



National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

910 Pennsylvania Avenue, SE | Washington, D.C. 20003 | 202-507-4070 | www.nihb.org

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Stafford Act and Tribal Nations

Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 is a mechanism through which the President of the United States can make disaster relief resources available to Tribes and states upon the declaration of a national emergency. The ability to request relief under the Stafford Act was originally only available to states. This changed in 2013, however, when the Act was amended to allow Tribes to also request relief. When an emergency is declared, pursuant to the Stafford Act, the Federal Emergency Management Agency (FEMA) can use its disaster relief funds to aid the affected localities.

Although the Stafford Act is most commonly used for natural disasters, it can be used for public health emergencies. For example, President Bill Clinton used the Stafford Act to respond to a West Nile Virus outbreak in New York and New Jersey. President Donald Trump recently invoked the Stafford Act to respond to the COVID-19 outbreak.

How does it work?

Tribes can seek an emergency declaration through the same mechanisms as a state. Tribes may receive benefits under a Stafford Act declaration through two means.

- 1) The Tribe's highest ranking executive officer may request a Stafford declaration from the President directly by declaring a tribal emergency and making a formal request through FEMA.
- 2) If a Tribe's land falls within a requesting state's borders, that state's governor may request a Stafford declaration. It is important to note that a federal emergency declaration does not preempt a Tribe's authority to declare emergencies within its territory. Multiple Tribes have already issued emergency declarations in response to the COVID-19 pandemic.

The separation of the state from the Tribe in this instance does not prohibit the Tribe from receiving funds if the emergency is declared on the behalf of their state.

Once an emergency has been declared, the Secretary of the Department of Health and Human Services (HHS) may also declare a Public Health emergency, which allows the Center for Medicare and Medicaid Services (CMS) to begin to issue waivers that allow states to modify their Medicaid programs in order to respond to the emergency. The duration of the emergency will impact how long the CMS waivers stay in effect.



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How are Tribes reimbursed?

Under the COVID-19 Public Health Emergency, FEMA can reimburse Tribal governments for emergency protective measures required by public health officials that do not duplicate assistance provided by HHS or other federal agencies.

Tribal governments can only be reimbursed for 75% of their costs. The president can, upon request, increase the reimbursement to 100%.

How have Tribes benefited from this in the past?

The Stafford Act was first used in 2013 to declare an emergency on behalf of the Eastern Band of Cherokee Indians in North Carolina. Other Tribes have been able to apply for relief under this act.

Questions?

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