

FEMA AND TRIBAL NATIONS: BUILDING CAPACITY AND RESILIENCE

FEMA's Disaster Declaration Process for Native Sovereign Nations

Thursday, January 28, 2021



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Agenda

- FEMA Declaration Process
- Disaster Funding
 - Direct vs Subrecipient
 - Public Assistance
 - Individual Assistance
- Training Opportunities
- Contact Info for FEMA Tribal Staff



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Objectives:

By the end of this training, we will better understand...

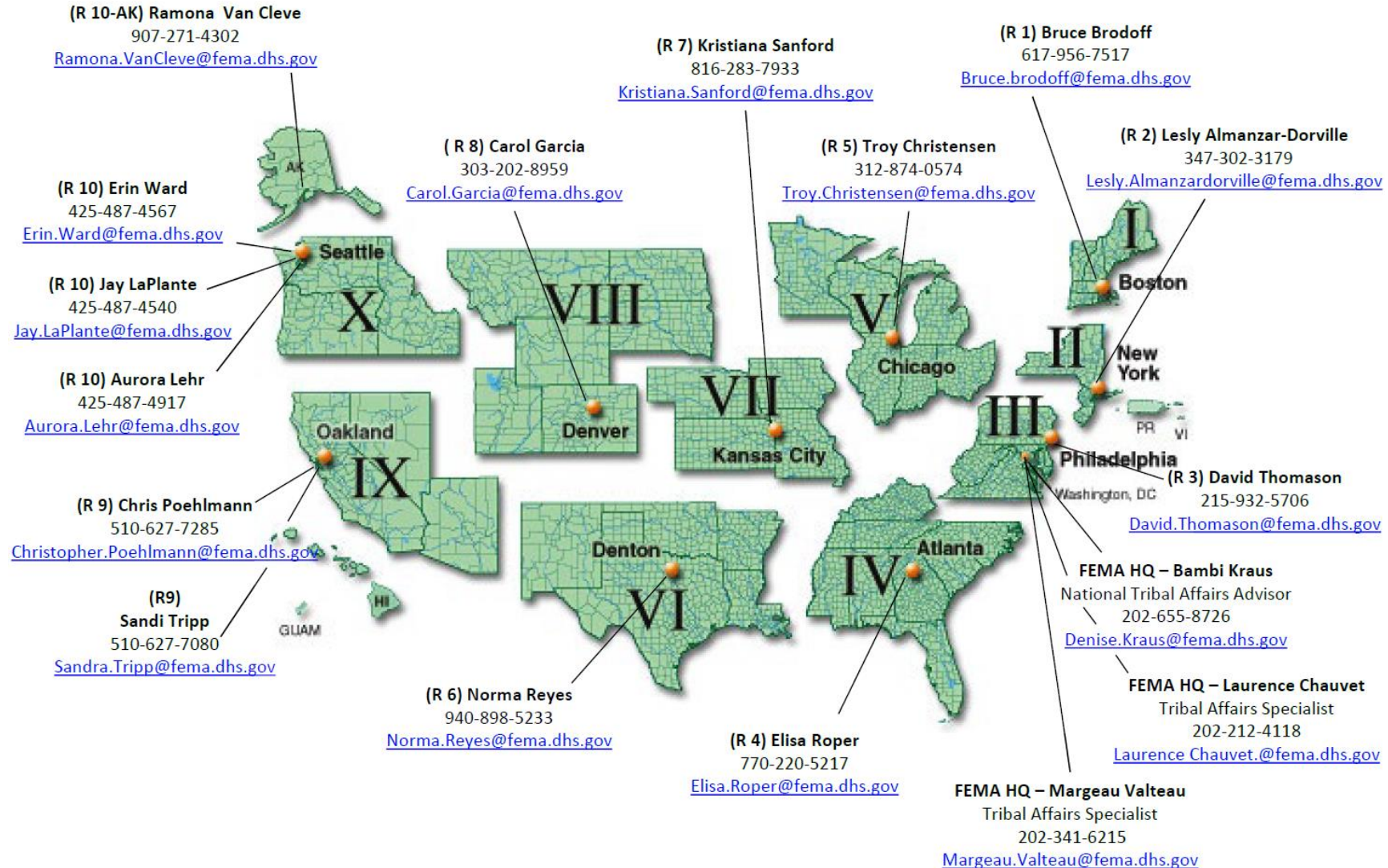
- The FEMA disaster declaration process
- FEMA's disaster funding mechanisms
- Training opportunities/EMI's Tribal Curriculum
- Who to contact to support disaster declarations



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FEMA Regional Tribal Liaisons



