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Description of document: The internal Federal Emergency Management Agency (FEMA) procedure describing the process and criteria by which FEMA assesses and makes decisions on Requests for Presidential Disaster Declaration, 2003

Requested date: 21-July-2019

Release date: 07-August-2019

Posted date: 04-November-2019

Source of document: FEMA Information Management Division
FOIA Request
500 C Street, S.W., Mailstop 3172
Washington, D.C. 20472
Email: fema-foia@fema.dhs.gov
[DHS FOIA / Privacy Act Request Submission Form](#)

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FEMA

August 07, 2019

SENT VIA E-MAIL

Re: FEMA FOIA Case Number 2019-FEFO-00732

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), dated July 21, 2019 and received in this office on July 21, 2019. You are seeking a copy of the internal FEMA procedure or documents describing the process and criteria by which FEMA assesses and makes decisions on Requests for Presidential Disaster Declaration received on FEMA Form 010-0-13.

A search of FEMA's Declarations Unit for documents responsive to your request produced a total 22 pages. We are granting your request under the FOIA, Title 5 U.S.C. § 552, as amended, and DHS' implementing regulations, 6 C.F.R. Chapter I and Part 5. After carefully reviewing the responsive documents, I determined that they are appropriate for public release. They are enclosed in their entirety; no deletions or exemptions have been claimed.

You have the right to appeal if you disagree with FEMA's response. The procedure for administrative appeals is outlined in the DHS regulations at 6 C.F.R. § 5.8. In the event you wish to submit an appeal, we encourage you to both state the reason(s) you believe FEMA's initial determination on your FOIA request was erroneous in your correspondence, and include a copy of this letter with your appeal. Should you wish to do so, you must send your appeal within 90 days from the date of this letter to fema-foia@fema.dhs.gov, or alternatively, via mail at the following address:

FEMA
Office of the Chief Administrative Officer
Information Management Division (FOIA Appeals)
500 C Street, SW, Seventh Floor, Mail Stop 3172
Washington, D.C. 20472-3172

As part of the 2007 amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies. You may contact OGIS in any of the following ways:

2019-FEFO-00732

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road- OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770/Toll-free: 1-877-684-6448
Facsimile: 202-741-5769

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you have any questions or would like to discuss this matter, you may contact FEMA at (202) 646-3323, or you may contact FEMA's Public Liaison in the same manner. Please reference the subsequent case identifier: **FEMA 2019-FEFO-00732**.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Bridges". The signature is fluid and cursive, with the first name "Greg" and last name "Bridges" clearly distinguishable.

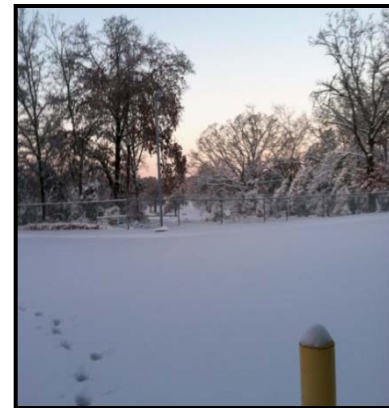
Greg Bridges
Lead Government Information Specialist

Enclosure(s): Responsive Records, 22 pages



FEMA

The Disaster Declaration Process





FEMA

On January 29, 2013, the ***Sandy Recovery Improvement Act of 2013*** was signed, which included a provision amending the Stafford Act to provide federally recognized Indian tribal governments the option to choose whether to make a request directly to the President for a federal emergency or major disaster declaration, or to seek assistance, as they do presently, under a declaration for a State.



