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# Congressional Primer on Responding to Major Disasters and Emergencies

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## Summary

The principles of disaster management assume a leadership role by the local, state, and tribal governments affected by the incident. The federal government provides coordinated supplemental resources and assistance, only if requested and approved. The immediate response to a disaster is guided by the National Response Framework (NRF), which details roles and responsibilities at various levels of government, along with cooperation from the private and nonprofit sectors, for differing incidents and support functions. A possible declaration of a major disaster or emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act, P.L. 93-288, as amended) must, in almost all cases, be requested by the governor of a state or the chief executive of an affected Indian tribal government, who at that point has declared that the situation is beyond the capacity of the state or tribe to respond. The governor/chief also determines for which parts of the state/tribal territory assistance will be requested, and suggests the types of assistance programs that may be needed. The President considers the request, in consultation with officials of the Federal Emergency Management Agency (FEMA), within the Department of Homeland Security (DHS), and makes the initial decisions on the areas to be included as well as the programs that are implemented.

The majority of federal financial disaster assistance is made available from FEMA under the authority of the Stafford Act. In addition to that assistance, other disaster aid may be available through programs of the Small Business Administration, the U.S. Department of Agriculture (USDA), the U.S. Army Corps of Engineers, the Department of Transportation (DOT), and the Department of Housing and Urban Development (HUD), among other federal programs.

While the disaster response and recovery process is fundamentally a relationship between the federal government and the requesting state or tribal government, there are roles for congressional offices. For instance, congressional offices may help provide information to survivors on available federal and nonfederal assistance, oversee the coordination of federal efforts in their respective states and districts, and consider legislation to provide supplemental disaster assistance or authorities. Congressional offices also serve as a valuable source of accurate and timely information to their constituents on response and relief efforts.

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## Overview

Before and after a disaster strikes, it is useful to understand the basic national emergency management structure and where authority rests at various stages of the process. This report provides information to aid policymakers as they navigate the many levels of responsibility, and numerous policy pressure points; it describes the laws and administrative policies governing the disaster response and recovery process. The report also reviews the legislative framework that exists for providing federal financial assistance following disasters, as well as the policies the executive branch employs to provide supplemental help to state (or territory),<sup>1</sup> tribal, and local governments during time of disasters.

For information on federal declarations and assistance, see the “Federal Disaster Declarations,” “Federal Financial Assistance Programs,” and “Other Federal Assistance” sections of this report. For information about how a congressional office may wish to prepare and respond to disasters in their state or district, see “Congressional Activity in Disasters.”

For online resources with information on the response to current disasters, the disaster management process, federal disaster assistance programs, and the current scientific predictions for various natural hazards, see the “Where to Obtain Further Information” section of this report.

## Background on the Disaster Response Process

### Who Is in Charge?

#### The Principle of Federalism in Emergency Management

The United States takes a “bottom up” approach to both managing and providing assistance, during and following a disaster. The responsibility for responding to disasters begins at the local level with survivors, elected officials, and emergency service personnel. If local government resources are overwhelmed, nongovernmental voluntary organizations in the community and governments in neighboring jurisdictions may be called upon to provide assistance. If those sources of assistance become exhausted, state and tribal governments may supplement a local government’s resources, which may be coupled with the governor declaring a state disaster or emergency declaration. Generally, only after local and state/territory/tribal government resources have been overwhelmed, and the governor of the state or chief executive of a tribal nation has requested assistance, does the federal government begin to provide additional help. The role of the federal government, as described in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act, P.L. 93-288, as amended), is generally to “supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering.”<sup>2</sup>

Given this “bottom up” approach, except in the most extraordinary circumstances, local and state/tribal governments are in charge of the disaster response. The Federal Emergency Management Agency (FEMA), or any other federal agency, is there to aid the disaster response

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<sup>1</sup> The definition of “state” provided in Section 102(4) of the Stafford Act, 42 U.S.C. §5122(4), includes “any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.”

