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2020 Hurricane Season FAQ: Federal Disaster Assistance for Hurricanes During the COVID-19 Pandemic

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2020 Hurricane Season FAQ: Federal Disaster Assistance for Hurricanes During the COVID-19 Pandemic

SUMMARY

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The Atlantic hurricane season runs from June 1 through November 30, and the peak months are mid-August through late October. The central Pacific hurricane season runs from June 1 through November 30, with the peak months being July through October. The eastern Pacific hurricane season runs from May 15 through November 30, with July through September being the peak. Although in the central and eastern Pacific, near- or below-normal season are most likely, in the Atlantic, an "above-normal" hurricane season is predicted for 2020. Regardless of the forecast, one hurricane or tropical storm can cause a disaster.

The nation is also responding to the coronavirus disease 2019 (COVID-19) pandemic. On March 13, 2020, President Donald J. Trump declared a national emergency under Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; 42 U.S.C. §§5121 et seq.) in response to the pandemic. The declaration authorized assistance to all U.S. states, territories, tribes, and the District of Columbia. Subsequently, the President approved major disaster declaration requests under the Stafford Act for all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (authorized under Stafford Act Section 401).

Every year, the Federal Emergency Management Agency (FEMA) and the National Oceanic and Atmospheric Administration (NOAA) emphasize the need for preparedness going into hurricane season. In 2020, complicating the preparedness efforts of individuals, businesses, and the government is the COVID-19 pandemic. The ongoing response to the pandemic may challenge hurricane recovery efforts across all levels of the government, as well as by nonprofit and private organizations, businesses, and individuals.

Congress has a role in supporting disaster response and recovery efforts. Understanding the potential challenges that emergency managers at all levels of government may face in attempting to deal with hurricanes during a pandemic, and understanding the support that affected communities may need, provides a foundation to aid Congress in performing its funding, oversight, and constituent responsibilities.

This report provides answers to frequently asked questions (FAQs) regarding

- emergency and major disaster declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; 42 U.S.C. §§5121 et seq.), including legal authorities and information related to the declaration request process;
- types of assistance that may be available to state, territorial, and tribal governments, private nonprofit organizations, private entities, and individuals and households pursuant to a Stafford Act emergency or major disaster declaration;
- considerations related to concurrently responding to a hurricane during the COVID-19 pandemic;
- the Disaster Relief Fund (DRF), the source of funding for the Stafford Act emergency and major disaster declarations;
- other federal assistance that may be available through the Small Business Administration (SBA); and
- additional references.

The scope of this report is limited to assistance authorized under the Stafford Act. This report does not address other forms of federal assistance that may support response to and recovery from a hurricane.

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Introduction

Hurricane season in the Atlantic runs from June 1 through November 30.[1] The peak months are from mid-August through late October.[2] Additionally, the central Pacific hurricane season runs from June 1 through November 30,[3] with peak months being July through October;[4] and the eastern Pacific hurricane season runs from May 15 through November 30, peaking July through September.[5] In the Atlantic, an "above-normal" hurricane season is predicted for 2020.[6] The Atlantic outlook is to be updated in early August ahead of the peak months of the season.[7] For the eastern and central Pacific, however, NOAA's outlooks indicate that near- or below-normal seasons are most likely.[8] Regardless of the forecast, "It only takes one hurricane (or tropical storm) to cause a disaster."[9]

The nation is also responding to the coronavirus disease 2019 (COVID-19) pandemic. On March 13, 2020, President Donald J. Trump declared a national emergency under Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) in response to the pandemic.[10] The declaration authorized assistance to all U.S. states, territories, tribes, and the District of Columbia. Subsequently, the President approved major disaster declaration requests under the Stafford Act for all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (authorized under Stafford Act Section 401).[11]

Every year, the Federal Emergency Management Agency (FEMA) and the National Oceanic and Atmospheric Administration (NOAA) emphasize the need for preparedness going into hurricane season because "it only takes one."[12] In 2020, however, complicating the preparedness efforts of individuals, businesses, and the government is the pandemic. The ongoing COVID-19 pandemic

[1] National Oceanic and Atmospheric Administration (NOAA), "Busy Atlantic Hurricane Season Predicted for 2020: Multiple Climate Factors Indicate Above-Normal Activity is Most Likely," May 21, 2020, https://www.noaa.gov/media-release/busy-atlantic-hurricane-season-predicted-for-2020 (hereinafter NOAA, "Busy Atlantic Hurricane Season Predicted for 2020"). See also NOAA, "NOAA 2020 Atlantic Hurricane Season Outlook," May 21, 2020, https://www.cpc.ncep.noaa.gov/products/outlooks/hurricane.shtml (hereinafter NOAA, "2020 Atlantic Outlook").

[2] NOAA, National Hurricane Center and Central Pacific Hurricane Center, "Tropical Cyclone Climatology," last accessed May 26, 2020, https://www.nhc.noaa.gov/climo/ (hereinafter NOAA, "Tropical Cyclone Climatology").

[3] NOAA, "Near- or Below-Normal 2020 Hurricane Season Predicted for Central Pacific," May 20, 2020, https://www.noaa.gov/media-release/near-or-below-normal-2020-hurricane-season-predicted-for-central-pacific (hereinafter NOAA, "Near- or Below-Normal 2020 Hurricane Season Predicted for Central Pacific").

[4] See the "Central Pacific Tropical Cyclones by Month: 1971-2013" table that depicts increased numbers of tropical cyclones in July, August, September, and October. NOAA, "Tropical Cyclone Climatology."

[5] NOAA, "NOAA 2020 Eastern Pacific Hurricane Season Outlook," May 21, 2020, https://www.cpc.ncep.noaa.gov/products/Epac_hurr/.

[6] NOAA, "Busy Atlantic Hurricane Season Predicted for 2020."

[7] NOAA, "2020 Atlantic Outlook."

[8] NOAA, "NOAA's 2020 Hurricane Season Outlooks," last accessed May 26, 2020, https://www.cpc.ncep.noaa.gov/products/Epac_hurr/Slide1.JPG; and NOAA, "Near- or below-normal 2020 hurricane season predicted for Central Pacific."

[9] NOAA, "2020 Atlantic Outlook."

[10] 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. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) may be found at 42 U.S.C. §§5121 et seq.

[11] The presidential declarations of major disaster for novel coronavirus 2019 (COVID-19) are listed on the FEMA "COVID-19 Disaster Declarations" webpage, available at https://www.fema.gov/coronavirus/disaster-declarations.

[12] NOAA, "2020 Atlantic Outlook."

response may also challenge efforts to deal with hurricanes across all levels of government, as well as by nonprofit and private organizations, businesses, and individuals.

Understanding the potential challenges that emergency managers at all levels of government may face in attempting to manage hurricane response and recovery efforts during a pandemic, and understanding the support that affected communities may need, provides a foundation for Congress to perform its funding, oversight, and constituent responsibilities.

This report provides answers to frequently asked questions (FAQs) regarding

- emergency and major disaster declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; 42 U.S.C. §§5121 et seq.), including legal authorities and information related to the declaration request process;
- types of assistance that may be available to state, territorial, and tribal governments, private nonprofit organizations, private entities, and individuals and households pursuant to a Stafford Act emergency or major disaster declaration;
- considerations related to concurrently responding to a hurricane during the COVID-19 pandemic;
- the Disaster Relief Fund (DRF), the source of funding for the Stafford Act emergency and major disaster declarations;
- other federal assistance that may be available through the Small Business Administration (SBA); and
- additional references.

The scope of this report is limited to assistance authorized under the Stafford Act. There are, however, other types of federal assistance that may support response to and recovery from a hurricane. This report does not address other forms of assistance.

Stafford Act Emergency and Major Disaster Declaration Requests

The Stafford Act authorizes the President to issue two types of declarations that could provide federal assistance[13] to states and localities in response to a hurricane: (1) an "emergency declaration" (authorized under Stafford Act Section 501),[14] and (2) a "major disaster declaration" (authorized under Stafford Act Section 401).[15]

The federal government does not automatically provide assistance to local, state, territorial, and Indian tribal governments when an *incident*[16] occurs. Instead, typically, the governor of an

[13] More information on the types of assistance that may be made available pursuant to an emergency or major disaster declaration can be found in the "Stafford Act Assistance" section, below. For more information on statutory authorities that the executive branch may exercise following a declaration of emergency or major disaster under the Stafford Act, see CRS Report R46379, *Emergency Authorities Under the National Emergencies Act, Stafford Act, and Public Health Service Act*, coordinated by Jennifer K. Elsea.

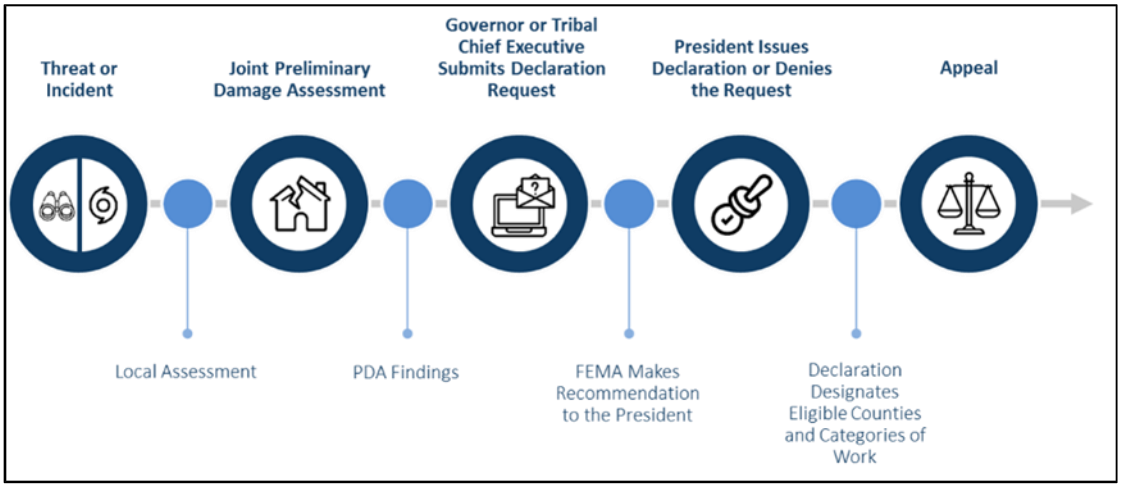
[14] 42 U.S.C. §5191.

[15] 42 U.S.C. §5170.

[16] 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

affected state or territory, or chief executive of an affected Indian tribal government requests that the President declare an emergency or major disaster authorizing various types of assistance.[17] This is because federal assistance is intended to supplement—not supplant—local, state, territorial, or Indian tribal government response and recovery efforts. **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 following questions relate to the Stafford Act declaration request process, including appealing denial decisions.

Declaration Requests

Can Members of Congress request an emergency or major disaster declaration?

Members of Congress are not able to request an emergency or major disaster declaration. A governor of the affected state or territory, or the chief executive of the affected Indian tribal government must make a request for an emergency or major disaster declaration under the Stafford Act.[18] Members of Congress, however, may write a letter of support to the President to accompany the state, territory, or Indian tribal government's declaration request.[19]

major disaster or an emergency."

[17] 44 C.F.R. §§206.35, 206.36, and 206.40(a); Federal Emergency Management Agency (FEMA), "The Disaster Declaration Process," last updated February 3, 2020, https://www.fema.gov/disaster-declaration-process (hereinafter FEMA, "The Disaster Declaration Process"). For more information about the disaster declaration process, see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Bruce R. Lindsay.

[18] Stafford Act Section 501 applies to emergency declarations (42 U.S.C. §5191(a) and (c)), and Stafford Act Section 401 applies to major disaster declarations (42 U.S.C. §5170(a) and (b)).

[19] See, for example, a recent letter of support for Puerto Rico's major disaster declaration request following the earthquakes occurring in 2019 and 2020. Letter from Charles E. Schumer, United States Senator, Robert Menendez, United States Senator, and Kirsten Gillibrand, United States Senator, et al. to President Donald J. Trump, President of the United States, January 14, 2020, https://www.democrats.senate.gov/imo/media/doc/01142020%20-%20President%20-%20LOS%20for%20Puerto%20Rico%20Major%20Disaster%20Dec%20Earthquakes.pdf.

Who approves or denies a governor or chief executive's request for an emergency or major disaster declaration?

Though FEMA makes a recommendation to the President,[20] the decision to issue or deny a declaration resides solely with the President.[21]

How long does it take to receive a major disaster declaration?

