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Congressional Primer on Responding to and Recovering from Major Disasters and Emergencies

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Summary

In the United States, the principles of disaster management presume a leadership role by the local, state, territorial, and tribal governments affected by the incident. The U.S. federal government does not automatically provide assistance when a disaster occurs. Instead, the federal government provides coordinated, supplemental resources and assistance only if requested and approved. A presidential declaration of emergency or major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, P.L. 93-288, as amended) must, in almost all cases, be requested by the governor of an affected state or territory, or the tribal chief executive of an affected Indian tribal government. When making such a request, the governor or tribal chief executive has declared that the situation exceeds the state/territory/tribe's capacity to effectively respond without federal assistance. The governor or tribal chief executive also requests assistance for specific parts of the state/territory/tribe and specifies the types of assistance programs that are needed. The Federal Emergency Management Agency (FEMA) evaluates the request and provides a recommendation to the President. The President considers the request, in consultation with FEMA officials, and determines whether to declare an emergency or major disaster, and makes the initial decisions authorizing types of assistance for the disaster-designated areas.

The majority of federal financial disaster assistance is made available from FEMA under the authority of the Stafford Act. Other disaster aid may be available through federal programs provided by the Small Business Administration (SBA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (USACE), among other federal programs. State/territorial/Indian tribal and local governments, as well as private and nonprofit sector organizations, may also provide disaster assistance. The National Response Framework (NRF) details the roles and responsibilities of various levels of government, as well as the private and nonprofit sectors and the community, in coordinating disaster response efforts. The NRF provides a scalable framework for incident response and coordination, and it enables recovery. Recovery is guided by the National Disaster Recovery Framework (NDRF). Information on the NRF and NDRF is included in the **Appendix** to this report.

While the disaster response and recovery process is fundamentally a relationship between the federal executive branch agencies and the requesting state, territorial, or Indian tribal government, there are roles for congressional offices. For instance, congressional offices may help provide letters of support to accompany a state/territorial/Indian tribal government's request for a presidential emergency or major disaster declaration, disseminate information to disaster survivors on available federal and nonfederal assistance, support the coordination of federal efforts in their respective states and districts, and consider legislation to provide supplemental disaster assistance or authorities. Congress also plays a critical role in improving the delivery of supplemental emergency management assistance by passing legislation to support needed emergency management reform, and conducting agency oversight. 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 phases of disaster response and recovery and the associated actions, and entity responsibilities. Additionally, it describes the laws and administrative policies governing the disaster response and recovery processes. The report also reviews the legislative framework that exists for providing federal financial assistance following a presidential declaration of emergency or major disaster, as well as the policies the executive branch employs to provide supplemental help to state, territorial,¹ Indian tribal, and local governments during and following disasters.

For information on the federal declaration process and assistance programs, see the “Federal Disaster Declarations,” “Selected Examples of Federal 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.”

Terms

Within this report, the term “state” refers to states and territories. For purposes of the Stafford Act, “‘State’ means 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” (42 U.S.C. §5122(4)).

The term “tribes” refers to Indian tribal governments. Per the Stafford Act, “[t]he term ‘Indian tribal government’ means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994” (42 U.S.C. §5122(6)).

References to “states and localities” are intended to be inclusive, and are meant to be read as including “local, state, territorial, and Indian tribal governments.”

Generally, Stafford Act assistance is requested by the “governor” (i.e., “the chief executive of any State” (42 U.S.C. § 5122(5)), or the “chief executive” (i.e., “the person who is the Chief, Chairman, Governor, President, or similar executive official of an Indian tribal government” (42 U.S.C. §5122(12)).

Background on the Disaster Response Process

Who Is in Charge?

The Principle of Federalism in Emergency Management

The United States has generally taken 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, emergency services personnel, and elected officials. Many incidents can be managed locally with local resources or through mutual aid agreements. If local

¹ The definition of “state” provided in Stafford Act Section 102(4), 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.” Although this report seeks to acknowledge the territory governments, any references to states should be read to also include the territories, per the definition included in Section 102 of the Stafford Act.

government resources are overwhelmed, nongovernmental voluntary organizations in the community and governments in neighboring jurisdictions may be called upon to provide assistance.² The state, territorial, and Indian tribal governments may supplement a local government's resources, which may be coupled with the governor declaring a state of disaster or emergency at the state level. If local and state/territorial/Indian tribal government resources have been overwhelmed, and the governor of the state or the tribal chief executive of a tribal nation has requested assistance, the federal government may begin to provide additional help.³ 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 to “supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering.”⁴

Given this “bottom up” approach, local and state/territorial/Indian tribal governments manage disaster response and recovery, except in the most extraordinary circumstances.⁵ The Federal Emergency Management Agency (FEMA) and other federal agencies are mandated by the Stafford Act to aid the disaster response and recovery processes, coordinating federal resources and services in response to state/territorial/Indian tribal requests through federal emergency planning guidance. This includes the National Response Framework (NRF) and National Disaster Recovery Framework (NDRF).⁶

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/territory response, the tribal chief executive for the tribe, and the President for the federal response.⁷ If state resources are being used to supplement the local response, they are typically coordinated through a State Coordinating Officer (SCO)⁸ and the state's emergency management or homeland security

² Neighboring jurisdictions may have mutual aid agreements to provide assistance when a jurisdiction's response capabilities are overwhelmed. “Mutual aid agreements establish the terms under which one party provides resources—personnel, teams, facilities, equipment, and supplies—to another party.” Federal Emergency Management Agency (FEMA), *National Incident Management System Guideline for Mutual Aid*, November 2017, p. 1, https://www.fema.gov/media-library-data/1510231079545-1fab7af0e06d89d8c79c7b619e55a03/NIMS_Mutual_Aid_Guideline_20171105_508_compliant.pdf.

³ See 44 C.F.R. §206.35 and 44 C.F.R. §206.36; FEMA, “The Disaster Declaration Process,” <https://www.fema.gov/disaster-declaration-process> (hereinafter FEMA, “The Disaster Declaration Process”).

⁴ Stafford Act Section 102(2), 42 U.S.C. §5122(2).

⁵ There are circumstances when the federal government is the lead for a disaster. It 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 (e.g., in national waters, parks, or military installations) or when the disaster is caused by a terrorist act and the Federal Bureau of Investigation becomes the lead federal law enforcement agency. Per the U.S. Department of Homeland Security (DHS), *National Response Framework*, “the Federal Government may play a leading role in the response where the Federal Government has primary jurisdiction or when incidents occur on federal property (e.g., national parks and military bases).” DHS, *National Response Framework*, 4th ed., October 28, 2019, p. 34, https://www.fema.gov/media-library-data/1572366339630-0e9278a0ede9ee129025182b4d0f818e/National_Response_Framework_4th_20191028.pdf (hereinafter DHS, *NRF*).

⁶ DHS, *NRF*; and DHS, *National Disaster Recovery Framework*, 2nd ed. June 2016, https://www.fema.gov/media-library-data/1466014998123-4bec8550930f774269e0c5968b120ba2/National_Disaster_Recovery_Framework2nd.pdf (hereinafter DHS, *NDRF*).

⁷ At the federal level, the President has delegated significant leadership responsibilities to the Secretary of Homeland Security and the Administrator of FEMA.

⁸ FEMA, as a component of the National Incident Management System (NIMS), has developed the National

agency. If an incident has been declared by the President as an emergency or major disaster, the Stafford Act directs the President to request that the governor appoint an SCO if they have not done so already.⁹ Similar requests are made to the tribal chief executive to appoint a Tribal Coordinating Officer.¹⁰ At the federal level, the President, FEMA Administrator, or Regional Administrator appoints a Federal Coordinating Officer (FCO) to coordinate all federal resources by state.¹¹ The FCO generally operates out of a Joint Field Office (JFO) where federal agencies and departments coordinate their activities.¹² State/territorial/Indian tribal and federal disaster officials will often co-locate at the JFO to facilitate coordination of efforts.