<sup>2</sup> Section 102(2) of the Stafford Act, 42 U.S.C. §5122(2).

process through the National Response Framework and the programs it administers, and to coordinate federal resources in response to state/tribal requests—not to be in the lead or take command.<sup>3</sup>

## Key Emergency Management Officials

The local chief elected official, such as a mayor or their appointed representative, leads the disaster response for their community. The governor is the lead for the state response, the chief for the tribe, and the President for the federal response.<sup>4</sup> If state resources are being used to supplement the local response, they are typically coordinated through a State Coordinating Officer (SCO) and the state’s emergency management or homeland security agency. If an incident has been declared by the President as an emergency or major disaster under the Stafford Act, the President is to request that each governor appoint an SCO if they have not done so already.<sup>5</sup> Similar requests are made to the chiefs of tribes. At the federal level, the President, FEMA Administrator, or Regional Administrator is to appoint a Federal Coordinating Officer (FCO) to coordinate all federal resources by state.<sup>6</sup> The FCO generally operates out of a Joint Field Office (JFO) where federal agencies and departments coordinate their activities. Often times, state/tribal disaster officials will collocate at the JFO to facilitate coordination of efforts.

## The National Preparedness System

The National Preparedness System (NPS) was established under guidance from Presidential Policy Directive 8: National Preparedness (PPD-8), issued by former President Barack Obama on March 30, 2011.<sup>7</sup> The NPS is designed to help “ensure the Nation’s ability to prevent, respond to, recover from, and mitigate against natural disasters, acts of terrorism, and other man-made disasters.”<sup>8</sup> In brief, the NPS and its many component policies embody the strategic vision and planning of the federal government, with input from the *whole community*,<sup>9</sup> as it relates to preparing the nation for all hazards. The NPS also establishes methods for achieving the nation’s desired level of preparedness for both federal and nonfederal partners by identifying the *core capabilities*.<sup>10</sup> A key component of the NPS is the National Incident Management System (NIMS)

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<sup>3</sup> There are circumstances when the federal government is the lead for a disaster. This most frequently occurs because the incident involves an issue or hazard for which, under the Constitution or a federal law, the President or other federal authority has exclusive or preeminent responsibility and authority. Examples include when the area affected is federal property (in national waters, parks, or military installations, etc.) or when the disaster is caused by a terrorist act and the Federal Bureau of Investigation becomes the lead federal law enforcement agency.

<sup>4</sup> At the federal level, the President has delegated significant leadership responsibilities to the Secretary of Homeland Security and the Administrator of FEMA.

<sup>5</sup> 42 U.S.C. §5143(c).

<sup>6</sup> The role of the coordinating officers is described in statute at 42 U.S.C. §5143 and in regulations at 44 C.F.R. §206.42.

<sup>7</sup> White House, *Presidential Policy Directive 8: National Preparedness*, Washington, DC, March 30, 2011, p. 1, [http://www.dhs.gov/xabout/laws/gc\\_1215444247124.shtm](http://www.dhs.gov/xabout/laws/gc_1215444247124.shtm).

<sup>8</sup> 6 U.S.C. §§743-744.

<sup>9</sup> The “whole community” includes individuals and families, including those with access and functional needs; businesses; faith-based and community organizations; nonprofit groups; schools and academia; media outlets; and all levels of government, including state, local, tribal, territorial, and federal partners. See more at FEMA’s website at <http://www.fema.gov/national-preparedness/whole-community>.

<sup>10</sup> 6 U.S.C. 741(1) defines *capability* as “the ability to provide the means to accomplish one or more tasks under specific conditions and to specific performance standards. A capability may be achieved with any combination of properly planned, organized, equipped, trained, and exercised personnel that achieves the intended outcome.” A *core*

that provides a consistent approach for the whole community to work “together seamlessly and manage incidents involving all threats and hazards—regardless of cause, size, location, or complexity—in order to reduce loss of life, property and harm to the environment.”<sup>11</sup> Further, as directed by PPD-8, the NPS is supported by numerous strategic component policies, including National Planning Frameworks for each of the five mission areas: Prevention, Protection, Mitigation, Response, and Recovery.<sup>12</sup> Each National Planning Framework is supported by a federal interagency operational plan (FIOP) that describes how the federal government aligns its supporting resources and delivers core capabilities. Two of the most important Frameworks for responding to a disaster are described below.

## National Response Framework

The National Response Framework (NRF) guides the nation’s response to a major disaster, regardless of cause or size.<sup>13</sup> The NRF establishes 14 different Emergency Support Functions (ESFs) to organize the response capabilities of the federal government. ESFs group federal agencies with pertinent authorities, resources, and expertise to accomplish a set of capabilities needed in disaster response, regardless of the type of hazard. For instance, ESF #9 is “Search and Rescue,” which unifies federal agencies with the appropriate resources and authorities to conduct search and rescue operations following a hurricane, earthquake, terrorist attack, or other disaster.<sup>14</sup> The NRF also contains additional guidance describing how the NRF is to be used in response to certain common disaster problems. The Volunteer and Donations Management Support Annex, for example, describes how the federal government will help coordinate the most efficient and effective use of unaffiliated volunteers, unaffiliated organizations, and unsolicited donated goods.<sup>15</sup>

Although the NRF is often closely linked with the Stafford Act, the NRF is always in effect and does not require a formal Stafford Act declaration to be used. Any disaster requiring federal coordination, including those declared under other federal authorities, arguably would be managed through the NRF.<sup>16</sup> As a result of the NRF, the federal, tribal, state, and local government agencies, and even most nongovernmental organizations, will likely operate in similar ways during response, with commonly understood terminology and management structures.

