



# STATE OF NEW MEXICO INDIAN AFFAIRS DEPARTMENT

Michelle Lujan Grisham, Governor  
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## Indian Affairs Department's FEMA Funding Assistance Guidelines

*Special thanks to Phoebe Suina for contributing to this document and to Senator Martin Heinrich's staff and FEMA Recovery Division for revising.*

### Important Dates:

- **March 13, 2020:** President Trump [declared a national emergency](#), making FEMA funding available.
  - The President can declare an emergency for any occasion or instance when the President determines federal assistance is needed.
  - Emergency declarations supplement State and local or Indian tribal government efforts in providing emergency services, such as the protection of lives, property, public health, and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.
- **April 5, 2020:** President Trump approves [New Mexico's Major Disaster Declaration DR-4529](#), naming George Robinson as the Federal Coordinating Officer for recovery operations.

**During the COVID-19 national emergency, tribal governments have the option to request Public Assistance from FEMA as either a Recipient or Subrecipient of the State. There are three paths tribal governments can choose to receive that assistance:**

1. **Subrecipient to the State of New Mexico, (FEMA-4529DR-NM); if your tribe chooses to use this option, then:**
  - Contact New Mexico's Department of Homeland Security and Emergency Preparedness (DHSEM) and make the request
  - Work with the state to complete a [Request for Public Assistance](#) (RPA) and submit it to FEMA through the PA Grants Portal.
  - This option eliminates some of the administrative burden of Recipient responsibilities including completing a Public Assistance Administrative Plan or signing a FEMA-Tribe Agreement.
  - The State will serve as a pass-through entity for funds dispersed by FEMA.

- As a Recipient, the State is responsible for providing administrative duties and will contribute a portion of the non-Federal cost share, which is 25%. New Mexico will pay 12.5% of the 25% non-federal cost share for tribes that decide to be Subrecipients of the State.
- FEMA in their [Tribal Fact Sheet](#) encourages Tribal governments to work with states for assistance, when appropriate.

**2. Recipient under the state’s declaration, (FEMA-4529-DR-NM) ; if you choose to, then submit an email to Norma Reyes, [norma.reyes@fema.dhs.gov](mailto:norma.reyes@fema.dhs.gov) addressed to the Regional Administrator; below is a sample of the wording you could use:**

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*Tony Robinson  
Regional Administrator  
FEMA Region 6*

*Dear Mr. Robinson*

*[INSERT TRIBE NAME HERE] chooses to become a Recipient under State Emergency Declaration for FEMA-4529-DR-NM Nationwide Emergency Declaration (COVID-19) issued by the President on March 13, 2020. The situation is of such severity and magnitude that effective response is beyond the capability of the tribal government, and that the tribal government requires supplemental federal emergency assistance to save lives and to protect property, public health, and safety, or to lessen or avert the threat of a disaster. In response to this incident, our tribal emergency plan was executed.*

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**As a Recipient you will be working directly with FEMA, you will be responsible for 25% of the cost of the Public Assistance received (you may submit a waiver request to reduce the cost share amount if actual obligations exceed a per capita indicator amount of \$149), and you will need to complete the following administrative steps:**

- Tribes who are direct recipients must activate the emergency plan to receive assistance.
- Sign a FEMA-Tribe Agreement; FEMA will provide the agreement.
- Apply for Federal Assistance by filling out [Form SF-424](#).
- Complete a Public Assistance Administrative Plan: Before FEMA can provide Public Assistance funding for any project, the Recipient must create a FEMA-approved Public Assistance Administrative Plan that describes how it intends to administer the program and other administrative items; FEMA will can provide a template.
- The Tribe will be responsible for proper management and compliance of the Federal grant.
- FEMA will create a specific profile in Grants Portal for the tribe.

**First-time Recipients will also need to do the following:**

- Acquire a [DUNS number](#),
- Create a [Payment Management System Account](#); and
- Submit a Direct Deposit Sign-Up Form ([SF-1199A](#)).
- Your tribe will be responsible for 25% of the cost share.

*(Because of the limited number of resources available nationally to process requests, we recommend if a tribe wants to be a Recipient, that they become a Recipient under the declaration already in place for the State they reside.)*

3. **Direct Recipient of FEMA (not under the state’s declaration); if you choose this option, then submit an email to Norma Reyes, [norma.reyes@fema.dhs.gov](mailto:norma.reyes@fema.dhs.gov) addressed to the Regional Administrator; below is a sample of the wording you could use:**

***Please note that Your leadership can determine how they want to submit the request, i.e., letter, resolution, or email etc.***

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*Tony Robinson  
Regional Administrator  
FEMA Region 6*

*Dear Mr. Robinson*

*[INSERT TRIBE NAME HERE] chooses to become a recipient for the coronavirus (COVID-19) Pandemic event under Category B Emergency Protective Measures under Nationwide Emergency Declaration (COVID-19) issued by the President on March 13, 2020. The situation is of such severity and magnitude that effective response is beyond the capability of the tribal government, and that the tribal government requires supplemental federal emergency assistance to save lives and to protect property, public health, and safety, or to lessen or avert the threat of a disaster. In response to this incident, our tribal emergency plan was executed.*

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**As a Recipient you will be working directly with FEMA, you will be responsible for 25% of the cost of the Public Assistance received (you may submit a waiver request to reduce the cost share amount if actual obligations exceed a per capita indicator amount of \$149), and you will need to complete the following administrative steps:**

**Tribes who are direct recipients must activate the emergency plan to receive assistance.**

- Submit a request to the Regional Administrator that your tribe chooses to be a Direct Recipient and indicating that your tribal emergency plan was executed.
  - Sign a FEMA-Tribe Agreement; FEMA will provide the agreement.
  - The tribe or tribal nation will receive its own Emergency Declaration (EM) number, based on how our system works, despite there being only one Presidential national emergency declaration for COVID-19

- Your tribe will be working directly with FEMA and you will need to complete the following administrative steps:
  - Apply for Federal Assistance by filling out [Form SF-424](#).
  - Complete a Public Assistance Administrative Plan: Before FEMA can provide Public Assistance funding for any project, the Recipient must create a FEMA-approved Public Assistance Administrative Plan that describes how it intends to administer the program and other administrative items; FEMA will provide a template.
  - The Tribe will be responsible for proper management and compliance of the Federal grant.
  - Submit a Request for Public Assistance through the PA Grants Portal.