The time between when a major disaster declaration is requested and the President's decision is issued varies based on the amount of damage assessed for the FEMA Public Assistance (PA) and Individual Assistance (IA) programs, as well as the type of event. Most requests for major disaster declarations that were neither expedited nor appealed were decided within a month after being requested.[22] However, requests for incidents with extraordinary damages can be expedited and a major disaster declaration may be issued in less than a week.[23]

Can a major disaster be declared before an incident?

A major disaster cannot be declared before an incident occurs; however, an emergency declaration can be issued before an incident's occurrence to save lives, protect property, and lesson or avert the threat of a major disaster.[24]

How do state, territorial, and Indian tribal governments request and receive specific types of FEMA assistance?

A governor or chief executive's request for a presidential declaration under the Stafford Act includes requests for specific types of federal assistance (e.g., Public Assistance programs) for specific, affected jurisdictions (e.g., counties within a state).[25] FEMA provides template request forms and cover letters that may be used for this purpose.[26] The FEMA "Request for Presidential Disaster Declaration Form," FEMA Form 010-0-13, includes all of the statutory and regulatory requirements for declaration requests.

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[20] FEMA uses the specific factors described in regulation at 44 C.F.R. §206.48 to provide a recommendation to the President, and the decision to grant a declaration request is at the President's discretion, per Stafford Act Sections 401 and 501 (42 U.S.C. §§5170 and 5191, respectively), and 44 C.F.R. §206.38.

[21] 42 U.S.C. §§5191 and 5170; and 44 C.F.R. §206.38.

[22] CRS analyzed FEMA's Preliminary Damage Assessment (PDA) Reports, and included this information in Table 7 of CRS Report R44977, *Preliminary Damage Assessments for Major Disasters: Overview, Analysis, and Policy Observations*, by Bruce R. Lindsay. This data is as of May 12, 2017.

[23] For example, Puerto Rico's request for an expedited major disaster declaration due to Hurricane Irma was approved by President Donald J. Trump on September 10, 2017, after being requested by former Governor Ricardo Rosselló Nevares on September 7, 2017. FEMA, "Preliminary Damage Assessment Report, Puerto Rico–Hurricane Irma: FEMA-4336-DR," declared September 10, 2017, https://www.fema.gov/media-library-data/1508250461870-573f4fcd778d59352879fbb5ca0c92b4/FEMA4336DRPR(Expedited).pdf.

[24] FEMA, "The Disaster Declaration Process." Per FEMA's website, pre-disaster emergency declarations typically authorize Public Assistance Category B—emergency protective measures, limited to direct federal assistance. FEMA may require damage assessments and/or verified cost estimates if additional types of assistance are requested.

[25] Procedures for requests for an emergency or major disaster declaration are described in Stafford Act Sections 401 and 501; 42 U.S.C. §5170(a)-(c); 42 U.S.C. §5191(a)-(c); and 44 C.F.R. §§206.31-48.

[26] FEMA's "Request For Presidential Disaster Declaration Major Or Emergency" website provides the declaration request form (i.e., FEMA Form 010-0-13) and cover letter templates, available at FEMA, "Request For Presidential Disaster Declaration Major Or Emergency," https://www.fema.gov/media-library/assets/documents/28122.

Using the information submitted by the governor or chief executive,[27] FEMA evaluates specific factors to determine whether there is a need for supplemental federal assistance (i.e., Public Assistance or Individual Assistance).[28] These factors are also used by FEMA to determine the specific types of supplemental federal assistance to authorize (e.g., high rates of disaster-related unemployment may indicate a need for a form of Individual Assistance: Disaster Unemployment Assistance). FEMA then provides a recommendation to the President.[29] The decision to grant a declaration request is at the President's discretion.[30] The President's initial notice declaring an emergency or major disaster indicates what assistance has been authorized. After a presidential Stafford Act declaration, the governor or chief executive may request additional types of assistance.[31] It is relatively common to authorize additional types of assistance subsequent to a presidential declaration. FEMA's regulations state that FEMA has the delegated authority to determine and designate the types of assistance to be made available.[32] In practice, however, FEMA has stated that they will seek the President's approval when authorizing additional forms of assistance.[33]

Appeals

Can a denial of a Stafford Act declaration request be appealed?

If a declaration request is denied, the decision can be appealed once.[34] Appeals 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. The appeal must be submitted to the President through the appropriate FEMA Regional Administrator.[35]

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[27] For more detail on the information submitted by the governor or chief executive as part of the declaration request process, see the **Appendix**.

[28] 44 C.F.R. §206.48; and FEMA, *Tribal Declarations Pilot Guidance*, January 2017, pp. 34-38, https://www.fema.gov/media-library-data/1523033284358-20b86875d12843441a521a6141c15099/Pilot_Guidance.pdf (hereinafter FEMA, *Tribal Declarations Pilot Guidance*). For more information on the factors considered when evaluating a governor or chief executive's request for a Stafford Act declaration, see the **Appendix**. See also CRS In Focus IF11529, *A Brief Overview of FEMA's Public Assistance Program*, by Erica A. Lee; and CRS In Focus IF11298, *A Brief Overview of FEMA's Individual Assistance Program*, by Elizabeth M. Webster.

[29] 44 C.F.R. §206.37.

[30] 44 C.F.R. §206.38.

[31] 44 C.F.R. §206.40(c).

[32] 44 C.F.R. §206.40. For example, FEMA's regulation states "[t]he Assistant Administrator for the Disaster Assistance Directorate has been delegated authority to determine and designate the types of assistance to be made available.... The Assistant Administrator for the Disaster Assistance Directorate may authorize all, or only particular types of, supplementary Federal assistance requested by the Governor." Additionally, "[t]he Assistant Administrator for the Disaster Assistance Directorate also has been delegated authority to designate the affected areas eligible for supplementary Federal assistance under the Stafford Act."

[33] Email correspondence from FEMA Congressional Affairs staff, June 12, 2020. This is based on language in the initial notice, which states "Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act." According to FEMA, this sentence has been included in presidential declarations under the Stafford Act since 2009, and it "authorizes FEMA to make changes to programs approved in the declaration (e.g. add counties), but not to approve additional forms of assistance. As such, since 2009, FEMA has sought White House approval when states [this term includes territories for purposes of the Stafford Act] or tribes request additional types of assistance under a declaration."

[34] 44 C.F.R. §206.46(a).

[35] 44 C.F.R. §206.46(a).

Can a denial of a type of assistance requested pursuant to a Stafford Act declaration be appealed?

A governor or chief executive may appeal a denial of types of assistance (e.g., Public Assistance) or areas requested (e.g., counties within a state).[36] The appeal must be submitted in writing within 30 days of the date of the letter denying the request.[37] The request and its justification must be submitted to the Assistant Administrator for the Disaster Assistance Directorate through the appropriate FEMA Regional Administrator for the FEMA region in which the state, territory, or tribe is located.[38] Federal regulations allow for one request for reconsideration of a single federal decision regarding assistance provided pursuant to a disaster declaration[39] and FEMA's determination on the appeal is final.

Stafford Act Assistance

Different types of federal assistance are available pursuant to each type of declaration (see **Table 1** for a list of the assistance available pursuant to an emergency or major disaster declaration).

Emergency declarations may authorize some forms of Public Assistance (PA) and Individual Assistance (IA), but the assistance is limited.[40] Major disaster declarations may provide more forms of assistance than emergency declarations, including all forms of PA and IA, as well as assistance through the Hazard Mitigation Grant Program (HMGP).

As noted in the "Can a major disaster be declared before an incident?" section, states, territories, and Indian tribal governments may request pre-landfall emergency declarations for hurricanes.[41] If the President approves a pre-disaster emergency declaration, assistance made available is typically PA Category B, limited to direct federal assistance (DFA), according to FEMA.[42]

The following questions relate to the types of FEMA assistance that may be made available to support hurricane response and recovery efforts. Considerations are included for responding to and recovering from hurricanes during the COVID-19 pandemic.

[36] 44 C.F.R. §206.46(b); see also FEMA, *Tribal Declarations Guidance*, p. 49.

[37] 44 C.F.R. §206.46(b).

[38] 44 C.F.R. §206.46(b). Governors may also appeal a denial of a declaration request, for example, if they request and are denied for a major disaster declaration (44 C.F.R. §206.46(a)).

[39] 44 C.F.R. §206.46(b).

[40] Emergency declarations do not authorize Hazard Mitigation Assistance (HMA) for projects that may reduce the loss of life and property from future disasters.

[41] FEMA, "The Disaster Declaration Process."

[42] FEMA, "The Disaster Declaration Process."

Table 1. Assistance Available Under Stafford Act Declarations

	Emergency Declaration	Major Disaster Declaration
Public Assistance (PA)	*Emergency Work* Category A–Debris Removal Category B–Emergency Protective Measures	*Emergency Work* Category A–Debris Removal Category B–Emergency Protective Measures *Permanent Work* 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)	Not Available	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.

Public Assistance (PA)

When the President makes an emergency or major disaster declaration for hurricanes or other incidents under the Stafford Act, states, territories, Indian tribal governments, and local governments, as well as certain private nonprofit organizations, may receive assistance through FEMA's Public Assistance (PA) program.[43]

What does the PA program provide for hurricane response and recovery?

Stafford Act emergency declarations may authorize PA "emergency work" undertaken to save lives, protect property, public health, and safety, and lessen or avert the threat of a catastrophe.[44] Stafford Act major disaster declarations may authorize PA "emergency work" as well as PA "permanent work" undertaken to repair, restore, reconstruct, or replace disaster-damaged public

[43] 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.

[44] With regard to Public Assistance (PA), emergency declarations may authorize "emergency work," per Section 502 of the Stafford Act (42 U.S.C. §5192). FEMA's two categories of PA "emergency work" are debris removal (Category A) and emergency protective measures (Category B) (FEMA, *Public Assistance Program and Policy Guide (PAPPG)*, FP 104-009-2, April 2018, p. 19, https://www.fema.gov/media-library-data/1525468328389-4a038bbef9081cd7dfe7538e7751aa9c/PAPPG_3.1_508_FINAL_5-4-2018.pdf (hereinafter FEMA, *PAPPG*)).

and eligible private nonprofit facilities.[45] "Emergency work" authorization may provide assistance for debris removal (Category A) and emergency protective measures (Category B).[46] "Permanent work" authorization may provide assistance for the repair, reconstruction, or replacement of eligible Roads and Bridges (Category C); Water Control Facilities (Category D); Buildings and Equipment (Category E); Utilities (Category F); and Parks, Recreational, and Other facilities (Category G), as summarized in **Table 1**.

If authorized, a state, territory, or tribe becomes the PA primary grant Recipient (hereinafter, Recipient).[47] State, tribal, territorial, and local governments, as well as eligible nonprofit entities, may then apply for funding for specific PA projects as PA Applicants (hereinafter Applicant).[48] Applicants must submit a request for grant funds to the PA Recipient, which evaluates the potential eligibility of the PA Applicant, facility, work, and costs with FEMA.[49]

Is there a nonfederal cost share for the PA program? Can it be adjusted?

The Stafford Act authorizes FEMA to reimburse not less than 75% of the eligible costs of specific types of disaster response and recovery work undertaken by eligible PA Applicants.[50] FEMA may recommend that the federal cost share be increased in extraordinary cases[51] at the request of a state, territory, or tribe.[52] However, only the President has the authority to adjust the federal share of PA programs.

FEMA recommends an increase in the federal cost share to up to 90% for major disasters when the estimated cost of PA exceeds an annually-adjusted per-capita threshold across the state, territory, or tribe.[53] For FY2020, the threshold is $149 per capita.[54] FEMA may also take into account other disasters in the affected area during the preceding twelve months.[55] In extraordinary

[45] 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, respectively. See also 44 C.F.R. §206.220 for general eligibility for public assistance.

[46] FEMA, *PAPPG*, p. 51.

[47] The term "Recipient" in this report refers to "an entity that receives a Federal award directly from a Federal awarding agency to carry out an activity," per 2 C.F.R. §200.86 and the FEMA, *PAPPG*, p. 21.

[48] The term "Applicant" in this report refers to "the responsible entity for a project," per the FEMA, *PAPPG*, p. 22.

[49] Stafford Act Section 403(a)(4) authorizes the President to reimburse state and local governments, as well as private nonprofit facilities, for essential assistance following a major disaster declaration (42 U.S.C. §5170b(a)(4)). Section 406(a)(1) of the Stafford Act authorizes the President to reimburse state and local governments, as well as private nonprofit facilities, for repair, restoration, and replacement of damaged facilities assistance following a major disaster declaration (42 U.S.C. §5172(a)(1)).