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capability is one that is “necessary to prepare for the specific types of incidents that pose the greatest risk to the security of the Nation.” See White House, *Presidential Policy Directive 8: National Preparedness*, Washington, DC, March 30, 2011, p. 2, [http://www.dhs.gov/xabout/laws/gc\\_1215444247124.shtm](http://www.dhs.gov/xabout/laws/gc_1215444247124.shtm).

<sup>11</sup> For additional information on NIMS, see FEMA’s website at <https://www.fema.gov/national-incident-management-system>.

<sup>12</sup> For a summary listing of major component policies, see FEMA’s website at <https://www.fema.gov/learn-about-presidential-policy-directive-8>.

<sup>13</sup> U.S. Department of Homeland Security, *National Response Framework*, Third Edition, June 2016, <https://www.fema.gov/media-library/assets/documents/117791>.

<sup>14</sup> Each ESF has a coordinating agency, typically several different primary agencies, and a larger number of support agencies.

<sup>15</sup> See Federal Emergency Management Agency, *Volunteer and Donations Management Support Annex, National Response Framework*, May 2013, at <https://www.fema.gov/media-library/assets/documents/32282>.

<sup>16</sup> U.S. Department of Homeland Security, *National Response Framework*, Third Edition, June 2016, p. 19, <https://www.fema.gov/media-library/assets/documents/117791>. Examples include public health emergencies declared under Section 319 of the Public Health Services Act (42 U.S.C. §§201 et seq.), or spills of national significance under the Oil Pollution Act (P.L. 101-380).

## National Disaster Recovery Framework

The National Disaster Recovery Framework (NDRF) is a companion document to the NRF and guides the nation's recovery from disasters.<sup>17</sup> The NDRF provides a structure and process to assist short- and long-term recovery following a disaster incident, including basic recovery principles, and an explanation of roles and responsibilities at the respective levels of government. As with the NRF, the NDRF uses a support function model to organize federal capabilities. For the recovery phase, FEMA and its partners have identified six Recovery Support Functions (RSFs). An example of a Recovery Support Function is the Economic Recovery Support Function, which is coordinated by the U.S. Department of Commerce.<sup>18</sup>

In addition, the NDRF also establishes three positions that provide focal points for incorporating recovery considerations into the decisionmaking process following a disaster. Those positions are Federal Disaster Recovery Coordinator (FDRC), State or Tribal Disaster Recovery Coordinators (SDRC or TDRC), and Local Disaster Recovery Managers (LDRM).<sup>19</sup>

## Nonfederal Disaster Assistance Resources

If the capacity of a local government has been overwhelmed by an incident, the local government may first turn to voluntary organizations within its community for additional support. Further, the local government may request assistance from other, nearby local governments through mutual aid and assistance agreements.

### Assistance from Voluntary Organizations

Though not required, voluntary organizations willing to provide disaster assistance and relief are encouraged by statute and regulation to coordinate their assistance through the structure of the NRF.<sup>20</sup> Two national organizations, the American Red Cross and the National Voluntary Organizations Active in Disaster (National VOAD), have specific responsibilities under the NRF.<sup>21</sup> Faith-based organizations may also be a key source of assistance to the community and the local government during an incident. Because each disaster has a unique set of voluntary organizations involved in response and relief, the state, tribal, or local government officials may generally be the best initial source of information on their activities during the disaster. If the incident has been declared an emergency or major disaster through the Stafford Act, FEMA, through Voluntary Agency Liaisons (VALs), may provide additional support to coordinate the efforts of voluntary organizations bringing relief to afflicted communities.

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<sup>17</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, "National Disaster Recovery Framework," Second Edition, June 2016, at <https://www.fema.gov/media-library/assets/documents/117794>.

<sup>18</sup> For more on the Recovery Support Functions, see <http://www.fema.gov/recovery-support-functions>.

<sup>19</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, "National Disaster Recovery Framework," Second Edition, June 2016, p. 9, at <https://www.fema.gov/media-library/assets/documents/117794>.