FEMA'S DISASTER DECLARATION PROCESS

Procedure and Funding Opportunities



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DIRECT RECIPIENT VS SUBRECIPIENT

Context



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SUBRECIPIENT

Tribal Disaster Subrecipient Through a State



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Tribes as a Subrecipient/subgrantee

- In a state declaration, the state generally receives the Public Assistance funding from FEMA and serves as the “grantee”. The grantee is responsible for distributing the funds to subgrantees, monitoring and tracking funds, and ensuring compliance with all grant requirements, among other responsibilities. Tribal governments that elect to seek Public Assistance through a state declaration can choose to receive assistance either as a subgrantee or a grantee. As a subgrantee, the tribal government will work through the state to apply for assistance and receive reimbursement.



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Public Assistance – Subrecipient/subgrantee

- The term subgrantee (also referred to as an applicant) is a State agency or local government, American or Native American Indian Tribes, Private Nonprofit organization, or other legal entity to which public assistance funds are awarded.
- The subgrantee:
 - Must identify its damages to the State and FEMA.
 - Should attend the [Applicants' Briefing](#) to learn about the necessary paperwork to apply for Federal assistance and documentation required for the Project Worksheet process.
 - Should submit a Request for Public Assistance at the Applicants' Briefing or no later than 30 days after designation of the **County**.
 - Is responsible for providing documentation and personnel to work with FEMA and the State in the damage assessment and project application processes.
 - Is responsible for completing its recovery actions.
 - Is accountable to the grantee for the use of the funds provided by FEMA.
- If the nation does not have a Hazard Mitigation Plan, this may be a path to get the most out of a declaration

DIRECT RECIPIENT

Direct to FEMA, Separate from the State



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Direct Recipient

- Should the tribal government elect to serve as grantee for its projects, the tribal government will work directly with FEMA, largely without state involvement. As a grantee, the tribal government will be required to sign a FEMA-Tribal Agreement and will be subject to all of the responsibilities of a grantee. These responsibilities include all financial and grants management requirements; ensuring compliance with the Stafford Act, FEMA's regulations and all other applicable laws; monitoring any subgrantees; and meeting the non-federal cost share requirement. As grantee, a tribal government is accountable to FEMA for all funds dispersed to or through the tribal government for that program.



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Overview of the Tribal Declaration Process

- Background
- Status Update
- Stafford Act Assistance
 - Declaration Process
 - Evaluation Criteria
 - Decision Support
 - Requirements
 - Post-Declaration Activities



Tribal Declarations Pilot Guidance

- <https://www.fema.gov/tribal-declarations-pilot-guidance>

Tribal Declarations Pilot Guidance

The Sandy Recovery Improvement Act of 2013 (SRIA) amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5121 et seq. (Stafford Act), to provide federally recognized Indian tribal governments (tribal governments) the option to request a Presidential emergency or major disaster declaration. FEMA is implementing this authority in three phases:

1. **Use of state regulations (January 29, 2013 - January 9, 2017):** To provide tribal governments the choice to use the authority provided by SRIA immediately following its enactment, FEMA began processing tribal declaration requests using state declaration regulations.
2. **Pilot period (January 10, 2017 - TBD):** The release of the Tribal Declarations Pilot Guidance marks the official beginning of the pilot period for tribal declarations utilizing the guidance.
3. **Rulemaking:** Following the pilot period, FEMA will implement this authority through notice and comment rulemaking.

- [Tribal Declarations Pilot Guidance](#)
- [Tribal Declarations Pilot Guidance Cover Letter Template](#)
- [Tribal Declarations Pilot Guidance - Fact Sheet](#)
- [Request for Presidential Declaration for Major Disaster or Emergency - FEMA Form 010-0-13](#)
- [Frequently Asked Questions](#)

Last Updated: 08/07/2019 - 15:49

Background

- The Sandy Recovery Improvement Act (SRIA) of 2013 amended the Stafford Act to provide federally-recognized tribal governments the option to request a Presidential emergency or major disaster declaration independently of a state (or to continue to seek disaster assistance through a state declaration).
- SRIA requires the President when issuing regulations to “consider the unique conditions that affect the general welfare of Indian tribal governments.”



