regional Administrator and addressed to the Associate Administrator of the Office of Response and Recovery, within 60 days of the date of the incident.<sup>104</sup> An extension request should include the additional time needed. FEMA will not process requests submitted outside of these timeframes.<sup>105</sup> FEMA will confirm the receipt of a Tribal Nation's extension request within 7 calendar days.

### 2.1. Who Can Submit Declaration Requests

Section 401 of the Stafford Act notes that, "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 [Tribal Nation]. 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 [Tribal Nation] and that Federal assistance is necessary."

This means that only the Tribal Chief Executive, or an individual authorized by Tribal Nation law or custom to act on the Tribal Chief Executive's behalf in their absence, may request a major disaster

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<sup>103</sup> The Stafford Act does not specify that a Tribal Nation must be federally recognized at the time of the incident itself. If the Tribal Nation becomes federally recognized by Congress or the Department of Interior's Bureau of Indian Affairs (BIA) after the incident period has expired and then requests a declaration, then FEMA will process the request, provided that the Tribal Chief Executive of the federally recognized Tribal Nation submits the request (or an extension request) within the required timeframe.

<sup>104</sup> Stafford Act §§ 401 and 501; 42 U.S.C. §§ 5191 and 5170.

<sup>105</sup> *Id.*



declaration.<sup>106</sup> The Tribal Chief Executive may only request assistance for the Tribal Nation which they serve as the Tribal Chief Executive and cannot request assistance on behalf of another Tribal Nation. Further, multiple Tribal Nations may not combine their damage to request a declaration because the request for assistance is based on each individual Tribal Nation's capabilities.

When submitting a declaration request, the Tribal Nation needs to provide FEMA with the appropriate documentation stating that the Tribal Nation duly authorizes the "Tribal Chief Executive" to conduct relations with the United States government and legally bind the Tribal Nation. Additionally, FEMA only processes declaration requests from entities<sup>107</sup> that are on the Department of the Interior, Bureau of Indian Affairs (BIA) List of Federally Recognized Tribes.<sup>108</sup>

If the Tribal Nation informs FEMA that there is an internal Tribal Nation 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 FEMA will provide notification to the Tribal Nation within 30 days regarding the determination of the lawful Tribal Chief Executive of the Tribal Nation. If FEMA receives no guidance from the BIA within the requested timeframe, then FEMA will make a determination based on the following: (1) currently applicable governing documents of the Tribal Nation 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, which includes the Tribal Nation's court, for an order determining the lawful Tribal Chief Executive of the Tribal Nation. 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.

## **2.2. What to Submit When Requesting a Major Disaster Declaration**

The Tribal Chief Executive's request should include FEMA Form 010-0-13: Request for Presidential Disaster Declaration: Major Disaster or Emergency (Office of Management and Budget [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 Tribal Chief

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<sup>106</sup> If the Tribal Chief Executive is not available for any reason, then the individual authorized by Tribal Nation law to act on the Tribal Chief Executive's behalf may submit a request. This person must demonstrate that they have the legal authority to act on behalf of the Tribal Chief Executive by providing the legal documentation with the declaration request.

<sup>107</sup> Tribal Nations that are not federally recognized, but are recognized by a state, may be eligible to receive assistance as a subrecipient through the state's declaration.

<sup>108</sup> 25 U.S.C. § 5131 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." An updated list of all Indian tribes can be found on the Bureau of Indian Affairs' website (bia.gov).

Executive or their 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 Tribal Chief Executive's request typically accompanies the form. The cover letter provides the Tribal Chief Executive with an opportunity to include additional information about the impacts of the event on the Tribal Nation. FEMA encourages Tribal Nations to submit a draft of the declaration request form and letter in order to ensure that both are sufficient and include all necessary information.



### Materials for Requesting a Major Disaster Declaration

- FEMA Form 010-0-13: [Request for Presidential Disaster Declaration: Major Disaster or Emergency](#) (OMB No. 1660-0009)
- [Tribal Request for Presidential Disaster Declaration Cover Letter Template](#)

For a full list of resources and materials to request a Major Disaster Declaration, refer to the FEMA [Request For Presidential Disaster Declaration](#) site.

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 can be directed to FEMA Regional Tribal Liaisons and Tribal FITs. The following information must be included and completed to the best of the Tribal Nations ability in any request for an emergency or major disaster declaration. Failure to meet any of these requirements will delay processing and may result in denial of the request.

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

The Tribal 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 Nation, and that federal assistance is necessary to supplement resources of the Tribal Nation.<sup>109</sup> The other required elements of the request support the Tribal Chief Executive's finding that the Tribal Nation's capabilities are overwhelmed and further explain why supplemental federal assistance is needed. When evaluating the necessity of supplemental federal assistance,

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<sup>109</sup> Stafford Act § 401; 42 U.S.C. § 5170.

FEMA also considers the assistance available from other sources including disaster relief organizations, other federal agencies, and insurance.

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

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

FEMA understands that Tribal Nation law may not allow the Tribal Chief Executive to unilaterally execute the emergency plan and may require the Tribal Chief Executive to receive approval from the Tribal Council or other appropriate governing body to take such action. If the Tribal Nation takes appropriate action under Tribal Nation law and the emergency plan is executed, the Tribal Nation will have satisfied FEMA's requirement for executing the emergency plan. The Tribal Chief Executive must certify in the declaration request that these actions have been taken and list the date when the action was taken.



### Developing Emergency Plans

For more information on the development of emergency plans, reference FEMA's [Developing and Maintaining Emergency Operations Plans Comprehensive Preparedness Guide \(FEMA, 2021\)](#).

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

Requests must include information describing Tribal Nation resources that have been or will be committed to alleviating the results of the disaster. Since the Stafford Act provides supplemental assistance, the Tribal Nation must expend resources in the response to and recovery from the event. Execution of the tribal emergency plan, for example, may assign resources to the response, so the Tribal Nation should describe these actions 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 Nation 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 is not defined.



## How to Determine the Incident Type

The following are examples of the federal government agencies designated as national security authorities in a specific incident, the list is not a full list of authorities. Each of these agencies is able to provide an incident description which can be used to support the Tribal Chief Executive's declaration request.

- National Weather Service (NWS) for flooding, severe storms, and hurricanes<sup>110</sup>
- National Oceanic and Atmospheric Administration (NOAA) for tsunamis<sup>111</sup>
- United States Geological Survey (USGS) for seismic incidents<sup>112</sup>

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

The incident period is the time interval during which the disaster-causing incident occurs. Disaster assistance will not be made available for damage that occurs outside of the incident period. Therefore, it is important for the request to accurately reflect the date(s) during which the incident impacted the Tribal Nation. Work or actions undertaken in anticipation of the incident, typically immediately preceding the event, may be eligible for Stafford Act assistance.<sup>113</sup> The incident period is usually a narrow timeframe.

FEMA Regional Tribal Liaisons, Tribal FITs, and relevant regional program staff can assist the Tribal Nation 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. Generally, FEMA will not consider a series of storms that result from longer term weather patterns to be a single event for Stafford Act purposes.<sup>114</sup> However, flood events may last much longer.

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<sup>110</sup> See [Climate \(weather.gov\)](https://www.weather.gov).

<sup>111</sup> See [Tsunami Data and Information | NCEI \(noaa.gov\)](https://www.noaa.gov/data/tsunami).

<sup>112</sup> See [Latest Earthquakes \(usgs.gov\)](https://www.usgs.gov/monitoring-current-conditions/seismic).

<sup>113</sup> Stafford Act § 424; 42 U.S.C. § 5189b.

<sup>114</sup> According to current guidance from the NWS, a series of storms are generally part of a single storm system if they occur within 72 hours of each other.

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

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

At the request of the Tribal Nation, FEMA will provide the Tribal Nation a list of resources and support that other federal agencies can provide to the Tribal Nation to respond to and recover from the disaster.

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

The Tribal Chief Executive must provide information indicating the types of federal assistance needed. The FEMA programs (i.e., IA, PA, and/or the HMGP) should be specifically requested. The Tribal Chief Executive may request all IA Programs or the Chief Executive may select one or more of the programs (i.e., IHP, CCP, DUA, DCM, and DLS). The Tribal Chief Executive may also select specific categories of PA or may select all the categories of work.

To support the request for assistance, the Tribal Chief Executive should include a statement that a Joint PDA was requested as well as when it was completed.<sup>115</sup> The statement should include a description of the damage,<sup>116</sup> 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 Nation will receive, should be submitted with the request. The FEMA Joint PDA team will review the results of the Joint PDA with the Tribal Nation to come to agreement about the results.

It is important for the Tribal Chief Executive to specify the types and estimated amounts of assistance requested, as determined by the Joint PDAs, as FEMA cannot recommend the President authorize assistance that the Tribal Nation did not request.

- **Debris Removal (Number 11 on FEMA Form 010-0-13 and Indemnification for Debris Removal Activity)**

Pursuant to the Stafford Act, FEMA will fund or perform debris removal only when the Tribal Nation agrees to indemnify the United States from any claims arising from the removal of debris and/or wreckage, and the Tribal Nation agrees that debris removal from public and private property will not occur without first arranging for unconditional authorization for the removal of

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<sup>115</sup> Number 10 on FEMA Form 010-0-13.

<sup>116</sup> Number 8 on FEMA Form 010-0-13.

the debris.<sup>117</sup> 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 Nation agrees to these terms. As such, if debris removal is needed, FEMA recommends that Tribal Nations agree to the terms in its request 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 Nation and state property, whether there is a Tribal Declaration, a state declaration, or declarations for both Tribal Nations and state governments. This coordination is essential to increase efficiency and lower costs of debris removal.