<sup>20</sup> For example, see Section 309 of the Stafford Act, 42 U.S.C. §5152; and 44 C.F.R. §206.12.

<sup>21</sup> National VOAD is a coalition of many NGO organizations, and is a valuable resource in understanding the types of assistance available through NGOs. See more at <http://www.nvoad.org/>. The American Red Cross is actually a federally chartered instrumentality of the U.S. government; see 36 U.S.C. §§300101-300113.



## Mutual Aid and Assistance Agreements

Many local governments have prenegotiated agreements with neighboring jurisdictions to share resources ranging from emergency service equipment (ambulances, fire trucks, etc.) to technical experts (bridge inspectors, contract managers, etc.). At the state level, the Emergency Management Assistance Compact (EMAC) is a congressionally ratified compact that provides a legal structure by which states affected by a disaster may request emergency assistance and aid from other states.<sup>22</sup> Mutual aid agreements are an increasingly common and important source of assistance during significant incidents that overwhelm local and state capacities.

## State Government Assistance

The capacities and capabilities of states are varied, as is the process for local governments to request such assistance from their states. All states have either an emergency management agency or a homeland security agency (or both) that is responsible for providing and coordinating assistance to local governments within its jurisdiction, much in the way that FEMA is responsible at the federal level.<sup>23</sup> Though all states have some legal process for declaring a “state of emergency” (or synonymous incident), the process for declaring a state of emergency, and the powers and assistance it subsequently grants, varies considerably. Typically, additional information on how this process plays out in each state, and the authority it provides, is available on the websites of the respective state agencies.

## National Guard

Governors routinely use their state National Guard forces to assist with disaster response and recovery. Although National Guard personnel can be called into federal service under certain circumstances, they normally operate under the control of state and territorial governors. As part of a state-level response to a disaster, governors have the authority to order state National Guard personnel to perform full-time duty under state law. This is commonly referred to as “state active duty.” In this capacity, National Guard personnel operate under the control of their governor, are paid according to state law, can assist civil authorities in a wide variety of tasks, and are not subject to the restrictions of the Posse Comitatus Act (18 U.S.C. §1385; that is, they may be able to perform law enforcement functions).<sup>24</sup> In response to a hurricane, National Guard personnel might perform tasks such as conducting search and rescue, transporting and distributing supplies, setting up emergency shelters, clearing road debris, and providing emergency medical care.

## Federal Disaster Declarations

If the capacities of the local, state, and tribal governments have been overwhelmed by an incident, the tribe or state may wish to request assistance from the federal government. In most cases, the first step is to request a federal declaration for the incident, typically through the Stafford Act.

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<sup>22</sup> The EMAC was ratified in P.L. 104-321. For more on EMAC, see <http://www.emacweb.org/>.

<sup>23</sup> For a listing of state and territorial agencies, see FEMA’s website at <https://www.fema.gov/emergency-management-agencies>.

<sup>24</sup> For more, see CRS In Focus IF10539, *Defense Primer: Legal Authorities for the Use of Military Forces*, by (name redacted) .



There are also many other types of federal declarations and determinations that may trigger additional authorities or assistance separate from or in conjunction with the Stafford Act.

## Stafford Act Declaration Process<sup>25</sup>

The declaration process contains many factors for consideration and, for all but the most catastrophic events, the process moves at a deliberate speed accumulating information from several sources. While the process is informed by that information and its relationship to potential assistance programs, the information gathered at the state and local level does not preclude the exercise of judgment by the governor/chief or the President.

When considering whether to request an emergency or major disaster declaration under the Stafford Act, the governor/chief may first decide whether the incident is severe enough to warrant assembling a Preliminary Damage Assessment (PDA) team to survey the damaged area.<sup>26</sup> The PDA team includes at least one state or tribal official; at least one federal official, typically a representative from the appropriate FEMA regional office; and a local official familiar with the area. In some cases it may also include representatives from other federal agencies or voluntary relief organizations. This decision rests primarily with the governor's judgment on whether a situation is "beyond the capabilities of the state."<sup>27</sup> The concession that a state or tribe can no longer respond on its own is difficult to quantify. It is therefore the governor/chief who makes that assessment, based on their knowledge of state/tribal resources and capabilities.

