

# The Stafford Act Emergency Declaration for COVID-19

March 13, 2020

This Insight provides an overview of emergency declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter the Stafford Act, [P.L. 93-288](#), as amended; 42 U.S.C. §§5121 et seq.). It describes the forms of assistance authorized pursuant to President Donald J. Trump's March 13, 2020 emergency declaration under the Stafford Act in all U.S. states and territories in response to the coronavirus disease 2019 (COVID-19) pandemic.

## Stafford Act Emergency Declaration for COVID-19

The President's [emergency declaration](#), pursuant to Stafford Act Section 501(b), authorized assistance for COVID-19 response efforts for all U.S. states, territories, and the District of Columbia. There was no precedent for a nationwide Stafford Act declaration. Generally, the governor of an affected state/territory or tribal chief executive of an affected Indian tribal government requests the President approve a Stafford Act declaration for specific jurisdictions and types of needed assistance, and the President makes the determination in consultation with FEMA. It is rare for the President to declare an emergency without a governor or chief executive's request; examples include the [explosion at the federal courthouse in Oklahoma City](#) and the [loss of the Space Shuttle Columbia](#). Like the COVID-19 emergency declaration, these declarations were authorized under Stafford Act Section 501(b), for certain emergencies involving federal primary responsibility ([42 U.S.C. §5191](#)).

The [Department of Health and Human Services \(HHS\)](#) remains the lead agency for the federal response to COVID-19 (see also [42 U.S.C. 300hh\(a\)](#)). Assistance authorized through the Stafford Act is to supplement and support the efforts of HHS and state, territorial, tribal, and local governments. The Stafford Act does not supplant or supersede other federal authorities, including public health authorities exercised by the Secretary of HHS.

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## Comparing Stafford Act Declarations

The Stafford Act authorizes the President to issue either “emergency” or “major disaster” declarations. An emergency is broadly defined, and [may include public health incidents](#). Although infectious disease events are not listed in the definition of a major disaster, President Trump stated that he “[believe\[s\] that the disaster is of such severity and magnitude nationwide that requests for a declaration of a major disaster ... may be appropriate.](#)”

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

**Table 1. Assistance Available under Stafford Act Declarations**

	Emergency Declaration	Major Disaster Declaration
<b>Public Assistance (PA)</b>	<p><b>Emergency Work</b></p> <p>Category A – Debris Removal</p> <p>Category B – Emergency Protective Measures</p>	<p><b>Emergency Work</b></p> <p>Category A – Debris Removal</p> <p>Category B – Emergency Protective Measures</p> <p><b>Permanent Work</b></p> <p>Categories C-G – Restoration of damaged facilities</p>
<b>Individual Assistance (IA)</b>	Individuals and Households Program (IHP)	<p>IHP</p> <p>Crisis Counseling Program</p> <p>Disaster Case Management</p> <p>Disaster Unemployment Assistance</p> <p>Disaster Legal Services</p> <p>Disaster Supplemental Nutrition Assistance Program</p>
<b>Hazard Mitigation Assistance (HMA)</b>	Not Available	Hazard Mitigation Grant Program

Source: FEMA, “[The Disaster Declaration Process.](#)”

## Public Assistance

Emergency declarations typically authorize certain types of Public Assistance (PA), which provides financial assistance to supplement a state, territorial, or tribal government’s ability to respond to an incident. Emergency declarations may authorize PA “[emergency work](#)” undertaken to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe. The two forms of PA “emergency work” are debris removal (authorized under Stafford Act Sections 403, 407, and 502) and emergency protective measures (authorized under Stafford Act Sections 403, 418, 419, and 502).

When PA is authorized, a state, territory, or tribe becomes the PA grant recipient. Local governments and certain nonprofit entities may apply for grant funds through the recipient. The Stafford Act authorizes FEMA to reimburse not less than 75% of the [eligible costs](#) of specific [types of work](#) undertaken by [eligible PA applicants](#).

Aside from eligibility restrictions, the amount of money that can be awarded for any single applicant or declaration through the PA program is not limited. However, the President must notify Congress when assistance provided for an emergency declaration exceeds \$5 million (42 U.S.C. §5193).

## Public Assistance for COVID-19 Emergency Declaration

The Stafford Act emergency declaration for COVID-19 authorized only one form of assistance: PA emergency protective measures. Applicants are to be reimbursed for 75% of eligible costs incurred while performing emergency protective measures. FEMA will not reimburse work supported by the authorities of another federal agency (42 U.S.C. §5155).

Emergency protective measures encompass a wide range of activities. According to a [FEMA news release on the COVID-19 emergency declaration](#), reimbursable activities may include “activation of State Emergency Operations Centers, National Guard costs, law enforcement and other measures necessary to protect public health and safety.” Additionally, FEMA may reimburse costs for overtime labor performed by applicants’ budgeted employees and for overtime and regular-time labor performed by unbudgeted employees engaged in eligible work, per [44 C.F.R. §206.228](#). General FEMA guidance includes the following activities that may be relevant to a pandemic in a [non-exclusive list of eligible emergency protective measures](#). FEMA has not yet specifically authorized these activities for COVID-19 response. Disaster-specific guidance may provide more information.

- [Transporting and pre-positioning equipment and resources for response](#);
- [Emergency Operation Center \(EOC\)-related costs](#);
- [Supplies and commodities](#);
- [Limited, uninsured emergency medical care](#) and transport up to 30 days from the declaration date, unless extended by FEMA. [Eligible care](#) includes uninsured vaccinations, durable and consumable medical equipment and supplies, temporary medical facilities, and [medical waste disposal](#);
- [Evacuation and sheltering](#). Generally, [FEMA only provides assistance for congregate sheltering](#), though non-congregate sheltering may be authorized upon request;
- [Limited child care](#);
- Security, including law enforcement;
- Use or lease of [temporary generators](#) for facilities that provide essential services;
- Public dissemination of hazard information; and
- Mass mortuary services.

## Individual Assistance

The FEMA [Individuals and Households Program \(IHP\)](#) may be available following a [Stafford Act](#) emergency declaration. IA was not authorized pursuant to the initial emergency declaration for COVID-19. An amended emergency declaration or a major disaster declaration could authorize different forms of IA.

For more information on the federal COVID-19 response, see CRS Report R46219, *Overview of U.S. Domestic Response to Coronavirus Disease 2019 (COVID-19)*, coordinated by Sarah A. Lister and Kavya Sekar.

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