▪ **Direct Federal Assistance (Number 11a, 11b, and 11c on FEMA Form 010-0-13)**

If the Tribal Nation 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 three days);
- The reasons the Tribal Nation cannot perform or contract for performance of the work;
- Assure that the Tribal Nation will provide, without cost to the United States, all lands, easements, and rights of way necessary to accomplish the approved work;
- Assure that the Tribal Nation agrees to indemnify the United States from damages and claims arising from the requested work;
- Assure that the Tribal Nation will provide reimbursement for the non-federal share of the cost of work pursuant to the terms of the FEMA-Tribe Agreement; and
- Assure that the Tribal Nation 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 Nation meets these requirements. As such, FEMA recommends that Tribal Nations 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 identify the Tribal Nation and/or Tribal Nation lands and/or tribal community members or assets and/or the entities for which assistance is requested. FEMA

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<sup>117</sup> Stafford Act §§ 407(b) and 502(a)(5); 42 U.S.C. §§ 5173(b) and 5192(a)(5).

cannot recommend the President authorize assistance for an area or entities for which the Tribal Chief Executive did not request assistance.

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

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

The Stafford Act requires major disaster declaration requests include the Tribal Chief Executive's certification that the Tribal Nation will comply with Stafford Act cost sharing requirements.<sup>118</sup> 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 Tribal Chief Executive's behalf, also referred to as the Tribal Chief Executive's Authorized Representative. These two officials will serve the following functions should the President declare an emergency or major disaster declaration:

- The Tribal Chief Executive's Authorized Representative will be empowered with fiduciary responsibility for the Tribal Nation 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)**

The following information is also required on FEMA Form 010-0-13:

- Request Date (Number 1);<sup>119</sup>
- Name of the Tribal Nation requesting the declaration (Number 2a);
- Population of tribal community members on or near Tribal Nation lands who may be impacted by the event, as reported by Tribal Nation (Number 2b);<sup>120</sup>

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<sup>118</sup> Stafford Act § 401; 42 U.S.C. § 4170; 44 C.F.R. § 206.35(c)(5).

<sup>119</sup> The form and cover letter include several areas to insert the date: (1) date requested on the form, (2) date when the Tribal Chief Executive signed the form, (3) date on the cover letter. Each of these dates should be the same.

<sup>120</sup> If needed, the Tribal Chief Executive may provide additional information explaining the population number reported.

- 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);
- Joint PDA (Number 10) – IA and PA dates and areas, including inaccessible areas;
- Tribal Mitigation Plan Information – Plan Expiration Date and Type of Plan (Number 12);
- List of Enclosures and Supporting Documentation (Number 15); and
- Tribal Chief Executive’s signature and date.

See **Appendix E** for a link to the blank template of [FEMA Form 010-0-13](#).

## 2.3. Processing the Declaration Request

After the FEMA Regional Administrator receives the request, the Regional Administrator will evaluate and provide the Region’s recommendation to FEMA Headquarters. The FEMA Administrator will also evaluate the request and make a final recommendation for the President’s determination. FEMA uses the criteria described in **Chapter 7: Process to Request Emergency Declarations** to evaluate the request and make a recommendation. 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 Nation, state, local, or territorial governments or any other entity the status of the request. Once the declaration determination has been made regarding the Tribal Nation’s request, the Tribal Nation will be the first to receive notification of the determination of the request.

## 2.4. Notification of Third Parties

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 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 and/or Tribal FITs.

When a Tribal Nation submits a declaration request, before FEMA shares any information with states about the tribal declaration, FEMA will proactively work with the Tribal Nation to obtain their consent to share such information, regardless of whether or not the law requires tribal consent. Only if the Tribal Nation’s consent is obtained, FEMA will ensure that the appropriate state government official(s) are aware of the request. FEMA will also ensure that the appropriate Tribal Nation official(s) are aware when a state requests a declaration which includes counties, boroughs,



parishes, and REAAs where Tribal Nation lands are located. These notifications do not affect the processing of declaration requests.

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# Chapter 6: FEMA Criteria for Recommending Major Disaster Declarations

The Stafford Act requires Tribal Nations 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 Nation and that federal assistance is necessary.<sup>121</sup> To make a recommendation for the President on if they should make a declaration, FEMA uses the following factors to evaluate whether an event has overwhelmed the capabilities of the Tribal Nation and that Stafford Act assistance is necessary. The Tribal Chief Executive should include in their declaration request all pertinent information to assist FEMA in its evaluation of these factors, because no single factor is determinative. FEMA recognizes that traditional data sources, such as Census Bureau data, do not always accurately reflect the unique considerations of Tribal Nations and therefore FEMA will always prioritize using data provided by the Tribal Nation to inform declaration requests.

## 1. Public Assistance

When FEMA reviews a Tribal Chief Executive's request for a major disaster declaration seeking Public Assistance (PA), FEMA considers the factors below to measure the severity, magnitude, and impact of the incident. FEMA recommends that the Tribal Chief Executive include information specifically addressing these factors in the declaration request. In addition, the Tribal Chief Executive should include in the cover letter a narrative of the impact of the disaster on the Tribal Nation and tribal community members. The narrative is an opportunity to tell the Tribal Nation's story and explain why supplemental federal assistance is necessary.

### 1.1. Minimum Damage Amount

Absent extraordinary circumstances, FEMA will consider a declaration request from a Tribal Nation only if it is determined that the Tribal Nation sustained at least \$100,000 in PA-eligible estimated damage or costs.<sup>122</sup> This estimate should not include damage covered by insurance. FEMA does not automatically recommend declarations when the minimum damage amount is reached. 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 Nation's capability, and therefore not warrant a major disaster declaration. Therefore, a Tribal Nation should

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<sup>121</sup> Stafford Act §§ 401 and 501; 42 U.S.C. §§ 5170 and 5191.

<sup>122</sup> *Id.*

first assess whether it can, on its own/or with partner resources, address the impacts of the event. If a Tribal Nation sustains damage or costs that exceed \$100,000 and cannot identify resources to meet those needs, then the Tribal Nation can request a Joint PDA.

FEMA may further evaluate a Tribal Nation's request for supplemental disaster assistance based on additional factors as described in greater detail below.

## **1.2. Impacts of The Disaster<sup>123</sup>**

### **1.2.1. TYPES OF DAMAGE AND AMOUNT DAMAGED**

- Types of Damage:
  - Stafford Act-eligible damage to facilities, tribally-owned/operated facilities and services, eligible private non-profit and/or tribal nonprofit organizations, and spiritual/religious/faith-based and cultural facilities and assets as defined by the Tribal Nation. An eligible public facility is one that the tribal government owns or has legal responsibility for maintaining, including any: flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; street, road, or highway; other public building, structure, or system, including those used for educational, recreational, or cultural purposes; or park.<sup>124</sup>
  - Tribal Nation costs associated with debris removal and emergency protective measures, including eligible labor or equipment costs.
  - Impacts to the Tribal Nation that are not eligible for FEMA assistance under the Stafford Act. FEMA will review how these impacts have affected the Tribal Nation's overall capacity to respond.
- Impacts on tribal cultural and/or spiritual facilities or locations, as determined by the Tribal Nation.
- Extent of damage to eligible facilities.
- Estimated cost of the disaster related damage.
- Damage located in a special flood hazard area, if applicable.

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<sup>123</sup> FEMA recognizes that some information may be limited or unavailable at the time of the request. FEMA will make its recommendation to the President based upon the best information available.

<sup>124</sup> 44 C.F.R. subpart H. See also [Public Assistance Program and Policy Guide, Vol.4](#), Ch. 4.

### 1.2.2. TRIBAL NATION'S COMMUNITY LIFELINES

- Disaster impacts to the lifelines of a tribal community as defined by the Tribal Nation. FEMA recognizes that community lifelines for Tribal Nations may differ based on their location, history, and culture. This factor is designed to provide Tribal Nations with the option of highlighting their unique needs and impacts during disasters.



#### Additional Lifeline Information

For additional assistance on how FEMA describes community lifelines, please review the [National Response Framework \(FEMA, 2019\)](#).

### 1.2.3. ECONOMIC IMPACT OF THE INCIDENT

- Economic effects of the disaster on the tribal community.
  - E.g., loss of revenue due to business closures, road closures, wastewater treatment closures, etc.
- Economic effects of the disaster on the Tribal Nation.

### 1.2.4. TRIBALLY-OWNED HOUSING OR MAINTAINED HOUSING<sup>125</sup>

- Amount of tribally-owned homes impacted by the disaster.
  - Tribal Nations often have a high proportion of tribally-owned homes due to complex land ownership or traditional cultural practices.

### 1.2.5. TRIBAL NATION RESOURCES

- FEMA will consider the Tribal Nation's efforts and resources (e.g., funding, staff, etc.) that have been or will be used to respond to or recover from the event.

### 1.2.6. DEMOGRAPHICS

- Unemployment of tribal community members.
- Number and percent of tribal community members whose income is below the national poverty level.

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<sup>125</sup> Tribally-owned housing or maintained housing refers to where an individual tribal member owns or is buying the home but there is an agreement for the Tribal Nation to maintain it (or where the Tribal Nation carries the insurance on the home).

- Number or percent of tribal community members who have disabilities, acute medical or healthcare needs, or access and functional needs.

#### **1.2.7. 36-MONTH DISASTER HISTORY OR RECENT MULTIPLE DISASTERS THAT IMPACTED THE NATION**

- Stafford Act declarations – Tribal Nation or state declarations (estimated or actual non-federal cost share from these events).
- Tribal Nation responses to recent or long-standing disasters that did not receive a federal disaster declaration designation.
- Tribal or state declared disasters – tribal resources used to respond to those events.
- Assistance from other federal agencies to address disaster damage.

#### **1.2.8. INSURANCE**

- The amount of insurance coverage of the disaster impacted facilities at the time of the incident.

#### **1.2.9. UNIQUE CONDITIONS THAT AFFECT TRIBAL NATIONS**

- FEMA considers whether there are needs or conditions that are unique to a tribal community, including but not limited to:
  - Needs associated with remote locations (e.g., accessibility, food, water, and medical supply availability, etc.);
  - Historic preservation;
  - Impacts to tribal treaty rights;
  - Impacts to tribal language and communication;
  - Cultural, religious, and/or spiritual considerations; and
  - FEMA's treaty and trust responsibility to Tribal Nations.

#### **1.2.10. OTHER RELEVANT INFORMATION**

- FEMA will consider any other relevant information that a Tribal Nation provides in a declaration request.