A PDA is required in order to request a Stafford Act declaration, except in certain instances. According to FEMA regulation, "the requirement for a joint PDA may be waived for those incidents of unusual severity and magnitude that do not require field damage assessments to determine the need for supplemental federal assistance."<sup>28</sup> However, even when the PDA process is waived or expedited, initial federal assistance is typically limited, and subsequent PDA processes are required to determine what additional assistance is necessary. During the PDA process, FEMA representatives have the responsibility of briefing the team on the factors to consider, the information that will be helpful in the assessment, and how the information should be reported. Regulations require that, at the close of the PDA process, participants reconcile any differences in their findings.<sup>29</sup>

Once the PDA has been completed, the governor/chief may submit a request for a major disaster declaration if the PDA warrants it. The request is submitted to the appropriate FEMA Regional Administrator who, in turn, acknowledges the request, summarizes the findings, analyzes the data, and submits a recommendation to FEMA Headquarters. FEMA then formulates and submits a recommendation, along with the original request, to the President concerning whether the incident warrants a declaration.

Under the Stafford Act, the President is authorized to declare an emergency or major disaster to authorize federal supplemental assistance. Emergency declarations authorize activities that can

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<sup>25</sup> For more information, see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by (name redacted) .

<sup>26</sup> For more information on the Preliminary Damage Assessment process, see CRS Report R44977, *Preliminary Damage Assessments for Major Disasters: Overview, Analysis, and Policy Observations*, by (name redacted) . For examples of PDA reports, see <http://www.fema.gov/preliminary-damage-assessment-reports>.

<sup>27</sup> Section 401 of the Stafford Act, 42 U.S.C. §5170.

<sup>28</sup> 44 C.F.R. §206.33(d).

<sup>29</sup> 44 C.F.R. §206.33(c)

help states and communities carry out essential services and activities that might reduce the threat of future damage. Emergency declarations may be declared before an incident occurs to save lives and prevent loss. The definition for a major disaster is more precise than an emergency declaration, and the range of assistance available to state and local governments; private, nonprofit organizations; and families and individuals is broader.<sup>30</sup> Under a major disaster declaration, state and local governments and certain nonprofit organizations are eligible (if so designated) for assistance for the repair or restoration of public infrastructure, such as roads and buildings. A major disaster declaration may also include additional programs beyond temporary housing, such as disaster unemployment assistance and crisis counseling, and other recovery programs, such as community disaster loans.

## Fire Management Assistance Grants

In addition to the emergency and major disaster declarations, there is a unique quasideclaration “for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.”<sup>31</sup> In these cases, FEMA, which has been delegated authority by the President, may declare the incident eligible for a Fire Management Assistance Grant (FMAG) as authorized by Section 420 of the Stafford Act.<sup>32</sup> Once issued, the FMAG declaration authorizes various forms of federal assistance, such as the provision of equipment, personnel, and grants to state, local, and tribal governments for the control, management, and mitigation of any fire on certain public or private forest land or grassland. The FMAG is intended to mitigate the effects of a wildfire and prevent it from becoming a major disaster.<sup>33</sup>

## Other Federal Declarations

There are numerous other types of declaration or designation authorities that could be used by the federal government either to activate unique authorities or to provide additional assistance to affected communities. They include, but are not limited to

- a presidential declaration of a “national emergency” pursuant to the National Emergencies Act (50 U.S.C. Chapter 34) that specifies the federal authorities the crisis requires;
- a determination by the Secretary of Health and Human Services (HHS) of a public health emergency (PHE) pursuant to Section 319 of the Public Health Service Act (PHSA, 42 U.S.C. §247d);<sup>34</sup>
- various disaster declarations from the Administrator of the Small Business Administration (SBA);<sup>35</sup> and

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<sup>30</sup> Section 102(2) of the Stafford Act, 42 U.S.C. §5122(2).

<sup>31</sup> Section 420(a) of the Stafford Act, 42 U.S.C. §5187(a).

<sup>32</sup> Ibid.

<sup>33</sup> For more information on FMAGs, see CRS Report R43738, *Fire Management Assistance Grants: Frequently Asked Questions*, coordinated by (name redacted) .

<sup>34</sup> For more information, see HHS’s website on its authorities at <https://www.phe.gov/Preparedness/support/secauthority/Pages/default.aspx>.

<sup>35</sup> For more information, see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by (name redacted) .