Nonfederal Disaster Assistance Resources

If the capacity of a local government has been overwhelmed by an incident, they may be able to turn to voluntary organizations within their community for additional support. In many situations, the local government may request assistance from other, nearby local governments through mutual aid agreements.¹³ If these resources are insufficient to deal with the response needs, local governments usually turn to the state to supplement local efforts.¹⁴ When states determine that their capacity is overwhelmed (including state use of mutual aid), the Stafford Act has established a protocol for states to request that the federal government provide disaster relief.¹⁵

Assistance from Voluntary Organizations and Nongovernmental Organizations

Voluntary organizations and Nongovernmental Organizations (NGOs)¹⁶ may provide disaster assistance to an affected community, including in coordination with local, state, territorial, and

Qualification System (NQS). The NQS provides guidance on the personnel resources within the NIMS framework, including position titles and qualifications. NIMS “provides a nationwide approach to enable stakeholders to work together to manage all threats and hazards, regardless of the incident’s cause or size.” FEMA, “National Qualification System,” last updated December 16, 2019, <https://www.fema.gov/national-qualification-system>. The State Coordinating Officer (SCO) “oversees all aspects of state and federally declared disasters.” FEMA, “State Coordinating Officer: Resource Typing Definition for Response Operational Coordination,” July 2019, https://www.fema.gov/media-library-data/1571155062548-f5458af5ace405c77270ae0eb5f2f14a/NQS_509_StateCoordinatingOfficer.pdf.

⁹ Stafford Act Section 302(c), 42 U.S.C. §5143(c); and 44 C.F.R. §206.41(c).

¹⁰ FEMA, *Tribal Declarations Pilot Guidance*, January 2017, p. 9, https://www.fema.gov/media-library-data/1523033284358-20b86875d12843441a521a6141c15099/Pilot_Guidance.pdf.

¹¹ The role of the coordinating officers is described in Stafford Act Section 302 (42 U.S.C. §5143), and in regulations at 44 C.F.R. §206.42.

¹² DHS, *NRF*, p. 20.

¹³ Mutual aid agreements are described in the FEMA, *National Incident Management System Guideline for Mutual Aid*, November 2017, https://www.fema.gov/media-library-data/1510231079545-1fab7af0e06d89d8c79c7b619e55a03/NIMS_Mutual_Aid_Guideline_20171105_508_compliant.pdf.

¹⁴ DHS, *NRF*, pp. 30-31.

¹⁵ DHS, *NRF*, p. 34; see also the federal statutes and regulations related to declaration requests, Stafford Act Section 401, 42 U.S.C. §5170 (procedure for declaring a major disaster) and 44 C.F.R. §206.36 (requests for major disaster declarations); and Stafford Act Section 501, 42 U.S.C. §5191 (procedure for declaring an emergency) and 44 C.F.R. §206.35 (requests for emergency declarations).

¹⁶ The NRF describes nongovernmental organizations (NGOs) as including “voluntary, ethnic, faith-based, veteran-based, disability, and nonprofit organizations that provide sheltering, emergency food supplies, and other essential support services for people, household pets, and service animals.... NGOs bolster government efforts at all levels and often provide specialized services to the whole community. NGOs are key partners in preparedness activities and response operations.” DHS, *NRF*, p. 28.

tribal governments, as well as the federal government. Not all communities have the same voluntary organizations. Rather, each community has a unique set of voluntary organizations involved in response and relief. In some cases, voluntary organizations may be the best initial source of assistance to states and localities during and following a disaster. Voluntary organizations are not required to provide disaster assistance, but they are encouraged by federal statute and regulation to coordinate their assistance through the structure of the NRF.¹⁷ The American Red Cross and the National Voluntary Organizations Active in Disaster (National VOAD) are two of the national organizations that have specific responsibilities under the NRF.¹⁸ Faith-based organizations may also be a key source of assistance to the community and the local government during an incident.

If the President has declared an emergency or major disaster under the Stafford Act, FEMA may provide additional support through Voluntary Agency Liaisons (VALs) to coordinate the efforts of voluntary organizations serving affected communities.¹⁹

Mutual Aid Agreements

Many local governments have pre-negotiated agreements with neighboring jurisdictions to share resources ranging from emergency service equipment (e.g., ambulances, fire trucks, etc.) to technical experts (e.g., bridge inspectors, contract managers, etc.).²⁰ The Emergency Management Assistance Compact (EMAC) is an inter-state compact that provides a legal structure through which states affected by a disaster may request emergency assistance and aid from other states.²¹ All EMAC member states—including the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands—have passed

¹⁷ For example, see Stafford Act Section 309, 42 U.S.C. §5152; and 44 C.F.R. §206.12.

¹⁸ The American Red Cross is a federally chartered instrumentality of the U.S. government (see 36 U.S.C. §§300101-300113). The National VOAD (National Voluntary Organizations Active in Disaster) is a coalition of many nongovernmental organizations (NGOs), and is a valuable resource in understanding the types of assistance available through NGOs (for more information, see the National VOAD website, available at <http://www.nvoad.org/>). Per the NRF, “[s]ome NGOs and functions are officially designated as support elements to national response capabilities, such as the following: ... The American Red Cross is chartered by Congress to provide relief to survivors of disasters and help people prevent, prepare for, respond to, and recover from emergencies. The Red Cross has a legal status of a ‘federal chartered instrumentality’ and maintains a special relationship with the Federal Government. In this capacity, the American Red Cross is the co-lead of ESF #6 and supports several other ESFs and the delivery of multiple core capabilities.... [Additionally, the] National VOAD is an association of organizations that mitigates and alleviates the impact of disasters; provides a forum promoting cooperation, communication, coordination and collaboration; and fosters more effective delivery of services to communities impacted by a disaster. National VOAD is a consortium of over 70 national organizations and 56 territorial and state equivalents.” (DHS, *NRF*, pp. 28-29).

¹⁹ According to the FEMA website, “FEMA Voluntary Agency Liaisons and Donations Specialists Map,” “[t]he Voluntary Agency Liaison (VALs) mission is to establish, foster, and maintain relationships among government, voluntary, faith-based, and community partners to strengthen capabilities and support the delivery of inclusive, equitable services by empowering communities to address disaster-related unmet needs.” There are VALs assigned to each FEMA Region. For more information and a map of the FEMA Regions and assigned FEMA VALs, see FEMA, “FEMA Voluntary Agency Liaisons and Donations Specialists Map,” last updated March 26, 2020, <https://www.fema.gov/media-library/assets/documents/27631>.

²⁰ For more information on mutual aid, see the DHS, *NRF*, p. 12. See also FEMA, *National Incident Management System Guideline for Mutual Aid*, November 2017, p. 1, https://www.fema.gov/media-library-data/1510231079545-1fabcf7af0e06d89d8c79c7b619e55a03/NIMS_Mutual_Aid_Guideline_20171105_508_compliant.pdf.

²¹ The Emergency Management Assistance Compact (EMAC) was congressionally ratified in H.J.Res. 193—Granting the consent of Congress to the Emergency Management Assistance Compact (P.L. 104-321). For more information about EMAC, including legislative text and EMAC’s governance structure, as well as eligible expenses and documentation required for reimbursement, see the EMAC website, available at <http://www.emacweb.org/> (hereinafter EMAC).

the EMAC legislation.²² Mutual aid agreements are a common and important source of assistance during incidents that overwhelm local and state capacities.

State/Territory Government Assistance

All states and territories have either an agency or department that is responsible for emergency management and/or homeland security.²³ State-/territory-level emergency management agencies are responsible for providing and coordinating assistance to local governments within their jurisdictions, much in the way that FEMA is responsible for providing supplemental assistance to states, territories, and Indian tribal governments. Though all states and territories have a legal process for declaring a “state of emergency” (or synonymous incident), the processes for declaring a state of emergency, and the powers and assistance authorized pursuant to such a declaration, vary considerably.²⁴

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.²⁵ As part of a state-/territory-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.”²⁶ 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 may be able to perform law enforcement functions.²⁷ In response to a hurricane, for

²² See EMAC, “EMAC Legislation”; see also the statutes of the EMAC members (e.g., the Maryland General Assembly publishes the state of Maryland’s statutes, available at <http://mgaleg.maryland.gov/mgawebsite/Laws/Statutes>. The Public Safety Article for the State of Maryland, §14–701, states, “The Emergency Management Assistance Compact is entered into with all other jurisdictions which adopt the Compact in a form substantially as the Compact appears in §14-702 of this subtitle.” The state of Maryland Public Safety Article is available at http://mgaleg.maryland.gov/2020RS/Statute_Web/gps/gps.pdf).