## **2. Individual Assistance**

When FEMA reviews a Tribal Chief Executive's request for a major disaster declaration seeking Individual Assistance (IA), FEMA considers the factors below to measure the severity and magnitude

and impact of the incident. Similar to PA authorizations, FEMA recommends that the Tribal Chief Executive include in a declaration request information specifically addressing these factors. In addition, the Tribal Chief Executive should include in the cover letter a narrative of the impact of the disaster on the Tribal Nation and disaster survivors.

## **2.1. Impacts of the Disaster<sup>126</sup>**

In the case of an IA declaration request, FEMA will evaluate a Tribal Nation's request by using the IA Tribal Declaration Factors provided below. These factors also serve as a guide to the Tribal Chief Executive when developing a declaration request.

### **2.1.1. DISPLACED HOUSEHOLDS AND AVAILABILITY OF HOUSING RESOURCES**

FEMA will consider the number of households displaced as a result of the disaster, individuals staying in community disaster shelters, and/or the availability of accessible temporary housing resources within the tribal community.

FEMA acknowledges the strong ties tribal community members have to their tribal community and the importance of remaining geographically within that community when possible. Accordingly, FEMA will consider available housing resources as agreed on by the Tribal Chief Executive.

FEMA will also consider household composition (e.g., multigenerational housing), as tribal households may contain multiple families within one residence.

### **2.1.2. UNINSURED HOME AND PERSONAL PROPERTY LOSSES AND PRE-EXISTING CONDITIONS**

FEMA evaluates damage to the primary residences<sup>127</sup> of tribal community members. FEMA assesses and categorizes affected residences based on the amount of damage: destroyed, major, minor, affected, and inaccessible, also taking into account whether the residences are owner occupied, or renter occupied, where applicable. FEMA then measures the magnitude of the disaster, including the total number of households impacted, the percentage of households impacted, and whether there are high concentrations of damage.

FEMA will consider the projected cost to provide Housing Assistance and Other Needs Assistance (ONA) to disaster survivor households under the Individuals and Households Program (IHP). FEMA will support the Tribal Nation during Joint Preliminary Damage Assessments (PDAs) to collect and

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<sup>126</sup> FEMA recognizes that some information may be limited or unavailable at the time of the request. FEMA will make its recommendation to the President based upon the best information available.

<sup>127</sup> According to the Individual Assistance Program and Policy Guide (IAPPG) a primary residence is considered: "the home where the applicant normally lives during the major portion of the calendar year" or "the home that is required because of proximity to employment, including agricultural activities that provide 50% of the household's income."

validate damage data. PDA data will include cost estimates for underinsured homes that are not tribally-owned or tribally-maintained, for homes occupied by renters, as well as for personal property losses.

In addition, FEMA will consider and record tribally-owned/tribally-maintained housing as well as any pre-existing conditions during the Joint PDA. Tribally-owned homes do not qualify for IA (they qualify for PA), but FEMA will consider property damage inside tribally-owned homes, which may be eligible for IA's ONA and/or Community Service programs.

There is no designated damage threshold that a Tribal Nation must meet for IA.

### **2.1.3. CASUALTIES, INJURIES, AND MISSING INDIVIDUALS**

FEMA considers missing individuals, injuries, and casualties caused by the event including, but not limited to, deaths or injuries to tribal community members as defined by the Tribal Chief Executive.

### **2.1.4. IMPACT TO COMMUNITY INFRASTRUCTURE AND CULTURAL FACILITIES**

FEMA considers impacts to a tribal community's infrastructure and cultural facilities that may adversely affect a population's ability to reside safely and securely within the community such as:

- Large scale disruption of normal community functions and services, as determined by the Tribal Nation;
- Impacts to lifesaving and life-sustaining services;
- Impacts to essential community services;
- Impacts to transportation, infrastructure, or utilities;
- Impacts to tribal cultural and/or spiritual facilities or locations, as determined by the Tribal Nation;
- Impacts to tribal cultural and/or religious and/or spiritual services; and
- Emergency needs such as extended or widespread loss of power or water, as determined by the Tribal Nation.

### **2.1.5. DISASTER IMPACTED POPULATION PROFILE**

FEMA considers the demographics of the whole community including, but not limited to, percentage of elders of the tribal community aged 65 and older, percentage of tribal community members aged 18 and younger, people with disabilities, and other people who have access and functional needs, such as the percentage of tribal community members who have limited English proficiency or are non-English speaking, percentage of tribal community members with a low income, including those on Supplemental Nutrition Assistance Program (SNAP) and Supplemental Security Income (SSI), and



individuals with acute medical needs, as they may have a greater need for support during disaster recovery. FEMA recognizes that there are individuals in tribal communities who only speak their Indigenous language or have limited English proficiency, with both groups requiring greater support during disasters.

FEMA will also consider individuals receiving unemployment and federal supplemental assistance including, but not limited to Supplemental Nutritional Assistance Program, Temporary Assistance for Needy Families, and Social Security Income benefits.

#### **2.1.6. TRIBAL NATION CAPACITY AND RESOURCES TO RESPOND TO THE DISASTER**

FEMA considers a Tribal Nation's efforts, resources (e.g., funding, staff, etc.), and tribal emergency management capacity that have been or will be used to respond to or recover from the event.

#### **2.1.7. UNIQUE CONDITIONS THAT AFFECT TRIBAL NATIONS**

FEMA considers whether there are needs or conditions that are unique to a tribal community, including but not limited to:

- Needs associated with remote locations (e.g., accessibility, food, water and medical supply availability, etc.);
- Impacts to tribal treaty rights;
- Impacts to tribal language and communication;
- The impact of the disaster on a Tribal Nation's economy or livelihood;
- Cultural, religious, and/or spiritual considerations; and
- FEMA's treaty and trust responsibility to the Tribal Nation.

#### **2.1.8. DISASTER-RELATED UNEMPLOYMENT**

FEMA will consider data regarding individuals who may have lost work or become unemployed as a result of the disaster.

#### **2.1.9. 36-MONTH DISASTER HISTORY OR RECENT MULTIPLE DISASTERS THAT IMPACTED THE NATION**

- Stafford Act declarations – Tribal Nation or state declarations (estimated or actual non-federal cost share from these events).
- Tribal Nation responses to recent or long-standing disasters that did not receive a federal disaster declaration designation.
- Tribal or state declared disasters – tribal resources used to respond to those events.

- Assistance from other federal agencies to address disaster damage.

### 2.1.10. OTHER RELEVANT INFORMATION

FEMA will consider any other relevant information that a Tribal Nation provides to FEMA to consider for their declaration request.

### 2.1.11. FACTORS BY IA PROGRAM

For a Tribal Nation requesting an IA only tribal declaration, each declaration factor is associated with one or more IA programs. **Table 6: IA Tribal Declarations Factors FEMA Considers by Program** correlates each IA program to the associated declaration factors FEMA considers, listed above, when evaluating a Tribal Chief Executive's request.

**Table 6: IA Tribal Declaration Factors FEMA Considers by Program**

Individual Assistance (IA) Program	IA Tribal Declaration Factors Considered
Individuals and Households Program	<ul style="list-style-type: none"> <li>▪ Displaced Households and Available Housing Resources</li> <li>▪ Uninsured Home and Personal Property Losses and Pre-Existing Conditions</li> <li>▪ Casualties, Injured, and Missing Individuals</li> <li>▪ Impacts to Community Infrastructure and Cultural Facilities</li> <li>▪ Disaster-Impacted Population Profile</li> <li>▪ Tribal Capacity and Resources to Respond to the Disaster</li> <li>▪ Unique Conditions that Affect the Tribal Nation</li> <li>▪ 36-Month Disaster History or Recent Multiple Disasters that Impacted the Nation</li> <li>▪ Other Relevant Information</li> </ul>
Crisis Counseling Assistance and Training Program	<ul style="list-style-type: none"> <li>▪ Displaced Households and Available Housing Resources</li> <li>▪ Uninsured Home and Personal Property Losses and Pre-Existing Conditions</li> <li>▪ Casualties, Injured, and Missing Individuals</li> <li>▪ Impacts to Community Infrastructure and Cultural Facilities</li> <li>▪ Disaster-Impacted Population Profile</li> <li>▪ Tribal Capacity and Resources to Respond to the Disaster</li> <li>▪ Unique Conditions that Affect the Tribal Nation</li> <li>▪ 36-Month Disaster History or Recent Multiple Disasters that Impacted the Nation</li> <li>▪ Other Relevant Information</li> </ul>

Individual Assistance (IA) Program	IA Tribal Declaration Factors Considered
Disaster Legal Services	<ul style="list-style-type: none"> <li>▪ Displaced Households and Available Housing Resources</li> <li>▪ Uninsured Home and Personal Property Losses and Pre-Existing Conditions</li> <li>▪ Disaster-Impacted Population Profile</li> <li>▪ Unique Conditions that Affect the Tribal Nation</li> <li>▪ 36-Month Disaster History or Recent Multiple Disasters that Impacted the Nation</li> <li>▪ Other Relevant Information</li> </ul>
Disaster Case Management	<ul style="list-style-type: none"> <li>▪ Displaced Households and Available Housing Resources</li> <li>▪ Uninsured Home and Personal Property Losses and Pre-Existing Conditions</li> <li>▪ Casualties, Injured, and Missing Individuals</li> <li>▪ Disaster-Impacted Population Profile</li> <li>▪ Unique Conditions that Affect the Tribal Nation</li> <li>▪ Disaster-Related Unemployment</li> <li>▪ 36-Month Disaster History or Recent Multiple Disasters that Impacted the Nation</li> <li>▪ Other Relevant Information</li> </ul>
Disaster Unemployment Assistance	<ul style="list-style-type: none"> <li>▪ Displaced Households and Available Housing Resources</li> <li>▪ Tribal Capacity and Resources to Respond to the Disaster</li> <li>▪ Disaster-Impacted Population Profile</li> <li>▪ Unique Conditions that Affect the Tribal Nation</li> <li>▪ Disaster-Related Unemployment</li> <li>▪ 36-Month Disaster History or Recent Multiple Disasters that Impacted the Nation</li> <li>▪ Other Relevant Information</li> </ul>

## 2.2. Individual Assistance When Requesting Public Assistance

When a Tribal Nation requests PA, FEMA will also recommend that IA is approved when all the following conditions are met:

- The Tribal Nation requests IA (Tribal Nations should be aware that there is a statutory cost share for ONA that cannot be waived by the President);
- The President approves PA; and

- Tribally-owned (PA eligible) housing and individually-owned (IHP eligible) housing are both impacted at a major or destroyed damage level as determined by the Joint PDAs.