[50] See, for example, Stafford Act Section 503(a), 42 U.S.C. §5193(a); and Stafford Act Section 403(b), 42 U.S.C. §5170b(b).

[51] For more information, see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Natalie Keegan and Elizabeth M. Webster.

[52] 44 C.F.R. §206.47. For cost-share adjustments for tribes, see 42 U.S.C. §5170(c) and FEMA, *Tribal Declarations Pilot Guidance*, January 2017, p. 38-39, https://www.fema.gov/media-library-data/1523033284358-20b86875d12843441a521a6141c15099/Pilot_Guidance.pdf.

[53] 44 C.F.R. §206.47(b).

[54] Department of Homeland Security (DHS), FEMA, "Notice of Adjustment of Statewide per Capita Indicator for Recommending a Cost Share Adjustment," 84 *Federal Register* 6965, February 6, 2020.

[55] 44 C.F.R. §206.47(c).

cases, FEMA may recommend an increase in the cost share of PA emergency work to 100% for a limited period of time, irrespective of the estimated damages.[56]

Is PA available for businesses for hurricane response and recovery?

Private businesses and other for-profit entities are not eligible Applicants for PA. Under the Stafford Act, however, certain private nonprofit organizations (PNPs)[57] may be eligible for PA if they provide "critical services" or noncritical, "essential" services available to the general public. Eligible PNPs that provide critical services are "educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations."[58]

PNPs that provide "non-critical, essential" services are

> any private nonprofit facility that provides essential social services to the general public (including museums, zoos, performing arts facilities, community arts centers, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, food banks, broadcasting facilities, houses of worship, and facilities that provide health and safety services of a governmental nature), as defined by the President. No house of worship may be excluded from this definition because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice.[59]

Religiously affiliated PNPs must meet the same eligibility criteria as other PNPs.[60]

For-profit entities are not eligible to apply for reimbursement through the PA program. For-profit entities, however, may be eligible for assistance through the Small Business Administration (SBA) Disaster Loan Program (for more information, see the "Small Business Administration (SBA) Disaster Loan Program" section, below).[61]

Eligible PA Applicants may also contract for-profit entities to perform PA-reimbursable work that complies with federal and state, tribal, or territorial procurement procedures and PA program requirements.[62]

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[56] 44 C.F.R. §206.47(d).

[57] Private nonprofit organizations (PNPs) are defined in both the Stafford Act and FEMA regulations. 44 C.F.R. §206.221(f) defines PNPs as "any nongovernmental agency or entity that currently has: (1) An effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or (2) Satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law." Additionally, Stafford Act Section 102(11)(A) and (B) defines private nonprofit facilities (42 U.S.C. §5122 (11)(A) and (B)).

[58] Stafford Act Section 102(11)(A), 42 U.S.C. §5122(11)(A), and 44 C.F.R. §206.221(e). FEMA provides a full discussion on the eligibility of private nonprofit organizations in FEMA, *PAPPG*, pp. 43-47.

[59] Stafford Act Section 102(11)(B), 42 U.S.C. §5122(11)(B), and 44 C.F.R. §206.221(e)(7). See also FEMA, *PAPPG*, p. 46.

[60] The Bipartisan Budget Act of 2018 (P.L. 115-123) changed eligibility for houses of worship under the Stafford Act. Per 42 U.S.C. §5122(11)(B), "[n]o house of worship may be excluded from this definition because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice."

[61] For more information, see CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*, by Bruce R. Lindsay.

[62] FEMA, *PAPPG*, pp. 76-85.

How do PA Applicants receive reimbursement for response and recovery work?

State, territories, and Indian tribal governments that have received emergency declarations or major disaster declarations are PA grant Recipients, which administer PA awards in their jurisdictions.[63] Before receiving funds, PA grant Recipients must execute FEMA-State/Tribal/Territorial Agreements, submit federal grant applications, create a payment account, and update Recipient Public Assistance Administrative Plans.[64] Additionally, FEMA must approve the Recipient's Hazard Mitigation Plan before receiving funds for PA permanent work.[65]

Eligible Applicants may apply for funding through the Recipient's PA award.[66] FEMA generally refers to PA Applicants as any entity that is responsible for PA-eligible work.[67] Applicants may be state, tribal, territorial, and local governments, as well as eligible private nonprofits.[68] For example, a state, tribal, or territorial Department of Health or a school district may apply for PA to reimburse costs incurred for eligible response and recovery work as a PA Applicant. In both instances, those funds would be administered by the state, territory, or Indian tribal government that received the declaration as the PA grant Recipient.

To receive PA funds, Applicants may submit a request for grant funds, a project worksheet describing the details of the work and costs claimed, and supporting documentation though the PA Grants Portal.[69] FEMA and the PA grant Recipient are to conduct site inspections, scoping meetings, and documentation verification to formulate the scope of the project and verify the eligibility of relevant costs.[70] FEMA and the Recipient evaluate this information to confirm project and cost eligibility.[71] Once a project worksheet is approved, Applicants may receive reimbursement for eligible costs[72] incurred while executing eligible work.[73] FEMA may obligate funds in phases depending on project size.[74] During the 2020 Hurricane Season, FEMA has put in place remote procedures to complete several phases of PA application, damage assessment, and

[63] A Recipient is a "non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program." See 2 C.F.R. §200.

[64] FEMA, *PAPPG*, pp. 26-27. For more information on state administrative plans, see 44 C.F.R. §206.207(b).

[65] FEMA, *PAPPG*, pp. 27-28.

[66] Application procedures for PA grant Recipients and Applicants are described in 44 C.F.R. §206.202(a)-(f). See also FEMA, *PAPPG*, pp. 35-41, 48-49, 60-65, 92, 193-188, and 190.

[67] FEMA, *PAPPG*, p. 22. Eligible applicants are described in 44 C.F.R. §206.222.

[68] Stafford Act Section 403(a)(4), 42 U.S.C. §5170b(a)(4), and Stafford Act Section 406(a)(1), 42 U.S.C. §5172(a)(1); see also 44 C.F.R. §206.222.

[69] 44 C.F.R. §206.202 and FEMA, *PAPPG*, p. 35. For more information, see FEMA, "Strategic Funds Management—Implementation Procedures for the Public Assistance Program," SOP 9570.24, December 21, 2012, https://www.fema.gov/media-library-data/20130726-1902-25045-1202/sop_9570.24_strategic_funds_management___implementation_procedures_for_pa_program.pdf.

[70] See application, project formulation, and review process procedures at 44 C.F.R. §206.202, and FEMA, *PAPPG*, pp. 35-41, 48-49, 60-65, 92, 193-188, 190. Note that these procedures are specific to awards carried out under conventional 406 procedures. For projects carried out under Section 428 procedures, see "What are Section 428 Alternative Procedures for PA?"

[71] 44 C.F.R. §206.202(e).

[72] 44 C.F.R. §206.228 and FEMA, *PAPPG*, pp. 65-96. See Stafford Act Section 406(e) at 42 U.S.C. §5172(e) for eligible costs incurred for permanent work conducted under Section 406 procedures.

[73] 44 C.F.R. §206.223(a) and FEMA, *PAPPG*, pp. 44, 51-59.

[74] 44 C.F.R. §206.205 and FEMA, *PAPPG*, pp. 190-192.

eligibility analysis in line with the Centers for Disease Control and Prevention's (CDC's) guidance and social distancing requirements during the COVID-19 pandemic.[75]

FEMA notes that expedited assistance may be available for emergency work in certain cases.[76] When expedited assistance is approved for large projects (in FY2020, large projects are those over $131,100),[77] FEMA obligates 50% of the federal share of total estimated project costs as soon as the project worksheet is approved, and the PA Applicant may be reimbursed at that time.[78] The remaining federal share may be reimbursed once the Applicant submits documentation of actual costs incurred while performing eligible work.[79]

How long does it take for states, territories, and Indian tribal governments to receive reimbursement for response and recovery work from FEMA?

The time elapsed during delivery of PA typically varies. A number of different factors involved in the PA application and reimbursement process affect the delivery of PA. Relevant factors include the scope of the project[80] and the time required for the performance of eligible work.[81]

FEMA may obligate and disburse funds for small projects (those up to $131,100 in FY2020) upon the approval of a project worksheet, the form FEMA uses to document the details of the Applicant's work and costs claimed.[82] For large projects (those equal to or greater than $131,100 in FY2020), FEMA may obligate funds to the PA grant Recipient upon the approval of a project worksheet. Applicants may then request reimbursement for work completed from the PA grant Recipient.[83]

Is there a cap on how much funding applicants may receive through the FEMA PA program?

There is no set cap on the amount of PA funding that FEMA may provide for any given declaration, state/territory/Indian tribal government (Recipient), or eligible Applicant.[84] However,

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[75] FEMA, *COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season*, May 2020, p. 16, https://www.fema.gov/media-library-data/1589997234798-adb5ce5cb98a7a89e3e1800becf0eb65/2020_Hurricane_Pandemic_Plan.pdf (hereinafter FEMA, *COVID-19 Operational Guidance for Hurricane Season*).

[76] FEMA, *PAPPG*, pp. 184-185.

[77] FEMA, "Per Capita Indicator and Project Thresholds," https://www.fema.gov/public-assistance-indicator-and-project-thresholds (hereinafter FEMA, "Per Capita Indicator and Thresholds").

[78] FEMA, *PAPPG*, pp. 184-185. See also questions and answers regarding expedited funding in FEMA, "Public Assistance Frequently Asked Questions," last accessed May 25, 2020, https://www.fema.gov/public-assistance-frequently-asked-questions#Q12 (hereinafter FEMA, "PA FAQs").

[79] FEMA, "PA FAQs."

[80] For more information on reimbursement procedures, see 44 C.F.R. §206.205; FEMA, *PAPPG*, pp. 190-191; and FEMA, "Strategic Funds Management—Implementation Procedures for the Public Assistance Program," SOP 9570.24, Dec 21, 2012, https://www.fema.gov/media-library-data/20130726-1902-25045-1202/sop_9570.24_strategic_funds_management___implementation_procedures_for_pa_program.pdf.

[81] See 44 C.F.R. §206.204(c).

[82] 44 C.F.R. §206.205(a). FEMA defines project size based on an annually adjusted cost threshold. In FY2020, a small project is a project above $3,300 and equal to or less than $131,100. FEMA, "Per Capita Indicator and Thresholds."

[83] 44 C.F.R. §206.205(b), and FEMA, "Per Capita Indicator and Thresholds." For more on the PA reimbursement process, see 44 C.F.R. §206.205 and FEMA, *PAPPG*, pp. 142-146.

[84] Stafford Act Section 503 sets a statutory "cap" of $5 million on spending for a single emergency, but there is an exception when continued emergency assistance is needed, per 42 U.S.C. §5193(b); see also 44 C.F.R. §206.67.

there are eligibility restrictions. To receive PA, the Applicant, facility, work, and costs all must be eligible.[85]

Additionally, the Stafford Act prohibits assistance for costs that are covered by other means, known as a duplication of benefits.[86] Applicants may not receive PA for costs covered by private or public insurance proceeds, other federal programs, or other means.[87]

Applicants for PA permanent work may elect to complete PA projects with capped awards in order to improve upon pre-disaster design, complete alternate projects, or execute the project under Stafford Act Section 428 alternative procedures (see the "What are Section 428 Alternative Procedures for PA?" section, below).[88] Reimbursement for PA Applicants that pursue these options is capped on the basis of project costs estimates.[89] If Applicants do not pursue these options, there is no cap on the amount of funding they may receive for eligible project costs incurred while performing eligible work on a given project.

What are Section 428 Alternative Procedures for PA?