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

²⁴ Additional information regarding the state and territory declarations of emergency, including the declaration process and authorized powers, may be found in state/territory statutes (e.g., the Maryland General Assembly publishes the state of Maryland’s statutes, available at <http://mgaleg.maryland.gov/mgawebsite/Laws/Statutes>. The Public Safety Article for the State of Maryland, §14–107(a)(1) states “[i]f the Governor finds that an emergency has developed or is impending due to any cause, the Governor shall declare a state of emergency by executive order or proclamation.” There are additional statutes on terminating a state of emergency, and the powers and actions authorized pursuant to the state-level declaration. The state of Maryland Public Safety Article is available at http://mgaleg.maryland.gov/2020RS/Statute_Web/gps/gps.pdf).

²⁵ The President may order National Guard forces to active duty (e.g., see 10 U.S.C. §§12301-12323 (active duty) and §§12401-12408 (National Guard in federal service)).

²⁶ As an example, the Maryland General Assembly publishes the state of Maryland’s statutes, available at <http://mgaleg.maryland.gov/mgawebsite/Laws/Statutes>. The Public Safety Article for the State of Maryland, §13–101(e)(1) defines “state active duty” as “military duty performed in service of the State by a unit or member of the militia under orders issued by the Governor under Article II, §8 of the Maryland Constitution or §13-702 of this title.” The state of Maryland Public Safety Article is available at http://mgaleg.maryland.gov/2020RS/Statute_Web/gps/gps.pdf).

²⁷ In this capacity, National Guard personnel are not subject to the restrictions of the Posse Comitatus Act, 18 U.S.C. §1385. For more information, see CRS In Focus IF10539, *Defense Primer: Legal Authorities for the Use of Military Forces*, by Jennifer K. Elsea.

example, 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.²⁸

Federal Disaster Declarations

If the capacities of the local, state, territorial, and tribal governments have been overwhelmed by an incident, they may wish to request assistance from the federal government, primarily through the Stafford Act.²⁹ The Stafford Act authorizes the President to issue several types of declarations to authorize federal supplemental assistance: (1) an “emergency declaration” (authorized under Stafford Act Section 501); (2) a “major disaster declaration” (authorized under Stafford Act Section 401); or (3) a Fire Management Assistance Grant (FMAG) (authorized under Stafford Act Section 420).

Emergency declarations may authorize some specific forms of Public Assistance (PA) and Individual Assistance (IA)³⁰ but the range of assistance is more limited than assistance that is made available under a major disaster declaration.³¹ Emergency declarations authorize federal assistance that can help supplement the capabilities of state, territorial, and Indian tribal governments to carry out essential services and activities to save lives, protect property, protect public health and safety, or reduce or avert the threat of future damage.³² Emergency declarations may be declared before an incident occurs to support efforts to save lives and prevent loss.³³

The definition for a major disaster is more precise than an emergency declaration, and major disasters may provide a broader range of assistance to state, territorial, Indian tribal, and local governments; private, nonprofit organizations; and individuals and households.³⁴ When the President issues a major disaster declaration, states and localities, as well as certain private nonprofit organizations, may be eligible (if so designated) to receive reimbursement through PA for “emergency work” undertaken to save lives, protect property, public health, and safety, and lessen or avert the threat of a catastrophe. Additionally, they may be eligible for “permanent work” undertaken to repair, restore, reconstruct, or replace disaster-damaged public and eligible private nonprofit facilities (e.g., public infrastructure, such as roads and buildings).³⁵ A major

²⁸ The NRF describes actions that the National Guard may perform. See DHS, *NRF*, p. 32.

²⁹ Other types of federal declarations are described in the “Other Federal Declarations” section.

³⁰ The Individuals and Households Program (IHP) is the only form of IA that may be authorized pursuant to an emergency declaration under the Stafford Act (Stafford Act Section 408, 42 U.S.C. §5192(6)).

³¹ “The Disaster Declaration Process,” <https://www.fema.gov/disaster-declaration-process>.

³² Stafford Act Section 102(1), 42 U.S.C. §5122(1).

³³ For example, Puerto Rico received an emergency declaration for Hurricane Maria on September 18, 2017, before Hurricane Maria made landfall in Puerto Rico (see FEMA, “Puerto Rico Hurricane Maria (EM-3391),” <https://www.fema.gov/disaster/3391>). Hurricane Maria made landfall in Puerto Rico on September 20, 2017 (see Richard J. Pasch, Andrew B. Penny, and Robbie Berg, *Tropical Cyclone Report: Hurricane Maria*, National Hurricane Center, AL 152017, February 14, 2019, p. 2, https://www.nhc.noaa.gov/data/tcr/AL152017_Maria.pdf).

³⁴ Stafford Act Section 102(2), 42 U.S.C. §5122(2).

³⁵ Assistance for these PA program is authorized under Stafford Act Sections 402, 403, 407, 418, 419, and 502; 42 U.S.C. §§5170a-5170b, 5173, 5185-86, 5192. See also 44 C.F.R. §206.220 for general eligibility for public assistance. Per 44 C.F.R. §206.225(c) and (d), PA “emergency work” includes emergency communications and emergency transportation authorized under Stafford Act Sections 418 and 419. FEMA’s Public Assistance guidance explains: “[a] State, Territorial, Tribal, or local government may provide emergency communication services and public transportation when existing systems are damaged to the extent vital functions of community life or incident response are disrupted. The costs of these services are not eligible for reimbursement. However, FEMA may provide short-term DFA [Direct Federal Assistance] for these services.” (FEMA, *Public Assistance Program and Policy Guide (PAPPG)*,

disaster declaration may also include programs to provide aid to affected individuals and households through the IA program. Assistance may include assistance for housing and for other needs assistance through the Individuals and Households Program; crisis counseling; disaster unemployment assistance; disaster legal services; and disaster case management services.³⁶ Additionally, pursuant to a major disaster declaration the Hazard Mitigation Grant Program (HMGP) may be authorized.³⁷ The HMGP funds mitigation and resiliency projects, typically across the entire state or territory.³⁸ State, territorial, tribal, and local governments, as well as certain private nonprofit organizations, may apply for measures that reduce loss of life or property in future disasters or emergencies.³⁹ A major disaster declaration may also authorize other recovery programs, such as community disaster loans.⁴⁰

The Stafford Act declaration process is described in the following section. 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 (e.g., the Small Business Administration's Disaster Loan Program).⁴¹

Table 1 lists the forms of assistance available pursuant to each type of declaration.

FP 104-009-2, April 2018, p. 61, https://www.fema.gov/media-library-data/1525468328389-4a038bbef9081cd7dfe7538e7751aa9c/PAPPG_3.1_508_FINAL_5-4-2018.pdf.)

³⁶ Stafford Act Section 408 authorizes the Individuals and Households Program (42 U.S.C. §5174); Section 426 authorizes Disaster Case Management (42 U.S.C. §5189d); Section 416 authorizes the Crisis Counseling Assistance and Training Program (42 U.S.C. §5183); Section 415 authorizes Disaster Legal Services (42 U.S.C. §5182); and Section 410 authorizes Disaster Unemployment Assistance (42 U.S.C. §5177). The FEMA Individual Assistance programs are described in the FEMA *Individual Assistance Program and Policy Guide (IAPPG)*, FP 104-009-03, March 2019, <https://www.fema.gov/media-library-data/1551713430046-1abf12182d2d5e622d16accb37c4d163/IAPPG.pdf>. For more information on FEMA's Individual Assistance program, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster.

³⁷ The Hazard Mitigation Grant Program (HMGP) is authorized under Stafford Act Section 404 (42 U.S.C. §5170c).

³⁸ Stafford Act Section 404, 42 U.S.C. §5170c. For more information on Hazard Mitigation Assistance, see CRS Insight IN11187, *Federal Emergency Management Agency (FEMA) Hazard Mitigation Assistance*, by Diane P. Horn. See also FEMA, "Hazard Mitigation Grant Program," https://www.fema.gov/media-library-data/1437513326617-c124385de1b6061509f775a164c9aabd/FEMA_HMA_HMGP_tri_2015_508.pdf.