When a Tribal Nation seeks IA through this method, the Tribal Nation will only have to submit one declaration request. When the above criteria have been met by the Tribal Nation, FEMA will simultaneously recommend to the President that both PA and IA be approved for the declaration request.

When a Tribal Nation does not meet the conditions above but still would like to be considered for IA (e.g., PA was not approved) the Tribal Nation can still request IA. Additionally, a Tribal Nation may still apply for IA without also applying for PA. The Tribal Nation will be responsible for the 25% non-federal share of ONA provided to any eligible tribal community member for the declaration.



### Damage and Destruction Information

“Major Damage” and “Destroyed” are categories of damage that are determined by Joint PDA teams. More information about the damage can be found in FEMA’s [Preliminary Damage Assessment webpage](#).

## 3. Hazard Mitigation Grant Program

When FEMA reviews a Tribal Chief Executive’s request for a major disaster declaration authorizing the Hazard Mitigation Grant Program (HMGP), FEMA evaluates a Tribal Nation’s request for the HMGP in relation to areas defined in the Tribal Mitigation Plan to ensure areas requesting the HMGP are included in the Tribal Mitigation Plan. Only the areas identified in the Tribal Mitigation Plan are eligible for the HMGP.

## Chapter 7: Process to Request Emergency Declarations

The emergency declaration request process largely mirrors the major disaster declaration request process, including execution of the emergency plan. Joint Preliminary Damage Assessments (PDAs) are not required for emergency declaration requests.<sup>128</sup> However, a Tribal Nation will need to specify some unmet need for direct federal assistance to demonstrate that an emergency declaration is needed. In addition, if the request is for funding for debris removal (Category A, including Direct Federal Assistance), the Tribal Nation should have a means for determining the volume and cost of the debris removal so that the funding request can be substantiated.

A Tribal Chief Executive, or in their absence the appropriate Tribal Nation official, should submit FEMA Form 010-0-13 to the President through the FEMA Regional Administrator using a cover letter. The request must include a finding that the situation is of such severity and magnitude that effective response is beyond the capability of the Tribal Nation, and that the Tribal Nation requires supplemental federal emergency assistance to save lives and to protect property, public health, and safety, or to lessen or avert the threat of a disaster.<sup>129</sup> The Tribal Chief Executive must identify the types and extent of emergency assistance needed under the Stafford Act.<sup>130</sup> Specifically, the request needs to identify the FEMA programs that are requested, and where the Tribal Chief Executive would like to provide assistance. Failure to complete the form may result in failure to meet those requirements and may delay the processing of the declaration request.



### Materials for Requesting an Emergency Declaration

- FEMA Form 010-0-13: [Request for Presidential Disaster Declaration: Major Disaster or Emergency](#) (OMB No. 1660-0009)
- [Tribal Request for Presidential Disaster Declaration Cover Letter Template](#)

For a full list of resources and materials to request an emergency declaration, refer to the FEMA [Request For Presidential Disaster Declaration](#) site.

<sup>128</sup> Joint PDAs will most likely be conducted after the President declares an emergency 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 Nation.

<sup>129</sup> Stafford Act § 501, 42 U.S.C. § 5191.

<sup>130</sup> 44 C.F.R. § 206.35.

A Tribal Chief Executive may request an emergency declaration in anticipation of an imminent hazard that could result in a major disaster. Such requests must meet all statutory and regulatory requirements for an emergency declaration request. Requests must demonstrate that the need for critical emergency protective measures prior to impact are beyond the capability of the Tribal Nation<sup>131</sup> and should identify specific resource gaps that can be filled through Direct Federal Assistance (DFA). DFA resources may include, but are not limited to, personnel, equipment, supplies, and evacuation assistance. Pre-positioning of assets generally does not require a declaration. Assistance made available under a pre-disaster emergency declaration will typically be Category B (emergency protective measures), limited to DFA. FEMA may require damage assessments and/or verified cost estimates if an applicant requests additional types of assistance.

The emergency declaration request should be submitted within 5 days of the event, but no later than 30 days from the end date of the incident. If the incident occurs over multiple days, the 30-day limit starts on the last day of the incident. If a Tribal Nation needs additional time to submit a request for an emergency declaration, a Tribal Chief Executive may submit a written request for a time extension within 30 days of the incident start date. A request must include the additional time needed and a justification for why additional time is needed.<sup>132</sup> Time extension requests should be submitted to the FEMA Regional Administrator and be addressed to the Associate Administrator of the Office of Response and Recovery. FEMA will not process requests submitted outside of these timeframes.

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<sup>131</sup> Stafford Act § 501; 42 U.S.C. § 5191.

<sup>132</sup> 44 C.F.R. § 206.35(a).

# Chapter 8: Presidential Declaration Determination

After FEMA evaluates the request for an emergency or major disaster declaration, the agency sends its recommendation to the President. The President then makes the determination regarding whether supplemental federal assistance is necessary. The President has the sole discretion to declare an emergency or major disaster.

If a Tribal Chief Executive requests an emergency declaration, the President can either declare an emergency or deny the request. If a Tribal Chief Executive requests a major disaster declaration, the President can declare a major disaster, declare an emergency, or deny the request, or in the case of overlapping incident periods for differing events, may divide the events and approve separate major disaster declarations, or approve one and deny another. The President may also grant part of the request (e.g., grant Public Assistance [PA] but deny Individual Assistance [IA]). The President evaluates each program individually and may approve certain components of a federal assistance package while declining to approve others based on the circumstances and available information.

## 1. Notification of the Declaration Determination

### 1.1. Tribal Nation

Once the President has made the declaration determination, FEMA will promptly notify the Tribal Chief Executive. The Tribal Chief Executive may determine that a designee can receive the notification from FEMA if the Tribal Chief Executive is unavailable. The FEMA Regional Administrator will notify the Tribal Chief Executive or designee by phone, followed by an official letter from the President with the declaration determination.

Should the President declare an emergency or major disaster, FEMA also will inform the Tribal Chief Executive or designee of the incident and incident period, authorized programs, designated lands and/or entities eligible to receive assistance, cost share, and appointed Federal Coordinating Officer (FCO).

The President may initially issue a declaration that does not address all programs or areas requested by the Tribal Chief Executive. This is not a denial of the request. Those programs or areas remain under consideration until an official determination letter is issued with respect to those programs or areas. At any time before a final determination letter is issued, the Tribal Nation can provide any additional information, including updated Preliminary Damage Assessment (PDA) data, in further support of its request.

## **1.2. States and Tribal Nations**

FEMA will ensure that the appropriate Tribal Nation official(s) are aware when a state receives a declaration determination which includes areas where Tribal Nation lands are located. FEMA will proactively work with Tribal Nations to obtain their consent about what FEMA can share with states regarding their declaration information before sharing the information with the state. When a Tribal Nation receives a declaration determination and consents to FEMA informing the state in which the Tribal Nation is located, FEMA will ensure that the appropriate state government official(s) are aware of the determination. The Regional Tribal Liaison will make contact with the appropriate state government official(s).

## **1.3. Public Notification**

FEMA publishes a notice of the declaration in the Federal Register to inform the public at large. The notice will include the incident type, incident period, authorized programs, designated lands and/or entities eligible to receive assistance, cost share, and the appointed Federal Coordinating Officer (FCO).

# **2. Appealing a Denial of Declaration Request**

If a declaration request results in a denial, the Tribal Chief Executive may appeal the determination within 60 days of the date of the denial letter.<sup>133</sup> A declaration may also result in a denial of one aspect of the Tribal Nation's request and hence, the Tribal Nation can also appeal the decision regarding that component. The Tribal Chief Executive should submit this one-time written appeal to the President through the FEMA Regional Administrator. The appeal must include new information to support the appeal, such as additional PDA information or any other relevant information not included in the original declaration request. The Tribal Chief Executive may submit an extension request within the 60-day period, providing a valid reason for the delay. There are no timelines associated with receiving a decision on the appeal request for an emergency or major disaster declaration. As with every step of the process, the FEMA Region can provide the Tribal Nation with technical assistance regarding the information that would be helpful to include with an appeal.

# **3. Designation of Federal Coordinating Officer**

In the declaration determination, the President will identify an FCO to work with the Tribal Nation and administer authorized federal disaster assistance. The FCO is the lead federal official at the incident site and is responsible for ensuring that federal assistance is provided in accordance with the declaration, laws, regulations, and the FEMA-Tribe Agreement. The FCO makes an initial appraisal of types of relief most urgently needed, establishes necessary field offices, and coordinates the relief activities of Tribal Nation, state, local, and territorial governments, the American Red Cross, and

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<sup>133</sup> Stafford Act §§ 401 and 501; 42 U.S.C. §§ 5170 and 5191.



other disaster relief assistance organizations which agree to operate under the FCO's advice and direction.

When the area affected by a major disaster or emergency includes parts of more than one Tribal Nation or state, the President may appoint a single FCO for the entire affected area. Deputy FCOs may be appointed to assist the FCO as the Regional Administrator or FCO determines appropriate.

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# Chapter 9: Post-Declaration Activities

## 1. Designation of Tribal Disaster Officials

It is important to designate Tribal Disaster Officials<sup>134</sup> during the recovery process to coordinate disaster assistance efforts. The major responsibilities of each of the positions listed below are outlined in **Table 7: Outline of Leadership Roles and Responsibilities**.

### 1.1. Tribal Coordinating Officer

After a declaration, the Tribal Chief Executive will designate a Tribal Coordinating Officer (TCO), who will work directly with the Federal Coordinating Officer (FCO) to coordinate tribal disaster assistance efforts with those of the federal government. The TCO is usually identified in the declaration request on the official declaration request form.