In 2013, Congress amended the Stafford Act under Section 428 to authorize FEMA to use alternative procedures for PA "emergency work" for debris removal (Category A), and "permanent work" for the repair, reconstruction, or replacement of eligible Roads and Bridges (Category C); Water Control Facilities (Category D); Buildings and Equipment (Category E); Utilities (Category F); and Parks, Recreational, and Other facilities (Category G), as summarized in **Table 1**.[90] The new section authorized FEMA to implement what is commonly known as the Section 428 Program for debris removal and permanent work. According to FEMA, the goals of the Section 428 Program are to reduce costs, increase flexibility, expedite assistance, and provide

[85] FEMA, *PAPPG*, p. 38; 44 C.F.R. §§206.220-228. Eligible Applicants include state, territories, tribes, local governments, and certain private nonprofit organizations (PNPs) (Stafford Act §§403(a)(4), 406(a)(1), and 407(a)(2); 42 U.S.C. §5170b(a)(4); 42 U.S.C. §5172(a)(1); 42 U.S.C. §5173(a)(2); 44 C.F.R. §206.222; and FEMA, *PAPPG*, pp. 42-47). To be eligible for PA permanent work, facilities generally must either be eligible public facilities or eligible private nonprofit facilities. Definitions of eligible facilities are available at Stafford Act Sections 102(10)-(11) (42 U.S.C. §5122(10)-(11); 44 C.F.R. §206.221(e) and (h); and FEMA, *PAPPG*, pp. 55-59). PA-eligible work includes both short-term "emergency work" undertaken to respond to a disaster or an emergency, and long-term "permanent work" undertaken to recover from a major disaster (see **Table 1** for a list of the types of emergency and permanent work). 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 PA). Eligible costs must fulfill a number of criteria. Costs must be reasonable and incurred while performing eligible work (44 C.F.R. §206.228). For a detailed discussion of PA cost eligibility, see FEMA, *PAPPG*, pp. 65-96.

[86] Stafford Act Section 312, 42 U.S.C. §5156.

[87] See Stafford Act Section 312, 42 U.S.C. §5156, and *PAPPG*, pp. 93-95. FEMA will not provide reimbursement for facilities that are under the specific authority of another federal agency. 44 C.F.R. §206.226(a).

[88] FEMA, *PAPPG*, pp. 164-168.

[89] Section 428 Alternative Procedures are authorized in Stafford Act Section 428; 42 U.S.C. §5189f. See also FEMA, *PAPPG*, pp. 163-168, and FEMA, "Public Assistance Alternative Procedures for Permanent Work Pilot," v. 4, FP 104-009-7, August 19, 2019, https://www.fema.gov/media-library-data/1568910139061-36ef984e91a480f99341e6836ac27ae8/PAAP_Perm_Work_Guide_V4_2019_508.pdf (hereinafter FEMA, "PA Alternative Procedures Permanent Work Pilot").

[90] The Sandy Recovery Improvement Act (SRIA; P.L. 113-2, 127 Stat. 39). The Public Assistance Program Alternative Procedures is codified at 42 U.S.C. §5189f; Stafford Act Section 403, 42 U.S.C. §5170b; Stafford Act Section 406, 42 U.S.C. §5172; Stafford Act Section 407, 42 U.S.C. §5173; and Stafford Act Section 502, 42 U.S.C. §5192.

incentives for timely and cost-effective project completion.[91] Participation in the Section 428 Program is voluntary; Applicants may utilize the program on a project-by-project basis.[92]

Use of the alternative procedures set forth in the Section 428 Program requires that the PA Applicant and FEMA agree on a fixed-cost estimate for permanent work projects.[93] PA funding for those projects is then capped at the fixed estimate. If the actual costs of the project exceed this cap, the Applicant is responsible for the difference.[94] If the actual project costs are below the fixed cost estimate, the Applicant may use the excess funds for other PA Program-related purposes authorized by FEMA.[95] Section 428 Program funds may be used for a number of purposes, including for eligible alternate projects and eligible improvements and mitigation projects on undamaged facilities.[96]

Individual Assistance (IA)

When the President makes an emergency or major disaster declaration for hurricanes or other incidents under the Stafford Act, disaster survivors may receive assistance through FEMA's Individual Assistance (IA) program.[97]

What assistance may FEMA provide to disaster survivors?

One form of IA—the Individuals and Households Program (IHP)—may be authorized pursuant to an emergency declaration.[98] However, all forms of IA may be authorized pursuant to a major disaster declaration, including (1) assistance for housing and for other needs assistance through the Individuals and Households Program (IHP); (2) the Crisis Counseling Assistance and Training Program; (3) Disaster Unemployment Assistance; (4) Disaster Legal Services; and (5) Disaster Case Management services, as summarized in **Table 1**.[99] FEMA's IA program also includes Mass

[91] FEMA, *Public Assistance Program Alternative Procedures: Fiscal Year 2015 Report to Congress*, November 12, 2015, p. 3, https://www.dhs.gov/sites/default/files/publications/Federal%20Emergency%20Management%20Agency%20%28FEMA%29%20-%20Public%20Assistance%20Program%20Alternative%20Procedures%20-%20Q1%20Status%20Report.pdf.

[92] Stafford Act Section 428(d), 42 U.S.C. §5189f(d).

[93] FEMA, *PAPPG*, pp. 188-189. For guidance for alternative procedures for debris removal, see FEMA, *PAPPG*, p. 101; and FEMA, "Public Assistance Alternative Procedures Pilot Program for Debris Removal," FP 104-09-12, https://www.fema.gov/media-library-data/1566415013468-ef2ae682ccafb18f32ca687e53046626/PAAP_Debris_Guide_V7_6-28-2019_508.pdf.

[94] FEMA, *PAPPG*, p. 189.

[95] FEMA, "PA Alternative Procedures Permanent Work Pilot," p. 3.

[96] A full list of eligible use of funds for Section 428 Program awards is available in FEMA, *PAPPG*, pp. 165-166.

[97] For more information on the Individual Assistance (IA) program, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster.

[98] The Individuals and Households Program (IHP) is authorized under Stafford Act Section 408, and it may be authorized pursuant to an emergency declaration (Stafford Act Section 502(a)(6), 42 U.S.C. §5192(a)(6)). For more information on FEMA's Individual Assistance program, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster.

[99] Assistance for these Individual Assistance (IA) programs is authorized under Stafford Act Sections 408 (Individuals and Households Program), 426 (Disaster Case Management), 416 (Crisis Counseling Assistance and Training Program), 415 (Disaster Legal Services), and 410 (Disaster Unemployment Assistance); 42 U.S.C. §§5174, 5189d, 5183, 5182, and 5177, respectively. See also 44 C.F.R. §§206.110-120 for information on the Individuals and Households Program, and 44 C.F.R. §206.171 (Crisis Counseling Assistance and Training Program), 44 C.F.R. §206.164 (Disaster Legal Services), and 44 C.F.R. §206.141 (Disaster Unemployment Assistance). If the IHP is authorized, applicants in a declared disaster area may register for FEMA IA and Small Business Administration (SBA) disaster loan assistance (additional information about the process by which applicants may receive IA is described in

Care and Emergency Assistance, which involves the provision of life-sustaining services to disaster survivors prior to, during, and following an incident through short-term recovery.[100]

The Individuals and Households Program (IHP) is the primary assistance program for providing federal assistance to disaster survivors. It provides financial and/or direct assistance to eligible individuals and households who, as a result of a disaster, have uninsured or under-insured necessary expenses and serious needs that cannot be met through other means or forms of assistance.[101] The categories of IHP assistance are Housing Assistance and Other Needs Assistance (ONA).[102] **Table 2** lists the types of FEMA Housing Assistance and ONA.[103]

Table 2. Types of Housing Assistance and Other Needs Assistance

Housing Assistance: Financial	Housing Assistance: Direct	ONA: SBA-Dependent	ONA: Non-SBA-Dependent
Lodging Expense Reimbursement Rental Assistance Home Repair Assistance Home Replacement Assistance	Multifamily Lease and Repair Transportable Temporary Housing Units Direct Lease Permanent Housing Construction	Personal Property Moving and Storage Transportation Assistance Group Flood Insurance Policy	Funeral Assistance Medical and Dental Assistance Childcare Assistance Assistance for Miscellaneous Items Critical Needs Assistance Clean and Removal Assistance

Source: FEMA, *Individual Assistance Program and Policy Guide (IAPPG)*, FP 104-009-03, March 2019, p. 7, https://www.fema.gov/media-library-data/1551713430046-1abf12182d2d5e622d16accb37c4d163/IAPPG.pdf (hereinafter FEMA, *IAPPG*).

Notes: Other Needs Assistance (ONA) provides a grant of financial assistance for other disaster-related necessary expenses and serious needs, and includes the subcategories of Small Business Administration (SBA)-Dependent ONA and Non-SBA-Dependent ONA. FEMA and the SBA collaborate in determining applicant eligibility for SBA-Dependent ONA. To receive SBA-Dependent types of ONA, applicants must first apply for an SBA disaster loan. SBA-Dependent ONA is only available to individuals or households who do not qualify for an SBA disaster loan or whose SBA disaster loan amount is insufficient. Non-SBA-Dependent types of ONA may be awarded regardless of the individual or household's SBA disaster loan status. For more information, see the FEMA, *IAPPG*, pp. 133 and 137.

FEMA's *COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season* states that the agency "does not anticipate major changes in program eligibility, timeliness of grant awards,

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). For additional information about FEMA Individual Assistance, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster.

[100] FEMA, *Individual Assistance Program and Policy Guide (IAPPG)*, FP 104-009-03, March 2019, pp. 15-42, https://www.fema.gov/media-library-data/1551713430046-1abf12182d2d5e622d16accb37c4d163/IAPPG.pdf (hereinafter FEMA, *IAPPG*).

[101] Stafford Act Section 408, 42 U.S.C. §5174, and 44 C.F.R. §206.110(a); see also FEMA, *IAPPG*, p. 6, and FEMA, "Individuals and Households Program Fact Sheet," July 2019, https://www.fema.gov/media-library-data/1571949706314-838a916aad698391afe34b45ac13100a/1_FACTSHEET_Individuals_and_Households_Program.pdf.

[102] Housing Assistance can provide either financial or direct assistance; all types of other needs assistance (ONA) are financial assistance.

[103] For more information on the types of Housing Assistance and ONA, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster.

or the level of assistance provided under the Individual and Households Program."[104] However, some aspects of program administration are to change based on need for social distancing caused by the COVID-19 pandemic. For example, although the standard mechanism for verifying loss and determining IHP eligibility for programs, including Rental Assistance, Home Repair Assistance, Home Replacement Assistance, and ONA for Personal Property and for Miscellaneous Items, is an on-site inspection conducted by a FEMA inspector,[105] due to the COVID-19 pandemic, FEMA has stated that the agency will use remote inspection processes and field work to evaluate damage, and has issued interim policy guidance to support such efforts.[106] In addition to on-site inspections, FEMA may also use other methods of verification, such as a geospatial inspection or a review of documentation for losses that cannot be verified through an inspection.[107]

How can hurricane disaster survivors seek FEMA assistance safely during the COVID-19 pandemic?

For most disasters, individuals can register for IHP assistance online at https://www.DisasterAssistance.gov, by telephone at 800-621-FEMA, or in-person at a Disaster Recovery Center (DRC).[108] Due to the COVID-19 pandemic, however, FEMA's *COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season* states that local, state, territorial, and Indian tribal governments should "ensure the public is aware that the FEMA application process may be virtual [including online and via phone] and not in-person due to health and safety considerations."[109] The use of DRCs or Disaster Survivor Assistance (DSA) teams is to be determined based on the affected area's phased reopening status and will be done in accordance with the requirements of local public health officials and in accordance with the CDC's guidance.[110]

Other forms of IA use different application requirements and processes.[111] For example, the provision of Disaster Legal Services (DLS), does not include a formal application process for disaster survivors. Instead, disaster survivors can access DLS via a toll-free number that is established when the program is activated.[112] Per FEMA's guidance, "FEMA will ... coordinate with federal and voluntary agency partners to promote digitally available disaster recovery

[104] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 15.

[105] FEMA, *IAPPG*, p. 72.

[106] See FEMA, "Pandemic Remote Inspection Process Individuals and Households Program Policy (Interim)," FP 104-009-17, March 20, 2020, https://www.fema.gov/media-library-data/1586378468610-f7dc6e2d4999f3e7906eb35ff14a76c8/RemoteInspectionProcess.pdf; see also, FEMA, *COVID-19 Operational Guidance for Hurricane Season*, pp. 6, 15.

[107] FEMA, *IAPPG*, p. 72.

[108] FEMA, *IAPPG*, p. 68. For more information on the application process for the Individuals and Households Program, 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.

[109] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, pp. 1-2, 11, 14.

[110] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, pp. 14-15.

[111] For example, the process by which individuals seek Disaster Unemployment Assistance depends on the requirements set forth by the state/territory unemployment insurance (UI) agency because the state/territory UI agency administers the program, when it is authorized. There are timely application requirements, as well as requirements that the application provide proof of employment/self-employment/or work that was to begin on or after the first day of the incident period; applicants must also satisfy conditions of eligibility. FEMA, *IAPPG*, pp. 222-224.

