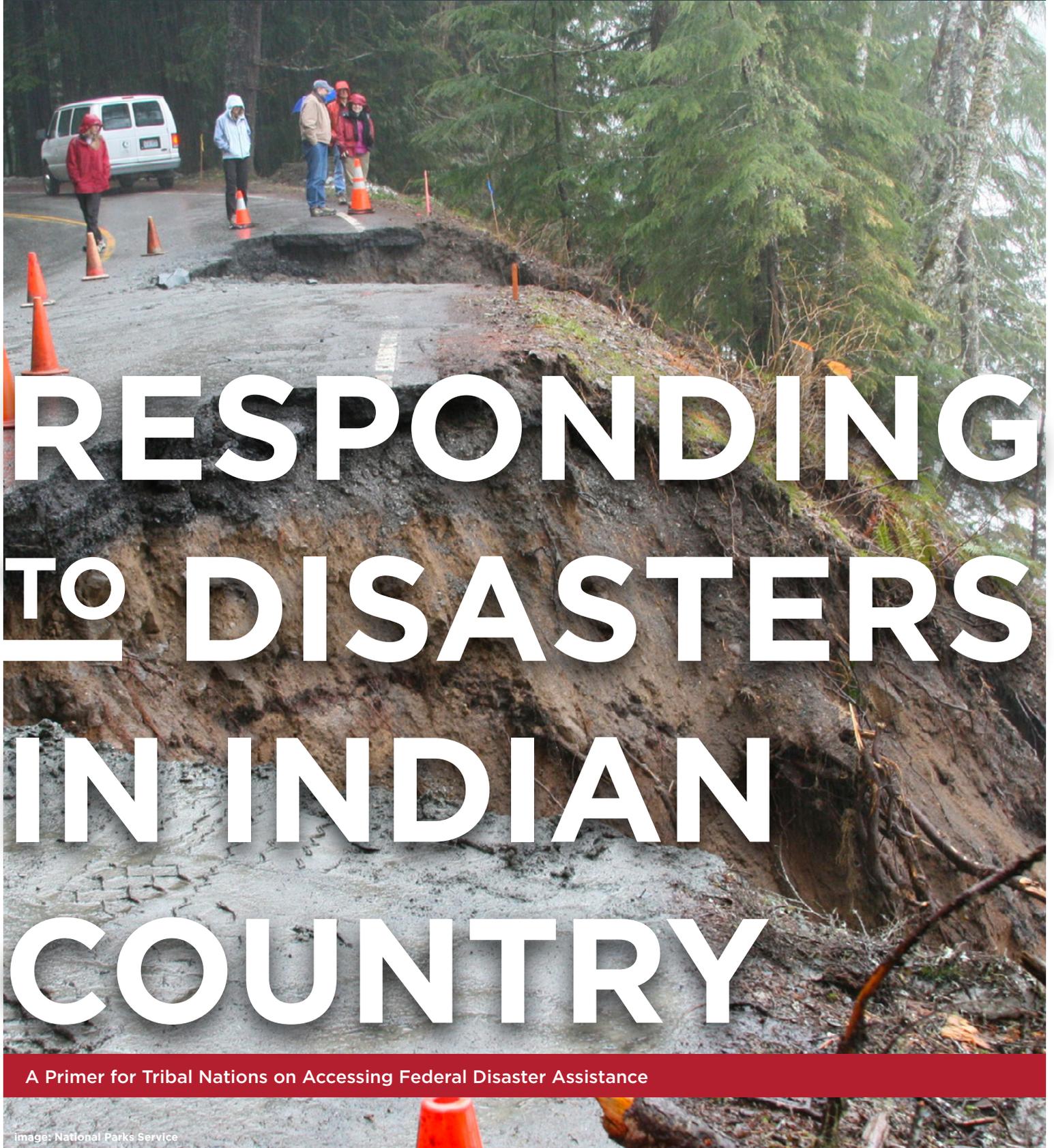


DECEMBER 2025



RESPONDING TO DISASTERS IN INDIAN COUNTRY

A Primer for Tribal Nations on Accessing Federal Disaster Assistance



This document was prepared by the Harvard Environmental & Energy Law Program (EELP) in partnership with the Northwest Climate Resilience Collaborative’s Tribal Coastal Resilience Project—a participatory program designed to support frontline communities with staff from the Affiliated Tribes of Northwest Indians, University of Washington Climate Impacts Group, Washington Sea Grant, and Western Washington University. With gratitude to the Salata Institute for Climate and Sustainability at Harvard University for their generous support.

This document incorporates feedback from Tribal leaders and staff who participated in virtual and in-person workshops convened by the Northwest Climate Resilience Collaborative.

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EXECUTIVE SUMMARY

This guide is designed to help Tribal leadership and staff decide if and how to seek federal disaster assistance after a disaster. It includes an introduction to the disaster declaration process, the three types of declarations available to Tribal Nations, and the administrative and financial obligations associated with each.

This guide also responds to questions raised by Tribal leaders and staff during virtual and in-person workshops, including:



Opportunities for neighboring Tribal Nations to participate in a disaster declaration, including mechanisms to coordinate with members of state-recognized or unrecognized Tribes.



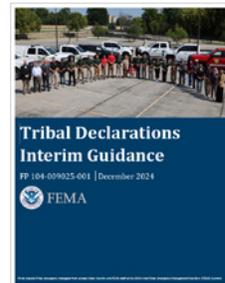
Recent changes to federal disaster policy under the Trump administration, including commitments to significantly reduce the role of the federal government in disaster response and recovery.



Important “blue sky” actions Tribal Nations can take before disasters to streamline access to federal assistance.

The guide also includes citations and links throughout to the relevant FEMA policy.

For more detailed information, see FEMA's [December 2024 Tribal Declarations Interim Guidance](#).



This guide does not cover:

- X Emergency declarations.** Emergency declarations cover limited short-term needs, including evacuation and debris removal. For more on Tribal emergency declarations, see **Chapter 7** of [FEMA's Tribal Declarations Interim Guidance](#). Both Tribal Nations and states must submit their request for an Emergency Declaration to the President within 30 days after the incident.
- X Fire Management Assistance Grants (FMAG).** FEMA offers Fire Management Assistance to states to supplement state, Tribal, and local efforts to suppress and control wildfires. Under current FEMA guidance, Tribal Nations cannot seek their own FMAG declarations, but they can act as a **recipient** or **subrecipient** under a state FMAG declaration. For more, see [FEMA's FMAG Program and Policy Guide](#).
- X Tribal emergency management.** Tribal emergency management involves complex intergovernmental and interorganizational functions and often depends on each Tribal Nation's governance structures, geographic location, demographics, economic resources, and other characteristics. For more resources on Tribal emergency management, [contact one of the Regional Tribal Emergency Management Organizations listed on page 13](#). For an overview of current trends and best practices in Tribal emergency management, see [Nations Among Nations: Strengthening Tribal Resilience and Disaster Response](#).

WHAT IS A DISASTER DECLARATION REQUEST?

To access federal disaster assistance, the governor of a state or Chief Executive of a federally recognized Tribe (Tribal Nation)¹ must submit a major disaster declaration request to the President of the United States, via the Federal Emergency Management Agency (FEMA). The request will include a preliminary damage assessment (PDA) of the damage caused by the disaster and outline the different types of assistance the state or Tribal Nation is seeking. If requested, FEMA can also provide Tribal Nations with a list of resources available from other federal agencies.² Those requests should be submitted to the FEMA Regional Tribal Liaison.