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Declaration Request Process

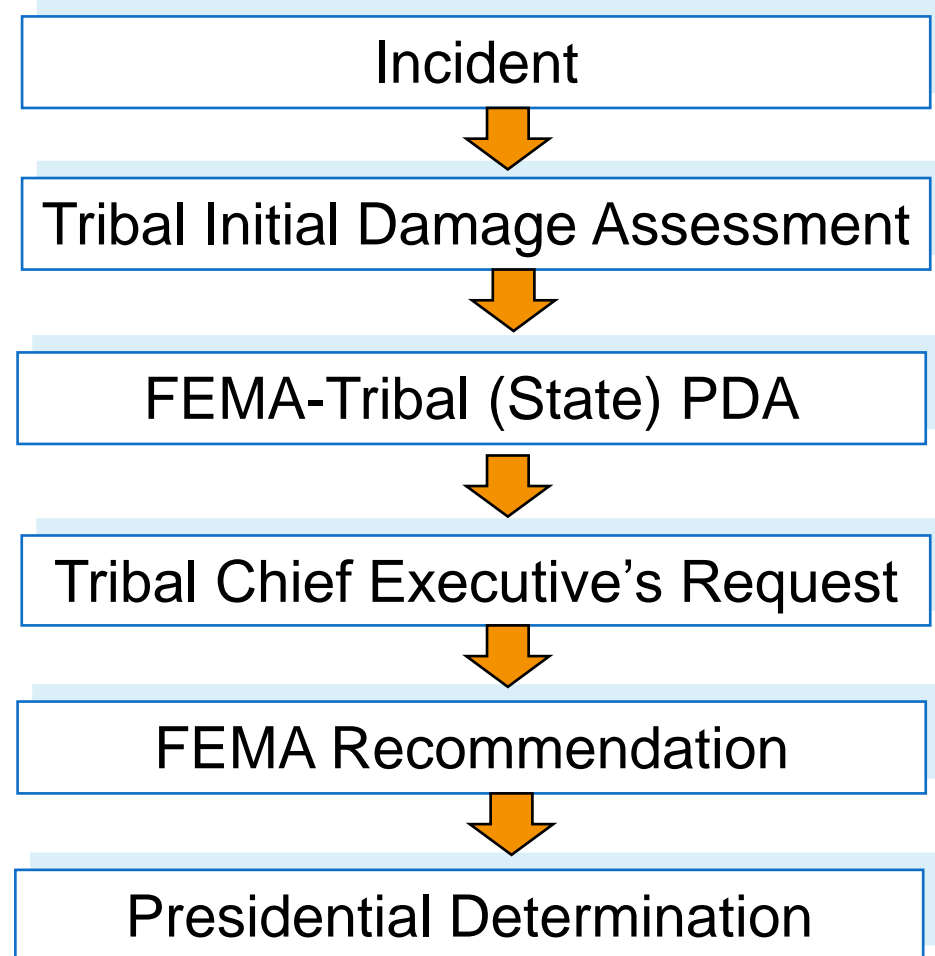


Tribal Declarations Pilot
Guidance

January 2017



Request must be submitted with **30** days of the incident



Emergency Plan Activation

- If a tribal government anticipates that it will request a Stafford Act declaration independently of a state, then the tribal government must activate its tribal emergency plan.
- The emergency plan describes how a tribal government will provide resources to satisfy unmet needs.
- The procedures for plan activation will vary based on tribal law and the plan itself. It may involve a tribal declaration or proclamation of an emergency. However such a declaration is not a legal prerequisite for requesting a Stafford Act declaration.



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Emergency Planning Useful Links

- <https://www.fema.gov/plan>
 - Planning makes it possible to manage the entire life cycle of a potential crisis. Strategic and operational planning establishes priorities, identifies expected levels of performance and capability requirements, provides the standard for assessing capabilities and helps stakeholders learn their roles. The planning elements identify what an organization's Standard Operating Procedures (SOPs) or Emergency Operations Plans (EOPs) should include for ensuring that contingencies are in place for delivering the capability during a large-scale disaster.
 - If you have any questions, please contact the National Integration Center at NPD-Planning@fema.dhs.gov.
- <https://www.ready.gov/indian-country>

Tribal Initial Damage Assessment

- Assess tribe's needs and resources (informal)
- Utilization of available resources
 - If tribal emergency management is overwhelmed
 - Ensure local memorandums and contracts agreements have been utilized
- Additional unmet needs
 - Local Coordination Calls
 - County Emergency Management
 - State/Federal coordination
- Assess own needs and resources (formal)
 - Field assessment and documentation of impacts, damages, and disaster response & recovery costs

PA - Minimum Damage Amount

- **Absent extraordinary circumstances**, FEMA will consider a declaration request from a tribal government only if it is determined that the tribal government sustained at least \$250,000 in PA-eligible estimated damage or costs.
- **This amount does not constitute a trigger point for a declaration.**
- It is the minimum amount of damage for which a request for a major disaster declaration will be considered.
- Depending on the situation, an event that exceeds this amount may be within the tribal government's capability, and therefore, not warrant a major disaster declaration.