### 1.2. Tribal Chief Executive's Authorized Representative

The Tribal Chief Executive must designate an authorized representative who is empowered with fiduciary responsibility for the Tribal Nation and completes all necessary documents for disaster assistance on behalf of the Tribal Nation.<sup>135</sup> The authorized representative is usually identified in the declaration request on the official declaration request form. This designation includes the authority to obligate the Tribal Nation to any non-federal cost share as required by law or the President's declaration. The names of these two officials will be entered into the FEMA-Tribe Agreement (FTA) in acknowledgement of their respective roles. The FTA will also include designations of one or more alternate authorized representatives. A single individual may serve as both the TCO and the Tribal Chief Executive's Authorized Representative. While an authorized representative is generally empowered to act on behalf of the Tribal Chief Executive, there are a number of actions that, under the Stafford Act, must be conducted by the Tribal Chief Executive. **Table 7: Outline of Leadership Roles and Responsibilities** outlines the different roles and responsibilities of these positions. Each assistance program varies in their requirements for who submits, revises, or signs materials. FEMA

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<sup>134</sup> A Tribal Chief Executive will include in the declaration request potential designees for the Tribal Coordinating Officer and the Chief Executive's Authorized Representative, but after the event is declared, the Tribal Chief Executive must officially appoint individuals to these positions. See 44 C.F.R. § 206.41 for more information on designation of disaster officials.

<sup>135</sup> Considering the bandwidth and capacity of Tribal Nations, a Tribal Chief Executive may elect to perform these duties for the Tribal Nation; however, FEMA encourages Tribal Chief Executives to designate a different official as the authorized representative, as there may be circumstances in which a Tribal Chief Executive is unavailable to perform these important duties, which could delay funding. A Tribal Chief Executive may identify these individuals in the request. A Tribal Chief Executive officially designates them in the FEMA-Tribe Agreement.

advises Tribal Nations to reference specific program guidance to ensure submissions comply with program requirements.

**Table 7: Outline of Leadership Roles and Responsibilities**

Position	Responsibilities
<b>Tribal Chief Executive</b>	<ul style="list-style-type: none"> <li>Submits a request for an emergency or major disaster declaration to the President through FEMA</li> <li>Designates the Tribal Chief Executive's Authorized Representative and Tribal Coordinating Officer as part of the FEMA-Tribe Agreement (FTA)</li> <li>Submits a written notice for timeline extensions</li> <li>Signs the FTA</li> <li>Submits closeout letter for certain programs (e.g., Hazard Mitigation Grant Program)</li> </ul>
<b>Tribal Chief Executive's Authorized Representative</b>	<ul style="list-style-type: none"> <li>Designated as part of the FTA</li> <li>Empowered with the fiduciary responsibility for the Tribal Nation during the disaster</li> <li>Executes all necessary documents for disaster assistance on behalf of the Tribal Nation</li> </ul>
<b>Tribal Coordinating Officer</b>	<ul style="list-style-type: none"> <li>Serves as the primary representative of the Tribal Chief Executive during disaster operations within the Joint Field Office</li> <li>Acts as the main liaison between the Federal Coordinating Officer and Tribal Nation</li> <li>Acts as the main contact for the affected Tribal Nation in filing a claim</li> </ul>

## 2. FEMA-Tribe Agreement

After every emergency or major disaster declaration, FEMA and the Tribal Nation receiving the declaration enter into a FTA. This agreement is signed by the FEMA Regional Administrator, or their designee, and the Tribal Chief Executive. While FEMA will not require the Agreement to be approved by the Tribal Nation's Council or governing body, it may be a requirement of the Tribal Nation's law. FEMA only requires that the Tribal Chief Executive signs the Agreement. The Tribal Nation's approval process is at their discretion. FEMA requires that the tribal official signing the FTA be duly authorized under tribal law to execute the Agreement on behalf of the Tribal Nation.

The agreement contains the understandings, commitments, and conditions under which FEMA's disaster assistance will be provided. No disaster funding or direct federal assistance will be authorized until the FTA has been signed, except where FEMA deems it necessary to begin the process of providing essential emergency services or housing assistance. As such, it is important that the FTA is completed and signed as soon as possible after the declaration.

FTA terms and conditions include, but are not limited to:

- Incident period;
- Incident type;
- Areas designated, if applicable;
- Programs authorized;
- Cost share provisions;
- Designation of TCO and Tribal Chief Executive's Authorized Representative(s);
- Requirements that the Tribal Nation follow all program eligibility requirements; and
- Applicable federal grant conditions and requirements, including those established by 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Once signed, the FTA can be amended upon the agreement of FEMA and the Tribal Nation. Amendments are typically signed for FEMA by the Regional Administrator, or their designee, and the Tribal Chief Executive or the Tribal Chief Executive's Authorized Representative for the Tribal Nation. Amendments are not required to be passed by the Tribal Nation's council or governing body to be accepted by FEMA.

### **3. Request for Programs**

Following the President's declaration, the Tribal Chief Executive or the Tribal Chief Executive's Authorized Representative may request the designation of additional programs. A written request must be based on verified damage assessments of unmet needs that are beyond a Tribal Nation's capabilities and must include documentation supporting the request, such as additional Joint Preliminary Damage Assessment (PDA) information. The Tribal Nation does not need to submit the FEMA disaster declaration request form; a letter will suffice.

Requests for additional programs or additional geographical areas must be submitted within 60 days of the end of the incident period of the declaration or within 60 days of the declaration, whichever is later, unless an extension is approved. If an extension is needed, the Tribal Chief Executive or Tribal Chief Executive's Authorized Representative may submit a time extension request within the 60-day period. The time extension request should be in writing and include the reason for the delay and the amount of additional time needed. FEMA will respond to the extension request within 7 days. The request for programs should be submitted to the FCO who will submit their recommendation to FEMA Headquarters through the FEMA Regional Administrator.

## 4. Cost Share Adjustments

Cost shares under the Stafford Act vary by assistance program. Most programs have a 75% federal/ 25% non-federal cost share, except for some IA programs that are 100% federally funded. The President is authorized to adjust or waive the non-federal cost share for PA only. **Table 8: Cost Shares Associated with FEMA Assistance Programs** lists the cost shares for each program and if the President (and subsequently FEMA) has the authority to waive or adjust the cost share:

**Table 8: Cost Shares Associated with FEMA Assistance Programs**

Assistance Program	Cost Share	Adjustable or Waivable by President Yes/No
Individual Assistance – Housing Assistance, Crisis Counseling Program, Disaster Unemployment Assistance, Disaster Case Management, and Disaster Legal Services	100% federally funded	N/A
Individual Assistance – Other Needs Assistance	75% federal / 25% non-federal	No – Stafford Act Section 408(g)(2)
Public Assistance – All Categories	75% federal / 25% non-federal	Yes – 44 C.F.R. § 206.47
Public Assistance – Direct Federal Assistance	75% federal / 25% non-federal	Yes – 44 C.F.R. § 206.47
Hazard Mitigation – Hazard Mitigation Grant Program	75% federal / 25% non-federal	No – Stafford Act Section 404(e)

Tribal Nations have several avenues for requesting and receiving cost share adjustments for the Public Assistance Program:

- At any time, Tribal Nation recipients, even as recipients under a state declaration, can request a cost share adjustment from the President when the Tribal Nation recipient determines that the costs associated with the disaster are so extraordinary to warrant additional assistance.<sup>136</sup> To make this request, the Tribal Chief Executive (or their Authorized Representative) should address the request to the President and submit it through the FEMA Regional Administrator. Only the President may adjust the cost share. FEMA will review the Tribal Chief Executive's request and supporting documentation and make a recommendation based on the particular circumstances. In its recommendation, FEMA will consider the impact of disasters that previously affected a

<sup>136</sup> For additional information on cost share adjustments for different pathways to assistance, please refer to Table 3: Evaluating Assistance Options.

Tribal Nation in the preceding 36-month period and any other unique circumstances the Tribal Nation would like FEMA to consider.

- When the Tribal Nation's actual federal obligations (excluding FEMA's administrative costs) reach the qualifying per capita,<sup>137</sup> FEMA may automatically recommend a 90% federal and 10% non-federal cost share adjustment for PA programs. FEMA will use the Tribal Nation's population as reported by the Tribal Nation to determine per capita obligations.
- If warranted by the needs of the disaster, then FEMA may recommend up to 100% federal funding for emergency work under Section 403 and Section 407, including direct federal assistance, for a limited period in the initial days of the disaster irrespective of the per capita impact. This period may be extended based on the gravity and scope of the disaster, as determined by the President.
- For Tribal Nation recipients, FEMA will automatically recommend a 98% federal cost share adjustment for the PA Program when the PA actual federal obligations, excluding administrative costs, reaches \$200,000.

**Table 9: Federal Cost Adjustments** describes the cost-share adjustment thresholds for 75% and 98% federal cost share responsibilities for PA actual federal obligations. As noted in the table, when actual federal obligations for PA are at least \$200,000, a Tribal Nation will assume responsibility for 2% of the cost share. This could range greater than \$4,000 for total tribal costs.

**Table 9: Federal Cost Adjustments**

Federal Cost Share	Tribal Cost Share	Total Obligations	Tribal Costs	Federal Costs
75%	25%	Less than \$200,000	Less than \$50,000	Less than \$150,000
98%	2%	Greater than or equal to \$200,000	Greater than or equal to \$4,000	Greater than or equal to \$196,000

If the President denies a cost share adjustment for a Tribal Nation, the Tribal Nation has a right to appeal that decision to the President and provide any additional information that might change the determination.

<sup>137</sup> The per capita in 2024 is \$179 and is adjusted annually based on the Consumer Price Index.

## **5. Amending the Incident Period**

The declaration establishes the incident period, which is then incorporated into the FEMA-Tribe Agreement. Generally, the declaration will define an incident period with a beginning and end date. When the effects of the incident are ongoing, the initial declaration and the FEMA-Tribe Agreement may indicate that the incident period is “continuing.” If so, the FCO will monitor and evaluate disaster conditions to determine when to recommend closing the incident period. FEMA will consult with the Tribal Nation and establish the closing date in an amendment to the FEMA-Tribe Agreement. FEMA will subsequently amend the declaration and publish the new incident period in the Federal Register.

If a Tribal Nation believes it may be necessary to amend the incident period, the Tribal Chief Executive or Tribal Chief Executive’s Authorized Representative may submit a request to change the incident period. The written request should include appropriate documentation to support the request (e.g., a report from the National Weather Service on a weather event). If there is sufficient justification based on official data, then FEMA may reopen or amend the incident period. The request to amend the incident period should be submitted in writing through the FCO.