³⁹ FEMA, "Hazard Mitigation Grant Program," https://www.fema.gov/media-library-data/1437513326617-c124385de1b6061509f775a164c9aabd/FEMA_HMA_HMGP_tri_2015_508.pdf.

⁴⁰ Stafford Act Section 417, 42 U.S.C. §5184. For more information on community disaster loans, see CRS Insight IN11106, *Community Disaster Loans: Homeland Security Issues in the 116th Congress*, by Michael H. Cecire.

⁴¹ For more information on the Small Business Administration's (SBA's) Disaster Loan Program, see CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*, by Bruce R. Lindsay.

Table I. Assistance Available Under Stafford Act Declarations

	Emergency Declaration	Major Disaster Declaration
Public Assistance (PA)	<i>Emergency Work</i> Category A—Debris Removal Category B—Emergency Protective Measures	<i>Emergency Work</i> Category A—Debris Removal Category B—Emergency Protective Measures <i>Permanent Work</i> Category C—Roads and Bridges Category D—Water Control Facilities Category E—Buildings and Equipment Category F—Utilities Category G—Parks, Recreational, Other
Individual Assistance (IA)	Individuals and Households Program (IHP)	IHP Crisis Counseling Program Disaster Case Management Disaster Unemployment Assistance Disaster Legal Services Disaster Supplemental Nutrition Assistance Program
Hazard Mitigation Assistance (HMA)	—	Hazard Mitigation Grant Program

Source: Developed by CRS based on the Federal Emergency Management Agency's (FEMA's) webpage on "The Disaster Declaration Process," available at <https://www.fema.gov/disaster-declaration-process>.

Stafford Act Declaration Process⁴²

The federal government does not automatically provide assistance to local, state, territorial, and Indian tribal governments when an *incident*⁴³ occurs. In most cases, the governor or tribal chief executive requests that the President declare an emergency or major disaster and authorize various types of assistance (e.g., Public Assistance and Individual Assistance).⁴⁴ This is because

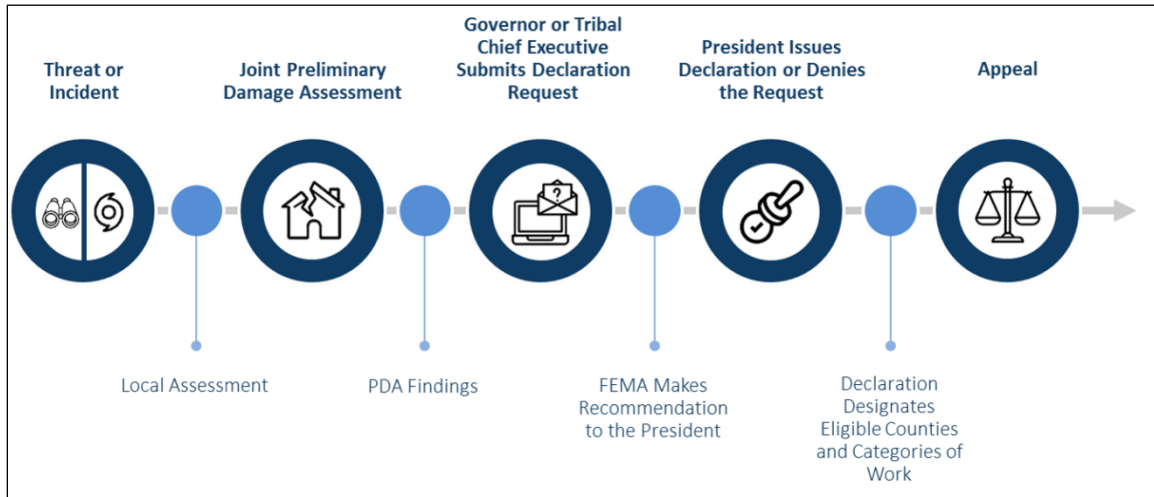
⁴² For more information, see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Bruce R. Lindsay.

⁴³ 44 C.F.R. §206.32(e) defines an *incident* as "[a]ny condition which meets the definition of major disaster or emergency as set forth in §206.2 which causes damage or hardship that may result in a Presidential declaration of a major disaster or an emergency."

⁴⁴ 44 C.F.R. §§206.35, 206.36, 206.40(a); FEMA, "The Disaster Declaration Process"; FEMA, "FAQs: Current Process for Tribal Governments to Request a Presidential Declaration," last updated May 24, 2019, <https://www.fema.gov/frequently-asked-questions-current-process-tribal-governments-request-presidential-declaration>. For more information about the disaster declaration process, see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Bruce R. Lindsay. Presidential declarations of emergency and major disaster include the areas designated as being eligible for federal assistance, as well as the types of assistance the designated areas are eligible to receive (44 C.F.R. §206.2(a)(6)). Additional designated areas and available assistance are published in the *Federal Register* and listed on FEMA's "Disasters" website (FEMA, "Disasters," <https://www.fema.gov/disasters>). A *designated area* is "[a]ny emergency or major disaster-affected portion of a State which has been determined eligible for Federal assistance." (44 C.F.R. §206.2(a)(6)).

federal assistance is intended to supplement—not supplant—local, state, territorial, or Indian tribal government response and recovery efforts.⁴⁵ In making such a request, the governor or tribal chief executive must demonstrate that they are unable to effectively respond to the incident without federal assistance.⁴⁶ **Figure 1** depicts the Stafford Act Declaration Process.

Figure 1. Stafford Act Declaration Process



Source: Developed by CRS based on the Federal Emergency Management Agency's (FEMA's) webpage on "The Disaster Declaration Process," available at <https://www.fema.gov/disaster-declaration-process>.

The governor or tribal chief executive's request for a presidential declaration of emergency or major disaster must include information about the actions and resources that have been or will be committed, and an estimate of the amount and severity of the disaster-caused damages.⁴⁷ For all but the most catastrophic events, this process is deliberative and involves accumulating information from several sources during the Preliminary Damage Assessment (PDA) process.⁴⁸

⁴⁵ The governor or tribal chief executive's request must document that the "situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments" and that supplemental federal assistance is necessary (44 C.F.R. §§206.35 and 206.36). To justify a declaration of emergency, supplemental federal assistance must be needed to "save lives and to protect property, public health and safety, or to lessen or avert the threat of a disaster" (44 C.F.R. §206.3). To justify a declaration of major disaster, federal assistance must be needed to "supplement the efforts and available resources of the State, local governments, disaster relief organizations, and compensation by insurance for disaster-related losses" (44 C.F.R. §206.36).

⁴⁶ 44 C.F.R. §§206.35 and 206.36.

⁴⁷ For a list and description of information requirements to accompany a governor or tribal chief executive's request for an emergency declaration and a major disaster declaration, see 44 C.F.R. §206.35 and 44 C.F.R. §206.36, respectively.

⁴⁸ For example, see the FEMA, "Request for Presidential Disaster Declaration: Major Disaster or Emergency," form, OMB Control Number 1660-0009, Expires 09/30/2019, available at <https://www.fema.gov/media-library-data/1512409550714-752b7004a7c74c67a485a36551d7c889/FEMAF010-0-13PresidentialDeclarationRequest.pdf> (note that the form expiration date has passed, but this is the form linked to on FEMA's "Request for Presidential Disaster Declaration Major or Emergency" webpage, available at <https://www.fema.gov/media-library/assets/documents/28122>). For more information on the Preliminary Damage Assessment (PDA) process, see FEMA, "Preliminary Damage Assessments," last updated December 6, 2019, <https://www.fema.gov/preliminary-damage-assessments>; see also CRS Report R44977, *Preliminary Damage Assessments for Major Disasters: Overview, Analysis, and Policy Observations*, by Bruce R. Lindsay.