Find your [FEMA Region's contact information here](#).³

In rare instances, the Tribal Chief Executive⁴ may also submit a verbal declaration request to FEMA during or immediately following an event that is so catastrophic that written requests become impractical.⁵ The Tribal Chief Executive should make their verbal request to their FEMA Regional Administrator.

FEMA then evaluates the Tribal Nation's or state's request and makes a recommendation to the President to grant or deny the request based on criteria in FEMA's regulations (explained on page 5). The President considers FEMA's recommendation and then decides to grant or deny the request. **Only the President can approve or deny the declaration request**, and the President is not required to justify or otherwise explain the decision. If the President denies the request, the state or Tribal Nation can appeal, providing additional information justifying the need for federal assistance. However, the President still has complete discretion to grant or deny the appeal and is not required to justify the response or respond within a specific timeframe.



TIMELINE



DISASTER EVENT



Tribal Nation and/or local officials assess impact — INITIAL DAMAGE ASSESSMENT (IDA)



Preliminary Damage Assessment (PDA)

TRIBAL NATION
DECLARATION

Tribal Nation requests joint PDA, sends required data to FEMA for verification



Tribal Chief Executive submits declaration request **within 60 days** of incident

STATE
DECLARATION

Tribal Nation conducts IDA, sends required data to state for verification



Governor submits declaration request **within 30 days** of incident

DECISION*

* there is no deadline by when the president must respond to a declaration request or appeal



PRESIDENT GRANTS
DISASTER DECLARATION REQUEST
AND AUTHORIZES SPECIFIC ASSISTANCE
FOR DESIGNATED AREAS:

Tribal Executive may seek amendments or request additional programs **within 60 days** of the declaration or end of the incident period, whichever is later. The Tribal Executive can also request an extension within the 60-day period.

The Governor may seek amendments or request additional programs **within 30 days** of the declaration or end of the incident period, whichever is later. The Governor can also request an extension within the 30-day period.



PRESIDENT DENIES
DISASTER DECLARATION REQUEST:

Tribal Chief Executive may appeal the denial or request amendments **within 60 days** of the date of the denial letter. The Tribal Chief Executive can also request an extension within the 60-day period.

The Governor may appeal the denial or request amendments **within 30 days** of the date of the denial letter. The Governor can also request an extension within the 30-day period.

INTERFACING WITH FEMA AND TRIBAL NATIONS:

For most decisions and formal agreements, FEMA only requires approval from the Tribal Chief Executive or other designated official authorized to execute such agreements on behalf of the Nation.⁶ However, the Tribal Nation may have their own requirements under Tribal code or law requiring approval from the Council or other governing body.

FEMA DISASTER DECLARATION FORMS



[FEMA Form 010-0-13, Request for Presidential Disaster Declaration](#)



[Cover Letter template for a Tribal Disaster Declaration Request](#)



**“BLUE SKY” ACTION ITEM:
DESIGNATING TRIBAL DISASTER OFFICIALS**

As part of the declaration process, the Tribal Chief Executive must designate an **Authorized Representative** with fiduciary responsibilities during the disaster, and a **Tribal Coordinating Officer** to serve as the main contact for the Tribal Nation with the Federal Coordinating Officer. For more on these roles, [see page 79 of FEMA’s Tribal Declarations Interim Guidance](#).

Identifying who will fulfill these roles before disasters strike can give people the opportunity to learn more about the federal disaster declaration process in advance, including taking advantage of trainings offered by state and nonprofit organizations. For example, the Washington Emergency Management Division hosts multiple trainings before flood season on how to conduct a preliminary damage assessment (PDA) and can provide targeted trainings upon request. The Division can also help Tribal Nations prepare a Tribal administrative plan and connect with the state recovery coordinator who drafts declaration requests and conducts an **annual Tribal Emergency Managers Forum**.

Tribal declarations interim guidance

advises Tribal Nations to reference specific program guidance to ensure submissions comply with program requirements.

Table 7: Outline of Leadership Roles and Responsibilities

| Position | Responsibilities |
|--|--|
| Tribal chief Executive | <ul style="list-style-type: none"> Submits a request for an emergency or major disaster declaration to the President through FEMA Designates the Tribal Chief Executive’s Authorized Representative and Tribal Coordinating Officer as part of the FEMA-Tribe Agreement (FTA) Submits a written notice for timeline extensions Signs the FTA Submits checkbox letter for certain programs (e.g., Hazard Mitigation Grant Program) |
| Tribal chief Executive’s Authorized Representative | <ul style="list-style-type: none"> Designated as part of the FTA Empowered with the fiduciary responsibility for the Tribal Nation during the disaster Executes all necessary documents for disaster assistance on behalf of the Tribal Nation |
| Tribal Coordinating Officer | <ul style="list-style-type: none"> Serves as the primary representative of the Tribal Chief Executive during disaster operations within the Joint Field Office Acts as the main liaison between the Federal Coordinating Officer and Tribal Nation Acts as the main contact for the affected Tribal Nation in filing a claim |

2. FEMA-Tribe Agreement

After every emergency or major disaster declaration, FEMA and the Tribal Nation receiving the declaration enter into a FTA. This agreement is signed by the FEMA Regional Administrator, or their designee, and the Tribal Chief Executive. While FEMA will not require the Agreement to be approved by the Tribal Nation’s Council or governing body, it may be a requirement of the Tribal Nation’s law. FEMA only requires that the Tribal Chief Executive signs the Agreement. The Tribal Nation’s approval process is at their discretion. FEMA requires that the tribal official signing the FTA be duly authorized under tribal law to execute the Agreement on behalf of the Tribal Nation.

The agreement contains the understandings, commitments, and conditions under which FEMA’s disaster assistance will be provided. No disaster funding or direct federal assistance will be authorized until the FTA has been signed, except where FEMA deems it necessary to begin the process of providing essential emergency services or housing assistance. As such, it is important that the FTA is completed and signed as soon as possible after the declaration.

FTA terms and conditions include, but are not limited to:

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OTHER FEDERAL GUIDES AND RESOURCES



FEMA’s [Tribal Declaration Process Overview](#) (February 2025)



FEMA Quick Reference Guide: [Tribal Pathways for Disaster Assistance](#)



FEMA’s [Checklist for Seeking a Tribal Disaster Declaration](#)



Additional [FEMA Resources on Requests for Presidential Disaster Declarations](#)

FEMA TRIBAL RECOVERY SERIES VIDEO PLAYLIST

In November 2023, FEMA launched a video series for Tribal Nations, providing an overview of the 2017 Tribal Nation Disaster Declaration Process. This playlist is broken into seven short videos and filmed with Tribal Emergency Managers and tribal staff to highlight their experiences going through the declaration process. While the videos do not cover policy updates in the 2024 Tribal Declaration Interim Guidance, information on the declaration process and tribal experiences are still relevant.



watch the [videos here](#)

Differences between the 2017 Guidance and the 2024 Guidance to note when watching the videos:

- 🔍 **2024 Tribal Declarations Interim Guidance:** The video urges Tribal Nations to look at the 2017 Tribal Declaration Pilot Guidance. However, all Tribal disasters that take place after December 2024 will be considered under the 2024 Tribal Declarations Interim Guidance and not the 2017 standards.
- 🔍 **Deadlines to Submit Disaster Declaration Requests:** A Tribal Nation under the 2024 Tribal Declarations Interim Guidance has **60 days** to request a Major Disaster Declaration from the President, but still must submit its request for an Emergency Declaration within 30 days to the President.
- 🔍 **Update to Definition of “Tribal Community Member”:** Under the 2024 Tribal Declarations Interim Guidance, the definition of Tribal Community Member was expanded to allow Tribal Nations more flexibility to define who is within their Community to receive Individual Assistance, including Tribal members, Tribal descendants, Tribal employees and even non-Natives.
- 🔍 **Recovery Funding Flexibilities:** The videos do not include clarifications in the 2024 Tribal Declarations Interim Guidance that Public Assistance⁶ and Individual Assistance⁷ can cover subsistence or traditional structures.