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TDPG Sections VI & VII, Pages 25 & 34

Joint Preliminary Damage Assessment (PDA)

- The tribal government has completed its initial damage assessment (IDA).
- The tribal government has determined and can demonstrate that the damage exceeds their capabilities.
- The tribal government formally requests a Joint FEMA PDA.

Tribal governments may request a Joint PDA concurrent with or separate from a state's request for a joint PDA.



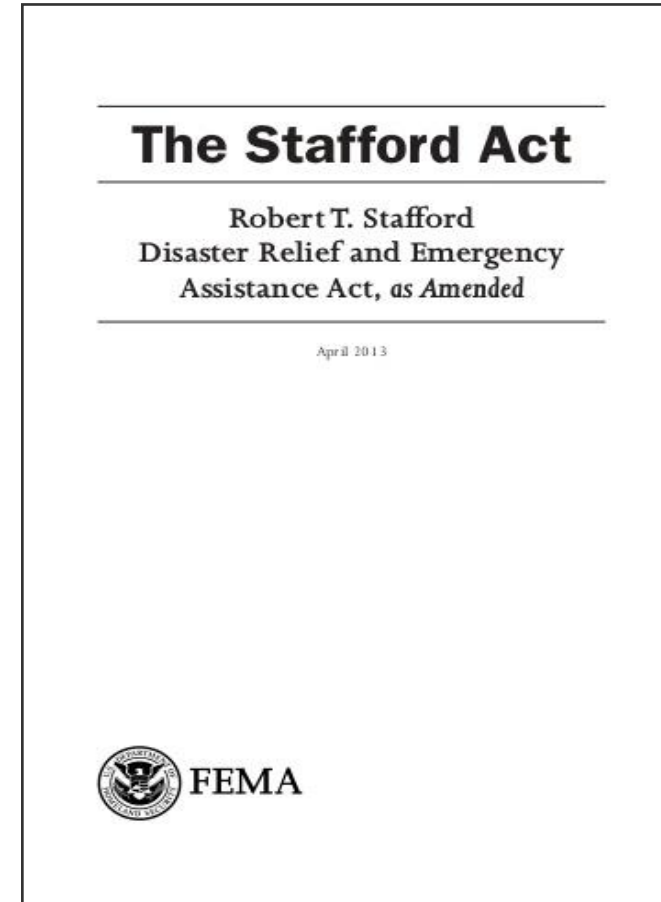
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TDPG Section VI, Page 25

Stafford Act Declarations

- Emergency Declaration
- Major Disaster Declaration



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Stafford Act Assistance: Public Assistance

Emergency Work

- A. Debris Removal
- B. Emergency Protective Measures

Permanent Work

- C. Roads and Bridge Systems
- D. Water Control Facilities
- E. Public Buildings / Equipment
- F. Public Utilities
- G. Other (Parks, Recreation, etc.)



**Cost Share for Public Assistance is 75% Federal,
25% Non-Federal.
President is authorized to adjust this cost share.**



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Stafford Act Assistance: Individual Assistance

- Individuals and Households Program (\$35,500 Maximum*)
 - Disaster Housing, which provides grants for rental assistance and/or home repairs (for privately owned homes) to survivors whose primary residences were damaged
 - Other Needs Assistance, which provides grants for replacement of personal property, transportation, medical, dental and funeral expenses
- Disaster Unemployment Assistance
- Crisis Counseling Program
- Disaster Legal Services
- Disaster Case Management

**Cost Share for Other Needs Assistance (only)
is 75% Federal,
25% Non-Federal
President is not
authorized to adjust.**



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Stafford Act Assistance: Individual Assistance

Eligibility

- **Enrolled Tribal Members**
 - A person that the Indian tribal government recognizes as an enrolled member of that Indian tribe at the beginning of the incident period.
- **Members of the Tribal Community**
 - Such as adopted children, widows and widowers, and descendants.
 - Tribe identifies these categories during PDA.
 - Tribe must specify categories in the declaration request and assist FEMA in identifying them.



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TDPG Sections II & IV, Pages 8 & 18

Stafford Act Assistance: Hazard Mitigation

- Mitigation is the effort to reduce loss of life and property by lessening the impact of disasters.
- FEMA-Approved Tribal Mitigation Plan is required for PA Permanent Work (Categories C-G) and HMGP
- Tribal governments have 30 days from the date of declaration to submit, adopt and have their plan approved by FEMA, if no plan exists or if the plan is expired.