If it is determined that the incident exceeds the state and local government's capacity, the governor/chief executive requests a Joint PDA.⁴⁹ The Joint 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.⁵⁰ In some cases, it may also include representatives from other federal agencies or voluntary relief organizations.⁵¹

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."⁵² 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.⁵³ FEMA uses the *Damage Assessment Operations Manual*, as well as other guidance to help guide the process of gathering information about the incident and evaluate the governor/chief executive's request for a declaration under the Stafford Act.⁵⁴ Regulations require that, at the close of the PDA process, participants reconcile any differences in their findings.⁵⁵

Once the PDA has been completed, the governor/chief executive may submit a request for a major disaster declaration. 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. Specific factors are considered by FEMA when evaluating the need for supplemental federal assistance under the Public Assistance and Individual Assistance programs pursuant to a request for a major disaster declaration.⁵⁶ FEMA provides a recommendation to the President, and the decision to grant a declaration request is at the President's discretion.⁵⁷ The authority to designate assistance types to be made available is delegated to the FEMA Assistant Administrator for the Disaster Assistance Directorate.⁵⁸ It is important to note that although FEMA evaluates PDA findings and provides a recommendation, the President has the sole authority to issue a declaration or deny a request for federal assistance under the Stafford Act.⁵⁹

⁴⁹ Stafford Act Section 401, 42 U.S.C. §5170; see also FEMA, *Damage Assessment Operations Manual: A Guide to Assessing Damage and Impact*, April 5, 2016, p. 6, <https://www.fema.gov/media-library-data/1459972926996-a31eb90a2741e86699ef34ce2069663a/PDAManualFinal6.pdf> (hereinafter FEMA, *Damage Assessment Manual*). FEMA released a new *FEMA Preliminary Damage Assessment Guide* in May 2020 that supersedes the 2016 *Damage Assessment Operations Manual*, and is applicable to any PDA that occurs on or after June 8, 2020. See FEMA, *Preliminary Damage Assessment Guide*, May 2020, https://www.fema.gov/media-library-data/1590686343169-3e382d1466ac2d0bb150d994ddce48e9/Preliminary_Damage_Assessment_Guide_5_26.pdf.

⁵⁰ 44 C.F.R. §206.33(b); see also FEMA, *Damage Assessment Manual*, p. 6.

⁵¹ FEMA, *Damage Assessment Manual*, p. 6.

⁵² 44 C.F.R. §206.33(d); see also 44 C.F.R. §206.36(d).

⁵³ For examples of expedited declarations, see the FEMA "Preliminary Damage Assessment Reports" webpage, available at <http://www.fema.gov/preliminary-damage-assessment-reports>.

⁵⁴ FEMA, *Damage Assessment Manual*, and FEMA, *Individual Assistance Declarations Factors Guidance*, June 2019, <https://www.regulations.gov/document?D=FEMA-2014-0005-0071> (this Individual Assistance (IA) guidance was published after the IA factors were updated in June 2019).

⁵⁵ 44 C.F.R. §206.33(c).

⁵⁶ 44 C.F.R. §206.48.

⁵⁷ 44 C.F.R. §206.38.

⁵⁸ 44 C.F.R. §206.40(a).

⁵⁹ See 44 C.F.R. §206.48 and, for example, see FEMA, "Factors Considered When Evaluating a Request for IA," 84 *Federal Register* 10633.

Unilateral Declarations of Emergency Under the Stafford Act

The federal government may also provide assistance without a request by the governor or chief executive in more limited circumstances. Section 501(b) of the Stafford Act allows the President to unilaterally declare an emergency for certain emergencies involving federal primary responsibility.⁶⁰ Most recently, and significantly, President Donald J. Trump made a nationwide emergency declaration for coronavirus 2019 (COVID-19) using the authority in Stafford Act Section 501(b) on the grounds that

the entire country is now facing a significant public health emergency ... [and] [o]nly the Federal Government can provide the necessary coordination to address a pandemic of this national size and scope.... It is the preeminent responsibility of the Federal Government to take action to stem a nationwide pandemic that has its origins abroad, which implicates its authority to regulate matters related to interstate matters and foreign commerce and to conduct the foreign relations of the United States.⁶¹

Besides the COVID-19 example,⁶² a presidential declaration of emergency under the Stafford Act 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.⁶³

Declined Requests for Emergency Major Disaster Declarations

In some cases a gubernatorial or chief executive's request for a major disaster or emergency declaration may be declined by the President. For example, the President may conclude the incident does not meet the definition of a major disaster or emergency under the Stafford Act,⁶⁴ or it may be determined that the incident lacks the severity and magnitude to warrant a declaration and as a result does not exceed the state's capacity to respond without assistance from the federal government.⁶⁵ If a declaration request is denied, the decision can be appealed once.⁶⁶ Appeals

⁶⁰ 42 U.S.C. §5191(b).

⁶¹ Letter from Donald J. Trump, President of the United States, to Acting Secretary Wolf, Secretary Mnuchin, Secretary Azar, and Administrator Gaynor, March 13, 2020, <https://www.whitehouse.gov/wp-content/uploads/2020/03/LetterFromThePresident.pdf>.

⁶² For more information on the Stafford Act declarations for COVID-19, see CRS Report R46326, *Stafford Act Declarations for COVID-19 FAQ*, by Elizabeth M. Webster, Erica A. Lee, and William L. Painter.

⁶³ See, primarily, Stafford Act Section 501(b), 42 U.S.C. §5191(b). Most notably, this situation arises when the area affected by the disaster is on federal property (e.g., in national waters, lands, parks, or military installations) or when the Federal Bureau of Investigation becomes the lead federal law enforcement agency in response to a terrorism incident.

⁶⁴ The Stafford Act defines emergencies and major disasters in Section 102(1) and 102(2), respectively, 42 U.S.C. §§5122(1) and 5122(2). For example, former Michigan Governor Rick Snyder's request for a major disaster declaration for the water contamination in Flint was denied on the basis that it did not meet the Stafford Act's definition of a major disaster (see a copy of the FEMA denial letter in "Appendix. Examples of Request and Denial Letters, Figure A-1. FEMA Denial Letter: Flint Water Contamination Incident," CRS Report R44801, *Stafford Act Assistance and Acts of Terrorism*, by Bruce R. Lindsay).

⁶⁵ For examples of denied declaration requests, see the FEMA "Preliminary Damage Assessment Reports" webpage, available at <http://www.fema.gov/preliminary-damage-assessment-reports>. For example, Nebraska's request for a major disaster for severe storms, tornadoes, straight-line winds, and flooding was denied on the basis that "the impact from this event is not of the severity and magnitude that warrants a major disaster declaration" (FEMA, "Preliminary Damage Assessment Report: Nebraska—Severe Storms, Tornadoes, Straight-line Winds, and Flooding Denial of Appeal," January 7, 2020, <https://www.fema.gov/media-library-data/1579727282421-bda94d64a4102764deeb9b10d8172657/PDARreportAppealDenialNE.pdf>).

⁶⁶ 44 C.F.R. §206.46(a).

must be made within 30 days after the date of the letter denying the request, and the appeal must include any additional information that may not have been included in the first request along with the justification for reconsideration.⁶⁷ The appeal must be submitted to the President through the appropriate FEMA Regional Administrator.⁶⁸

If the request or the appeal is denied, the governor may consider requesting a disaster declaration from the SBA Administrator.⁶⁹ The thresholds used to make determinations for SBA disaster assistance are generally lower than the ones used to determine major disaster assistance.⁷⁰ It should be noted, however, that governmental entities are not eligible for SBA disaster loans. They are primarily for individuals and businesses.⁷¹

Fire Management Assistance Grants

In addition to the emergency and major disaster declarations, there is a unique quasi-declaration “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.”⁷² 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.⁷³ 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 public or private forest land or grassland.⁷⁴ The FMAG is intended to mitigate the effects of a wildfire and prevent it from becoming a major disaster.⁷⁵ Additionally, when an FMAG is approved, regardless of whether a major disaster is declared, the state, territory, or Indian tribal government may be eligible for assistance through the Hazard Mitigation Grant Program (HMGP).⁷⁶

Other Federal Declarations

There are numerous other types of declarations and 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:

⁶⁷ 44 C.F.R. §206.46(a).

⁶⁸ 44 C.F.R. §206.46(a).

⁶⁹ The SBA Administrator is authorized under the Small Business Act to issue an “Agency” or “SBA declaration” that makes SBA disaster loans available for homeowners, renters, businesses, and nonprofit organizations (13 C.F.R. §123.3(a)(3)). For more information on SBA declarations, see CRS Report R45238, *FEMA and SBA Disaster Assistance for Individuals and Households: Application Processes, Determinations, and Appeals*, by Bruce R. Lindsay and Elizabeth M. Webster.

⁷⁰ 13 C.F.R. §123.3(a)(3).