## **6. Amending the Incident Type**

The President’s declaration will specify the incident type that caused the emergency or major disaster. The Tribal Chief Executive or Tribal Chief Executive’s Authorized Representative may request an amendment of the incident type based on sufficient justification from an incident-appropriate agency (e.g., official reports from the National Weather Service [NWS] or the U.S. Geological Survey [USGS] and supporting damage assessments). The request to amend the incident type should be submitted in writing to the FCO.

## **7. Partial Denial of Requested Types of Assistance or Areas**

If certain types of assistance or certain areas requested to be authorized in the declaration are denied, then the Tribal Chief Executive or Tribal Chief Executive’s Authorized Representative may appeal the determination. Within 60 days of the date of the denial, the Tribal Chief Executive or Tribal Chief Executive’s Authorized Representative can submit a one-time written appeal, which must include additional supporting information. The Tribal Chief Executive or Tribal Chief Executive’s Authorized Representative should submit the appeal through the FEMA Regional Administrator to FEMA’s Associate Administrator of the Office of Response and Recovery.



## 8. Additional Resources Post-Disaster

### 8.1. Community Disaster Loans

Under a Tribal Nation major disaster declaration, a Tribal Nation may be eligible for Community Disaster Loans. Under the Community Disaster Loan program, FEMA may make loans to a Tribal Nation (1) that suffers a substantial loss of tax and/or other revenues as a result of a major disaster and (2) has demonstrated a need for financial assistance in order to perform its governmental functions.<sup>138</sup> The term of the loan is five years. At the end of five years, applicants who cannot repay the loan because of hardship may apply for an extension. Community Disaster Loans are subject to the availability of appropriations. For further information regarding the Community Disaster Loan program, see FEMA's implementing regulations.<sup>139</sup>

### 8.2. Interagency Recovery Coordination

Interagency Recovery Coordination<sup>140</sup> (IRC) is a process that coordinates federal interagency recovery efforts, in a unified partnership with impacted Tribal Nations and other entities in coordination with tribal needs. With recovery efforts led by the impacted community and supported by federal resources, the IRC process identifies recovery needs, creates a strategy to address those needs, and supports the implementation of a recovery strategy.

The IRC process aims to bring together federal, Tribal Nation, state, local, territorial, private sector, and nongovernmental partners to work together to address the unique recovery needs of communities through a coordinated federal interagency approach. FEMA will work with other federal agencies to support Tribal Nations before, during, and after disasters, to improve Tribal Nation disaster resiliency and preparedness. Through IRC efforts, FEMA can support Tribal Nations in navigating other federal resources and engages the Recovery Support Functions (RSFs) to potentially identify other technical assistance or resource options. The IRC process coordinates federal and nongovernmental support for state, local, tribal, and territorial (SLTT) recovery needs under the National Disaster Recovery Framework, through six RSFs: Community Assistance (CA); Economic; Housing; Health and Social Services; Infrastructure Systems; and Natural and Cultural Resources.<sup>141</sup>

RSF regional or field coordinators and FEMA IRC staff work to support Tribal Nations and impacted communities' recovery to address the unique recovery needs of communities through a coordinated

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<sup>138</sup> Stafford Act § 417; 42 U.S.C. § 5184.

<sup>139</sup> See 44 C.F.R. § 206.360 - 206.377.

<sup>140</sup> For more information on Interagency Recovery Coordination, please visit: [Response and Recovery Federal Interagency Operational Plan](#).

<sup>141</sup> For more information on RSFs, please visit: [Recovery Support Functions](#).

federal interagency approach to FEMA and non-FEMA technical and financial assistance programs. Although there is a standard process and approach for IRC deliverables, the IRC process is also flexible and scalable and can be adjusted based on disaster-specific impacts, partner capacity, and mission requirements. When IRC needs are apparent, or impacts are significant, FEMA will initiate its IRC process in coordination with the Tribal Nation. At the discretion of the Tribal Nation, FEMA will deploy a Federal Disaster Recovery Officer and CA Field Coordinator to begin assessing the federal needs of the Tribal Nation.

FEMA encourages Tribal Nations to collaborate with their Regional Tribal Liaison, Tribal FEMA Integration Teams, and IRC personnel to leverage the IRC's support in building resilient capacities, identifying opportunities for recovery plans, and addressing resource gaps in both steady-state and disaster environments.

### **8.3. Voluntary Agency Liaisons**

When disasters occur, voluntary agencies can play important roles supporting the response and recovery efforts of a Tribal Nation and helping individual tribal community members with disaster-caused unmet needs. During Tribal Declarations, FEMA can work closely with Tribal Nations to determine if voluntary agency coordination is right for their needs. When appropriate, FEMA's Voluntary Agency Liaisons<sup>142</sup> (VALs) can establish, foster, and maintain relationships among Tribal Nations and voluntary, faith-based, and community partners to support the delivery of services.

In the case that a Tribal Nation did not receive a Presidential disaster declaration, FEMA VALs may still provide support to the tribal community. In these instances, the complex challenge of survivor recovery is addressed by voluntary agencies working to assist in the impacted areas. VALs may provide subject matter expertise to the Tribal Nation to help coordinate agencies and improve service delivery. VALs may also be called upon to help conduct a PDA, prior to a declaration, to gauge the level of voluntary agency activity, as well as support the development of recovery efforts. VALs may also be requested to support non-Stafford Act events where subject matter expertise for community convening, volunteer and donations management, and other emergency management functions assist other federal agencies, international incidences, and private sector disaster activities.

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<sup>142</sup> For more information on the Voluntary Agency Liaisons, please visit: [Individual Assistance Program and Policy Guide Version 1.1, 2021](#).

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# Appendix A: Abbreviations and Acronyms

ABA	American Bar Association
BIA	Bureau of Indian Affairs
CA	Community Assistance
CCP	Crisis Counseling Assistance and Training Program
C.F.R.	Code of Federal Regulations
CPG	Comprehensive Preparedness Guide
DCM	Disaster Case Management
DHS	Department of Homeland Security
DFA	Direct Federal Assistance
DLS	Disaster Legal Services
DOI	Department of the Interior
DUA	Disaster Unemployment Assistance
EO	Executive Order
FCO	Federal Coordinating Officer
FEMA	Federal Emergency Management Agency
FDRO	Federal Disaster Recovery Officer
FIOP	Federal Interagency Operational Plans
FIT	FEMA Integration Team
FMA	Flood Mitigation Assistance
FMAG	Fire Management Assistance Grant
FOIA	Freedom of Information Act

HMA	Hazard Mitigation Assistance
HMGP	Hazard Mitigation Grant Program
HUD	Department of Housing and Urban Development
IA	Individual Assistance
IAPPG	Individual Assistance Program and Policy Guide
ICDBG	Indian Community Development Block Grant
IHP	Individuals and Households Program
IRC	Interagency Recovery Coordination
iTEMA	Tribal Emergency Management Association
MAA	Mutual Aid Agreement
MOU	Memorandum of Understanding
NDRF	National Disaster Recovery Framework
NGO	Non-governmental Organization
NIFC	National Interagency Fire Center
NRF	National Response Framework
NWS	National Weather Service
OFA	Other Federal Agency
OMB	Office of Management and Budget
ONA	Other Needs Assistance
PA	Public Assistance
PAPPG	Public Assistance Program and Policy Guide
PDA	Preliminary Damage Assessment
PII	Personal Identifiable Information
PWNA	Partnership with Native Americans

RAPT	Resilience Analysis and Planning Tool
REAA	Regional Educational Attendance Area
RSF	Recovery Support Function
SBA	Small Business Administration
SPR	Stakeholder Preparedness Review
SRIA	Sandy Recovery Improvement Act
SLTT	State, Local, Tribal, and Territorial
TCO	Tribal Coordinating Officer
THIRA	Threat and Hazard Identification and Risk Assessment
THSGP	Tribal Homeland Security Grant Program
TLAC	Tribal Lands and Assistance Center
TLNO	Tribal Liaison Officer
USDA	U.S. Department of Agriculture
USGS	U.S. Geological Survey
VAL	Voluntary Agency Liaison
VOAD	Voluntary Organizations Active in Disaster

# Appendix B: Terms and Definitions

The following definitions apply for the purposes of this guidance:

**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)

**Declaration:** The formal action by the President to make a state, Tribal Nation, or territory eligible for emergency or major disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Stafford Act).

**Direct Federal Assistance:** Direct assistance from the federal government provided to state, local, Tribal Nations, or territories which are unable to independently perform or contract for Emergency Work, authorized through the Stafford Act.

**Emergency:** Any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement Tribal Nation, state, and local 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:** The official appointed by the President to immediately initiate and oversee, manage, and implement supportive actions once a disaster declaration has been made to ensure that federal assistance is provided in accordance with the declaration, applicable laws, regulations, and the FEMA-Tribe Agreement.

**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))

**Fire Management Assistance Grant Program:** Assistance provided by FEMA in the form of grants for equipment, supplies, and personnel costs to any state and local government, Tribal Nation, or territory for the mitigation, management, and control of any fire on public or private forest, land, or grassland that would constitute a major disaster.

**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, tribal, and local government or certain private, non-private organizations for the purpose of hazard mitigation. (44 C.F.R. § 206.430)

**Incident:** Any condition that meets the definition of an emergency or major disaster as set forth in Title 44 C.F.R. § 206.2 which causes damage or hardship that may result in a Presidential declaration of an emergency or major disaster.

**Incident Period:** The time interval during which the disaster-causing incident occurs. No federal assistance under the Stafford Act is approved unless the damage or hardship to be alleviated resulted from the disaster-causing incident which took place during the incident period or was in anticipation of that incident. (44 C.F.R. § 206.32(f))

**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))

**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)

**Local Government:** (1) A county, parish, borough, 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 (Tribal Nation), 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 (Tribal Nations), 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. §200.1). A recipient is the pass-through entity, responsible for any subawards made to subrecipients.