FEMA

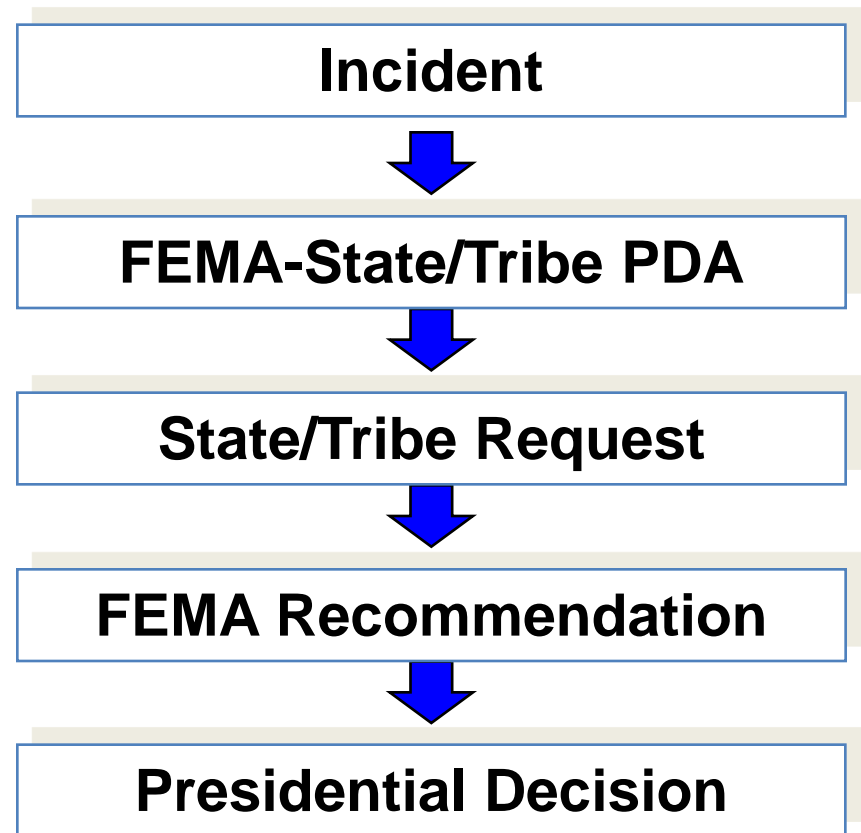
Stafford Act Amendment

- Permits the “Chief Executive” of an “affected Indian tribal government” to submit a request to the President for a declaration that a major disaster or emergency exists consistent with the requirements listed in Stafford Act section 401 (major disasters) and 501 (emergencies)
- An Indian tribal government may alternatively be eligible to receive assistance through a declaration made by the President at the request of a State, so long as the Indian tribal government does not receive a separate declaration from the President for the same incident
- Allows the President to waive or adjust the cost share for Public Assistance
- Requires FEMA to “consider the unique conditions that affect the general welfare of Indian tribal governments” when implementing regulations
- On January 10, 2017, FEMA published the Tribal Declarations Pilot Guidance. The Pilot Guidance describes the process that tribal governments will use to request Stafford Act declarations and the criteria that FEMA will use to evaluate those requests and make recommendations to the President.



FEMA

Declaration Request Process





FEMA

Joint Preliminary Damage Assessment (PDA)



- The State or Tribal government has completed their damage assessment.
- The State or Tribal government has determined that the damage exceeds their capabilities.
- The State or Tribal government formally requests a Joint FEMA, State, Tribal, and local PDA .



FEMA

Major Disaster (DR)



“Any natural catastrophe . . . 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 to **supplement the efforts and available resources** of states, local governments, and disaster relief organizations in **alleviating the damage, loss, hardship, or suffering caused thereby.**”

Reference: 44 CFR § 206.2(a)(17)



FEMA

Characteristics

A Major Disaster . . .



Reference: 44 CFR § 206.36

- Is beyond State, tribal, and local government capability to respond.
- Supplements available resources of State, tribal, local governments, disaster relief organizations, and insurance.
- Must be requested **within 30 days** of the incident unless an extension is requested and approved.
- Declaration may include all or some of the following programs: Individual Assistance, Public Assistance, and Hazard Mitigation.



FEMA

Emergency (EM)



“Any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.”

Reference: 44 CFR § 206.2(a)(9)



FEMA

Characteristics

An Emergency ...



- Is beyond State, tribal, and local government capabilities.
- Supplementary emergency assistance.
- Expenditures over \$5 million require Congressional Notification.
- Must submit request **within 30 days** after the occurrence of the incident, in order to be considered.
- Limited to immediate and short-term assistance, essential to save lives, protect public health and safety and property.

Reference: 44 CFR § 206.35



FEMA

Declaration Request



- Submitted by the Governor or Tribal Chief Executive
- Certification that the severity and magnitude of the disaster exceed State, tribal, and local capabilities.
- Certification that Federal assistance is necessary to supplement the efforts and available resources of the State, tribal, and local governments
- Confirmation that appropriate action under State or tribal law has been taken and the State or Tribal Emergency Plan was executed.
- Estimation of the amount and severity of damages and losses on the public and private sector.

Reference: 44 CFR § 206.35/206.36

Declaration Request (continued)



- Information describing the nature and amount of State, tribal, and local resources that have been or will be committed to alleviate the results of the disaster.
- Preliminary estimates of the types and amount of supplementary Federal disaster assistance needed under the Stafford Act.
- Certification by the Governor that obligations and expenditures for the current disaster will comply with all applicable cost-sharing requirements of the Stafford Act.
- Proper completion and submission of FEMA Form 010-0-13 ensures legal sufficiency of the request



FEMA

Public Assistance Categories



Emergency Work

- A. Debris Removal
- B. Emergency Protective Measures

Permanent Work

- C. Roads and Bridge Systems
- D. Water Control Facilities
- E. Public Buildings / Equipment
- F. Public Utilities
- G. Other (Parks, Recreation, etc.)



FEMA

Individual & Household Program Assistance

Housing Assistance

Financial or direct assistance to assist with temporary housing needs

- Temporary Housing
- Repair / Replacement
- Semi-Permanent or Permanent Housing Construction

Other Needs Assistance

Grants for uninsured, disaster-related necessary expenses and serious needs

- Household Items (room furnishings, appliances, etc)
- Repair or Replacement of Vehicles
- Moving and Storage Expenses
- Medical/Dental/Funeral Expenses
- Other miscellaneous items



FEMA

Hazard Mitigation Grant Program (HMGP)



- Approved Plan Required for PA (Cat C-G) and HMGP
- States and Indian tribal governments have 30 Days of the date of declaration to submit “approvable” plan, if expired
- Local Mitigation Plans required to receive HMGP project grants

Reference: 44 CFR § 206.430
and 201.2



FEMA

Public Assistance Evaluation Factors

- Estimated cost of the assistance.
 - Per capita indicator
 - \$1 million minimum damages
- Localized impacts.
- Insurance coverage in force.
- Hazard Mitigation.
- Recent multiple disasters.
- Programs of other Federal assistance.