⁷¹ For more information on SBA disaster loans for individuals and businesses, see CRS Report R45238, *FEMA and SBA Disaster Assistance for Individuals and Households: Application Processes, Determinations, and Appeals*, by Bruce R. Lindsay and Elizabeth M. Webster.

⁷² Stafford Act Section 420(a), 42 U.S.C. §5187(a).

⁷³ Stafford Act Section 420(a), 42 U.S.C. §5187(a); 44 C.F.R. §204.21.

⁷⁴ 44 C.F.R. §204.42 lists the eligible costs for Fire Management Assistance Grants (FMAGs).

⁷⁵ For more information on FMAGs, see CRS Report R43738, *Fire Management Assistance Grants: Frequently Asked Questions*, coordinated by Bruce R. Lindsay.

⁷⁶ Stafford Act Section 420(d), 42 U.S.C. §5187(d).

- a presidential declaration of a “national emergency” pursuant to the National Emergencies Act (50 U.S.C. §§1601 et seq.) that specifies the federal authorities the crisis requires;⁷⁷
- 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);⁷⁸
- various disaster declarations from the Administrator of the Small Business Administration (SBA);⁷⁹ and
- various disaster declarations and designations from the U.S. Department of Agriculture.⁸⁰

Selected Examples of Federal Assistance Programs

Stafford Act Assistance Programs

If an emergency or major disaster is declared under the Stafford Act, the three principal forms of federal assistance may be available:

- *Public Assistance* (PA), which provides grants to state, territorial, Indian tribal, and local governments and certain private nonprofit organizations to provide emergency protective services, conduct debris removal operations, and repair or replace damaged public infrastructure.⁸¹ Although certain nonprofit organizations may be eligible for these grants, for-profit businesses are not.⁸²
- *Individual Assistance* (IA), which provides direct aid to affected individuals and households, can take the form of housing assistance,⁸³ other needs assistance, crisis counseling, case management services, legal services, and disaster unemployment assistance.⁸⁴ There are limitations on the amount of financial

⁷⁷ For more information on declarations of national emergency under the National Emergencies Act (NEA), including an example of declarations of national emergency under the NEA and Stafford Act and how they differ, see CRS Insight IN11264, *Presidential Declarations of Emergency for COVID-19: NEA and Stafford Act*, by L. Elaine Halchin and Elizabeth M. Webster.

⁷⁸ For more information, see U.S. Department of Health and Human Services’ (HHS’s) website on its authorities at <https://www.phe.gov/Preparedness/support/secauthority/Pages/default.aspx>.

⁷⁹ The SBA Administrator is authorized under the Small Business Act to issue an “Agency” or “SBA declaration” that makes SBA disaster loans available for homeowners, renters, businesses, and nonprofit organizations (13 C.F.R. §123.3(a)(3)). For more information, see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

⁸⁰ For more information on agricultural emergencies, see CRS Report RS21212, *Agricultural Disaster Assistance*, by Megan Stubbs.

⁸¹ For more information on the Public Assistance (PA) program, see CRS In Focus IF11529, *A Brief Overview of FEMA’s Public Assistance Program*, by Erica A. Lee.

⁸² Assistance for these PA program is authorized under Stafford Act Sections 402, 403, 407, 418, 419, and 502; 42 U.S.C. §§5170a-5170b, 5173, 5185-86, 5192. For more on FEMA’s PA grant program, see FEMA, “Public Assistance: Local, State, Tribal and Private Non-Profit,” <https://www.fema.gov/public-assistance-local-state-tribal-and-non-profit>.

⁸³ For more information on FEMA housing assistance, see CRS Report R44619, *FEMA Disaster Housing: The Individuals and Households Program—Implementation and Potential Issues for Congress*, by Shawn Reese.

⁸⁴ For more information on the Individual Assistance (IA) programs, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster; see also FEMA, “Individual Disaster Assistance,”

assistance an individual or household may receive. Assistance for housing-related needs may not exceed \$35,500 (FY2020; adjusted annually),⁸⁵ and assistance for Other Needs Assistance (ONA) may not exceed \$35,500 (FY2020; adjusted annually).⁸⁶ The exceptions are that financial assistance to rent alternate housing accommodations⁸⁷ and financial assistance for accessibility-related real and personal property costs are not subject to the cap.⁸⁸

- *Hazard Mitigation Assistance (HMA)*, which funds mitigation and resiliency projects and programs, and may be available for the entire state if requested.⁸⁹ Mitigation projects can include the construction of safe rooms, buyouts of frequently flooded properties, and retrofitting of facilities.⁹⁰

The forms of assistance authorized by an emergency or major disaster declaration may vary by the designated areas, per the declaration (which can be amended to request additional forms of relief).⁹¹ The Federal-State Agreement (or FEMA-Tribal Agreement), which is signed by both the governor/chief executive and FEMA, “states the understandings, commitments, and conditions for assistance under which FEMA disaster assistance shall be provided.... ” and “describes ... the incident period for which assistance will be made available, the type and extent of the Federal assistance to be made available, and ... the commitment of the State and local government(s) with respect to the amount of funds to be expended in alleviating damage and suffering caused by the major disaster or emergency.... ”⁹²

<https://www.fema.gov/individual-disaster-assistance>. For additional information on disaster unemployment assistance, see CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*, by Julie M. Whittaker.

⁸⁵ §1212 of the Disaster Recovery Reform Act of 2018 (DRRA), P.L. 115-254, as it amends §408(h)(1) of the Stafford Act, P.L. 93-288, as amended, 42 U.S.C. §5174(h)(1); FEMA, “Notice of Maximum Amount of Assistance Under the Individuals and Households Program,” 84 *Federal Register* 55324, October 16, 2019, <https://www.govinfo.gov/content/pkg/FR-2019-10-16/pdf/2019-22471.pdf> (hereinafter FEMA, “Notice of Maximum Amount of Assistance”). It is adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor (42 U.S.C. §5174(h)(3)).

⁸⁶ §1212 of DRRA, P.L. 115-254, as it amends §408(h)(2) of the Stafford Act, P.L. 93-288, as amended, 42 U.S.C. §5174(h)(2); FEMA, “Notice of Maximum Amount of Assistance.” Additionally, ONA assistance may be somewhat limited because some ONA-eligible items and amounts available to be awarded are predetermined by FEMA and the state, territorial, or Indian tribal government.

⁸⁷ §1212 of DRRA, P.L. 115-254, as it amends §408(h)(1) of the Stafford Act, P.L. 93-288, as amended, 42 U.S.C. §5174(h)(1).

⁸⁸ §1212 of DRRA, P.L. 115-254, as it amends §§408(h)(4)(A) and (B) of the Stafford Act, P.L. 93-288, as amended, 42 U.S.C. §§5174(h)(4)(A) and (B).

⁸⁹ FEMA, “The Hazard Mitigation Grant Program Guide for State/Local Governments,” <https://www.fema.gov/hazard-mitigation-grant-program-guide-state/local-governments>.

⁹⁰ For more on the various Hazard Mitigation Assistance (HMA) programs, see Federal Emergency Management Agency, *The Hazard Mitigation Assistance Grant Programs*, 2015, https://www.fema.gov/media-library-data/1441133724295-0933f57e7ad4618d89debd1ddc6562d3/FEMA_HMA_Grants_4pg_2015_508.pdf.

⁹¹ Some forms of PA and IA may be available when the President has declared an emergency, and PA, IA, and HMA may be available when the President has declared a major disaster (44 C.F.R. §206.40(a)); see also FEMA, “The Disaster Declaration Process,” <https://www.fema.gov/disaster-declaration-process>). After the President declares an emergency or major disaster, the governor or chief executive may request that the declaration be amended to include additional types of assistance (44 C.F.R. §206.40(c)). FEMA can approve such a request (44 C.F.R. §206.40(c)).

⁹² 44 C.F.R. §206.44(a) and (b).