**Preliminary Damage Assessment (PDA):** A mechanism used to determine the impact and magnitude of damage and the resulting unmet needs of individuals, businesses, the public sector, and communities as a whole.

**Public Assistance:** Supplementary federal assistance provided under the Stafford Act to state, Indian tribal, and local governments or certain private, non-profit organizations for debris removal, life-



saving emergency protective measures, and restoring public infrastructure [other than assistance for the direct benefit to individuals and families (44 C.F.R. § 206.2(a)(20))].

**Recipient:** A recipient is a non-federal entity (i.e., a Tribal Nation) that receives a federal award directly from FEMA. Recipients have direct relationships with FEMA. There are two ways that Tribal Nations can become recipients:

- **Tribal Declaration recipient:** A Tribal Nation has requested and received their own major disaster or emergency declarations and therefore have a direct relationship with FEMA.
- **Recipient under a state declaration:** A Tribal Nation covered under a state declaration can choose to become a recipient through the state declaration, sign a FEMA-Tribe Agreement, and have a direct relationship with FEMA.

**Recovery Support Functions:** Federal RSFs comprise the National Disaster Recovery Framework (NDRF) coordinating structure for key functional areas of assistance. Their purpose is to support local, regional/metropolitan, state, tribal, territorial, and insular area governments by facilitating problem solving, improving access to resources, integrating principles of resilience, and mitigation, and fostering coordination among state, tribal, territorial, and federal agencies, nongovernmental partners, and other stakeholders.

**Regional Administrator (RA):** The Administrator of a Regional Office of FEMA.

**State, Local, Tribal, and Territorial (SLTT):** A domestic government entity that is a state government, local government, tribal government, territorial government, or any subdivision thereof.

**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 subrecipient is a non-federal entity (i.e., a Tribal Nation) that receives FEMA assistance in the form of a subaward from a pass-through entity (i.e., a state). While subrecipients can receive technical assistance support from FEMA, they do not have direct relationships with FEMA.

**Tribal Chief Executive:** The person who is the Chief, Chair, Chairperson, Chairwoman, Chairman, Principal Chief, Ogema, Governor, President, or similar executive official of a Tribal Nation. (42 U.S.C. § 5122(12))

**Tribal Chief Executive's Authorized Representative:** The person empowered by the Tribal Chief Executive or other officially designated process under Tribal Nation law or custom to execute, on

behalf of the Tribal Nation, all necessary documents for disaster assistance. (Adapted from the definition of Governor's Authorized Representative at 44 C.F.R. § 206.2(a)(13))

**Tribal Community Member:** A tribal community member can consist of anyone designated by the Tribal Nation, including but not limited to, tribal members, tribal citizens, tribal descendants, tribal employees, non-tribal members, or non-Natives.

**Tribal Coordinating Officer:** The person appointed by the Tribal 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 Nation Lands:** Reservations, lands held in trust by the United States government for the Tribal Nation (trust land), dependent Indian communities, Tribal service areas, pueblo lands, ceded Tribal Nation lands, treaty lands, and for individual tribal members (allotted land), service areas, as well as land owned by the Tribal Nation or tribal community members (fee simple land).<sup>143</sup> This is not an exhaustive list of all tribal land types.

**Tribal Nation** (also known as an **Indian 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))

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<sup>143</sup> Fee simple land does not need to be in the process of transitioning to trust in order to be considered tribal land.

# Appendix C: Authorities and Supporting Documents

## Authorities

### [Disaster Mitigation Act of 2000](#)

This Act amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), creating the framework for state, local, tribal and territorial governments to engage in hazard mitigation planning to receive certain types of non-emergency disaster assistance.

### [Robert T. Stafford Disaster Relief and Emergency Assistance Act \(Public Law 93-288, as amended, 42 U.S.C. §§ 5121-5207\), 2018](#)

This Act constitutes the statutory authority for most federal disaster response activities especially as they pertain to FEMA and FEMA programs.

### [Sandy Recovery Improvement Act \(SRIA\) of 2013](#)

This law authorizes several significant changes to the way FEMA may deliver federal disaster assistance to survivors.

### [Title 44 of the Code of Federal Regulations \(C.F.R.\), “Emergency Management and Assistance.”](#)

This title contains the basic policies and procedures of the FEMA for adoption of rules. The title contains the regulations issued by FEMA, including those related to implementing the Stafford Act. Various regulations concerning Tribal Nations are located throughout the title.

### [Title 2, C.F.R., “Grants and Agreements.”](#)

This title contains Office of Management and Budget (OMB) guidance to federal agencies on government-wide policies and procedures for the award and administration of grants and agreements; and federal agency regulations implementing that OMB guidance.

## Supporting Documents

### [Federal Interagency Operational Plans \(FIOP\)](#)

The FIOPs describe how the federal government aligns resources and delivers core capabilities to implement the five National Planning Frameworks. The FIOPs provide a federal concept of

operations, integrating and synchronizing national-level capabilities, for prevention, protection, mitigation, response, and recovery to support all levels of government. These plans also help federal departments and agencies develop and maintain department-level operational plans.

### **FEMA Tribal Policy (Rev. 2)**

This establishes how FEMA operates with regard to Tribal Nations and outlines a framework for Nation-to-Nation relations with Tribal Nations that recognizes tribal sovereignty and self-governance and upholds the federal government-to-government trust responsibility.

### **FEMA Tribal Consultation Policy**

This policy provides guidance on FEMA-wide tribal consultation protocols and applies to FEMA actions that have tribal implications.

### **National Disaster Recovery Framework (NDRF)**

The National Disaster Response Recovery Framework enables effective recovery support to disaster-impacted states, tribes, territorial, and local jurisdictions. It provides a flexible structure that enables disaster recovery managers to operate in a unified and collaborative manner. The NDRF focuses on how to best restore, redevelop, and revitalize the health, social, economic, natural and environmental fabric of the community and build a more resilient Nation.

### **National Incident Management System (NIMS)**

The NIMS guides all levels of government, nongovernmental organizations, and the private sector to work together to prevent, protect against, mitigate, respond to, and recover from incidents. NIMS provides stakeholders across the whole community with the shared vocabulary, systems and processes to successfully deliver the capabilities described in the National Preparedness System.

### **National Infrastructure Protection Plan (NIPP), 2013**

This outlines how the government and private sector participants in the critical infrastructure community work together to manage risks and achieve security and resilient outcomes. The plan contains 16 critical infrastructure sectors and emphasizes leveraging partnerships, innovative risk management, and focused outcomes.

### **National Planning Frameworks**

The Frameworks describe how the whole community works together to achieve the National Preparedness Goal. There is one framework for each of the five preparedness mission areas (prevention, protection, mitigation, response, and recovery). The Frameworks help in understanding how the Nation coordinates, shares information, and works together—which ultimately results in a more secure and resilient Nation.

## **National Preparedness Goal**

The goal describes five mission areas—prevention, protection, mitigation, response, and recovery—and 32 activities, called core capabilities that address the greatest risks to the Nation.

## **National Response Framework (NRF)**

The National Response Framework (NRF) is a guide to how the Nation responds to all types of disasters and emergencies. It is built on scalable, flexible, and adaptable concepts identified in the National Incident Management System to align key roles and responsibilities. The NRF is structured to help jurisdictions, citizens, and nongovernmental organizations and businesses: develop whole community plans, integrate continuity plans, build capabilities to respond to cascading failures among business, supply chains, and infrastructure sectors, and collaborate to stabilize community lifelines and restore services.

# **Executive Orders and Memorandums**

## **Executive Order Establishing the Federal Emergency Management Agency**

Executive Order 12127 was signed by President Jimmy Carter on March 31, 1979. It established the Federal Emergency Management Agency (FEMA).

## **Executive Order on Federal Emergency Management**

Executive Order 12148 was signed by President Jimmy Carter on July 20, 1979. It gave FEMA the dual mission of emergency management and civil defense.

## **Executive Order on Consultation and Coordination with Indian Tribal Governments**

Executive Order 13175 was signed by President Bill Clinton on November 6, 2000. It requires that federal agencies must engage in regular, meaningful, and timely consultation with Tribal officials in the development of federal policies that have tribal implications. The order aims to strengthen the government-to-government relationship between the United States and Tribal Nations, reduce the imposition of unfunded mandates upon Tribal Nations.

## **Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government**

Executive Order 14058 was signed by President Joe Biden on December 13, 2021. It directs federal agencies to put people at the center of everything the government does—including 36 customer experience improvement commitments across 17 federal agencies, which aim to improve people's lives and delivery of government services. Tribal communities will be able to expect more

streamlined and integrated grants application processes, rather than having to provide information repeatedly to the federal government and navigate across multiple agency websites.

### **Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships**

This Presidential Memorandum was signed by President Joe Biden on January 26, 2021. It reaffirms Executive Order 13175 which charges all executive departments and agencies engaging in regular, meaningful, and robust consultation with Tribal officials in the development of federal policies that have Tribal implications. This Memorandum also reaffirms the Presidential Memorandum of November 5, 2009 (Tribal Consultation), which requires each agency to prepare and periodically update a detailed plan of action to implement the policies and directives of Executive Order 13175.

### **Presidential Memorandum on Uniform Standards for Tribal Consultation**

This Presidential Memorandum was signed by President Joe Biden on November 30, 2022. It establishes uniform minimum standards to be implemented across all agencies regarding how Tribal consultations are conducted. It is designed to respond to the input received from Tribal Nations regarding Tribal consultation, improve and streamline the consultation process for both Tribes and federal participants, and ensure more consistency in how agencies initiate, provide notice for, conduct, record, and report on Tribal consultations.

