

Summary of Changes: FEMA Tribal Declarations Interim Guidance

FEMA has updated the 2017 *Tribal Declarations Pilot Guidance* based on multiple government-to-government Tribal consultations, listening sessions, comments, and feedback from Tribal Nations on how to better address the needs of Tribal Nations navigating the major disaster and emergency declaration process. FEMA now asks for your help in improving the 2024 *Tribal Declarations Interim Guidance* during the public comment period. This summary provides an overview of the proposed changes to guide your review. On behalf of FEMA, **thank you** for your input. Your feedback is critical in shaping the updated *Tribal Declarations Interim Guidance* and supporting Tribal Nations through the disaster recovery process.

Overview

FEMA has now published the *Tribal Declarations Interim Guidance* for a 30-day public comment period – requesting all comments and feedback until January 3, 2025. To guide public comment reviews, FEMA prepared this summary, including the following Compendium of Changes, to guide your review.

Highlighted Improvements

- ✓ Increased flexibility and accessibility through changes to minimum damage amounts, cost share adjustments, and submission deadlines.
- ✓ Improved clarity of language and terms by expanding definitions based on feedback from Tribal Nation consultations.
- ✓ Emphasized tribal sovereignty and self-determination through inclusion of Executive Orders and recognizing FEMA's treaty and trust responsibilities to Tribal Nations.
- ✓ Updated and included visual elements such as figures, infographics, callout boxes, and tables.
- ✓ Restructured guidance to improve organization and navigability of the document.

Compendium of Changes

The following section is organized by chapters of the *Tribal Declarations Interim Guidance* and outlines major changes throughout each chapter. It highlights the most relevant updates for the reader but is not an exhaustive list

of all changes. Additionally, clarifying information to improve the reader's understanding of material has been added throughout all chapters.

Executive Summary

- Incorporated a table that outlines the changes, revisions, and updates made from the 2017 Tribal Declarations Pilot Guidance.
- Incorporated a table that outlines the document structure with chapter numbers and titles.

Chapter 1: Introduction and Background

- Incorporated a callout box that references the 2022-2026 FEMA National Tribal Strategy and FEMA Tribal Policy as the foundation for the *Tribal Declarations Interim Guidance* update.
- Incorporated a section on the implementation of Executive Order No. 14112, *Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination*, signed by President Biden in December 2023. Executive Order 14112 outlines the requirements for federal agencies to ensure federal funding for Tribal Nations is accessible, flexible, and equitable. Agencies must consider the unique needs of Tribal Nations by providing waivers, exceptions, and accommodations for Federal funding and support programs where necessary.
- Incorporated expanded information on Stafford Act amendments that acknowledge Tribal Nations as sovereign governments and the direct government-to-government relationship between the United States and Tribal Nations.

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

- Incorporated several callout boxes, including definitions of emergency and major disasters, links to specific FEMA webpages, and clarifying the policy surrounding Tribal Nations and Fire Management Assistance Grants (FMAGs).
- Included a figure outlining the options for Tribal Nations as a recipient or subrecipient under a state declaration.
- Added an infographic distinguishing Individual Assistance (IA), Public Assistance (PA), and Hazard Mitigation Assistance (HMA).
- Added clarifying language that Tribal Nations have the choice to seek Stafford Act Assistance on their own, as a recipient under a state declaration, or as a subrecipient under a state declaration.
- Incorporated a list of Other Federal Agencies (OFAs) that offer assistance to Tribal Nations during disasters.

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

- Incorporated callout boxes with a link to PA resources on the FEMA website and a link to IA resources on the FEMA website.
- Added language clarifying that Tribal Nations can define who is a “tribal community member” during an IA disaster declaration to make sure their full community is served.
- Added language outlining reimbursement for assistance received from other jurisdictions through mutual aid agreements (MAA) and memoranda of understanding (MOA).

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

- Created several callout boxes that highlight information and resources to specific FEMA websites, including the FEMA Tribal Affairs Hub.
- Clarified the assistance request process and added examples of how Tribal Nations can include culturally significant line items in the Other Needs Assistance (ONA) Administrative Option Selection Form.
- Incorporated several tables that:
 - Outline options for Tribal Nations directly seeking assistance on their own, as a recipient under a state declaration, or as a subrecipient under a state declaration.
 - Outline plan requirements for Tribal Nations under different declaration options.
 - Outline plan requirements for FEMA grant funding.
- Reduces the PA minimum damage amount for Tribal Nations from \$250,000 to \$100,000.
- Added a section outlining the available technical assistance and regional resources that Tribal Nations may request to assist them in developing the mitigation plans and other administrative requirements ahead of a declaration.