- various disaster declarations and designations from the U.S. Department of Agriculture.<sup>36</sup>

## Federal Financial Assistance Programs

If a major disaster is declared under the Stafford Act, the three principal forms of federal financial assistance are the following:

- *Public Assistance* (PA), which provides grants to tribal, state, and local governments and certain private nonprofit organizations to provide emergency protective services, conduct debris removal operations, and repair or replace damaged public infrastructure. Although certain nonprofit organizations may be eligible for these grants, for-profit businesses are not.<sup>37</sup>
- *Individual Assistance* (IA), which provides direct aid to affected households, can take the form of housing assistance,<sup>38</sup> other needs assistance, crisis counseling, case management services, legal services, and disaster unemployment assistance.<sup>39</sup> Total assistance under this program is capped at \$34,000 per household, though that amount is adjusted annually.<sup>40</sup>
- *Hazard Mitigation Assistance* (HMA), which funds mitigation and resiliency projects and programs, typically across the entire state. Mitigation projects can include the construction of safe rooms, buyouts of frequently flooded properties, and retrofitting of facilities.<sup>41</sup>

The Federal-State Agreement (or FEMA-Tribal Agreement), which is signed by representatives of both the governor/chief and FEMA, enumerates the “conditions for assistance” and how it will be provided.<sup>42</sup>

In addition to financial assistance that may be available from the Stafford Act, there are a number of other programs not administered by DHS or FEMA that can be involved in certain circumstances. Five significant programs include the following:

- **SBA Disaster Loan Program:** The SBA provides federally subsidized loans to repair or replace homes, personal property, or businesses that sustained damages not covered by insurance following a disaster. SBA loans are a key source of assistance for the private sector and individual homeowners.<sup>43</sup>

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<sup>36</sup> For more information, see CRS Report RS21212, *Agricultural Disaster Assistance*, by (name redacted)

<sup>37</sup> The Public Assistance program is authorized by Sections 403(a)(3)(A), 406, 407, 428, and 502(a)(5) of the Stafford Act. For more on FEMA’s Public Assistance Grant Program, see CRS Report R43990, *FEMA’s Public Assistance Grant Program: Background and Considerations for Congress*, by (name redacted) and (name redacted)

<sup>38</sup> For more information on housing assistance, see CRS Report R44619, *FEMA Disaster Housing: The Individuals and Households Program—Implementation and Potential Issues for Congress*, by (name redacted)

<sup>39</sup> For additional information on disaster unemployment assistance, see CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*, by (name redacted)

<sup>40</sup> See the most recent annual adjustment at Federal Emergency Management Agency, “Notice of Maximum Amount of Assistance Under the Individuals and Households Program,” 82 *Federal Register* 47568, October 12, 2017.

<sup>41</sup> For more on the various HMA programs, see Federal Emergency Management Agency, *The Hazard Mitigation Assistance Grant Programs*, 2015, at [https://www.fema.gov/media-library-data/1441133724295-0933f57e7ad4618d89debd1ddc6562d3/FEMA\\_HMA\\_Grants\\_4pg\\_2015\\_508.pdf](https://www.fema.gov/media-library-data/1441133724295-0933f57e7ad4618d89debd1ddc6562d3/FEMA_HMA_Grants_4pg_2015_508.pdf).

<sup>42</sup> 44 C.F.R. §206.44.

<sup>43</sup> For more on the current programs offered by SBA to assist after disasters, see CRS Report R41309, *The SBA*

- Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) Program: These funds can be used to meet a wide range of disaster needs, but the program typically requires a supplemental appropriation to accommodate the high cost of disaster relief.<sup>44</sup>
- U.S. Department of Transportation Federal-Aid Highway Emergency Relief (ER) Program: The ER program is the major source of grant funds for the repair and reconstruction of roads on the federal-aid highway system that have suffered serious damage as a result of either (1) a natural disaster over a wide area, such as a flood, hurricane, tidal wave, earthquake, tornado, severe storm, or landslide; or (2) a catastrophic failure from any external cause.<sup>45</sup>
- U.S. Department of Agriculture (USDA) Agriculture and Rural Assistance: There are multiple programs provided by USDA that provide food, housing, and financial assistance, primarily to agricultural and rural communities.<sup>46</sup>
- U.S. Army Corps of Engineers (Corps) Emergency Assistance: The Corps provides assistance to repair damaged flood control works (e.g., levees) and federally constructed hurricane or shore protection projects that participate in the agency's Rehabilitation and Inspection Program.<sup>47</sup> The Corps has an emergency response authority (33 U.S.C. §701n) under which it performs flood-fighting, and other emergency response (e.g., emergency water supplies) and disaster assistance focused on actions to save lives and protect improved property.<sup>48</sup> The Corps also has limited authorities to assist with select activities during drought.