[112] FEMA, *IAPPG*, p. 220.

resources, support, and referral services, as well as to ensure service delivery methods are accessible and widely promoted for individuals with disabilities."[113]

Is there a cap on the amount of assistance hurricane disaster survivors may be eligible to receive through FEMA's Individuals and Households Program?

The amount of IHP financial assistance an individual or household may receive is limited.[114] Assistance for housing-related needs may not exceed $35,500 (FY2020; adjusted annually),[115] and assistance for ONA may not exceed $35,500 (FY2020; adjusted annually).[116] The exceptions are that financial assistance to rent alternate housing accommodations[117] and financial assistance for accessibility-related real and personal property costs are not subject to the cap.[118] IHP recipients may not receive unlimited financial assistance; unlike insurance, IHP assistance is not intended to make disaster survivors whole again.[119] Instead, it is intended to meet basic needs—not to return primary residences or property to their pre-disaster condition or cover all disaster-caused losses.[120]

What support may FEMA provide with the evacuation of disaster survivors?

FEMA supports the sheltering efforts of state, territory, or Indian tribal governments, including by coordinating with other federal agencies, host jurisdictions (i.e., jurisdictions that will shelter evacuees) and other partners, such as nongovernmental organizations (NGOs), to deliver life-saving services to disaster survivors.[121] Mass Care/Emergency Assistance services are usually funded under Stafford Act Section 403 (commonly referred to as Public Assistance Category B—Emergency Protective Measures) and are subject to the applicable cost share.[122]

Additionally, FEMA's *COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season* encourages local, state, territorial, and Indian tribal governments to plan for how the

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[113] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, pp. 14-15.

[114] FEMA financial assistance is subject to a cap for both Housing Assistance and ONA. The maximum amount of financial assistance does not apply to FEMA IHP direct assistance.

[115] 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)).

[116] 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.

[117] 42 U.S.C. §5174(h)(1).

[118] 42 U.S.C. §5174(h)(4)(A) and (B).

[119] Disaster survivors may also apply for other forms of assistance. For example, Small Business Administration (SBA) disaster loans (described in the "Small Business Administration (SBA) Disaster Loan Program" section, below) may allow homeowners with uninsured or underinsured losses to apply for a loan to repair or replace their primary residence.

[120] FEMA, *IAPPG*, pp. 6, 86, 152.

[121] FEMA, *IAPPG*, p. 38. The *IAPPG* provides evacuation considerations related to mass evacuee support (a form of mass care) that may be provided following a Stafford Act declaration at the request of the state, territory, or Indian tribal government. FEMA, *IAPPG*, pp. 15, and 37-39.

[122] FEMA, *IAPPG*, pp. 15-16. Such assistance may be provided via Direct Federal Assistance (DFA). For more information, see the "Is there a nonfederal cost share for the PA program? Can it be adjusted?" section, above.

health and safety requirements caused by the COVID-19 pandemic—specifically the need for social distancing—may affect operations. With regard to evacuation planning, the guidance recommends that local, state, territorial, and Indian tribal governments review their evacuation plans. The guidance also provides planning considerations; for example, regarding the extra time that may be needed to evacuate people using mass transit options, such as buses, due to the need for social distancing; COVID-19-related restrictions that are in place along evacuation routes; and targeting evacuation orders and messaging to reduce voluntary evacuations.[123]

What support may FEMA provide to shelter disaster survivors?

FEMA supports the emergency sheltering efforts of local, state, territorial, and Indian tribal governments, including through deploying equipment and supplies, as well as FEMA personnel, to support the provision of services in congregate and non-congregate settings.[124] Generally, emergency sheltering is funded under the Stafford Act Section 403 (commonly referred to as Public Assistance Category B—Emergency Protective Measures) and is subject to the applicable cost share (for more information, see the "Is there a nonfederal cost share for the PA program? Can it be adjusted?" section, above).[125] FEMA also provides emergency sheltering assistance options through both the Public Assistance and Individual Assistance programs.

FEMA has issued interim policy guidance to meet the emergency shelter needs of disaster survivors during the COVID-19 pandemic. It authorizes non-congregate sheltering (i.e., sheltering that affords privacy, such as dormitories, hotels, and motels, to include cleaning and disinfection) as an eligible emergency protective measure when needed, if it is the legal responsibility of the PA Applicant.[126] The policy is applicable for all Stafford Act declared incidents between June 1 and December 31, 2020, beginning six days prior to and up to thirty days following an incident (unless FEMA approves an extension).[127] In other COVID-19-related guidance, FEMA has also acknowledged the increased need for non-congregate emergency sheltering, and has stated that it

> will work with SLTT [state, local, tribal, and territorial] partners to provide greater flexibility for the eligibility of both congregate and non-congregate options for reimbursement under the PA [Public Assistance] program.[128]

FEMA's guidance, regarding the use of non-congregate shelters during the 2020 hurricane season, says

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[123] The complete list of evacuation considerations can be found in FEMA, *COVID-19 Operational Guidance for Hurricane Season*.

[124] FEMA, *IAPPG*, p. 18. Per the *IAPPG*, "FEMA MC/EA [Mass Care/Emergency Assistance] deploys equipment, materials, supplies, and personnel to support disaster-affected jurisdictions in providing life-sustaining services in congregate and non-congregate facilities that provide a secure and sanitary environment for displaced survivors. This support includes providing a safe, sanitary, and secure place for evacuees and disaster survivors to stay while displaced from their homes.... "

[125] FEMA, *IAPPG*, p. 19.

[126] FEMA, "FEMA Emergency Non-Congregate Sheltering During the COVID-19 Public Health Emergency (Interim)," FEMA Policy 104-009-18, June 17, 2020, https://www.fema.gov/media-library-data/1592489053244-179ccfba96c36d22d32f9cbbea0108bf/fema_public_assistance_non_covid-19_NCS_Policy.pdf (hereinafter FEMA, "Emergency Non-Congregate Sheltering During the COVID-19 Interim Policy").

[127] FEMA, "Emergency Non-Congregate Sheltering During the COVID-19 Interim Policy," p. 2. For more information on potential emergency sheltering options, see CRS Insight IN11440, *Potential FEMA Emergency Sheltering Options During the COVID-19 Pandemic*, by Elizabeth M. Webster and Erica A. Lee.

[128] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 13.

> [i]n an emergency or major disaster declaration that authorizes Public Assistance (PA), Category B, Emergency Protective Measures, FEMA will adjust polices to allow SLTTs to execute non-congregate sheltering in the initial days of an incident. Non-congregate shelters include, but are not limited to, hotels, motels, and dormitories. FEMA Regional Administrators will have delegated authority to approve requests for non-congregate sheltering for hurricane-specific disasters for the 2020 season.[129]

Another emergency sheltering solution that FEMA may authorize is Transitional Sheltering Assistance (TSA),[130] which provides temporary hotel/motel accommodations for eligible disaster survivors transitioning from congregate or non-congregate shelters to temporary or permanent housing solutions. FEMA's interim policy guidance also describes the information that PA Applicants should collect to ease the transition from non-congregate sheltering to TSA during COVID-19.[131] The state, territorial, or Indian tribal government must request and be approved for TSA.[132] When activated, TSA authorizes assistance under Sections 403 or 502, and 408, of the Stafford Act.[133] However, it is funded under Section 403 of the Stafford Act and is subject to PA regulations on cost-share.[134] FEMA issues disaster-specific guidance when TSA is authorized.[135] The guidance includes TSA eligibility and program implementation information.[136]

Other housing assistance may be made available depending on the unmet needs of disaster survivors.[137] For example, a form of short-term sheltering support that is provided by FEMA to disaster survivors through the Individual Assistance—Individuals and Households Program is Lodging Expense Reimbursement (LER). LER provides funding for out-of-pocket hotel, motel, or other short-term lodging costs, including taxes, when the applicant is displaced from their primary residence because it is uninhabitable or inaccessible.[138] Additionally, although it is not a form of emergency sheltering assistance provided by FEMA, the agency has advocated for evacuees to shelter with friends or family outside of the evacuation zone.[139]

In addition to non-congregate solutions, FEMA has acknowledged that some congregate sheltering (e.g., a facility with a large, open space such as a school, church, or community center) will be necessary.[140] FEMA has stated that it will support its local, state, territorial, tribal government and nonprofit organizations, consistent with public health guidance.[141]

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[129] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 12.

[130] FEMA, "Transitional Sheltering Assistance," last updated February 8, 2020, https://www.fema.gov/transitional-shelter-assistance (hereinafter FEMA, "TSA").

[131] FEMA, "Emergency Non-Congregate Sheltering During the COVID-19 Interim Policy," p. 8.

[132] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 12.

[133] FEMA, "TSA."

[134] According to FEMA's website on the TSA program, it does not count toward the IHP financial assistance maximum award. FEMA, "TSA."

[135] FEMA, "TSA."

[136] FEMA, "TSA."

[137] For more information on the types of FEMA housing assistance, see the "What assistance may FEMA provide to disaster survivors?" section, above.

[138] FEMA, *IAPPG*, pp. 78-79. See the FEMA *IAPPG* for limitations and exceptions.

[139] FEMA response to Q&A during NOAA, "2020 Atlantic Hurricane Season Outlook," teleconference, May 21, 2020.

[140] FEMA, *PAPPG*, p. 120. The PAPPG provides information on eligible sheltering costs, including related to the facility, staffing, supplies and commodities, and services.

[141] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 12; and FEMA response to Q&A during NOAA, "2020 Atlantic Hurricane Season Outlook," teleconference, May 21, 2020.

FEMA's *COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season* encourages local, state, territorial, and Indian tribal governments to plan for the provision of sheltering support in the context of the COVID-19 pandemic and the need for social distancing.[142] Planning efforts should include considerations for what services may be provided in accordance with public health guidance and based on the availability of volunteers and organizations that support shelter services.[143] FEMA's guidance also states that local, state, territorial, and tribal governments should ensure their sheltering plans adequately incorporate non-congregate sheltering, and outline a transition from non-congregate sheltering to alternate options.[144]

There may be some challenges to providing non-congregate sheltering support. For example, in a recent *New York Times* article, Trevor Riggen, the senior vice president for disaster services for the American Red Cross, identified as potential challenges finding sufficient hotel rooms and providing food and supplies to disbursed disaster survivors.[145]

Will a decrease in volunteers and nonprofit organization assistance caused by the risk of COVID-19 affect the delivery of mass care/emergency assistance?

Volunteers from NGOs play a significant role in supporting emergency sheltering. However, during the COVID-19 pandemic, the need for social distancing and the risk posed to volunteers working with populations at high risk for COVID-19 may make it difficult to provide emergency sheltering support services. A May 2020 *New York Times* article quoted Greg Forrester, the president of the National Voluntary Organizations Active in Disasters (VOAD), as stating, when asked about "how disaster relief efforts can meet the usual demand with half as many people," that "[y]ou won't."[146] The article reported that organizations, such as the Salvation Army, Habitat for Humanity, and the American Red Cross expect to deploy fewer volunteers.[147]

FEMA's guidance notes that local, state, territorial, tribal governments should ensure their sheltering plans consider alternate staffing options in the event volunteers are unavailable.[148]

National Flood Insurance Program (NFIP)

The National Flood Insurance Program (NFIP) offers primary flood insurance to properties with significant flood risk, and reduces flood risk through the adoption of floodplain management standards. Communities volunteer to participate in the NFIP in order to have access to federal flood insurance, and in return are required to adopt minimum standards.[149]

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[142] FEMA has encouraged the use of the Emergency Management Performance Grant Supplemental funding (EMPG-S) to adapt emergency and disaster response and recovery plans for the COVID-19 environment. FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 2; and Department of Homeland Security (DHS), "Fiscal Year 2020 Emergency Management Performance Grant Program (EMPG-S) COVID-19 Supplemental," fact sheet, https://www.fema.gov/media-library-data/1586548278007-3bf1e643add0fa132e30e20ff2c96e0c/FY_2020_EMPG-S_NOFO_Final_508ML.pdf.

[143] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 19.

[144] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 12.

[145] Christopher Flavelle, "As Natural Disasters Strike, a New Fear: Relief Shelters May Spread Virus," *New York Times*, March 21, 2020, https://www.nytimes.com/2020/03/21/climate/virus-fema-disaster-aid-shelter.html.

[146] Christopher Flavelle, "Virus Crisis Exposes Cascading Weaknesses in U.S. Disaster Response," *New York Times*, May 22, 2020, https://www.nytimes.com/2020/05/22/climate/fema-volunteer-disaster-response.html.

[147] Flavelle, "Virus Crisis Exposes Weaknesses in Disaster Response."