**First-time Recipients will also need to do the following:**

- Acquire a [DUNS number](#),
- Create a [Payment Management System Account](#); and
- Submit a Direct Deposit Sign-Up Form ([SF-1199A](#)).
- Your tribe will be responsible for 25% of the cost share.

**For tribes or tribal nations that have never been Recipients of FEMA assistance, FEMA recommends working closely with states during this national emergency to maximize the efficiency of federal resources. More information on the typical administrative requirements of being a Recipient may be found in [FEMA’s New Recipients of Disaster Grants Guide](#).**

**Reimbursable Costs, Legal Responsibility and Procurement Requirements**

Eligible emergency protective measures taken at the direction or guidance of public health officials to respond to the COVID-19 emergency and not funded by another federal agency will be reimbursed under Category B of the FEMA Public Assistance Program.

**FEMA will not duplicate** assistance provided by the U.S. Department of Health and Human Services (HHS), to include the Centers for Disease Control and Prevention (CDC), or other federal agencies. It is very important that Tribes develop a way to track the federal grants and funding that it receives and what items are purchased under each federal funding resource. Remember, “FEMA is the funding of last resort” and the items that are not eligible under FEMA should be purchased under other federal funding resources. Therefore, the Tribe’s internal tracking method will be important to document that there is not duplication of benefits and to document the costs of eligible items under each Federal funding source.

**Eligible Assistance for Emergency Protective Measures includes:**

- **Management, control and reduction of immediate threats to public health and safety:**
  - Emergency Operation Center costs
  - Training specific to the declared event
  - Disinfection of eligible public facilities

- Technical assistance to state, tribal, territorial or local governments on emergency management and control of immediate threats to public health and safety
- **Emergency medical care:**
  - Non-deferrable medical treatment of infected persons in a shelter or temporary medical facility
  - Related medical facility services and supplies
  - Temporary medical facilities and/or enhanced medical/hospital capacity (for treatment when existing facilities are reasonably forecasted to become overloaded in the near term and cannot accommodate the patient load or to quarantine potentially infected persons)
  - Use of specialized medical equipment
  - Medical waste disposal
  - Emergency medical transport
- **Medical sheltering (e.g. when existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate needs)**
  - All sheltering must be conducted in accordance with standards and/or guidance approved by HHS/CDC and must be implemented in a manner that incorporates social distancing measures
  - Non-congregate medical sheltering is subject to prior approval by FEMA and is limited to that which is reasonable and necessary to address the public health needs of the event, is pursuant to the direction of appropriate public health officials and does not extend beyond the duration of the Public Health Emergency.
- Household pet sheltering and containment actions related to household pets in accordance with CDC guideline.
- Purchase and distribution of food, water, ice, medicine, and other consumable supplies, to include personal protective equipment and hazardous material suits movement of supplies and persons.
- Purchase of food distribution must be approved through FEMA by submitting a letter either through NMDHSEM (as a sub-recipient) or directly to FEMA (as a direct recipient).
- There is a 30-day time period that will be approved. Extensions of the 30-day time period will be considered on a case by case basis and must be approved by FEMA.
- Security and law enforcement
- Communications of general health and safety information to the public.
- Search and rescue to locate and recover members of the population requiring assistance.
- Reimbursement for state, tribe, territory and/or local government force account overtime costs (there is not reimbursements for normal force account costs).

More examples of Emergency Protective Measures can be found [here](#).

**Food Reimbursements:** In accordance with Section 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., emergency protective

measures necessary to save lives and protect public health and safety, including the purchase and distribution of food may be reimbursed under the PA program. Please see [FEMA's Purchase and Distribution of Food Eligible for Public Assistance](#) for more information.

**Legal Responsibility:** To be eligible for Public Assistance, an item of work must be the legal responsibility of the applicant. Measures to protect life, public health, and safety are generally the responsibility of state, local, tribal and territorial governments.

*(Reminder- the "applicant" is a non-federal entity that applies to be a Subrecipient under a Recipient's federal award or as a direct recipient.)*

- Legally responsible governments may enter into formal agreements and contracts with private organizations, private non-profit organizations such as food banks, to purchase and distribute food when necessary as an emergency protective measure to the COVID-19 Public Health Emergency.
- Applicants will have to certify that costs incurred were their legal responsibility as part of their project submission to FEMA.

**Compliance with Procurement Process:** Non-state entities must follow processes described in [2 C.F.R. Part 200](#) – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. If the Tribe's procurement policies and procedures are already compliant with 2 C.F.R. Part 200, then the Tribe can solely rely on their current procurement policies and procedures. If the Tribe's procurement policies and procedures are not compliant or updated to incorporate the requirements of 2 C.F.R. Part 200, the Tribe should make sure that any purchases or procurements for this emergency declaration process is compliant with 2 C.F.R. Part 200. In addition to being compliant with 2 C.F.R. Part 200, it is important to include the FEMA contract provisions (attached) in any contracts that are executed for services and supplies for this COVID 19 emergency declaration.