WHAT FACTORS DOES FEMA CONSIDER WHEN EVALUATING A DISASTER DECLARATION REQUEST?

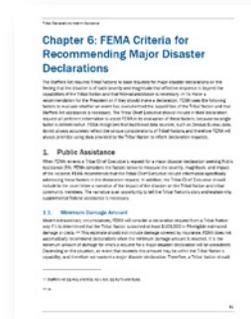
After a Tribal Nation or state government submits its declaration request, FEMA makes a recommendation to grant or deny the request based on criteria outlined in FEMA’s regulations and the types of assistance requested.

For assistance directed to individuals and households ([Individual Assistance or IA](#)), FEMA will consider the displaced households, availability of housing resources, number of casualties, injuries, and missing individuals, uninsured losses, the impact to community infrastructure and cultural facilities (as reported by the Tribal Nation), unique conditions that affect Tribal Nations (impact to treaty rights, impact tribal economy, cultural or spiritual impacts, etc.), and the Tribal Nation’s capacity and resources to respond to the disaster, among other criteria.

For assistance that goes directly to the state or Tribal Nation, or eligible nonprofits, for emergency work and the repair or replacement of damaged facilities ([Public Assistance or PA](#)), FEMA will consider the government’s disaster history, hazard mitigation, estimated cost of assistance, unique conditions that affect Tribal Nations, and insurance coverage, among other criteria.

FEMA will then submit its recommendation to the President, who has full discretion to grant or deny the Tribal Nation’s declaration request. FEMA’s recommendation to the President is typically not made public. There is no deadline by which the President must act on a request and federal law does not require the President to explain why the request was granted or denied.⁸

For more information on FEMA’s criteria and what information Tribal Nations should include in their declaration request, [see Chapter 6 of FEMA’s Tribal Declarations Interim Guidance](#).



2025 UPDATES ON DISASTER DECLARATION REQUESTS

Since taking office, President Trump and the leaders of both FEMA and the Department of Homeland Security (DHS) have committed to shifting federal disaster functions onto states and localities. As of August 2025, President Trump has denied nine major disaster declaration requests, including one from the Rosebud Sioux Tribe. He has granted over 30 major disaster declarations, including a request from the Crow Tribe of Montana, but denied requested mitigation assistance or excluded jurisdictions in all but two. The Trump administration is also taking longer to review requests — often six weeks or more. As of this publication, neither the president nor FEMA has issued public guidance with updated criteria for assessing declaration requests.

WHAT EVENTS QUALIFY FOR FEDERAL DISASTER ASSISTANCE?

To access federal disaster assistance, a Tribal Nation must be impacted by a “major disaster.” This is a term of art under the Stafford Act, a federal law that outlines the responsibilities of federal agencies before and after a disaster. The Stafford Act defines a “major disaster” as “any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought).”⁹ Only the President can decide which events qualify as “major disasters.”

Historically, the President has not approved declaration requests for slow-moving disasters, such as erosion or groundwater depletion. FEMA, which leads the federal government’s disaster response efforts, requires disasters to have a specific start and end date, called the “incident period,” disqualifying these kinds of slow-onset events. For example, in 2017, [President Obama denied a disaster declaration request from the Alaska Native Village of Newtok](#) seeking relief based on erosion and thawing permafrost to support the Village’s relocation. Similarly, no President has approved a disaster declaration for an ecological disaster, such as fish loss. The COVID-19 pandemic is a notable exception; President Trump used the Stafford Act to [declare COVID a “major disaster”](#) in all fifty states and for three Tribal Nations. However, it is important to note that all of the Tribal Nations that received a COVID-19 emergency or major disaster declaration had to go through the FEMA process to request a declaration and then have it approved by the President. This differed from all fifty states where President Trump automatically granted state disaster declarations, even before receiving their requests through FEMA.

Tribal Nations are often affected by many disasters at the same time. Coastal Tribal Nations in the Pacific Northwest are experiencing impacts including, but not limited to, sea-level rise, flooding, coastal erosion, heavy industry waste and pollution, fish loss, legacy contamination, and severe storms. If a Tribal Nation accesses federal disaster funding for a “major disaster,” it may be able to use that funding to also address long-term risks like sea-level rise. For example, if a Tribal Nation has long-term plans to rebuild a road farther away from a rapidly eroding coastline and the road is damaged in a major disaster, the Tribal Nation could likely use federal disaster assistance to rebuild the road in a less risky location consistent with the Tribal Nation’s long-term adaptation goals.



Image: Chas Jones



**2025 POLICY UPDATE:
UNCERTAINTY IN FUTURE FEDERAL DISASTER FUNDING**

As of June 2025, President Trump has [committed to eliminate](#) or substantially shrink FEMA. Although the President cannot legally eliminate an agency created by Congress, the Trump administration has already significantly altered the agency by reducing staff, terminating or pausing federal disaster grant programs, and issuing less disaster funding than prior administrations.

Despite these commitments President Trump has continued to grant major disaster declarations and approve funding for states and one Tribal Nation – the Rosebud Sioux Tribe. However, FEMA and the Department of Homeland Security (DHS) policies suggest that this assistance will likely be in smaller amounts and subject to delays and other conditions. DHS has taken multiple steps to block or freeze DHS funding, which includes FEMA. In April 2025, FEMA imposed a manual review process for all grants; a coalition of states sued and a federal district court blocked FEMA from enforcing the policy.¹⁰ Then in June, DHS Secretary Kristi Noem issued a memo stating all DHS funding, including FEMA funding, over \$100,000 must be approved by her office.¹¹ That memo has been widely criticized by [states](#) and [other federal funding recipients](#).



IF AN EVENT DOES NOT QUALIFY AS A “MAJOR DISASTER,” WHAT OTHER STATE OR FEDERAL ASSISTANCE MIGHT BE AVAILABLE TO TRIBAL NATIONS?

Even if the President denies a major disaster declaration request, other federal agencies may still be able to provide disaster assistance to Tribal Nations.

SMALL BUSINESS ADMINISTRATION (SBA) DISASTER ASSISTANCE LOAN PROGRAM

The SBA provides low-interest disaster loans to Tribal Nations, their businesses, and eligible private nonprofit (PNP) organizations, in addition to homeowners and renters. The amount available depends on the applicant:

| | | |
|--|--|--|
|  <p>Businesses can apply for up to \$2 million in loans to repair uninsured physical damage (Business Physical Disaster Loans) and documented business losses, including economic injury (Economic Injury Disaster Loans).</p> |  <p>Homeowners can apply for up to \$200,000 to repair or replace damaged real estate.</p> |  <p>Renters and other disaster survivors can apply for up to \$40,000 to replace or repair personal property losses.</p> |
|--|--|--|

The SBA makes these loans automatically available if the President grants a major disaster declaration. However, if the President denies a disaster declaration request, the governor or Tribal Chief Executive can still request a physical disaster declaration directly from the SBA (also called an “administrative declaration”) to access low-interest disaster loans if certain damage thresholds are met.¹² These administrative declarations are specific to SBA; they do not trigger assistance from other agencies such as FEMA or Department of Housing and Urban Development (HUD). The request must be submitted to the Disaster Assistance Field Operations Center, an arm of the SBA, serving the jurisdiction within 60 days of the disaster.¹³ The Disaster Assistance Field Operations Center serving each jurisdiction can be found [here](#).