Chapter 5: Process to Request Major Disaster Declarations

- Incorporated several callout boxes highlighting information and resources to specific FEMA websites and outlining how Tribal Nations can determine the incident type for a declaration request.
- Included a figure that outlines the declaration process.
- Added a section outlining the process for expedited and verbal declaration requests.
- Extended various deadlines for Tribal Nations to better reflect Tribal Nations’ needs during disasters, which includes:
 - Extending the deadline for submitting Hazard Mitigation Plan from 30 days to 90 days;

- Extending the deadline for requesting major disaster declaration from 30 days to 60 days;
- Extending the deadline for requesting PA or any add-ons from 30 days to 60 days; and
- Extending the deadline for requesting an appeal to the denial of a declaration request from 30 days to 60 days.

Chapter 6: FEMA Criteria for Recommending Major Disaster Declarations

- Incorporated two callout boxes, including one with links for additional lifeline information on the FEMA website and one with a link to additional damage and destruction information on the FEMA website.
- Updated the Tribal Declaration Factors for IA and PA to better align with the potential impacts of a disaster on Tribal Nations and tribal community members.
- Reduced the PA minimum damage amount for Tribal Nations from \$250,000 to \$100,000.
- Incorporated a table outlining the IA Tribal Declaration Factors FEMA considers by program area.
- Established a streamlined approach for Tribal Nations to receive IA that includes a holistic view of housing damage for publicly owned and individually owned tribal housing. Added clarifying information for 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 (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 Individuals and Households Program ([IHP] eligible) housing are both impacted at a major or destroyed damage level as determined by the Joint Preliminary Damage Assessment (PDA).

Chapter 7: Process to Request Emergency Declarations

- Incorporated a callout box with links to materials for requesting an emergency declaration on the FEMA website.
- Simplified the language needed to request emergency declarations. The emergency declaration request process largely mirrors the major disaster declaration request process described in Chapter 5.

Chapter 8: Presidential Declaration Determination

- Extended the deadline for requesting an appeal to the denial of a declaration request from 30 to 60 days.
- Incorporated a figure that outlines the notification process for a presidential declaration determination.

Chapter 9: Post-Declaration Activities

- Incorporated a table that outlines the responsibilities of the Tribal Chief Executive, the Tribal Chief Executive's Authorized Representative, and the Tribal Coordination Officer after a declaration is approved.
- Included clarifying information regarding FEMA-Tribe Agreements.
- Adjusted the PA cost share so 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.
- Clarified eligibility for tribal recipients will have their cost share adjusted to 98% on individual PA projects when the Tribal Nation completes an eligible Hazard Mitigation Proposal on their PA Permanent Work project on which the total cost of the Hazard Mitigation Proposal is equal to or greater than 20% of the total eligible repair or replacement cost of the project.
- Incorporated information regarding additional resources post-disaster including Community Disaster Loans, Interagency Recovery Coordination, and Voluntary Agency Liaisons.

Appendices

APPENDIX A: ABBREVIATIONS AND ACRONYMS

- Incorporated additional acronyms used throughout the 2024 Tribal Declarations Interim Guidance.

APPENDIX B: TERMS AND DEFINITIONS

- Included a glossary of frequently used terms and definitions. Added or clarified definitions for: Declaration, Direct Federal Assistance, Equity, Fire Management Assistance Grant Program, Incident, Preliminary Damage Assessment, Tribal Declaration recipient, Recipient under a state declaration, Recovery Support Functions, Regional Administrator, State, Local, Tribal, and Territorial (SLTT), and Tribal Community Member.
- Updated the definitions of Tribal Nation Lands and Tribal Nation to acknowledge the changes in terminology from "Indian Tribal Government" to "Tribal Nation."
 - Expanded the definition of Tribal Nation Lands to state the following are not an exhaustive list of all tribal land types and to include Tribal service areas, pueblo lands, ceded Tribal Nation lands, treaty lands, individual tribal members (allotted land), and services areas for Tribal Nations or tribal community members.

APPENDIX C: AUTHORITIES AND FOUNDATIONAL DOCUMENTS

- Added Authorities, Regulations, National-Level Doctrine, and Executive Orders and Memorandums relevant for Tribal Nations.

APPENDIX D: ADDITIONAL RESOURCES, PROGRAMS, AND REFERENCES

- Created a table with government, non-government, and local resources (e.g., FEMA Grants, National Voluntary Organizations Active in Disaster [VOAD], Tribal Emergency Management Association [ITEMA], etc.) relevant for Tribal Nations.

APPENDIX E: FORMS, TEMPLATES, AND GUIDES

- Included tables with FEMA forms and guides relevant for Tribal Nations seeking federal assistance post-disaster.

APPENDIX F: CONTACT INFORMATION

- Added a table outlining FEMA Regions by states and territories.