[148] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 13.

[149] For more information on the National Flood Insurance Program (NFIP), see CRS Report R44593, *Introduction to*

What is the status of the NFIP? What happens if it isn't reauthorized?

Since the end of FY2017, 15 short-term NFIP reauthorizations have been enacted.[150] The NFIP is currently authorized until September 30, 2020.[151] Unless reauthorized or amended by Congress, the following will occur after September 30, 2020:

- The authority to provide *new* flood insurance contracts will expire.[152] Flood insurance contracts entered into before the expiration would continue until the end of their policy term of one year.
- The authority for NFIP to borrow funds from the Treasury will be reduced from $30.425 billion to $1 billion.[153]

If there were to be a lapse in authorization on or after September 30, 2020, and the borrowing authority is reduced to $1 billion, FEMA would continue to adjust and pay claims as premium dollars come into the National Flood Insurance Fund (NFIF) and reserve fund. If the funds available to pay claims were to be depleted, claims would have to wait until sufficient premiums were received to pay them unless Congress were to appropriate supplemental funds to the NFIP to pay claims or increase the borrowing limit.

Does there have to be a disaster declaration in order to claim on flood insurance?

No, an NFIP policy is an insurance contract and a policyholder can claim for any covered flood. Policyholders can file insurance claims as soon as they can safely go back to the property, by contacting the insurer who sold them the policy, not FEMA. (Most NFIP policies are sold and serviced by private companies, and policyholders may not even realize it is an NFIP policy.) The NFIP has guidelines[154] on what to do when cleaning up: document everything before starting to clean up (photos and/or videos); make a list of damaged contents and their location in the home; separate damaged property from undamaged property if possible; and list areas of building damage. Normally, policyholders have 60 days to submit proof of loss in support of a claim.

Can I buy flood insurance when a hurricane or flood is forecast to hit?

Flood insurance can be purchased at any time, but there is a 30-day waiting period before most policies take effect, with some exceptions.[155] There is no waiting period: (1) if you buy flood insurance in connection with making, increasing, or renewing your mortgage loan; or (2) if you select additional insurance as an option on your flood insurance policy renewal bill. There is a one-day waiting period if your building is newly designated in a Special Flood Hazard Area (SFHA)[156] and you buy flood insurance within the 13-month period following a map revision.

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the National Flood Insurance Program (NFIP), by Diane P. Horn and Baird Webel.

[150] For more information, see CRS Insight IN10835, *What Happens If the National Flood Insurance Program (NFIP) Lapses?*, by Diane P. Horn.

[151] The Consolidated Appropriations Act, 2020 (P.L. 116-93).

[152] 42 U.S.C. §4026.

[153] 42 U.S.C. §4016(a).

[154] See FEMA, *How Do I Start My Flood Claim?* https://www.fema.gov/nfip-file-your-claim.

[155] See FEMA, *Don't Wait: Buy Flood Insurance Today*, https://www.fema.gov/news-release/2018/05/01/dont-wait-buy-flood-insurance-today.

[156] A Special Flood Hazard Area (SFHA) is defined by FEMA as an area with a 1% or greater risk of flooding every

What is the financial status of the NFIP?

As of April 30, 2020, the NFIP had $6.147 billion available ($4.676 billion in the National Flood Insurance Fund[157] and $1.472 billion in the reserve fund),[158] as well as $9.9 billion of borrowing authority from the Treasury and up to $2.53 billion of reinsurance. The NFIP did not have to borrow from the Treasury in 2019 and did not claim on any reinsurance.

Hazard Mitigation Assistance (HMA)

The majority of funding in the United States for both pre- and post-disaster mitigation comes from FEMA, which administers three hazard mitigation grant programs, which are collectively referred to as Hazard Mitigation Assistance (HMA): the Hazard Mitigation Grant Program (HMGP), the Pre-Disaster Mitigation Grant Program (PDM), and the Flood Mitigation Assistance Grant Program (FMA).[159]

Hazard Mitigation Grant Program (HMGP)

The Hazard Mitigation Grant Program (HMGP) is authorized by Section 404 of the Stafford Act (42 U.S.C. §5170c). A key purpose of HMGP is to ensure that the opportunity to reduce the risk of loss of life and property from future disasters is not lost during the reconstruction process following a disaster.[160] Eligible applicants include the emergency management agency or similar organization of states, territorial governments, the District of Columbia, and federally recognized tribes. Local governments and private nonprofit organizations are eligible sub-applicants. Individuals and businesses cannot apply directly for HMGP funding, but an eligible applicant or sub-applicant can apply on their behalf.[161]

How much HMGP funding will a state get after a disaster?

HMGP assistance is triggered by a major disaster declaration from the President or a Fire Management Assistance Grant (FMAG). HMGP funding is awarded as a formula grant to a state based on the estimated total federal assistance per major disaster declaration or FMAG, subject to a sliding scale formula.[162] HMGP funding is up to 15% of the first $2 billion of the aggregate amount of disaster assistance, up to 10% for amounts between $2 billion and $10 billion, and up to 7.5% for amounts between $10 billion and $35.333 billion. States that have an Enhanced State Hazard Mitigation plan[163] can receive 20% of the total amount. HMGP funds may be used to pay up to 75% of eligible activity costs.

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year.

[157] The National Flood Insurance Fund is authorized by 42 U.S.C. §4017.

[158] Section 100212 of P.L. 112-141, 126 Stat. 992, as codified at 42 U.S.C. §4017a.

[159] For additional information on FEMA hazard mitigation programs, see CRS Insight IN11187, *Federal Emergency Management Agency (FEMA) Hazard Mitigation Assistance*, by Diane P. Horn. For additional information on the Flood Mitigation Assistance grant program, see CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*, by Diane P. Horn and Baird Webel.

[160] FEMA, *Hazard Mitigation Assistance Guidance*, Washington, DC, February 27, 2015, p. 4, https://www.fema.gov/media-library-data/1424983165449-38f5dfc69c0bd4ea8a161e8bb7b79553/HMA_Guidance_022715_508.pdf (hereinafter FEMA, *Hazard Mitigation Assistance Guidance*).

[161] FEMA, *Hazard Mitigation Assistance Guidance*, p. 25.

[162] 42 U.S.C. §5170c(a).

[163] For a list of states with an approved enhanced state mitigation plan, see https://www.fema.gov/hazard-mitigation-plan-status.

How can HMGP funding be used?

HMGP funding does not have to be used for the particular disaster for which it was allocated, nor for the particular type of disaster. For example, if the state chooses to do so, HMGP funding awarded for wildfire mitigation in one county could be used for flood mitigation activities in a different county. The decision is made by the state where the funding can best be used, and decisions about allocating HMGP funds to sub-applicants are made by the state.

Will HMGP funding be available for the COVID-19 disaster declarations?

The 50 states, the District of Columbia, and 5 U.S. territories have requested HMGP funding. These requests are under review, and it is not clear whether the list of eligible activities will be expanded to allow for COVID-19 related mitigation.

Pre-disaster Mitigation Grant Program (PDM)

Pre-disaster mitigation (PDM) funding is authorized by Section 203 of the Stafford Act (42 U.S.C. §5133), with the goal of reducing overall risk to the population and structures from future hazard events, while also reducing reliance on federal funding to respond to future disasters. State agencies and tribes are eligible applicants, and local governments are eligible applicants. Individuals and businesses may not apply for PDM funding.[164] Through FY2019, FEMA awarded PDM grants competitively. FEMA has not yet announced how PDM grants are to be awarded for FY2020.

How has funding for pre-disaster mitigation changed?

Funding for pre-disaster mitigation changed significantly with the passage of the Disaster Recovery Reform Act of 2018 (DRRA).[165] DRRA authorized a new source of funding for pre-disaster mitigation, to be called the National Public Infrastructure Pre-Disaster Mitigation Fund. For each major disaster declaration, the President may set aside from the DRF an amount equal to 6% of the estimated aggregate amount of the grants to be made pursuant to the following sections of the Stafford Act:

- 403 (essential assistance);
- 406 (repair, restoration, and replacement of damaged facilities);
- 407 (debris removal);
- 408 (federal assistance to individuals and households);
- 410 (unemployment assistance);
- 416 (crisis counseling assistance and training); and
- 428 (public assistance program alternative program procedures).

As of April 30, 2020, $454 million has been set aside for pre-disaster mitigation.[166]

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[164] Federal Emergency Management Agency, *Hazard Mitigation Assistance Guidance*, Washington, DC, February 27, 2015, pp. 4 and 26, https://www.fema.gov/media-library-data/1424983165449-38f5dfc69c0bd4ea8a161e8bb7b79553/HMA_Guidance_022715_508.pdf

[165] Division D of the Disaster Recovery Reform Act of 2018 (P.L. 115-254).

[166] See FEMA, "Disaster Relief Fund: Monthly Report as of April 30, 2020," https://www.fema.gov/media-library/assets/documents/31789.

How will the funding set aside for pre-disaster mitigation be used?

FEMA intends to introduce a new program, called Building Resilient Infrastructure and Communities (BRIC) and recently published their draft policy for BRIC.[167] The comment period on this draft policy ended on May 11, 2020. FEMA is planning to issue the Notice of Funding Opportunity for BRIC in August 2020, with the application period opening in October 2020.

Funding for Emergencies and Major Disasters

The following questions relate to the funding for the federal assistance provided under the Stafford Act that may supplement state, territorial, Indian tribal, and local hurricane response and recovery efforts.

Source of Funding

Where does funding for the federal government's disaster relief programs come from?

Federal disaster relief programs can be divided into three categories:

1. FEMA's Stafford Act Programs;
2. Elements outside FEMA; and
3. Mandatory elements.

FEMA's Stafford Act Programs

The Stafford Act is the primary element of the federal government's emergency management relationship with the states. Its programs are generally funded through the Disaster Relief Fund, an appropriation within FEMA's budget dedicated to that purpose.

The DRF funds five different types of activities:

1. Activity pursuant to a major disaster designation;
2. Pre-declaration surge activities;
3. Activity pursuant to an emergency declaration;
4. Fire Management Assistance Grants (FMAGs) for large wildfires; and
5. Disaster Readiness and Support activities.

As noted in the "Pre-disaster Mitigation Grant Program (PDM)" section, above, a percentage of the DRF's disaster activities is set aside for pre-disaster mitigation efforts. The Disaster Assistance Direct Loan Program and the Department of Homeland Security (DHS) Office of Inspector General have received transfers from this appropriation in recent years to support their disaster-related work as well.[168]

[167] Federal Emergency Management Agency, "Hazard Mitigation Assistance: Building Resilient Infrastructure and Communities," 85(10) *Federal Register* 20291-20292, April 10, 2020, https://www.federalregister.gov/documents/2020/04/10/2020-07609/hazard-mitigation-assistance-building-resilient-infrastructure-and-communities.

[168] For more information on the Disaster Relief Fund, see CRS Report R45484, *The Disaster Relief Fund: Overview and Issues*.

Elements Outside of FEMA

While FEMA, as a component of the Department of Homeland Security, is the federal government's emergency manager, a broad range of federal agencies take part in disaster relief and recovery efforts. When the Government Accountability Office (GAO) sought to review all federal disaster spending in 2016, they reviewed 16 federal departments and agencies aside from DHS that were engaged in programs and activities that either wholly or in part had a role in disaster response, recovery, or mitigation.[169]

While some of the work done by these agencies in response to Stafford Act incidents is paid for by FEMA from the DRF through a process known as mission assignments, most of the resources used for these programs and activities are provided through separate appropriations to the respective departments and agencies. These appropriations may be provided either through annual appropriations or through supplemental appropriations measures.

Mandatory Elements

Some disaster programs have their appropriations in permanent law, so they usually do not require supplemental funding in the wake of disasters. The National Flood Insurance Program (NFIP) is one such program—the premiums paid by policyholders are used to pay the costs of claims. If premium revenues are not sufficient to cover the cost of claims, the program has authority to borrow from the Treasury.[170]

Amount of Available Funding

Is there enough money in the DRF for COVID as well as hurricanes?