# Appendix D: Additional Resources, Programs, and References

**Table 10: Additional Resources, Programs, and References**

Resources and References	Description
<a href="#">Access to Capital Clearinghouse</a>	A multi-agency strategy to improve awareness of, access to, and utilization of federal funding resources for Tribal governments, Tribal enterprises, Native entrepreneurs, and Native Community Development Financial Institutions (CDFIs). Housed on the Department of Interior's (DOI) Indian Affairs website, this resource includes information and resources for Tribal Nations seeking opportunities for federal funding.
<a href="#">BIA Tribal Community Resilience Program</a>	Designed to enable community preparedness and resilience in all Indian Affairs programs and for all federally recognized Tribal Nations and Alaska Native villages through technical and financial assistance, access to appropriate science, as well as educational and informational opportunities.
<a href="#">Community Lifelines</a>	A collection of resources that provides whole community partners the information and resources to understand lifelines, coordinate with entities using lifelines, and serve as basic guidance for how to implement the lifeline construct during incident response.
<a href="#">DOI/BIA Federally Recognized Tribes List</a>	The Secretary of the Interior is required to publish in the Federal Register a list of all federally recognized tribes that the Secretary recognizes to be eligible for the special programs and services provided by the United States.
<a href="#">FEMA Grants</a>	FEMA grant funds are available for pre- and post-emergency or disaster-related projects. These funds support critical recovery initiatives, innovative research, and many other programs. Grants are the principal funding mechanism FEMA uses to commit and award federal funding to eligible state, local, tribal, territorial, certain private non-profits, individuals, and institutions of higher learning.
<a href="#">Flood Mitigation Assistance</a>	The Flood Mitigation Assistance grant program provides funding to states, federally recognized Tribal governments, U.S. territories, and local governments. The funds are used for projects that reduce or eliminate the risk of repetitive flood damage to buildings insured by the National Flood Insurance Program.
<a href="#">Indian Community Development Block Grant (ICDBG)</a>	HUD program that provides eligible grantees with direct grants for use in developing viable Indian and Alaska Native communities, including decent housing, a suitable living environment, and

Resources and References	Description
	economic opportunities, primarily for low- and moderate-income persons.
<a href="#">Individuals and Households Program (IHP)</a>	This FEMA program provides financial and direct services to eligible individuals and households affected by a disaster, who have uninsured or under-insured necessary expenses and serious needs. IHP assistance is not a substitute for insurance and cannot compensate for all losses caused by a disaster.
<a href="#">The National Interagency Fire Center</a>	The National Interagency Fire Center (NIFC) is the nation's support center for wildland firefighting. NIFC representation includes eight federal agencies and the National Association of State Foresters provide various fire suppression assistance: the Bureau of Indian Affairs, the Bureau of Land Management, the Department of Defense, the U.S. Fire Administration, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the National Association of State Foresters, the National Weather Service, and the National Park Service.
<a href="#">National Voluntary Organizations Active in Disaster (VOAD)</a>	VOAD is a coalition of more than 70 of the nation's most reputable national organizations (faith-based, community-based, and other non-profit organizations) and 56 state/territory VOADs, which represent local/regional VOADs and hundreds of other member organizations throughout the country.
<a href="#">Partnership with Native Americans (PWNA)</a>	PWNA is a member of National VOAD and facilitates emergency preparedness planning and training projects in remote tribal communities and provides public education on how disaster aid differs for Tribal Nation reservations.
<a href="#">Resilience Analysis and Planning Tool (RAPT)</a>	Provides access to powerful data and GIS mapping that can help everyone understand their community. Includes over 100 preloaded layers including community resilience indicators from peer-reviewed research, the most current census demographic data, infrastructure data, and data on weather, hazards, and risk. RAPT includes easy-to-use analysis tools, the ability to add data from other sources, and print and download functions.
<a href="#">Secretary of the Interior Order No. 3335</a>	Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries.
<a href="#">Tribal Emergency Management Association (iTEMA)</a>	iTEMA is a national Tribal association with a mission that promotes a collaborative, multi-disciplinary approach to prepare for, protect against, respond to, recover from, and mitigate against all hazards that impact tribal communities. iTEMA partners with the American Red Cross and California State Firefighters' Association.



Resources and References	Description
<a href="#">Tribal Funding, Mitigation and Planning Resources</a>	Provides public and individual assistance information to include preparedness and training guidance.
<a href="#">Tribal Homeland Security Grant Program (THSGP)</a>	Tribal FEMA grant program focused on enhancing the ability of Tribal Nations to prevent, prepare for, protect against, and respond to threats.
<a href="#">Tribal Lands and Assistance Center (TLAC)</a>	TLAC provides all federally recognized tribes, including Alaska Native villages, a single point of access to information and resources regarding contaminated sites on and near Tribal Nation lands and waters, due to the release of hazardous substances including petroleum/oil spills.
<a href="#">Tribal Mitigation Planning Handbook</a>	A tool for Tribal Nations to use in developing a mitigation plan that meets the requirements of Title 44 of the Code of Federal Regulations, Section 201.7 (44 C.F.R. § 201.7). It focuses on practical approaches for how tribes can build mitigation plans that reduce long-term risk from natural hazards.
<a href="#">U.S. Department of Housing and Urban Development (HUD)</a>	HUD provides additional support—beyond the immediate post-disaster support provided by FEMA, the U.S. Small Business Administration, and other government agencies for ongoing recovery through programs and partnerships.
<a href="#">U.S. Department of Interior Disaster Response and Recovery Resources</a>	Leads coordination efforts to safeguard the Nation’s natural and cultural resources and historic properties in the aftermath of catastrophic disasters and emergencies.
<a href="#">U.S. Department of Interior Indian Affairs – Emergency Management Division</a>	The Bureau of Indian Affairs Emergency Management (BIA EM) is responsible for policy development and program management concerning disaster preparedness, planning, response and recovery, and continuity of operations. This includes coordinating with and among federally recognized tribes, federal agencies, states, and other jurisdictions to enhance preparedness and resilience of tribal communities for disasters and to support response activities during incidents.
<a href="#">U.S. Small Business Administration (SBA)</a>	Provides disaster assistance through low-interest loans to help businesses and homeowners recover from declared disasters.

# Appendix E: Forms, Templates, and Guides

**Table 11: Forms and Templates**

Forms and Templates	Description
<a href="#">FEMA Form FF-104-FY-21-114: Individuals and Household Program (IHP) Other Needs Assistance Administrative Option Selection Form</a>	This form provides administrative options for Other Need Assistance for applicants to choose from during the disaster declaration process.
<a href="#">FEMA Form FF-104-FY-21-115: Individuals and Households Program Application for Continued Temporary Housing Assistance</a>	This form is for applicants in need of Continued Temporary Housing Assistance under the Individuals and Households Program.
<a href="#">FEMA Form 010-0-13: Request for Presidential Disaster Declaration: Major Disaster Emergency</a>	This form includes the minimum necessary information and certifications legally required by the Stafford Act for a declaration request and must be signed by the Tribal Chief Executive or their authorized designee.
<a href="#">Tribal Request for Presidential Declaration Cover Letter Template</a>	This cover letter typically accompanies the Request for Presidential Disaster Declaration: Major Disaster Emergency form to provide the Tribal Chief Executive an opportunity to include additional information about the impacts of events on a Tribal Nation.

**Table 12: Guides**

Guides	Description
<a href="#">Comprehensive Preparedness Guide (CPG) 101</a>	This resource provides guidance from FEMA on the fundamentals of planning and developing emergency operations plans.
<a href="#">Comprehensive Preparedness Guide (CPG) 201</a>	This resource provides guidance for conducting a Threat and Hazard Identification and Risk Assessment (THIRA) and Stakeholder Preparedness Review (SPR).

Guides	Description
<a href="#">Disaster Financial Management Guide</a>	This resource outlines information to help jurisdictions (e.g., state, local, tribal and territorial governments) establish and implement sound disaster financial management practices.
<a href="#">FEMA New Recipients of Disaster Grants Guide</a>	This resource provides guidance to state, territorial, and Tribal Governments on the essential elements of PA, IA, and HMGP and required actions to request, initiate, and receive FEMA disaster assistance grants.
<a href="#">FEMA Preliminary Damage Assessment Guide</a>	The Preliminary Damage Assessment Guide (PDA Guide) is a standard framework for how emergency management officials conduct preliminary damage assessments (PDAs) following a disaster. The PDA Guide also includes a Tribal-Specific Considerations appendix that highlights areas of the PDA process that are unique for Tribal Nations.
<a href="#">Hazard Mitigation Assistance Program and Policy Guide (HMA Guide)</a>	This resource provides guiding principles and priorities for Hazard Mitigation Assistance (HMA) programs: Hazard Mitigation Grant Program (HMGP); Hazard Mitigation Grant Program Post Fire (HMGP Post Fire); and Flood Mitigation Assistance (FMA).
<a href="#">Individual Assistance Policy and Program Guide (IAPPG)</a>	The IAPPG consolidates information on all of FEMA's Individual Assistance (IA) programs and activities and provides a comprehensive policy resource for state, local, tribal, and territorial (SLTT) governments, non-governmental organization partners, and entities that participate in or support the recovery of disaster survivors.
<a href="#">Pre-Disaster Recovery Planning Guide for Tribal Governments</a>	This resource provides a basic framework and guidance for tribal leadership and stakeholders as they plan for recovery.
<a href="#">Public Assistance Program and Policy Guide (PAPPG)</a>	The PAPPG provides information on FEMA's PA Program and its policy and procedural requirements.
<a href="#">Tribal Declarations Pilot Guidance</a>	The predecessor to this current document, the <i>Tribal Declarations Interim Guidance</i> .
<a href="#">Tribal Mitigation Plan Review Guide</a>	This resource provides guidance to Tribal Nations on developing an approvable hazard mitigation plan that meets federal requirements.

# Appendix F: FEMA Regions

**Table 13: FEMA Regions<sup>144</sup>**

Region	States/Territories
National-Level Contact	N/A
Region 1	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Region 2	New Jersey, New York, Puerto Rico, Virgin Islands
Region 3	Delaware, Maryland, Pennsylvania, Virginia, District of Columbia, West Virginia
Region 4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
Region 5	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Region 6	Arkansas, Louisiana, New Mexico, Oklahoma, Texas
Region 7	Iowa, Kansas, Missouri, Nebraska
Region 8	Colorado, Montana, Utah, Wyoming, North Dakota, South Dakota
Region 9	Arizona, California, Hawaii, Nevada, Guam, American Samoa, Commonwealth of Northern Mariana Islands, Republic of Marshall Islands, Federated States of Micronesia
Region 10	Alaska, Idaho, Oregon, Washington

<sup>144</sup> [FEMA's Tribal Affairs Hub](#) provides up-to-date contact information for each Regional Tribal Liaison.