

# Potential Stafford Act Assistance for Migration Activity

May 16, 2023

After more than three years, the Centers for Disease Control and Prevention (CDC) order directing U.S. immigration officials to expel certain migrants (often called “Title 42”) terminated on May 11, 2023—in concert with the [conclusion of different federal emergency declarations](#). It is too soon to know how [this change](#) might impact new arrivals of asylum seekers at the border over the long term; currently, [reports are mixed](#). However, communities across the country have reportedly [sought federal support](#) for costs related to hosting migrants, such as shelter and food, [including](#) through declarations under the Robert T. Stafford Emergency Assistance and Disaster Relief Act (Stafford Act, [P.L. 93-288, as amended](#)) administered by the Federal Emergency Management Act (FEMA).

## Potential Stafford Act Assistance

A state or territorial governor or tribal chief executive may request federal assistance for response and recovery from major incidents under the Stafford Act. The Stafford Act authorizes the President to issue [two types of declarations](#): an “[emergency declaration](#)” or a “[major disaster declaration](#).” The Stafford Act [defines emergencies](#) broadly to mean any occasion for which federal assistance is needed to supplement state and local efforts to save lives and protect public health and safety. By contrast, the Stafford Act [defines major disasters](#) exclusively as “natural catastrophes” or fires, floods, and explosions.

## Public Assistance for Emergencies

Emergency declarations often authorize Public Assistance (PA), a suite of federal funding options that supplement state, territorial, or tribal resources in response to an incident. With respect to hosting migrants, an emergency declaration may authorize one relevant form of PA: [emergency protective measures](#), defined as activities undertaken to reduce an immediate threat to life, public health, or safety. When authorized, state, local, tribal, and territorial governments (and [in certain cases](#), eligible nonprofits) may receive reimbursement or direct support (e.g., personnel, facilities) for certain types of work, including the provision of [emergency shelter](#) and transportation, emergency communications, and emergency commodities.

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In the past, [the PA program has delivered assistance](#) to jurisdictions that host evacuees from certain domestic Stafford-declared incidents. Agency policy specifies that [FEMA reimburses 100%](#) of eligible costs of emergency protective measures delivered to host-states or host-tribes. However, FEMA has not delivered Stafford Act assistance specifically for international migration activity under current law.

## Individual Assistance for Emergencies

Although uncommon, emergency declarations can also authorize the provision of two forms of Individual Assistance (IA) to help address individuals' disaster-caused needs: (1) [Crisis Counseling](#), which supplements nonfederal resources to alleviate incident-related mental/emotional crises; and (2) the [Individuals and Households Program \(IHP\)](#), which provides financial and/or direct assistance for housing and financial assistance for other needs.

Crisis Counseling services are available regardless of an individual's [citizenship/immigration status](#); however, [only U.S. citizens, non-citizen nationals, and qualified aliens are eligible for IHP assistance](#). [Statutory eligibility requirements](#) could also inhibit the provision of aid to migrants through the IHP.

## Historical Emergency Declarations for Migrants/Evacuees

Only two Presidents have issued Stafford Act declarations specifically for the costs of hosting migrants and disaster evacuees. At the time of the declarations, some Members of Congress expressed concern regarding both cases, as detailed below. More recently, the Biden Administration denied [Governor Greg Abbott's request](#) (and [subsequent appeal](#)) for Stafford Act assistance for migration activity in Texas.

### [Mariel Boatlift—Cuban Refugees \(Florida, approved, 1980\)](#)

President Jimmy Carter [declared an emergency](#) in the State of Florida “due to the large numbers of undocumented aliens,” finding that “the humanitarian aspects of this exodus from Cuba cannot be ignored.” Subsequently, the U.S. General Accounting Office (now the U.S. Government Accountability Office (GAO)) issued a [report](#) noting that the declaration, among others, “[stirred considerable controversy](#) regarding whether non-natural ‘catastrophes’ are within the purview of existing law” and recommended that Congress “[spell\[\] out](#) as clearly as possible the type of incidents which may receive disaster assistance.” Subsequently, Congress passed the Stafford Act and [narrowed the definition of major disaster](#) to include only “natural” catastrophes and fires, floods, or explosions. The definition of emergency remained broad.

### [Hurricane Katrina Evacuees \(Multiple States, approved, 2005\)](#)

President George W. Bush issued [emergency declarations](#) for 44 states and the District of Columbia following Hurricane Katrina to reimburse host states for up to 100% of the costs of [transporting, sheltering, schooling, and feeding survivors](#). Following the declarations, Some Members of Congress raised concern regarding the difficulties of delivering Stafford Act assistance to host jurisdictions—including the administrative burdens associated with establishing independent declarations for host states. FEMA subsequently [modified its regulations](#) to enable the delivery of PA to host states, thereby avoiding the need for separate evacuation declarations.

## Request for “Ongoing Border Crisis” (Texas, denied, 2021)

President Joe Biden denied Texas’s [request](#) for a Stafford Act emergency declaration for increased migration activity, as well as its [subsequent appeal](#) (supported by [Senators John Cornyn and Ted Cruz](#)). Texas Governor Greg Abbott reported that the request was denied due to the [deployment of other federal resources](#) (among other reasons). FEMA Administrator Deanne Criswell reportedly [explained](#) that “supplemental federal assistance under the Stafford Act is not warranted for this event.”

## Other Assistance Programs

Congress has recognized that [local organizations](#) often bear significant financial and social burdens resulting from migration activity. Beginning in 2019 and several times thereafter, Congress enacted legislation authorizing FEMA to supplement the humanitarian relief efforts of local governmental, nonprofit, and faith-based organizations that provide food, shelter, and supportive services to [migrants encountered by the U.S. Department of Homeland Security \(DHS\)](#) through the [Emergency Food and Shelter Program \(EFSP\)](#)—referred to as the EFSP-H (humanitarian). The [EFSP-H is the only DHS grant program that provides funding to nonprofits assisting migrants](#) released from DHS custody. In FY2023, Congress enacted P.L. 117-328, establishing a new [Shelter and Services Program \(SSP\)](#), which [will replace the EFSP-H](#), and approved FEMA’s use of some SSP funding to implement the EFSP-H while establishing the SSP.

There are also some [federal assistance programs](#) through which migrants may be eligible to receive assistance (eligibility varies by program). Additionally, nonfederal resources, such as [nonprofit organizations](#), may also provide assistance to support migrants.

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