



# National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

910 Pennsylvania Avenue, SE | Washington, D.C. 20003 | 202-507-4070 | [www.nihb.org](http://www.nihb.org)

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## Legal Authorities

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (Stafford Act) authorizes assistance to Tribal, state, and local governments during declared major disasters or emergencies. Tribes, state, and local governments may utilize emergency assistance to protect public health, safety and property, and to protect against COVID-19. The Federal Emergency Management Agency (FEMA) is responsible for coordinating how disaster relief resources reach people on the ground.

## Disaster Declaration Process<sup>1</sup>

The President declared a national emergency on March 13.<sup>2</sup> The declaration authorized financial, technical, and logistical support to Tribal, state, and local governments where emergency events overwhelm their capacity to respond.<sup>3</sup>

## **Two ways that Tribes can receive benefits under a Stafford Act declaration:<sup>4</sup>**

1. Tribes may request a Stafford declaration directly from the President, but must independently declare a Tribal emergency and go through FEMA regional liaisons to make a formal request.
2. If a Tribe's land falls within a state's borders, the state governor may request a Stafford declaration that includes the Tribe in the request for relief. The state's emergency declaration does not take away from the Tribe's authority to declare emergencies within its own territory.

Tribes are utilizing both approaches to accessing aid. More than 25 Tribes are working directly with FEMA, while others are partnering with states or counties. Many Tribes are still deciding whether to work with FEMA as direct recipients for public assistance or to seek assistance through the state as a sub recipient. FEMA is a resource for Tribes during this decision-making process.

## Reimbursable Activities

- Under the COVID-19 Emergency Declaration, FEMA can reimburse Tribal governments for emergency protective measures that do not duplicate assistance provided by the U.S. Department of Health and Human Services (HHS) or other federal agencies. For example, if Tribes receive funding from another agency for an item, they cannot also receive funding for FEMA for the same item. It is important for Tribes to keep records of what they have requested from other agencies so that they do not duplicate requests.
- Reimbursable emergency activities include necessary protective measures to protect public health and safety (like supplies or setting up Tribal Emergency Operations Centers, for example).

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<sup>1</sup> <https://www.fema.gov/disaster-declaration-process#>

<sup>2</sup> A [letter](#) from President Trump encouraged Tribal leaders to consider requesting federal assistance for "Declaration of a major disaster" as set forth in section 401(a), Stafford Act.

<sup>3</sup> The President's declaration also authorized \$50 billion in aid to be used, through the Act, to address the emergency.

<sup>4</sup> [https://www.hobbsstrauss.com/general\\_memo/general-memorandum-20-007/](https://www.hobbsstrauss.com/general_memo/general-memorandum-20-007/)



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## Cost Sharing

- As of April 10, FEMA has received a number of requests for cost share adjustments. Tribes can appeal to the President through Tribal regional administrators to request cost sharing flexibilities.
- FEMA also encourages Tribes to reach out directly to the agency for any questions regarding cost share waivers. The most current guidance on the issue is the [FEMA Fact Sheet for Tribal Governments](#) (3/26/20).

## FEMA Web Resources

- FEMA created a [FEMA Coronavirus Rumor Control](#) page to help the public distinguish between rumors and facts regarding the federal COVID-19 response.
- FEMA developed [FAQs](#) (2019) and [Tribal Declarations Pilot Guidance](#) (2018), both of which provide detailed and specific guidance for emergency Tribal requests.
- FEMA has a [Tribal Consultation Policy](#) (updated July 2019) that reflects Tribal input, best practices, and recommendations made in the Governmental Accountability Office (GAO) [report](#) titled [Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects \(GAO-19-22\)](#).