U.S. DEPARTMENT OF AGRICULTURE (USDA)

The USDA offers several disaster assistance programs across three agencies: the Farm Service Agency (FSA), Natural Resources Conservation Service (NRCS), and Risk Management Agency (RMA) for various hazards, including fires, droughts, hurricanes, and windstorms. See an overview of those programs [here](#).

INTRASTATE AND INTERSTATE MUTUAL AID COMPACTS

Several states have established mutual aid agreements to facilitate resource sharing during emergencies within a state or territory. For example, in Washington, the legislature established the [Washington Mutual Aid System \(WAMAS\)](#).

Federally recognized Tribes within Washington state's boundaries can join WAMAS after submitting a Tribal Nation resolution declaring an intent to join WAMAS to the Washington State Military Department. (For an example, see the [resolution](#) submitted by the Confederated Tribes of the Colville Reservation).

The [Emergency Management Assistance Compact \(EMAC\)](#) is a nationwide disaster relief compact that helps states and territories share resources during governor-declared emergencies or disasters. However, as of this publication, Tribal Nations are prevented from directly joining EMAC under the [current EMAC statute](#), which only focuses on inter-state and territory agreements. Tribal Nations can create their own mutual aid compacts or agreements with states, local governments, or even fellow Tribal Nations. Sample Tribal Nation mutual aid agreements can be found on [this webpage](#), including one example from Washington State.

VOLUNTEER ORGANIZATIONS ACTIVE IN DISASTERS (VOADS)

Each state and territory has a coalition of Volunteer Organizations Active in Disaster (VOAD) that leads response efforts and communicates urgent needs to the National VOAD network. Both the national and state VOADs can include Tribal Nations and Tribal nonprofits. Signing up to receive updates from or joining the state VOAD can be an important first step to increasing Tribal Nation readiness for future disasters.



“BLUE SKY” ACTION ITEM: CONTACT LOCAL VOAD

VOADs can provide critical information pre- and post-disaster and facilitate resource sharing across the disaster-impacted region, including financial and technical assistance. Tribal leaders or staff can sign up online to receive emergency updates from their state or territorial VOAD or join as a member.

To find your state or territorial VOAD, visit <https://www.nvoad.org/state-territory-voad/>.

REGIONAL TRIBAL EMERGENCY MANAGEMENT ORGANIZATIONS

There are regional Tribal organizations around the country that specialize in Tribal emergency management. Many of the below regional Tribal emergency management organizations are volunteer based and run by Tribal Nation emergency managers. The organizations are centered around the goal of Tribal Nations supporting Tribal Nations.

Even if your Tribal Nation does not fall within these regional Tribal organizations’ areas, many of their Tribal Nation members are willing to answer questions, share their best practices, and their tribal emergency management example documents (emergency operation plan, PA Admin Plan, continuity of government plan, or past grant application, etc.) at no cost. The Southern California Tribal Emergency Management Group hosts [a free online library of Tribal Emergency Management plans and materials](#) for any Tribal Nation to copy and use in their own departments. Additionally, ITEMC hosts an annual Inter-Tribal Emergency Management Summit that any Tribal Nation across the country is welcome to attend.

This is not an exhaustive list—there may be more Tribal organizations specializing in Tribal emergency management issues. If you are interested in connecting with these organizations please reach out via their website or email linked below.

| REGION | NAME | WEBSITE OR CONTACT INFORMATION* |
|---|---|---|
| Oklahoma, New Mexico, Texas, and others | Inter-Tribal Emergency Management Coalition (ITEMC) | http://www.itemc.org/ Chair TIM ZIENTEK Citizen Potawatomi Nation Tzientek@potawatomi.org Co-Chair JEFF HANSEN Choctaw Nation of Oklahoma jhansen@choctawnation.com |
| California | Southern California Tribal Emergency Managers Group | Emergency Services Administrator FLOYD VELASQUEZ SR. Morongo Band of Mission Indians FVelasquez@morongo-nsn.gov |
| | Tribal Emergency Management Association (ITEMA) | https://www.itema.org/ |
| Wisconsin | WiTEMA (Wisconsin Tribal Emergency Management Alliance) | President BEN WARRINGTON Menominee Indian Tribe of Wisconsin bwarrington@mitw.org |
| | | Vice President KAYLYNN BIELY Oneida Nation kbiely@oneidanation.org |

*All contact information is shared with the person’s consent.

WHAT ARE THE THREE TYPES OF DISASTER DECLARATIONS TRIBAL NATIONS CAN SEEK?

After certain environmental disasters, Tribal Nations listed on the Bureau of Indian Affairs (BIA)'s List of Federally Recognized Tribes can seek federal assistance to address damage caused by the disaster and support their long-term resilience. After a major disaster, the Tribal Chief Executive can request one or more of the following types of declarations:

| | | |
|---|--|---|
| <p>Direct Tribal Declaration</p> | <p>Tribal Recipient Under a State Declaration</p> | <p>Tribal Subrecipient Under a State Declaration</p> |
|---|--|---|

For an overview of how administrative requirements and cost share vary by declaration type, see [FEMA's Quick Reference Guide on Tribal Pathways for Disaster Assistance](#).

Each declaration type offers pros and cons that depend on the Tribal Nation's financial and administrative capacity, relationship with state agencies, and needs of its citizens or members. Tribal Nations can also seek different types of declarations for the same disaster depending on their situation. For example, a Tribal Nation could receive Public Assistance through the state as a **recipient** or **subrecipient** and seek Individual Assistance through a **direct Tribal declaration**.

In general, the Tribal Nation will have more administrative and decision-making responsibility under a **direct Tribal declaration** or state declaration where the Tribal Nation is a **recipient**. The Tribal Nation will also be responsible for covering the non-federal cost share and must have the emergency management and administrative capacity to satisfy FEMA's staffing and reporting requirements (discussed on page 11). Acting as a **recipient** under a state declaration may be beneficial if the state and Tribal Nation want to combine their economic damage, but the Tribal Nation wants to maintain a direct relationship with FEMA. Acting as a **recipient** under a state declaration also means that FEMA funding will go directly to the Tribal Nation and not be passed through the state.

By comparison, as a **subrecipient** under a state declaration, the Tribal Nation coordinates directly with the state government and the state coordinates directly with FEMA. Though the state is responsible for all reporting and other administrative obligations to FEMA, the Tribal Nation must still share data and plans with the state. The state will then combine these data with state data in their reports to FEMA. The Tribal Nation and the state will sign a separate Tribal-State agreement to determine who is responsible for paying the non-federal cost share (discussed in detail below).



INTERFACING WITH STATE GOVERNMENTS: A NOTE ON TRIBAL **RECIPIENTS**

Though FEMA guidance outlines three types of declarations Tribal Nations can seek, some state emergency managers may only have experience with Tribal Nation seeking **direct declarations** or including the Tribal Nation as a **subrecipient** under a state declaration.

If Tribal Nations seek to act as a **recipient** under state declaration, they may have to work with FEMA to educate the state's emergency management staff about this declaration option.

? HOW DO REPORTING REQUIREMENTS AND THE TRIBAL COST SHARE DIFFER DEPENDING ON THE TYPE OF DISASTER DECLARATION?