As of the beginning of May 2020, the DRF had an unobligated balance of almost $80 billion—significantly higher than at the start of any other hurricane season, as a result of supplemental appropriations provided in the CARES Act (P.L. 116-136).[171] Although $14 billion had been allocated within the DRF as of the beginning of May for COVID-19 costs,[172] as of May 22, FEMA had obligated $6.2 billion.[173]

FEMA has not provided projections for COVID-19 spending in its monthly reports, as it does for other high-cost disasters.[174]

It is also not possible to project whether a more active hurricane season will necessarily translate into higher disaster costs. Cost factors range widely depending on if the storms strike highly developed or highly populated areas. It may not be possible to precisely estimate what the costs

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[169] In *Federal Disaster Assistance: Federal Departments and Agencies Obligated at Least $277.6 Billion During Fiscal Years 2005 Through 2014* (GAO-16-797), GAO reviewed disaster funding for the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, Justice, Labor, Transportation, the Treasury, and Veteran Affairs, as well as the Environmental Protection Agency, the General Services Administration, and the Small Business Administration.

[170] For more information on the National Flood Insurance Program, see CRS Report R44593, *Introduction to the National Flood Insurance Program (NFIP)*.

[171] Department of Homeland Security, Federal Emergency Management Agency, *Disaster Relief Fund: Monthly Report as of April 30, 2020*, May 8, 2020, Appendix A, p. 4 (hereinafter FEMA, *DRF: Monthly Report as of April 30, 2020*).

[172] FEMA, *DRF: Monthly Report as of April 30, 2020*, Appendix D, p. 21.

[173] Department of Homeland Security, Federal Emergency Management Agency, *Coronavirus (COVID-19) Pandemic, Whole-of-America Response*, May 22, 2020, p. 2.

[174] FEMA, *DRF: Monthly Report as of April 30, 2020*, Appendix A, p. 4.

of response and recovery will look like as the various levels of government try to respond to pandemic and traditional "kinetic" disasters at the same time.

However, the available balance in the DRF may provide Congress time to appropriate additional funds should they be necessary, without the level of resources affecting the immediate response or ongoing recovery efforts.

How much does Congress appropriate / does the government spend on disasters in a typical year?

There is not a "typical year" for disasters, for a variety of reasons. The number and type of incidents varies from year to year, as do their severity and location. Mitigation and recovery costs spread out along the timeline, making annual averages less useful for policymaking purposes.

This is really two distinct questions—how much is appropriated, and how much is spent.

Congress provides funding through annual and supplemental appropriations—and, more rarely, through legislation creating mandatory appropriations or direct spending. Some of these appropriations are for programs and activities specifically for disasters, while others have disaster response and recovery as part of their mission scope. In addition, while some funding is expected to be spent in the immediate fiscal year, a great deal of disaster relief funding is appropriated with the intent that it be executed years after the incident. This means one generally cannot develop a meaningful authoritative total for what Congress has appropriated for disaster relief on an annual basis.

Tracking the actual spending of appropriations presents a similar challenge. The executive branch does not report universally or consistently on the use of appropriated funds for disaster-related purposes. There has been some reporting in recent years on spending linked to specific supplemental appropriations measures and disaster-specific accounts in some annual appropriations measures, but reporting on the use of federal funds to mitigate the risk of, respond to, or recover from disasters remains neither universal nor consistent.

In one of the most widely-circulated totals on disaster spending, GAO in 2016 identified at least $277.6 billion in disaster assistance for FY2005-FY2014.[175] This total is reported as a minimum, rather than a precise total, due in part to the factors discussed above.

Will there be supplemental appropriations for disasters this year?

There are significantly fewer supplemental appropriations measures than declared disasters—disaster response and recovery efforts do not always require federal funding beyond regular annual appropriations. Appropriations for recovery from a disaster may come in multiple appropriations measures over the course of several years. Furthermore, a single supplemental appropriations act may meet response or recovery needs generated by multiple disasters.

From the beginning of 2011 through 2018, there were 977 declarations[176] under the Stafford Act, including 461 major disasters.[177] Of those major disaster declarations, 76 were associated with 17

[175] U.S. Government Accountability Office, Federal Disaster Assistance: Federal Departments and Agencies Obligated at Least $277.6 Billion During Fiscal Years 2005 Through 2014, GAO-16-797, September 22, 2016, https://www.gao.gov/products/GAO-16-797.

[176] FEMA considers declarations to include approval of wildfire management assistance, fire suppression authorization, emergencies, and major disasters.

[177] For more information on Stafford Act declarations, see CRS Report R42702, *Stafford Act Declarations 1953-2016:*

catastrophic events.[178] In that same time period, there were 12 public laws enacted with supplemental appropriations expressly for disaster assistance—four of which were enacted in calendar years 2017 and 2018.

Additional pandemic-related supplemental bills are under discussion, and it is possible that they could carry funding for other disasters.

An Administration request for supplemental disaster assistance can be an additional factor in the timing of the congressional consideration of supplemental appropriations. In the wake of a significant disaster, individual Members of Congress or state or regional delegations with affected constituencies may put forward supplemental appropriations legislation independent of a request from the Administration. However, the development of a supplemental appropriations measure destined for enactment usually begins with a supplemental appropriations request from the Administration, and a response from the Appropriations Committee or leadership. The request provides a starting point for congressional deliberations, framing the stated needs of the federal government at large for Congress to consider. For disasters that occurred in 2017, a series of three requests came from the Administration, and in each case, a supplemental appropriations measure was initiated and subsequently enacted.[179] In contrast, P.L. 116-20, a disaster relief supplemental appropriations measure for FY2019, was enacted without a formal request by the Administration for supplemental disaster assistance appropriations.[180]

Reprogramming Existing Funding

Can funding provided by FEMA for previous disasters (including COVID-19) be used for response and recovery during the current hurricane season?

FEMA awards grant funding for specific purposes and provides that funding by allocating funds from the Disaster Relief Fund (DRF) under the authority provided by a specific Stafford Act disaster declaration. Stafford Act disaster assistance grant programs providing funding to state, localities, tribal governments, and territories are designed to be reimbursements to those entities for eligible expenses, or funding based on cost estimates for specific projects being conducted by those entities in response to a specific disaster event. Therefore, funding provided for previous disasters would either be reimbursements for expenses already incurred by the grant recipient for that disaster, or would be targeted funding for specific projects related to recovery from the previous disaster, and in most cases would not be available to meet new costs associated with a new disaster.

Trends, Analyses, and Implications for Congress, by Bruce R. Lindsay.

[178] Defined by FEMA as "a disaster or a grouping of disasters (i.e., a disaster event) that results in a total projected cost for the Federal Government in excess of $500 million." FEMA, *Disaster Relief Fund: FY2019 Funding Requirements*, May 7, 2018, p. 4.

[179] For details on these supplemental appropriations, see CRS Report R45084, *2017 Disaster Supplemental Appropriations: Overview*, by William L. Painter.

[180] A supplemental appropriations request to address border security and humanitarian issues at the U.S.-Mexico border was submitted May 1, 2019 (Letter from Russell T. Vought, Acting Director, Office of Management and Budget, to the Honorable Michael R. Pence, President of the Senate, May 1, 2019, https://www.whitehouse.gov/wp-content/uploads/2019/05/Pence.pdf), but it did not include disaster assistance appropriations.

Funding Administration and Oversight

What are the challenges of administering federal Stafford Act funding for multiple disaster events?

Funding for multiple Stafford Act grant programs may not be comingled, so states, localities, and territories face challenges in ensuring that funding is tracked separately for multiple FEMA administered Stafford Act disaster events, including past hurricane seasons and the COVID-19 pandemic. To comply with the financial management requirements of federal grant awards, the grantee must ensure that the use of funds can be directly linked to eligible expenditures associated with the specific grant award under which the funding was provided.[181] Consequently, the more disaster declarations a grantee is granted, the more complex the administration of the funding will be for the grantee.

What waiver authority does FEMA have in the use of Stafford Act grant program funding?

FEMA must adhere to the statutory restrictions imposed in the authorizing legislation for the Stafford Act grant programs. While FEMA does have some discretion in waiving certain program administration components, such as project submission deadlines, the agency does not have the ability to waive statutory restrictions on the use of funding. For example, FEMA cannot allow for the use of Public Assistance grant funds for purposes other than those set forth in the Stafford Act, which provides that the Public Assistance grant program is for "the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government."[182] However, when the statutory provisions provide broad categories of eligible uses of funds, FEMA has discretion in establishing specific eligible projects. For example, there is some flexibility in defining what may be considered "associated expenses." FEMA issues grant program guidance which provides clarification on which activities may be allowable under a specific program. For larger disasters, FEMA may issue separate guidance specific to that disaster event.[183]

How does FEMA track federal funding for Stafford Act grant programs?

Tracking the use of federal grant funds is complicated by the lag between when funds are obligated after a grant project is awarded funding, and when awarded funds are expended. Tracking FEMA grant program funds is further complicated by the nature in which Stafford Act funding is awarded. Because Stafford Act grant programs are funded through the Disaster Relief Fund (DRF), and because the DRF funds several different Stafford Act grant programs, it is difficult to track federal disaster funding for specific disasters using only the appropriations provided to the DRF. Once a Stafford Act disaster declaration is made, FEMA provides information on obligated amounts for various Stafford Act grant programs for each disaster declaration through the OpenFEMA datasets on the FEMA website. These datasets include

[181] 2 C.F.R. §200.302, Financial Management.

[182] 42 U.S.C. §5172.

[183] For example, FEMA issued a general Public Assistance Program and Policy guide in April 2018, available at https://www.fema.gov/media-library/assets/documents/111781. FEMA also issued disaster-specific guidance for Hurricane Katrina, Hurricane Sandy, Hurricanes Harvey, Irma, and Maria, Hurricanes Florence and Michael, and COVID-19, available at https://www.fema.gov/public-assistance-policy-and-guidance.

information on grant programs including the Individual Assistance Program, Public Assistance Program, and the Hazard Mitigation Assistance program. There are also datasets on other FEMA programs. These datasets are provided in multiple formats, including machine readable formats and static datasets. Notably, however, the information provided in the datasets is raw, unedited data that is contained in the grant management program systems rather than the official financial systems that feed information into USAspending.gov, which is the official source for spending data for the U.S. Government.[184] According to FEMA, information that is not derived from the official FEMA financial system may vary from the USAspending.gov data due to differences in reporting periods, status of obligations, internal agency procedures, and human error.[185] Additionally, the accuracy and completeness of the data provided for USAspending.gov has been officially certified by the agency and has passed a series of validations before the data is published on USAspending.gov.[186]

Other Federal Assistance Programs

Many federal departments and agencies have standing authorities to assist state, territorial, Indian tribal, and local governments. Although the majority of federal financial disaster assistance is made available by FEMA under the authority of the Stafford Act, there are a number of other programs that can provide disaster assistance in certain circumstances, including the U.S. Department of Housing and Urban Development's (HUD's) Community Development Block Grant—Disaster Recovery (CDBG-DR) Program,[187] and the SBA Disaster Loan Program.[188] The following questions relate to the SBA Disaster Loan Program.

Small Business Administration (SBA) Disaster Loan Program

The Small Business Administration (SBA) Disaster Loan Program offers low-interest, long-term loans to individuals, households, and business. SBA disaster loans for businesses fall into two categories: (1) Personal Property Loans to repair and replace lost or damaged items, such as

[184] USAspending.gov was established by the Federal Funding Accountability and Transparency Act of 2006 (FFATA, P.L. 109-282), and required that federal contract, grant, loan and other financial assistance awards of more than $25,000 be displayed on a publicly accessible and searchable website to give the American public access to information. For more information, see https://www.usaspending.gov.

[185] Federal Emergency Management Agency (FEMA), OpenFEMA Dataset: Public Assistance Funded Projects Details—V1, https://www.fema.gov/openfema-dataset-public-assistance-funded-projects-details-v1.

[186] For additional information on the way in which data is certified and validated for USAspending.gov, see https://www.usaspending.gov/#/about.

[187] For example, the U.S. Department of Housing and Urban Development's (HUD's) Community Development Block Grant-Disaster Recovery (CDBG-DR) program may support long-term disaster recovery following a hurricane if the program is authorized and funding is appropriated for such purpose. For more information on the CDBG-DR program as implemented in Puerto Rico following Hurricane Maria, see CRS Insight IN11389, *CDBG-DR Funding and Oversight: Puerto Rico*, by Joseph V. Jaroscak and Michael H. Cecire. For more information on the HUD Community Development Block Grant (CDBG) program and CDBG-DR, including authorities, and the potential use of the program to meet the needs caused by COVID-19, see CRS Insight IN11277, *Responding to the COVID-19 Outbreak with Community Development Block Grant (CDBG) Authorities*, by Michael H. Cecire and Joseph V. Jaroscak. For more general information on how 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/.