**Share for Hazard Mitigation is 75% Federal-25% Non-Federal.
President is not authorized to adjust this cost share.**



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Declaration Request

- [FEMA Form 010-0-13](https://www.fema.gov/media-library-data/1512409550714-752b7004a7c74c67a485a36551d7c889/FEMAForm010-0-13PresidentialDeclarationRequest.pdf) submitted by the Tribal Chief Executive
 - <https://www.fema.gov/media-library-data/1512409550714-752b7004a7c74c67a485a36551d7c889/FEMAForm010-0-13PresidentialDeclarationRequest.pdf>
- Certification that the severity and magnitude of the disaster exceeds tribal capabilities and that supplemental federal assistance is necessary.
- Confirmation that appropriate action under tribal law has been taken and Tribal Emergency Plan was executed.
- Information describing the nature and amount of tribal and local resources that have been/will be committed.
- Certification that obligations and expenditures will comply with all applicable cost-sharing requirements of the Stafford Act.



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PA Criteria (Evaluation Factors)

Impacts of the Disaster

- Types and amounts of tribal government costs and damage
- Economic Impact of the Incident
- Tribal Government resources
- Demographics
- 24-month disaster history
- Evaluation of previous mitigation efforts
- Programs of other Federal assistance
- Insurance
- Unique Conditions that Affect Tribal Governments
- Other Relevant Information



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TDPG Section VII, Pages 34-36

IA Criteria (Evaluation Factors)

Impacts of the Disaster

- Uninsured Home and Personal Property Loss
- Availability of Housing Resources
- Casualties
- Impact to Community Infrastructure
- Impacted Population Profile
- Voluntary Agency Assistance
- Programs of Other Local, State and Federal Agencies
- Tribal Government Resources
- Unique Conditions that Affect Tribal Governments
- Other Relevant Information



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TDPG Section VII, Pages 36-38

Declaration Decision Support

- Factors in the decision to seek assistance with your own declaration request or, if the state is also requesting assistance, to be included in the state declaration:
 - Tribal Sovereignty and Relationship with the State(s)
 - Administrative Considerations
 - Plan Requirements
 - Impacts
 - Cost Share
- Before, during and following a disaster FEMA Regional staff are available to support tribal governments in decision-making.



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TDPG Section IX, Pages 40-44

Post-Declaration Activities

- Designation of Tribal Disaster Officials
- Signing of the FEMA-Tribe Agreement
- Request for Additional Types of Assistance or Areas of Eligibility (if needed)
- Request to Adjust Cost Share
- Amending the Incident Period
- Amending the Incident Type
- Community Disaster Loans
- Advance of Non-Federal Share



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TDPG Section XI, Pages 46-49

Presidential Determination

- The President of the United States is the only one that can make the declaration determination.
- President signs the Declaration Letter addressed to the Tribal Chief Executive.
- FEMA Administrator signs the letter informing the Tribal Chief Executive if a Declaration is denied.
- FEMA Regional Administrator contacts the Tribal Chief Executive to inform the tribe of either decision.
- The tribal government has 30 days from the date of a denial to appeal the decision.



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CONTACT INFORMATION OF FEMA STAFF

FEMA Tribal Liaison Officers and Staff



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FEMA National Tribal Advisor and Liaisons

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FEMA Tribal Curriculum Point of Contact

- Emergency Management Institute
Tribal Curriculum Coordinator, Training Specialist

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Emergency Management Institute - Tribal Curriculum

- <https://training.fema.gov/tribal/>

There are currently five courses in the EMI Tribal Curriculum:

- E/L0580 - [Emergency Management Framework for Tribal Governments](#)
- E/L0581 - [Emergency Operations for Tribal Governments](#)
- E/L0582 - [Mitigation for Tribal Governments](#)
- L0583 - [Emergency Management Overview for Tribal Leaders](#)
- L0552 - [Continuity of Operations \(COOP\) for Tribal Governments](#)

NOTE: There are no tuition fees for EMI on-campus (E) or off-site (L) courses. All instruction and materials are provided at no cost.

For on-campus (E) courses (in Emmitsburg, MD), housing is provided at no cost. All participants are responsible for the cost of a meal ticket for the week and for personal incidental expenses. You must purchase a 21-day advanced, non-refundable coach-class airline ticket by common carrier in order to be reimbursed. Reimbursement for air fare will be made by direct deposit into your personal account 6 to 8 weeks after the course concludes. You will be responsible for reimbursing your organization.

To apply for a course at the EMI campus, click on this link <http://training.fema.gov/Apply/>

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Q & A

Thank you!