Other Federal Assistance Programs

The majority of federal financial disaster assistance is made available from FEMA under the authority of the Stafford Act. In addition to financial assistance that may be available through the Stafford Act, however, there are a number of other programs not administered by the U.S. Department of Homeland Security (DHS) or FEMA that can provide disaster assistance in certain circumstances. They include through federal programs provided by the Small Business Administration (SBA), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (USACE), among other federal programs. 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 uninsured damages following a disaster. The SBA Disaster Loan Program also provides subsidized loans to businesses that suffered economic loss as a result of a disaster.
- **HUD Community Development Block Grant Disaster Recovery (CDBG-DR) Program:** These funds can be used to meet a wide range of unmet disaster needs, but the program currently requires a supplemental appropriation to accommodate the high cost of disaster relief.⁹³
- **DOT Federal-Aid Highway (FHWA) Emergency Relief (ER) Program:** The ER program is the major source of grant funds for the repair and reconstruction of roads on the federal 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.⁹⁴
- **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.⁹⁵
- **USACE Emergency Assistance:** The USACE 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.⁹⁶ The USACE has an emergency response authority (33

⁹³ For more on how Community Development Block Grants (CDBG) can be used during disaster relief, see CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by Eugene Boyd. The program website for Community Development Block Grant Disaster Recovery (CDBG-DR) is available at <https://www.hudexchange.info/programs/cdbg-dr/>.

⁹⁴ For more on the Federal-Aid Highway (FHWA) Emergency Relief (ER) program and its comparable program for transit, see CRS Report R45298, *Emergency Relief for Disaster-Damaged Roads and Public Transportation Systems*, by Robert S. Kirk and William J. Mallett.

⁹⁵ For more, see the U.S. Department of Agriculture's (USDA's) fact sheet on their programs (USDA, "Fact Sheet: USDA Programs That Assist Individuals and Small Businesses: USDA Assistance Programs—Disaster," updated March 9, 2017, https://www.usda.gov/sites/default/files/documents/fact-sheet-usda-programs-assist-individuals-small-businesses_1.pdf). For more information, see CRS Report RS21212, *Agricultural Disaster Assistance*, by Megan Stubbs, and CRS Report RL33816, *Broadband Loan and Grant Programs in the USDA's Rural Utilities Service*, by Lennard G. Kruger and Alyssa R. Casey.

⁹⁶ For more information on the Rehabilitation and Inspection Program, see CRS Report R41243, *Army Corps of Engineers: Water Resource Authorizations, Appropriations, and Activities*, by Nicole T. Carter and Charles V. Stern.

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.⁹⁷ The USACE also has limited authorities to assist with select activities during drought.⁹⁸

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 Environmental Protection Agency (EPA), working with the Department of Energy (DOE), can issue emergency waivers of certain fuel standards in affected areas.⁹⁹

Additionally, 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.¹⁰⁰

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.¹⁰¹ Federal government agencies also have numerous authorized deployable federal assets that can support the immediate response to disaster.¹⁰²

The federal government or a federal asset may also provide immediate assistance, primarily to prevent the direct loss of life or significant property damage, without the request rising through the “normal” request procedures.¹⁰³ For instance, the Department of Defense (DOD), through its Defense Support of Civil Authorities (DSCA) regulations and policies, authorizes local DOD

⁹⁷ Most of the U.S. Army Corps of Engineers’ (USACE’s) disaster response work generally is funded through supplemental appropriations provided directly to it. Until supplemental appropriations are provided, Congress has provided the USACE with authority to transfer money from ongoing USACE projects to emergency operations (33 U.S.C. §701n). For more on USACE-related supplemental appropriations, see CRS Report R42841, *Army Corps Supplemental Appropriations: History, Trends, and Policy Issues*, by Nicole T. Carter and Charles V. Stern.

⁹⁸ For example, 33 U.S.C. §549a.

⁹⁹ For more information, see Environmental Protection Agency’s (EPA’s) webpage on “Fuel Waivers” at <https://www.epa.gov/enforcement/fuel-waivers>.

¹⁰⁰ Stafford Act Section 402(1), 42 U.S.C. §5170a.

¹⁰¹ FEMA has been delegated the authority to issue mission assignments to other federal agencies per 44 C.F.R. §206.2(a)(18). Mission assignments rely on the authority of the President to direct federal agencies to support disaster response and recovery operations, namely found in Stafford Act Sections 402, 403, and 502 (42 U.S.C. §§5170a, 5170b, and 5192). See FEMA, *Policy: Mission Assignments*, FP 104-010-2, August 17, 2018, <https://www.fema.gov/media-library/assets/documents/185839>.

¹⁰² For more on these assets, see CRS Report R43560, *Deployable Federal Assets Supporting Domestic Disaster Response Operations: Summary and Considerations for Congress*, coordinated by Jared T. Brown.

¹⁰³ See, primarily, Stafford Act Section 502(a)(8), 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....”

officials to provide immediate assistance without a formal request rising through the state and lead federal officials.¹⁰⁴

Congressional Activity in Disasters

Federal disaster assistance requires a relationship between the federal, state, territorial, tribal, and local governments. Congressional input and support, such as the distribution of information, can aid response and recovery efforts. As a disaster situation unfolds, congressional offices may wish to take the following steps during the pre-declaration period:

- Encourage individual and household planning through websites such as Ready.gov, available at <http://www.ready.gov>, which provide pre-disaster planning advice.
- Establish a working relationship with the state/territorial/tribal emergency management office to understand the most valuable contributions that the 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 the district/state with neighboring communities by reaching out to state/territory/tribe's lead agency for emergency management.
- Consider a letter of support for the governor/chief executive's request for a declaration by framing the problems confronted by the state/territory/tribe and local governments, and the importance of specific federal, supplemental assistance.
- Provide input to the PDA teams, through state, territorial, tribal, and local officials, regarding pockets of need or constituents who have noted problem areas that should be reviewed, as well as the incident period for which assistance will be made available. Help to manage the expectations of residents by explaining the process and the potential assistance, as well as eligibility requirements and programmatic limitations.

If a declaration is approved 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 DisasterAssistance.gov, available at <https://www.disasterassistance.gov/>.
- If needed, provide suggestions to FEMA/DHS on potential locations for Disaster Recovery Centers (DRCs), and for possible sites for Mobile Disaster Recovery Centers. DRCs are typically staffed by FEMA and other federal agencies, as well as state/territorial/tribal and local government agencies and voluntary organizations, and they provide citizens with the opportunity for face-to-face sessions with recovery staff. There are also online and telephone options to help disaster survivors seek assistance.

¹⁰⁴ This authority is called the "immediate response authority." See 32 C.F.R. §185.4(g).

- Work with FEMA/DHS to get an accurate listing of communities that are participating in the National Flood Insurance Program (NFIP) 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 (i.e., emergency and permanent work that may be eligible for reimbursement) regulations and policies to local officials and potential applicants.
- Engage the State Hazard Mitigation Officer (SHMO) to understand the state/territory’s plan for mitigation, the priorities it has established, and the timeline of its implementation. FEMA’s website lists the SHMOs at <https://www.fema.gov/state-hazard-mitigation-officers>.
- 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 to the DRF and other disaster assistance program accounts.¹⁰⁵

Congress also plays a critical role by providing supplemental appropriations to fund Stafford Act assistance. Further, Congress can help improve the delivery of supplemental emergency management assistance by passing legislation to support needed emergency management reform and conducting agency oversight. For example, Congress passed the Disaster Recovery Reform Act of 2018 (DRRA, Division D of P.L. 115-254), which was enacted on October 5, 2018.¹⁰⁶ DRRA is the most comprehensive reform of FEMA’s disaster assistance programs since the passage of the Sandy Recovery Improvement Act of 2013 (SRIA, Division B of P.L. 113-2) and the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA, P.L. 109-295). DRRA focuses on improving pre-disaster planning and mitigation, response, and recovery, and increasing FEMA accountability. As such, it amends many sections of the Stafford Act and it also includes new standalone authorities. In addition to passing DRRA, Congress is actively working to ensure FEMA completes the implementation actions and requirements imposed by DRRA, including related to making necessary changes to policies and regulations.¹⁰⁷ To accomplish this, DRRA requires FEMA to report to Congress;¹⁰⁸ and congressional committees, such as the House Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management, have conducted hearings on the subject of DRRA implementation.¹⁰⁹

¹⁰⁵ For more information on the Disaster Relief Fund, see CRS Report R45484, *The Disaster Relief Fund: Overview and Issues*, by William L. Painter.

¹⁰⁶ For more information on the Disaster Recovery Reform Act of 2018, see CRS Report R45819, *The Disaster Recovery Reform Act of 2018 (DRRA): A Summary of Selected Statutory Provisions*, coordinated by Elizabeth M. Webster and Bruce R. Lindsay.