## Other Federal Assistance

Many federal departments and agencies have standing authorities to assist tribal, state, and local governments in a variety of ways. For example, the Centers for Disease Control and Prevention (CDC) may provide a range of technical assistance on issues relating to public health concerns following a disaster. Further, other federal agencies may be able to waive certain regulations and requirements in times of disaster to aid the response and recovery effort. For example, the

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*Disaster Loan Program: Overview and Possible Issues for Congress*, by (name redacted) .

<sup>44</sup> For more on how CDBG can be used during disaster relief, see CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by (name redacted). The program website is available at <https://www.hudexchange.info/programs/cdbg-dr/>.

<sup>45</sup> For more on the FHWA ER program and its comparable program for transit, see CRS Report R45298, *Emergency Relief for Disaster-Damaged Roads and Public Transportation Systems*, by (name redacted) and (name redacted) .

<sup>46</sup> For more, see USDA's fact sheet on their programs at [https://www.usda.gov/sites/default/files/documents/fact-sheet-usda-programs-assist-individuals-small-businesses\\_1.pdf](https://www.usda.gov/sites/default/files/documents/fact-sheet-usda-programs-assist-individuals-small-businesses_1.pdf). Also review CRS Report RS21212, *Agricultural Disaster Assistance*, by (name redacted) and CRS Report RL33816, *Broadband Loan and Grant Programs in the USDA's Rural Utilities Service*, by (name redacted) , among others.

<sup>47</sup> For more information on the Rehabilitation and Inspection Program, see CRS Report R41243, *Army Corps of Engineers: Water Resource Authorizations, Appropriations, and Activities*, by (name redacted) and (name redacted) .

<sup>48</sup> Most of the agency's disaster response work generally is funded through supplemental appropriations provided directly to the Corps. Until supplemental appropriations are provided, Congress has provided the Corps with authority to transfer money from ongoing Corps projects to emergency operations (33 U.S.C. §701n). For more on Corps-related supplemental appropriations, see CRS Report R42841, *Army Corps Supplemental Appropriations: History, Trends, and Policy Issues*, by (name redacted) and (name redacted) .

Environmental Protection Agency (EPA), working with the Department of Energy (DOE), can issue emergency waivers of certain fuel standards in affected areas.<sup>49</sup>

Under a Stafford Act major disaster declaration, the President, the FEMA Administrator, and the FEMA Regional Administrator may

direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance response and recovery efforts, including precautionary evacuations.<sup>50</sup>

If another federal agency is called upon to assist during a disaster using this authority, typically they receive a *mission assignment* from FEMA and are reimbursed through the Disaster Relief Fund.<sup>51</sup> Federal government agencies also have numerous authorized deployable federal assets that can support the immediate response to disaster.<sup>52</sup>

The federal government may also provide assistance without a request in more limited circumstances. For example, a request does not need to be made by a state or tribal government when the primary responsibility for the response rests with the federal government. This most frequently occurs because the incident involves an issue or hazard for which, under the Constitution or a federal law, the President or other federal authority has exclusive or preeminent responsibility and authority.<sup>53</sup> Likewise, there are situations when the federal government or a federal asset will provide immediate assistance, primarily to prevent the direct loss of life or significant property damage, without the request rising through the “normal” request procedures.<sup>54</sup> For instance, the Department of Defense (DOD), through its Defense Support of Civil Authorities (DSCA) regulations and policies, authorizes local DOD officials to provide immediate assistance without a formal request rising through the state and lead federal officials.<sup>55</sup>

## Congressional Activity in Disasters

As mentioned previously, the Stafford Act, and overall federal disaster assistance, is fundamentally a relationship between the federal, state, and tribal governments. However, there are steps along the way in which congressional input and distribution of information can assist the process toward recovery. As a disaster situation unfolds, congressional offices may wish to take the following steps during the predeclaration period:

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<sup>49</sup> For more information, see EPA’s website at <https://www.epa.gov/enforcement/fuel-waivers>.

<sup>50</sup> Section 402(1) of the Stafford Act, 42 U.S.C. §5170a.

<sup>51</sup> Mission assignments rely on the authority of the President to direct federal agencies to support disaster response and recovery operations, namely found at Sections 402, 403, and 502 of the Stafford Act (42 U.S.C. §§5170a, 5170b, and 5192). See Federal Emergency Management Agency, *Mission Assignment Policy*, FP 104-010-2, November 6, 2015, at <https://www.fema.gov/media-library/assets/documents/112564>.