In general, if Tribal Nations seek a **direct Tribal declaration** or act as a **recipient** under a state declaration, the Tribal Nation will have the **primary responsibility** to satisfy FEMA’s reporting requirements. The Tribal Disaster Officials—the Tribal Chief Executive, the Tribal Chief Executive’s Authorized Representative, and the Tribal Coordinating Officer—will be the **primary points of contact** for executing agreements with FEMA, submitting reporting documents, and liaising with federal agencies.

As a **subrecipient** under a State declaration, the State has the primary responsibility for all reporting and administrative requirements, though the Tribal Nation may be required to sign a separate agreement with the State. States also have the ability to pass the non-federal cost share down to Tribal Nations as a **subrecipient**. The Tribal Nation will also need to have a FEMA-approved Hazard Mitigation Plan to qualify for HMGP grants.



**INTERFACING WITH STATE GOVERNMENTS:
NEGOTIATING NON-FEDERAL COST SHARE**

There are some disasters where a state cannot meet its FEMA threshold without including the Tribal Nation’s damages. Tribal Nations may consider negotiating with states to cover the Tribal Nation’s non-federal cost share either partially or fully in order for the Tribal Nation to join its damages with the state as a **subrecipient** or a **recipient**. Some states already have policies or laws that cover or partially cover the non-federal cost share for Tribal Nations that act as **subrecipients**.



Image: National Parks Service

For more on how administrative and reporting requirements differ by declaration type, see [FEMA’s Quick Reference Guide on Tribal Pathways for Disaster Assistance](#).



HOW CAN TRIBES PARTNER ON A DISASTER DECLARATION REQUEST?

Only federally recognized Tribes (Tribal Nations) can seek a **direct Tribal declaration**, or act as formal **recipients** or **subrecipients** under a state declaration. A Tribal Chief Executive cannot request assistance on behalf of another Tribal Nation, and a Tribal Nation cannot combine their damage with a non-federally recognized Tribal Nation into one request.

State-recognized Tribal governments can only receive federal disaster assistance from the state under a state disaster declaration. In this scenario, state-recognized Tribal governments are often treated as local governments for purposes of accessing Public Assistance.



BLUE SKY ACTION ITEM: COORDINATE WITH STATE EMERGENCY MANAGEMENT OFFICE

States vary widely in how they engage with state-recognized and unrecognized Tribal governments in disasters, including treating Tribal governments as local governments, nonprofits, or other entities. These decisions can directly impact the Tribal government's cost share, reporting and reimbursement requirements, and access to state and federal resources. State laws and policies may also dictate when and how state governments consult with state-recognized and unrecognized Tribal governments, including through designated Tribal liaisons.

It is important to learn about these programs and coordinate with state emergency staff before disasters happen. This can help state recognized and unrecognized Tribal governments understand their rights and make a plan for how they want to work with the state before, during, and after disasters.

If a Tribal Nation is seeking a **direct Tribal declaration**, and a state-recognized or unrecognized Tribal government is within their traditional territory, the Tribal Nation can include those disaster-impacted areas in its request and disburse funds to cover repairs or debris removal in those areas. Under FEMA's 2024 guidance, the agency defines Tribal Nation Lands more broadly than other federal agencies to include ceded Tribal Nation lands, treaty lands, and land owned by "tribal community members (fee simple land)."¹⁴ The Tribal Nation may need to advocate with FEMA to recognize the Tribal Nation's traditional boundaries, but the 2024 guidance urges FEMA to review Tribal declaration requests with significant deference.¹⁵ If the request is approved, the Tribal Nation will still be responsible for covering the non-federal cost share associated with work in these areas.

In its 2024 Guidance, FEMA recognized that Tribal Nations care about protecting everyone within their homelands when disaster strikes.¹⁶ In the guidance, FEMA introduced an expanded definition of "Tribal community member" and will defer to Tribal Nations on how that definition is applied under a **direct Tribal declaration** or if the Tribal Nation is a **recipient** under a state declaration. Under this expanded definition, Federally recognized Tribes (Tribal Nations) can provide assistance to *individuals* who are members of other Tribal Nations, Tribal employees, or even non-Natives who reside within the Tribal Nation's traditional territory and those areas are impacted by the disaster.¹⁷ However, the Tribal Nation should consider that increasing the number of recipients could also increase the total non-federal cost share. Tribal Nations should also confirm that FEMA policy remains unchanged before providing assistance to non-Tribal members or non-Tribal citizens and confirm with FEMA staff that "Tribal community members" are legally distinct from enrolled "Tribal members" or "Tribal citizens."

WHAT TYPES OF ASSISTANCE ARE AVAILABLE UNDER A FEDERAL DISASTER DECLARATION?

After the President grants a major disaster declaration request, the state or Tribal Nation can seek federal assistance from several agencies, including FEMA, the Small Business Administration (SBA), and the U.S. Department of Agriculture (USDA).

This primer provides a high-level overview of the three types of FEMA assistance offered following a major disaster. For more details on these categories of assistance, see [FEMA's Tribal declarations interim guidance](#).



Individual Assistance goes directly to people and households for disaster-related costs, including temporary housing, repairs, payments for critical needs, and other uninsured costs.



Public Assistance goes directly to the state or Tribal Nation to support more significant disaster relief and recovery needs, including repair and replacement of damaged infrastructure. Public Assistance is typically issued as a reimbursement.



Hazard Mitigation Grant Program (HMGP) funds projects to reduce the risk of future disasters in areas identified in the Tribal Nation's or state's Hazard Mitigation Plan.

INDIVIDUAL ASSISTANCE (IA): OVERVIEW OF KEY CONSIDERATIONS

IA includes several kinds of household-level assistance, including cash payments of \$750 ("critical needs assistance"), displacement assistance, and additional coverage for disability-related needs, among other categories. Most forms of IA are covered 100% by the federal government, **except for Other Needs Assistance (ONA)**.

ONA is used to cover additional unmet needs, including transportation, funeral, childcare, and displacement-related needs. In the Tribal Nation context, ONA may also be used to replace or repair subsistence and cultural tools and infrastructure. However, those items must be explicitly requested by the Tribal Nation or state on the ONA Administrative Option Selection Form. Unlike other types of IA, **ONA includes a 25% non-federal cost share**. The entity seeking the declaration (Tribal Nation or state government) is responsible for covering that cost share.

EXAMPLE: ONA IN PRACTICE

A Tribal Nation in Washington State is hit by a storm surge causing coastal flooding. The storm mostly damages privately-owned homes, destroying Tribal community members' subsistence-related tools and structures. The Tribal Nation has limited emergency management experience and administrative capacity, so they decide to partner with the state as a **subrecipient** under a state declaration request for PA and IA.

After the President grants the request, the state emergency management office works directly with the Tribal Nation to distribute federal assistance. In Washington, the Tribal Nation and state split the 25% non-federal cost share for ONA disbursed to the Tribal Nation and Tribal community members (12.5% paid by the Tribal Nation and 12.5% paid by the state, subject to legislative approval). However, if the amount of damage is sufficiently small, Tribal community members may be able to access ONA directly and the state pays 100% of the non-federal cost share.

Each state negotiates the non-federal cost share differently. For example, in Oregon, Tribal Nations typically pay the full 25% non-federal cost share for all assistance disbursed to the Tribal Nation, while Alaska has historically covered 100% of the non-federal cost share for Alaska Native Villages.

Notably, if Tribal citizens are in a disaster-impacted area included in a state declaration, they may be able to access IA even if the Tribal Nation does not formally request to be included as a **recipient** or **subrecipient**. This can be a good option if the Tribal Nation is not seeking other types of disaster funding, if the Tribal Nation has property in the disaster-impacted area but their recognized territory is outside the state, or if the Tribal Nation does not have the financial capacity to cover the 25% non-federal cost share for ONA.