[188] Additional federal disaster assistance programs are described in the CRS Report R41981, *Congressional Primer on Responding to and Recovering from Major Disasters and Emergencies*, by Bruce R. Lindsay and Elizabeth M. Webster.

clothing, furniture, and vehicles; and (2) Real Property Loans to repair and rebuild primary residences. SBA business disaster loans also fall into two categories: (1) Business Physical Disaster Loans to repair and rebuild businesses and/or repair and replace damaged equipment; and (2) Economic Injury Disaster Loans (EIDL) to help recover from economic losses after a declared disaster.[189]

Will SBA disaster loans associated with COVID-19 cause a shortage of funding for SBA?

The demand for COVID-19 related SBA disaster assistance has been very high.[190] That high demand combined with an active disaster year could create a need for supplemental appropriations to keep the SBA Disaster Loan Account adequately funded.

What can SBA Personal Property Loans be used for?

Personal Property Loans cover only uninsured or underinsured property and primary residences in a declared disaster area. Personal Property Loans can be used to repair or replace clothing, furniture, cars, or appliances damaged or destroyed in the disaster. Eligibility of luxury items with functional use, such as antiques and rare artwork, is limited to the cost of an ordinary item meeting the same functional purpose.

What can SBA Real Property Loans be used for?

Only uninsured or otherwise uncompensated disaster losses are eligible for loan assistance. The loans may not be used to upgrade a home or build additions to the home, unless the upgrade or addition is required by city or county building codes. Secondary homes or vacation properties are not eligible for Real Property Loans. Repair or replacement of landscaping and/or recreational facilities cannot exceed $5,000. A homeowner may borrow funds to cover the cost of improvements to protect their property against future damage (e.g., retaining walls, sump pumps). In some cases, SBA loans can be used to refinance all or part of a previous mortgage when the applicant does not have credit available elsewhere, has suffered substantial disaster damage not covered by insurance, and intends to repair the damage. SBA considers refinancing when processing each application. In addition, loan recipients can use loan money to pay their insurance deductible.

What can SBA Business Physical Disaster Loans be used for?

Business Physical Disaster Loans provide up to $2 million to repair or replace damaged physical property including machinery, equipment, fixtures, inventory, and leasehold improvements that are not covered by insurance. Damaged vehicles normally used for recreational purposes may be repaired or replaced with SBA loan proceeds if the borrower can submit evidence that the vehicles were used for business purposes.

[189] For more information on the Small Business Administration (SBA) Disaster Loan Program, see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

[190] For more information on SBA assistance for COVID-19, see CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry.

What can Economic Injury Disaster Loans be used for?

Economic Injury Disaster Loans (EIDLs) provide up to $2 million to help meet financial obligations and operating expenses that could have been met had the disaster not occurred. Loan proceeds can only be used for working capital necessary to enable the business or organization to alleviate the specific economic injury and to resume normal operations. Loan amounts for EIDLs are based on actual economic injury and financial needs, regardless of whether the business suffered any property damage.

Will SBA COVID-19 relief deplete funding for hurricane recovery?

Business demand for SBA-related COVID-19 relief in the form of EIDL and Emergency EIDL Grants has been significant and has necessitated the need for supplemental appropriations. Division A of the Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139), the most recent supplemental appropriation providing funding to the SBA, increased the direct appropriation in the CARES Act (P.L. 116-136) for the program from $349 billion to more than $670 billion to support that authorization amount. Though the increase has allowed the SBA to continue to provide loans and Emergency EIDL Grants, an active hurricane season could create greater need for supplemental funding to ensure the SBA has sufficient funding to provide hurricane assistance.[191]

Other

The following questions relate to additional challenges to the management of hurricane response and recovery operations during the COVID-19 pandemic.

Federal, State, Territorial, Indian Tribal, and Local Capacity

Does FEMA have the capacity to handle concurrent hurricanes and COVID-19 pandemic response and recovery efforts?

According to FEMA's *COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season*, the agency "routinely responds to multiple incidents simultaneously."[192] With regard to the ability of the agency's workforce to respond to hurricanes, FEMA's guidance states

> [p]ersonnel who are currently deployed will be prepared to pivot to support emergent needs.... FEMA is also well-positioned with thousands of personnel in the field supporting existing operations, thousands more available national assets ready to support emergent disaster operations, and more personnel joining the Agency through virtual onboarding every two weeks.[193]

Additionally, FEMA can augment personnel through leveraging local hire support.[194]

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[191] For more information on SBA-related COVID-19 relief see CRS Insight IN11370, *SBA EIDL and Emergency EIDL Grants for COVID-19*, by Bruce R. Lindsay; CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger, Bruce R. Lindsay, and Sean Lowry; and CRS Insight IN11232, *SBA Economic Injury Disaster Loans for COVID-19*, by Bruce R. Lindsay.

[192] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 3.

[193] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 2.

[194] FEMA, *COVID-19 Operational Guidance for Hurricane Season*, p. 4.

Despite the agency's ability to shift staff around and onboard new staff, a Government Accountability Office (GAO) report indicated challenges with staffing shortfalls and training new employees, stating that

> [t]he concurrent nature of the disasters in both the 2017 and 2018 disaster seasons highlighted the complex challenges facing FEMA's workforce. The 2017 and 2018 disaster seasons required FEMA management to redeploy response personnel from one disaster to the next, and the agency reported facing staffing shortfalls throughout the response to these disasters. Additionally, a large influx of new employees added to challenges with providing timely, program-specific training. FEMA's disaster workforce is expected to be in high demand for the foreseeable future.[195]

Resources

CRS has developed products on various topics related to federal disaster response and recovery. Some select CRS products are included below.

- For more information on the disaster response process, as well as the roles of federal agencies and types of federal assistance, see CRS Report R41981, *Congressional Primer on Responding to and Recovering from Major Disasters and Emergencies*, by Bruce R. Lindsay and Elizabeth M. Webster.
- For more information on the primary source of funding for the federal government's domestic general disaster relief programs authorized under the Stafford Act, see CRS Report R45484, *The Disaster Relief Fund: Overview and Issues*, by William L. Painter.
- For more information on the FEMA PA program, including descriptions of each type of PA and the factors considered when determining whether to authorize PA, see CRS In Focus IF11529, *A Brief Overview of FEMA's Public Assistance Program*, by Erica A. Lee.
- For more information on the FEMA IA program, including descriptions of each type of IA and the factors considered when determining whether to authorize IA, see CRS In Focus IF11298, *A Brief Overview of FEMA's Individual Assistance Program*, by Elizabeth M. Webster, and CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster.
- For an overview of the NFIP, its structure, flood mapping, the mandatory purchase requirement, the NFIP's financial standing, and NFIP reauthorization, see CRS In Focus IF10988, *A Brief Introduction to the National Flood Insurance Program*, by Diane P. Horn, and CRS Insight IN10450, *Private Flood Insurance and the National Flood Insurance Program (NFIP)*, by Baird Webel and Diane P. Horn.
- For an overview of the three hazard mitigation grant programs FEMA administers, see CRS Insight IN11187, *Federal Emergency Management Agency (FEMA) Hazard Mitigation Assistance*, by Diane P. Horn.
- For more information on the SBA Disaster Loan Program, see CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*, by Bruce R. Lindsay.

[195] U.S. Government Accountability Office, *FEMA Disaster Workforce: Actions Needed to Address Deployment and Staff Development Challenges*, GAO-20-360, May 2020, p. 2, https://www.gao.gov/assets/710/706619.pdf.

Appendix. Damage Assessments and Stafford Act Declaration Considerations

State, territorial, and Indian tribal governments do not automatically receive federal assistance when an incident occurs. Instead, the governor of the affected state or territory, or the chief executive of the affected Indian tribal government must request that the President declare an emergency or major disaster and that federal assistance be authorized.[196] This is because federal assistance is intended to supplement—not supplant—local, state, territorial, or Indian tribal government response and recovery efforts.[197] In making a declaration request, the governor or tribal chief executive is claiming and must demonstrate that they are unable to effectively respond to the incident without federal assistance.[198]

The governor or 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, in addition to other required information.[199] FEMA uses information submitted by the requesting state, territory, or Indian tribal government to evaluate specific factors (described below) that are used to determine whether to authorize the governor or chief executive's request for a presidential disaster declaration under the Stafford Act.[200] This includes information collected through the Preliminary Damage Assessment (PDA) process, which is validated by local, state, territorial, Indian tribal government, and federal authorities.[201] Damage assessments are typically conducted on-site; however, due to the COVID-19 pandemic, FEMA regional staff may elect to complete PDAs virtually.[202]

FEMA provides a recommendation to the President, and the decision to grant a declaration request is at the President's discretion.[203] The authority to designate assistance types to be made

[196] 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.

[197] 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).

[198] 44 C.F.R. §§206.35 and 206.36.

[199] 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.

[200] 44 C.F.R. §206.48.

[201] See 44 C.F.R. §206.48(a)(1)-(3) and FEMA, *Preliminary Damage Assessment Guide*, May 2020, p. 1, https://www.fema.gov/media-library-data/1588956460880-0b0420c837695fc63e6ea8169dbf80fa/Preliminary_Damage_Assessment_Guide.pdf (hereinafter FEMA, *PDA Guide*).

[202] See FEMA, *COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season*, p. 14.

[203] 44 C.F.R. §206.38.

available is delegated to the FEMA Assistant Administrator for the Disaster Assistance Directorate.[204]

FEMA regulation and guidance detail the factors considered by FEMA when evaluating a governor or chief executive's request for a major disaster declaration authorizing Public Assistance and/or Individual Assistance.

Public Assistance

According to the FEMA *Preliminary Damage Assessment Guide* issued in May 2020, to estimate the cost of assistance, states, territories, and Indian tribal governments assess damage and estimate project costs.[205] In order to be authorized to receive a presidential major disaster declaration authorizing PA, the damage estimate must reach the statewide per-capita indicator, and for a jurisdiction (e.g., county) to be designated for PA, it must have a damage estimate that reaches the county per capita indicator.[206] In addition to the estimated cost of assistance, FEMA also considers factors that may reduce or increase the estimated cost of PA or the capacity of the state, territory, or Indian tribal government to respond or recover. These factors include (1) severe localized impacts; (2) insurance coverage in force; (3) hazard mitigation (i.e., the estimated damages prevented by mitigation); (4) recent multiple disasters within the state, territory, or tribe, or territory; and (5) the estimated assistance provided by other federal programs.[207]

For Indian tribal governments requesting their own presidential disaster declaration authorizing PA, FEMA will consider the minimum damage amount and impacts of the disaster, in accordance with FEMA's *Tribal Declarations Pilot Guidance*. The factors considered to evaluate the impacts of the disaster are: (1) types and amounts damaged; (2) economic impact of the incident; (3) tribal government resources; (4) demographics; (5) 24-month disaster history; (6) evaluation of previous mitigation efforts; (7) programs of other federal assistance; (8) insurance; (9) unique conditions that affect tribal governments; and (10) other relevant information.[208]

Individual Assistance

According to the FEMA *Preliminary Damage Assessment Guide*, the Individual Assistance factors considered for states and territories differ from the factors considered for Indian tribal governments. The following six factors are set in FEMA's regulation 44 C.F.R. §206.48(b), and are considered for states and territories: (1) state or territory fiscal capacity and resource availability; (2) uninsured home and personal property losses; (3) the disaster-impacted population profile; (4) impact to community infrastructure (i.e., life-saving and life-sustaining services, essential community services, and transportation infrastructure and utilities); (5) casualties (i.e., people who are missing, injured, or deceased); and (6) disaster-related unemployment.[209]

For Indian tribal governments requesting their own presidential disaster declaration authorizing IA, FEMA will consider the following factors to assess the impacts of the disaster, in accordance

[204] 44 C.F.R. §206.40(a).

[205] FEMA, *PDA Guide*, pp. 56-57.

[206] FEMA, *PDA Guide*, pp. 56-57.

[207] 44 C.F.R. §206.48(a)(2) and 44 C.F.R. §206.48(a)(3)-(6).

[208] FEMA, *Tribal Declarations Pilot Guidance*, pp. 34-36.

[209] 44 C.F.R. §206.48(b); and FEMA, *PDA Guide*, p. 15.

with FEMA's *Tribal Declarations Pilot Guidance*: (1) uninsured home and personal property losses; (2) availability of housing resources; (3) casualties; (4) impact to community infrastructure; (5) disaster-impacted population profile; (6) voluntary agency and other assistance; (7) tribal government resources; (8) the unique conditions that may affect tribal governments; and (9) other relevant information.[210]

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[210] FEMA, *Tribal Declarations Pilot Guidance*, pp. 36-38; see also FEMA, *PDA Guide*, p. 15.