<sup>52</sup> For more on these assets, see CRS Report R43560, *Deployable Federal Assets Supporting Domestic Disaster Response Operations: Summary and Considerations for Congress*, coordinated by (name redacted)

<sup>53</sup> See, primarily, Section 501(b) of the Stafford Act, 42 U.S.C. §5191(b). Most notably, this situation arises when the area affected by the disaster is on federal property (in national waters, lands, parks, or military installations, etc.) or when the Federal Bureau of Investigation becomes the lead federal law enforcement agency in response to a terrorism incident.

<sup>54</sup> See, primarily, Section 502(a)(8) of the Stafford Act, 42 U.S.C. §5192(a)(8). This authority allows the federal assistance to be provided “where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request....”

<sup>55</sup> This authority is called the “immediate response authority.” See 32 C.F.R. §185.4(g).

- Encourage family and household planning through websites such as <http://www.ready.gov>, which provides predisaster planning advice.
- Establish a working relationship with the state/tribal emergency management office to understand the most valuable contributions that an office can make. The lead agency for each state can be found at <https://www.fema.gov/emergency-management-agencies>.
- Learn about the types of mutual aid agreements in place for your district/state with neighboring communities.
- Consider a letter of support for the governor/chief's request for a declaration by framing the problems confronted by the state/tribe and local governments and the importance of specific federal, supplemental assistance.
- Provide input to the PDA teams, through state, tribal, and local officials, regarding pockets of need or constituents who have noted problem areas that should be reviewed.
- Help to manage expectations of residents by explaining the process and the potential assistance, as well as its limitations.

If a declaration is made by the President, congressional offices can then

- Establish their relationship with FEMA/DHS congressional liaisons to obtain accurate and timely information both at the headquarters level and in the field at the Joint Field Office (JFO) level.
- Consider publicizing the online process for applying for many federal assistance programs as described at <https://www.disasterassistance.gov/>.
- If needed, provide suggestions to FEMA/DHS on likely locations for fixed Disaster Recovery Centers (DRCs) and for possible sites for Mobile Disaster Recovery Centers to visit. These DRCs are typically staffed by FEMA and other federal agencies, as well as voluntary organizations, and provide citizens with the opportunity for face-to-face sessions with recovery staff.
- Work with FEMA/DHS to get an accurate listing of communities that are participating in the National Flood Insurance Program and those that are either sanctioned, or have chosen not to participate.
- Consider publicizing the "Applicants Briefing" to local governments and nongovernmental organizations that sustained damage from the incident. This briefing is the session in which FEMA staff explain the PA program (repairs to infrastructure) regulations and policies to local officials and potential applicants.
- Engage the State Hazard Mitigation Officer to understand the state's plan for mitigation, the priorities it has established, and the timeline of its implementation.
- Be cognizant of the financial status of the Disaster Relief Fund (DRF) that funds the Stafford Act programs as well as other missions assigned to other departments and agencies to carry out response and recovery missions. Depending on the severity of the disaster and existing accounting balances, the Administration may request, and Congress could act on, legislation to provide supplemental appropriations in the DRF and other disaster assistance program accounts.



## Where to Obtain Further Information

CRS has a wide array of experts available to assist Congress by request. Please see CRS Report R43519, *Natural Disasters and Hazards: CRS Experts*, by (name redacted) , for additional information.

There are also available online sources that provide the most immediate disaster response information.

- Current Stafford Act declarations: <https://www.fema.gov/disasters>.
- FEMA news releases: <http://www.fema.gov/news-releases>.
- FEMA also maintains a blog, a Facebook page, and a Twitter feed with the latest information on disasters: see <http://blog.fema.gov/>, <http://www.facebook.com/FEMA>, and <https://twitter.com/fema>, respectively.

Sources of information on the federal emergency management process and policies.

- How citizens can prepare for disasters: <http://www.ready.gov/>.
- On National Preparedness Policy and the National Planning Frameworks: <http://www.fema.gov/national-planning-frameworks>.
- On the National Incident Management System: <http://www.fema.gov/nims/>.

Sources of information on disaster assistance programs.

- How citizens and local governments can receive disaster assistance: <http://www.disasterassistance.gov/>.
- Background on all federal assistance programs: <https://beta.sam.gov/>.

Sources of scientific information on the magnitude and location of natural hazards.

- Relating to hurricanes: <http://www.nhc.noaa.gov/>.
- Relating to earthquakes: <http://earthquake.usgs.gov/earthquakes/>.
- Current flood and drought maps: <http://waterwatch.usgs.gov/new/>.
- Current severe weather warnings, including tornados, thunderstorms, and flooding: <http://www.spc.noaa.gov/products/wwa/>.

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