BLUE SKY ACTION ITEM: ACCESSING OTHER NEEDS ASSISTANCE (ONA)

To receive Other Needs Assistance (ONA), the state or Tribal Nation first submits a list of specific items (the **ONA Administrative Option Selection Form**) to the FEMA Regional Administrator. FEMA Regions reach out to states and some Tribal Nations to submit their updated ONA forms on November 30th of each year. However, if the Tribal Nation has not submitted an annual ONA form to the FEMA Regional Administrator before the disaster, they can still submit the ONA form after the disaster has occurred. **Tribal Nations can reach out to their state emergency management division to discuss the content of the ONA request form at any time.**

This ONA form matters because disaster survivors can only receive ONA for the items included in the form. Tribal Nations can modify their ONA forms to include additional personal property line items that are specific to the Tribal Nation and Tribal community members' culture and needs. For example, this could include subsistence items such as smoke houses, fishing and hunting gear, regalia, eagle feathers, and ceremonial items. FEMA will work with the Tribal Nation to assign the appropriate value to each item.

Some states like Washington have worked with Tribal Nations before disasters to determine what items or structures should be included in their ONA request form. Tribal ONA forms will apply to **direct Tribal declarations** and where the Tribal Nation is a **recipient** under a state declaration. The Tribal ONA forms will not apply when a Tribal Nation acts as a **subrecipient** under a state declaration; the state ONA form will apply instead.



image: Chas Jones

PUBLIC ASSISTANCE (PA): OVERVIEW OF KEY CONSIDERATIONS

Public Assistance can include seven categories of work covering emergency needs (Categories A and B) and permanent work (Categories D through G).

| CATEGORY | SCOPE |
|-----------------------|-------------------------------|
| EMERGENCY WORK | |
| A | Debris Removal |
| B | Emergency Protective Measures |
| PERMANENT WORK | |
| C | Water Control Facilities |
| D | Buildings and Equipment |
| E | Utilities |
| F | Parks, Recreational, Other |

Tribal Nations can request Public Assistance if they sustained at least \$100,000 in uninsured damages or costs.¹⁸ Costs can include expenses the Tribal Nation incurred to remove debris, evacuate Tribal community members, or other disaster-related activities. Those damages can be to facilities or infrastructure owned or operated by the Tribal Nation or eligible nonprofit facilities. For more on assessing disaster-related damage, see [FEMA's updated PDA Guide \(July 2025\)](#), including Appendix D on Tribal-Specific Considerations.

FEMA generally provides PA as a reimbursement for eligible costs, with a default federal cost share of 75 percent. However, Tribal Nations can seek federal funding upfront in the form of Direct Federal Assistance (DFA). However, there still is a non-federal cost share associated with DFA. Tribal Nations can also request up to 50 percent of the federal share for large emergency work projects (debris removal or emergency protective measures) upfront instead of as a reimbursement. To request this expedited funding, the state or Tribal Nation must submit a request to FEMA within 60 days of the recovery scoping meeting.¹⁹



**2025 POLICY UPDATE:
UNANNOUNCED CHANGES TO TRIBAL DECLARATIONS INTERIM GUIDANCE**

In April 2025, FEMA updated the 2024 Guidance and deleted a provision that would have allowed Tribal Nations to request a 98 percent cost share adjustment on PA projects designed to reduce future disaster risk.²⁰ The provision explicitly incentivized PA projects that relied on traditional ecological knowledge, traditional tribal practices, or nature-based solutions for hazard mitigation. Historically, when FEMA has made significant changes to its Tribal policy, it issues a press release and/or solicits feedback from Tribal Nations prior to making those changes. In this case, FEMA did not announce the change, and did not collect public comment or engage in formal Tribal consultation prior to the change. FEMA noted in the updated Guidance that the document had "been amended to reflect the issuance of Executive Orders on or after January 20, 2025."²¹

HAZARD MITIGATION GRANT PROGRAM (HMGP): OVERVIEW OF KEY CONSIDERATIONS

HMGP funds are designed to reduce the risk of loss of life or property from future disasters as part of the recovery process. HMGP grants come in two forms: planning grants and project grants. To access HMGP funding—whether under a **direct Tribal declaration** or as a **recipient** or **subrecipient** under a state declaration—Tribal Nations must have a Hazard Mitigation Plan (HMP). HMPs must be approved by FEMA every five years and satisfy criteria set by FEMA²². See [FEMA’s National Status Map](#) for a list of jurisdictions with approved, pending, or expired HMPs. If a Tribal Nation seeks to administer HMP funds, they must also have a designated **Hazard Mitigation Officer**.

Notably, Tribal Nations can use HMGP planning funds to develop their HMPs. If a Tribal Nation does not have a Tribal Mitigation Plan, they can still seek a **direct Tribal declaration**. The Tribal Nation will have 120 days from the date the declaration is issued to submit an approved plan (a 90-day deadline plus a 30-day extension). However, Tribal Nations should consider that developing these plans requires significant time and resources, which will be made more challenging if attempted in a post-disaster context. For an overview of mitigation plan requirements, see [FEMA’s 2025 Tribal Mitigation Planning Handbook](#) and [2023 Introduction to Tribal Mitigation Planning Webinar](#).

Tribal Nations may also consider reaching out to fellow Tribal Nations with strong emergency management programs or regional Tribal emergency management organizations (see page 13) and ask to review their Tribal HMP as a template. Tribal Nations can also [contact their Regional FEMA Tribal Liaisons](#) to request no cost technical assistance to help them create their own Tribal HMP.

Of all sources of disaster funding, Hazard Mitigation Grant Program (HMGP) funds are the most appropriate for funding long-term resilience projects. The amount of HMGP money a Tribal Nation receives is calculated as a percent of total approved IA and PA funds. This percentage increases if the Tribal Nation or the state has an approved **enhanced mitigation plan**. Enhanced mitigation plans include additional requirements focused on demonstrating that the state or Tribal Nation has developed a comprehensive mitigation program and has the capacity to manage increased funding to support its mitigation goals. Both state and Tribal Nation enhanced mitigation plans must comply with the same criteria, set by FEMA regulations,²³ including showing the plan is integrated into the state’s or Tribal Nation’s other regional planning initiatives. For a list of states with approved enhanced mitigation plans, see [FEMA’s website](#).

| DECLARATION TYPE | TRIBAL DECLARATION | RECIPIENT UNDER STATE DECLARATION | SUBRECIPIENT UNDER STATE DECLARATION |
|--|--|--|---|
| HMGP Funding Available to Tribal Nation as % of Total IA and PA | 15% with Tribal Mitigation Plan | | 15% with State Hazard Mitigation Plan |
| | 20% with Enhanced Tribal Mitigation Plan | | 20% with State Enhanced Mitigation Plan |



HOW CAN TRIBAL NATIONS DECREASE THE NON-FEDERAL COST SHARE FOR DISASTER ASSISTANCE?

Most forms of federal disaster assistance are subject to a default federal cost share of 75%. This includes all Public Assistance (PA) and Hazard Mitigation Assistance (HMA), as well as Other Needs Assistance (ONA) under the Individual Assistance (IA) program.