¹⁰⁷ FEMA, *Disaster Recovery Reform Act (DRRA) Annual Report*, October 2019, <https://www.fema.gov/media-library-data/1576858019956-8ad76980a61611d59089ba4f88b2f1e1/DRRAAnnualReport.pdf> (hereinafter FEMA, *DRRA Annual Report*); see also FEMA, “Disaster Recovery Reform Act of 2018,” last updated March 10, 2020, <https://www.fema.gov/disaster-recovery-reform-act-2018>.

¹⁰⁸ FEMA, *DRRA Annual Report*, p. 2.

¹⁰⁹ U.S. Congress, House Committee on Transportation and Infrastructure, Subcommittee on Economic Development,

Where to Obtain Further Information

There are several available online sources that provide the most immediate disaster response information, including as follows:

- 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: <http://blog.fema.gov/>, <http://www.facebook.com/FEMA>, and <https://twitter.com/fema>, respectively.
- Congressional staff may also request to be added to the distribution lists for FEMA's Office of External Affairs, Congressional and Intergovernmental Affairs Division, including to receive:
 - the FEMA Daily Operations Briefing, which provides information regarding current operations, including updates on active response efforts, forecast information, the status of joint PDAs, and declaration requests in process, as well as the national FEMA common operating picture; and
 - disaster-specific information (e.g., Congressional Advisories may be released for specific disasters).

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

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

Appendix. Federal Guidance and Frameworks

The National Preparedness System

The Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA, P.L. 109-295), enacted October 4, 2006, mandated that the President develop a national preparedness goal and a national preparedness system to “prepare the Nation for all hazards, including natural disasters, acts of terrorism, and other man-made disasters.”¹¹⁰ On March 30, 2011, former President Barack Obama issued Presidential Policy Directive 8: National Preparedness (PPD-8), establishing the National Preparedness System (NPS).¹¹¹ Consistent with PKEMRA,¹¹² the purpose of PPD-8 was to:

strength[en] the security and resilience of the United States through systemic preparation for the threats that pose the greatest risk to the security of the Nation, including acts of terrorism, cyber attacks, pandemics, and catastrophic natural disasters.¹¹³

The NPS is “an integrated set of guidance, programs, and processes that will enable the Nation to meet the national preparedness goal.”¹¹⁴ It 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.”¹¹⁵ 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*,¹¹⁶ 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*.¹¹⁷ A key component of the NPS is the National Incident Management System (NIMS) 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.”¹¹⁸ Further, as directed by PPD-8, the NPS is supported by numerous strategic

¹¹⁰ Section 642 of the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA, P.L. 109-295), 6 U.S.C. §742.

¹¹¹ White House, *Presidential Policy Directive 8: National Preparedness (PPD-8)*, Washington, DC, March 30, 2011, p. 1, http://www.dhs.gov/xabout/laws/gc_1215444247124.shtm (hereinafter PPD-8).

¹¹² Section 644 of PKEMRA, 6 U.S.C. §744.

¹¹³ PPD-8.

¹¹⁴ PPD-8. The national preparedness goal is “[a] secure and resilient nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to and recover from the threats and hazards that pose the greatest risk.” FEMA, “Learn About Presidential Policy Directive-8: National Preparedness,” last updated January 30, 2020, <https://www.fema.gov/learn-about-presidential-policy-directive-8>.

¹¹⁵ 6 U.S.C. §§743-744.

¹¹⁶ 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, “Whole Community,” last updated May 2, 2018, <http://www.fema.gov/national-preparedness/whole-community>.

¹¹⁷ 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 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.

¹¹⁸ FEMA, Emergency Management Institute, “The National Incident Management System (NIMS),” last accessed February 4, 2020, <https://emilms.fema.gov/IS0230d/groups/33.html>. For additional information on NIMS, see FEMA,

component policies, including National Planning Frameworks for each of the five mission areas: Prevention, Protection, Mitigation, Response, and Recovery.¹¹⁹ 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 all kinds of incidents regardless of cause or size, including emergencies and major disasters.¹²⁰ 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.¹²¹ Moreover, the NRF is guidance—not law. As such, it may be revised, as needed.

The NRF is designed to aid in management of any disaster requiring federal coordination, including those declared under other federal authorities.¹²² The NRF is built on the concepts included in the NIMS, and the NRF’s structure is intended to help federal, state, territorial, tribal, and local government agencies. The NRF envisions that these agencies would coordinate with private and nongovernmental organizations, and members of the community during a response, using commonly understood terminology and management structures.

The NRF establishes 15 Emergency Support Functions (ESFs) to organize the response capabilities of the federal government. ESFs “provide the structure for coordinating Federal interagency support for a Federal response to an incident.” They 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.¹²³ For instance, ESF #8—Public Health and Medical Services—is designed to provide planning support and help coordinate federal public health, healthcare delivery, and emergency response systems to deliver services to supplement state, territorial, tribal, and local government resources in responding to an incident.¹²⁴ The NRF also contains additional guidance describing how it 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 support state, territorial, and Indian tribal governments

National Incident Management System, 3rd ed., October 2017, https://www.fema.gov/media-library-data/1508151197225-ced8c60378c3936adb92c1a3ee6f6564/FINAL_NIMS_2017.pdf; and FEMA, “National Incident Management System,” last updated January 16, 2020, <https://www.fema.gov/national-incident-management-system>.

¹¹⁹ For a summary of PPD-8’s major components and resources, see FEMA, “Learn About Presidential Policy Directive-8: National Preparedness,” last updated January 30, 2020, <https://www.fema.gov/learn-about-presidential-policy-directive-8>.

¹²⁰ U.S. Department of Homeland Security, *National Response Framework*, 4th ed., October 28, 2019, https://www.fema.gov/media-library-data/1582825590194-2f000855d442fc3c9f18547d1468990d/NRF_FINALApproved_508_2011028v1040.pdf (hereinafter DHS, *National Response Framework*).

¹²¹ DHS, *National Response Framework*, p. 22.

¹²² DHS, *National Response Framework*, p. 3. 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).

¹²³ FEMA, “Emergency Support Function Annexes,” last updated October 29, 2019, <https://www.fema.gov/media-library/assets/documents/25512>.

¹²⁴ Each ESF has a coordinating agency, typically several different primary agencies, and a larger number of support agencies. ESF #8 is coordinated by the U.S. Department of Health and Human Services. FEMA, “Emergency Support Function #8—Public Health and Medical Services Annex,” June 2016, https://www.fema.gov/media-library-data/1470149644671-642ccad05d19449d2d13b1b0952328ed/ESF_8_Public_Health_Medical_20160705_508.pdf.

in coordinating the “most efficient and effective use of unaffiliated volunteers, unaffiliated organizations, and unsolicited donated goods” with local governments and voluntary organizations.¹²⁵

National Disaster Recovery Framework

The National Disaster Recovery Framework (NDRF) is a companion document to the NRF. It emphasizes pre-disaster recovery planning and preparedness, and is a guide for the nation’s recovery from disasters.¹²⁶ The NDRF designates coordinating structures to assist with short-, intermediate, and long-term recovery following a disaster incident. These include 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 the delivery of federal capabilities. For the recovery phase, FEMA and its partners may identify 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.¹²⁷

In addition, the NDRF also describes three positions that may provide focal points for incorporating recovery considerations into the decisionmaking process following a disaster. Those positions are the Federal Disaster Recovery Coordinator (FDRC), State or Tribal Disaster Recovery Coordinators (SDRC or TDRC), and Local Disaster Recovery Managers (LDRM).¹²⁸

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¹²⁵ See FEMA, “Volunteer and Donations Management Support Annex,” May 2013, https://www.fema.gov/media-library-data/20130726-1914-25045-5208/nrf_support_annex_volunteer_20130505.pdf.

¹²⁶ DHS, *NDRF*.

¹²⁷ For more on the Recovery Support Functions, see the DHS, *NDRF* and the overview documents for each Recovery Support Function on FEMA’s “National Disaster Recovery Framework, Second Edition” website at <https://www.fema.gov/media-library/assets/documents/117794>.

¹²⁸ DHS, *NDRF*, p. 9.

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