ENCLOSURE B TO MAJOR DISASTER DECLARATION REQUEST
ESTIMATED REQUIREMENTS FOR PUBLIC ASSISTANCE

COUNTY	DEBRIS CATEGORY A	EMERG. PROTECTIVE MEASURES CATEGORY B	ROADS & BRIDGES CATEGORY C	WATER CONTROL FACILITIES CATEGORY D	BUILDINGS & EQUIPMENT CATEGORY E	UTILITIES CATEGORY F	PARKS, REC. FACILITIES & OTHER CATEGORY G	TOTAL
County A	\$1,575.00	\$4,707.00	\$89,215.72		\$68,283.25	\$1,452,255.31	\$11,626.00	\$40,573.15
County B					\$36,124.00	\$440,505.87		\$335,007.41
County C	\$334,128.40	\$71,504.80	\$1,210,131.74	\$131,696.00		\$27,860.70		\$1,750.00
County D	\$203,675.00	\$33,458.00	\$1,629,849.68			\$8,581.23		\$3,145,303.52
County E	\$1,872.50		\$52,483.57			\$6,641.19		\$2,486,914.55
County F						\$1,411.14		\$82,216.86
County G								\$8,581.23
County H								\$6,611.19
County I	\$541,250.90	\$109,709.84	\$2,990,680.73	\$131,696.00	\$184,407.25	\$2,819,048.20	\$11,626.00	\$1,411.14
TOTALS								\$5,908,419.83

Reference: 44 CFR § 206.48(a)



FEMA

Individual Assistance Evaluation Factors



- State Fiscal Capacity and Resource Availability
- Uninsured Home and Personal Property Losses
- Disaster Impacted Population Profile
- Impact to Community Infrastructure
- Casualties
- Disaster Related Unemployment

Note: SRIA required FEMA to issue a regulation updating the Individual Assistance Factors. The final rule and guidance published on March 21, 2019 and are effective June 1, 2019.

Reference: 44 CFR § 206.48



FEMA

Presidential Declaration Determination



Reference: 44 CFR § 206.38

- Governor or Tribal Chief Executive's request for major disaster may result in:
 - a major disaster declaration.
 - an emergency declaration.
- Governor or Tribal Chief Executive's request for emergency declaration may result in an emergency declaration only.
- A Governor or Tribal Chief Executive's request may also result in a denial.

FEMA/State Agreement (FSA) FEMA/Tribe Agreement (FTA)

The FSA/FTA states the understandings, commitments, and conditions under which disaster assistance will be provided.



Reference: 44 CFR § 206.44(a)

IMPORTANT!!

- No FEMA funding will be authorized or provided until the Agreement is signed.
- The only exception will be for the provision of essential emergency services or temporary housing.



FEMA

Request to Adjust Federal Cost Share



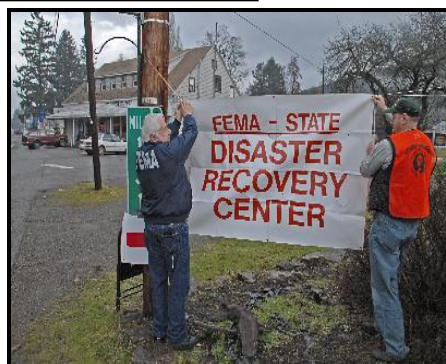
- Standard Disaster Cost Sharing
 - 75% Federal : 25% non-Federal
- FEMA will recommend a Public Assistance cost share adjustment to 90% whenever a declared disaster is so extraordinary that actual Federal obligations meet or exceed \$146 per capita. (Calendar Year 2019)
- If warranted by the needs of the disaster, FEMA may recommend up to 100% Federal funding for emergency work for a limited time period.

Reference: 44 CFR § 206.47



FEMA

Request for Additional Programs and Areas



- After the declaration, the Governor, Governor's Authorized Representative, Alternate Governor's Authorized Representative, or Tribal Chief Executive may request additional programs and/or areas. (Add-ons)
- Request must be submitted **30 days** from the termination of the incident period or **30 days** after declaration, whichever is later.

Reference: 44 CFR § 206.40



FEMA

Denial of Requested Areas and Programs



Reference: 44 CFR § 206.39(b)

- If a request for assistance or areas is denied, the Governor or Tribal Chief Executive will be notified via letter.
- The Governor or Tribal Chief Executive has one appeal to overturn this decision.
- The appeal must be submitted **30 days** from date of the denial letter. Must contain additional information supporting the appeal.



FEMA



Questions?