Under a **direct Tribal declaration** or as a **recipient** under a state declaration, the Tribal Nation is responsible for the 25% non-federal cost share. However, under FEMA's current [Tribal Declarations Interim Guidance](#) the agency should automatically recommend the President adjust the **federal cost share to 98%** if certain conditions are met.²⁴

As a **subrecipient** under a State declaration, the State is responsible for the 25% cost share on most federal disaster assistance. The Tribal Nation negotiates with the state on how to split the cost share, and each state has its own standard practice. For example, in Washington, the state generally splits the non-federal cost share for PA funds received by the Tribal **subrecipient** (12.5% paid by the state, 12.5% paid by the Tribal Nation). By contrast, in Oregon, the Tribal Nation is responsible for the full non-federal cost share for federal disaster funds received by the Tribal Nation.

Like many other federal programs, **Tribal Nations can use in-kind work, including volunteer work and overtime or donations from outside organizations, to satisfy the non-federal cost share.** This is true regardless of whether the Tribal Nation is receiving federal disaster assistance under a **direct Tribal declaration** or as a **recipient** or **subrecipient** under a state declaration, though each state may have specific policies. Tribal staff should therefore track and monetize all overtime, in-kind contributions, volunteer labor or donations to count towards the non-federal cost share.



2025 POLICY UPDATE: TRIBAL COST SHARE

The president has sole authority to approve FEMA's recommendation to increase the federal cost share to 98% for public assistance. Though FEMA has not amended or rescinded its current guidance, an internal memo dated April 12, 2025, from then-acting head of FEMA, Cameron Hamilton, said the agency would no longer recommend increasing the federal cost share. Tribal Nations should therefore anticipate that the president may decline the request and require the Tribe to cover up to 25% of total PA project costs.

WHAT FACTORS SHOULD TRIBAL NATIONS CONSIDER WHEN DECIDING WHICH DECLARATION TO SEEK?

The following questions highlight important factors for Tribal Nations to consider after a disaster when deciding what kind of declaration and which types of assistance to request.



DID THE DISASTER CAUSE MORE THAN \$100,000 IN DAMAGES TO TRIBAL NATION PROPERTY?

In general, Tribal Nations can only seek Public Assistance if the Tribal Nation sustained at least \$100,000 in PA-eligible estimated damages or costs (see note on page 15). States, by comparison, must show a minimum of \$1 million in PA-eligible estimated damages and costs, and meet specific [per capita indicators](#) (\$1.89 statewide and \$4.72 countywide). Tribal Nations do not need to meet a per capita indicator when requesting a **direct Tribal declaration**.

Depending on where the disaster strikes, Tribal Nations and state governments may coordinate on whether it is most strategic to seek a Tribal or state declaration. For example, if the state cannot meet the damage threshold without including damage on Tribal lands, the Tribal Nation has additional leverage to negotiate discretionary factors under a state declaration, such as what portion of the non-federal cost share the Tribal Nation will cover.

If the state experienced sufficient damage to seek a declaration, it may be advantageous for the Tribal Nation to join the request as a **recipient** or **subrecipient** to maximize the **total uninsured per capita economic damages** included in the request.

Though FEMA is required to conduct a site inspection to verify damage, under [FEMA's July 2025 PDA guidance](#), **FEMA is not required to inspect damage to sacred sites**. Instead, FEMA must accept the Tribal Nation's certified assessment of damage at sacred sites to help protect those sites from further disturbance.



2025 POLICY UPDATE: DAMAGE THRESHOLDS AND UPDATED PDA GUIDANCE

The Trump administration has stated it will only respond to truly catastrophic events, largely based on the preliminary damage assessment (PDA) jointly conducted by FEMA and the state and/or Tribal Nations. However, administration officials have not announced new damage thresholds. Nevertheless, states and Tribal Nations may increase the likelihood of the president granting their declaration request if they combine their assessed damages in a single state request with the Tribal Nation as a **recipient** or **subrecipient**.

In July 2025, FEMA updated its [PDA Guide](#). The new guide includes several updates specific to Tribal Nations, including clarifying who has legal responsibility for damaged homes (p. 13 of the Guide), identifying Tribal community members (p. D-3), and addressing data sovereignty concerns (D-3). For more, see Appendix D: Tribal-Specific Considerations (p. D-1 of the Guide).

FOR MORE ON FEMA'S UPDATED PDA GUIDANCE, SEE:



[Summary of July 2025 Changes to PDA Guide](#)



[PDA Pocket Guide \(July 2025\)](#)



[FEMA's Step-by-Step Guide for Conducting a PDA \(including templates\)](#)



DOES THE TRIBAL NATION HAVE A PRODUCTIVE RELATIONSHIP WITH THE STATE GOVERNMENT?

There are significant benefits to receiving federal disaster funding under a state declaration as a **subrecipient**, including potentially sharing the non-federal cost share and reducing the Tribal Nation's administrative obligations. States also often have permanent emergency management staff with experience liaising with FEMA, which is less common among Tribal Nations with smaller economies. Though historically FEMA has offered non cost technical assistance to Tribal Nations to help bridge these capacity gaps, it's not clear how current funding reductions and loss of staff who specialize in supporting Tribal Nations at FEMA will impact these services going forward. FEMA leadership has also reportedly ordered agency staff to limit communication with state and local partners.²⁵

Operating as a **subrecipient** requires ongoing cooperation and coordination with state officials, and may prevent the Tribal Nation from liaising directly with the federal government regarding the disaster. If the Tribal Nation has a strained relationship with the state, it may be beneficial to seek a **direct Tribal declaration**.

? DO TRIBAL STAFF HAVE EMERGENCY MANAGEMENT EXPERIENCE?

As discussed on page 10, Tribal Nations that receive a **direct Tribal declaration** are responsible for significant administrative, planning, and financial obligations during and after the disaster. These obligations can impose significant burdens on Tribal Nations, particularly after a major disaster when Tribal staff and resources may be more limited. If a Tribal Nation does not have staff with emergency management training or experience, or access to another Tribal Nation or regional Tribal emergency management organization that can provide guidance in real time, the Tribal Nation may seek to operate as a **subrecipient** under a state declaration.

? WAS TRIBAL NATION INFRASTRUCTURE DAMAGED?

If the disaster primarily impacted privately owned property on Tribal lands,²⁶ the Tribal Nations may wish to prioritize seeking Individual Assistance (IA) and not Public Assistance (PA). Alternatively, the Tribal Nation may seek a **direct declaration** for IA only, and receive PA as a **subrecipient** under the state declaration (assuming both requests are granted). In this scenario, the Tribal Nation would have more control over the disbursement of IA, but would also be responsible for the full 25% non-federal cost share for Other Needs Assistance (a type of IA). Finally, the Tribal Nation could also receive just IA as a **subrecipient**, or speak directly with the state emergency management office to see if Tribal community members can receive IA directly without formally recognizing the Tribal Nation as a **recipient** or **subrecipient**.



image: National Parks Service



CONCLUSION

Under FEMA's current Tribal Declarations Interim Guidance, there are new flexibilities to help Tribal Nations access federal disaster funding, including funding to support long-term hazard mitigation and adaptation. Notably, this Guidance is the controlling authority on how FEMA should interface with Tribal Nations, including the declaration process, the distribution of federal disaster assistance, and related requirements.²⁷ However, agency leadership under the second Trump administration has committed to significant reforms at FEMA, which in turn has affected agency staffing, policies, funding availability, and programs.

For updates on FEMA policy affecting Tribal Nations, contact a Regional Tribal Emergency Management Organization, or the Tribal liaison for your state emergency management agency or FEMA Regional Office.

If you have questions about this guide or would like to provide feedback on the content, please contact:

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ENDNOTES



- 1 The Stafford Act—the federal law governing the responsibilities of federal agencies before and after a disaster—defines “Indian tribal governments” as tribes acknowledged by the Secretary of the Interior under the List Act. 42 U.S.C. § 5122(6). This definition is narrower than the definition under the Indian Self-Determination and Education Assistance Act (ISDEAA). 25 U.S.C. § 5304(e).
- 2 [FEMA Tribal Declarations Interim Guidance](#) at p. 56 (“At the request of the Tribal Nation, FEMA will provide the Tribal Nation a list of resources and support that other federal agencies can provide to the Tribal Nation to respond to and recover from the disaster.”)
- 3 Your Tribal Nation may cross more than one FEMA Region. The FEMA Region where your Tribal headquarters is located is usually the Region that primarily supports your Tribal Nation.
- 4 The Tribal Chief Executive is the person who is the Chief, Chair, Chairperson, Chairwoman, Chairman, Principal Chief, Ogema, Governor, President, or similar executive official of a Tribal Nation. 42 U.S.C. § 5122(12).
- 5 [FEMA Tribal Declarations Interim Guidance](#) at p. 49 (“Verbal requests . . . are permitted for incidents that are catastrophic or near catastrophic in nature when a written request from a Tribal Chief Executive is impractical due to the exigency of the event. Following a Tribal Chief Executive’s verbal request for a declaration made to FEMA, the Regional Administrator consults with the Tribal Chief Executive and completes the Regional Administrator’s checklist for a verbal request for an emergency or expedited major disaster.”)
- 6 [FEMA Tribal Declarations Interim Guidance](#) at p. 17 (clarifying that “Category E” work for “Buildings and Equipment” includes “subsistence structures (e.g., fish wheels, fish racks, smoking racks, subsistence cabins, etc.)”)
- 7 [FEMA Tribal Declarations Interim Guidance](#) at p. 44 (clarifying that Other Needs Assistance “can include culturally significant line items, for example, subsistence items such as smoke houses and fishing and hunting gear, or specialized transportation, regalia, eagle feathers, traditional medicines, etc. FEMA recognizes that certain tribal cultural or ceremonial items are almost impossible to assign a dollar value. FEMA will work with the Tribal Nation to designate an appropriate value that aligns with the significance of the Tribal Nation item.”)
- 8 42 U.S.C. § 5170 (“Based on the request of a Governor [or Indian tribal government] the President may declare under this Act that a major disaster or emergency exists.”)
- 9 42 U.S.C. § 5122(2).
- 10 *New York v. Trump*, 777 F. Supp. 3d 112 (D.R.I. 2025) (finding FEMA’s manual grant review process violated the court’s prior preliminary injunction order). The federal government has appealed the court’s decision.
- 11 As of this publication, the text of the DHS policy is not publicly available, but has been reported by numerous media outlets. See, e.g., Laura Strickler et al., *After Texas floods, questions about FEMA’s future looms large*, NBC News (July 9, 2025), <https://www.nbcnews.com/politics/national-security/texas-floods-questions-femas-future-loom-large-rcna217711>.

- 12 Under current SBA regulations, the Governor or Tribal Chief Executive can seek an SBA physical disaster declaration if (i) at least 25 homes or businesses each sustain uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower OR (ii) at least three businesses each sustain uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower, and, as a direct result of such physical damage, 25 percent or more of the work force in their community would be unemployed for at least 90 days. 13 C.F.R. § 123.3(a)(3).
- 13 *Id.* at § 123.3(a)(3)(iii).
- 14 FEMA's definition of "Tribal Nation Lands" is much broader than other federal agencies. [FEMA Tribal Declarations Interim Guidance](#) at p. B-4 (Defining "Tribal Nation Lands" as "reservations, lands held in trust by the United States government for the Tribal Nation (trust land), dependent Indian communities, Tribal service areas, pueblo lands, ceded Tribal Nation lands, treaty lands, and for individual tribal members (allotted land), service areas, as well as land owned by the Tribal Nation or tribal community members (fee simple land). This is not an exhaustive list of all tribal land types.")
- 15 [FEMA Tribal Declarations Interim Guidance](#) at p. 62 ("FEMA recognizes that traditional data sources, such as Census Bureau data, do not always accurately reflect the unique considerations of Tribal Nations and therefore FEMA will always prioritize using data provided by the Tribal Nation to inform declaration requests.")
- 16 [FEMA Tribal Declarations Interim Guidance](#) at p. 3-4 (responding to direct requests from Tribal Nations to incorporate changes "and ensure that [Tribal Nations] are able to support and protect everyone within their tribal communities.")
- 17 [FEMA Tribal Declarations Interim Guidance](#) at p. B-4 ("A tribal community member can consist of anyone designated by the Tribal Nation, including but not limited to, tribal members, tribal citizens, tribal descendants, tribal employees, non-tribal members, or non-Natives.")
- 18 [FEMA Tribal Declarations Interim Guidance](#) at p. 30 ("Absent extraordinary circumstances, FEMA will consider a declaration request for Public Assistance (PA) from a Tribal Nation only if it is determined that the Tribal Nation sustained at least \$100,000 in PA-eligible estimated damage or cost.")
- 19 [Public Assistance Program and Policy Guide Version 5.0](#) at p. 229 ("FEMA may provide expedited funding for emergency work projects (category A or B) that meet or exceed the large project threshold. FEMA funds expedited projects at 50 percent of the federal share of the estimated project cost.")
- 20 The deleted text stated that "Tribal recipients are eligible to have their cost share adjusted to 98% on individual repair or restoration PA projects when the Tribal Nation completes an eligible Hazard Mitigation Proposal on their PA Permanent Work project for which the total cost of the Hazard Mitigation Proposal is equal to or greater than 20% of the total eligible repair or restoration cost of the project at the time of obligation. Eligible PA mitigation projects for Tribal Nations can include, but are not limited to, traditional ecological knowledge, traditional tribal practices, or nature-based solutions when the design reduces the risk of future damage."
- 21 [Fema Tribal Declarations Interim Guidance](#) at p. 2
- 22 44 C.F.R. § 201.7.
- 23 44 C.F.R. § 201.5(b) (though the rules refer to the "State," they are also applicable to Tribal governments).
- 24 [FEMA Tribal Declarations Interim Guidance](#) at p. 30 ("For Tribal Nation recipients, FEMA will automatically recommend a 98% federal cost share adjustment for the PA Program when the PA actual federal obligations, excluding administrative costs, reaches \$200,000.")
- 25 Gabe Cohen, *'We've been ghosted by FEMA': Officials across country say they can't get answers on critical funding*, CNN (July 2, 2025), <https://www.cnn.com/2025/07/02/politics/fema-critical-funding-disaster-response>.
- 26 FEMA defines Tribal Nation Lands broadly to include "Reservations, lands held in trust by the United States government for the Tribal Nation (trust land), dependent Indian communities, Tribal service areas, pueblo lands, ceded Tribal Nation lands, treaty lands, and for individual tribal members (allotted land), service areas, as well as land owned by the Tribal Nation or tribal community members (fee simple land). This is not an exhaustive list of all tribal land types." [FEMA Tribal Declarations Interim Guidance](#) at p. B-4.
- 27 FEMA's 2024 Tribal Declarations Interim Guidance implements the 2013 Sandy Recovery Improvement Act (SRIA), which amended the Stafford Act to create a mechanism for Tribal Nations to directly request an emergency or major disaster declaration from the President. 42 U.S.C. § 5170. FEMA has not promulgated regulations implementing SRIA's statutory requirements.



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