

Robert T. Stafford Disaster Relief and Emergency Assistance Act Fact Sheet

Overview

The [Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988](#) (Stafford Act) provides the legal authority for the federal government to provide assistance to states during declared major disasters and emergencies.¹

What the Law Does

The Stafford Act authorizes the delivery of federal technical, financial, logistical, and other assistance to states and localities during declared major disasters or emergencies.² The Federal Emergency Management Agency (FEMA) coordinates administration of disaster relief resources and assistance to states. Federal assistance is provided under the Stafford Act if an event is beyond the combined response capabilities of state and local governments.

How the Law Works

State Response and Request for Assistance

The governor of an affected state must first respond to the emergency event and execute the state's emergency response plan before requesting a presidential declaration under the Stafford Act. The governor must certify in writing that the magnitude of the event exceeds the state's capability to respond and that supplemental federal assistance is necessary. In the absence of a specific request, the president may provide accelerated federal assistance where it is necessary to save lives or prevent severe damage.³

Presidential Declaration

The Stafford Act authorizes the president to declare a "major disaster" or "emergency" in response to an incident or threatened incident that overwhelms the response capability of state or local governments. A presidential declaration under the Stafford Act enables access to disaster relief assistance and funds as appropriated by Congress. The Disaster Relief Fund has several billion dollars immediately available for the emergency needs of state and local governments, but its use is limited to those purposes specifically authorized in the Stafford Act—implementing allowed activities to respond to major disasters and emergencies as defined in the act. Congress may authorize additional funds as an event dictates. The presidential declaration specifies the types of assistance authorized.

The president may declare an emergency without first receiving a gubernatorial request if the emergency involves an area of "federal primary responsibility" in which principal responsibility for response rests with the federal government because the emergency involves a subject area for which the United States exercises exclusive responsibility and authority.^{2,3} Such declarations were made during the 2001 Pentagon terrorist attack and the 1995 bombing of the Murrah Federal Building in Oklahoma City.

A Stafford Act declaration can trigger other public health emergency response authorities. In order for the secretary of Health and Human Services (HHS) to exercise waiver authority under [Social Security Act Section 1135](#) (which allows the secretary to temporarily waive or modify certain Medicare, Medicaid, SCHIP, and HIPAA requirements), there must be a public health emergency determination under [Section 319 of the Public Health Service Act](#), as well as a presidential declaration under the Stafford Act or the [National Emergencies Act](#).

Types of Events Covered

The Stafford Act covers major disasters and emergencies. *Major disasters* are defined as any natural catastrophe or fire, flood, or explosion, regardless of cause, which is of sufficient severity to warrant assistance under the act to alleviate the damage, loss, or hardship caused by the event. *Emergencies* are defined as any event for which federal assistance is needed to supplement state/local efforts to save lives, protect public health and safety, protect property, or avert the threat of a catastrophe. Pandemic influenza and other communicable diseases are defined as emergencies eligible for coverage under the Stafford Act.

Resources and Assistance Available

Three types of assistance are authorized by the Stafford Act. Assistance can take the form of direct federal aid in terms of services, grants, and technical support, or as reimbursement for services provided by or contracted for by affected states. FEMA has extensive rules, policies, and guidances to further define eligibility and procedures for Stafford Act assistance.⁴

Individual Assistance—Provides immediate direct and financial assistance to individuals for housing and other disaster related needs.

Hazard Mitigation—Provides grants to affected governments to implement long-term hazard mitigation measures after a major disaster declaration. Only areas within the geographic area designated in the declaration are eligible for hazard mitigation aid.⁶ Hazard mitigation assistance is available for major disasters but not emergencies under the Stafford Act.

Public Assistance—Provides aid to eligible applicants seeking assistance with eligible costs for eligible work performed at eligible facilities. Funding for public assistance is divided generally into a 75 percent federal share and 25 percent state share; however, the federal share may be raised in a presidential declaration.

- **Eligible applicants** are state and local governments, tribes, and certain private nonprofit entities that provide services of a governmental nature.⁵
- **Eligible facilities** are structures or equipment, such as public buildings, schools, hospitals, outpatient care centers, and custodial care facilities, that are owned by eligible applicants.
- **Eligible work** is disaster recovery work performed on an eligible facility that is needed as the result of a major disaster event, located within a designated disaster area, and the legal responsibility of an eligible applicant. Two general types of work are recognized by the Stafford Act:
 - **Emergency work** is assistance to meet immediate threats to life and property, such as debris removal, and emergency protective measures, such as search, rescue, evacuation, emergency medical care, food, water, and shelter.
 - **Permanent work** activities include repair, restoration, and replacement of damaged facilities owned by states, localities, tribes, and eligible private nonprofits.
- **Eligible costs** are those reasonable costs that can be directly tied to the performance of eligible work and comply with governmental procurement requirements. Costs are reduced by all applicable credits, such as insurance proceeds and salvage values.

Practice Notes

- Understand how public health and other emergencies or disasters are legally defined in your state.
- Identify state agencies and offices that interact with FEMA and understand the health agency's role during emergencies and disasters.

Pandemic Coverage—Direct federal assistance is available through Public Assistance grants for Stafford Act declarations related to pandemic influenza.⁷ Direct federal assistance in a pandemic can include, among other things, providing emergency medical care and temporary medical facilities; supplying food, water, medicine, and other supplies; and management control and reduction of immediate threats to public health and safety. Assistance provided by FEMA under the Stafford Act in response to a pandemic influenza declaration may not duplicate assistance provided or available under the authority of other federal agencies, including HHS.

Mutual Aid Agreement Reimbursement—FEMA will reimburse for services provided through written mutual aid agreements, like the [Emergency Management Assistance Compact \(EMAC\)](#), for aid provided to states where there has been a presidential declaration, the activities and costs directly relate to the event and eligible work, and costs are reasonable.⁸

Immunity and Liability Issues

The Stafford Act does not directly address liability protections or immunities; however, personnel and resources deployed during the response may be eligible for liability protections under other laws. Personnel deployed as part of the [Medical Reserve Corps](#) or [National Disaster Medical System](#) have liability protections through other federal laws. Responders deployed through the EMAC may be covered by state liability protections. Specified countermeasures may be covered under the [Public Readiness and Emergency Preparedness Act \(PREP Act\)](#).

How the Law Affects States

The aid triggered by a Stafford Act declaration provides states and localities with financial, technical, and logistical support during emergency events that overwhelm their capacity to respond. The Stafford Act and its implementing rules, policies, and guidances create a highly structured system through which states seek assistance. The [National Response Framework](#) and the [National Incident Management System](#) further define roles of federal, state, and local governments and other sectors in responding to events of various sizes, not just those severe enough to qualify for coverage under the Stafford Act.

Sources and Notes:

¹ Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988. Pub. L. No. 100-707; amending Pub. L. No. 93-288. Codified at 42 U.S.C. §§ 5121-5207.

² CDC, Public Health Law Program. "Selected Federal Legal Authorities Pertinent to Public Health Emergencies." September 2009. Available at <http://www2.cdc.gov/phlp/docs/Selected%20Fed%20Legal%20Authorities%20re%20PH%20Emergencies%20102709%20v2.pdf>. Accessed January 31, 2012.

³ HHS. "Legal Authority and Related Guidance." Available at www.phe.gov/Preparedness/planning/authority/Pages/default.aspx. Accessed January 31, 2012.

⁴ See generally 44 CFR Parts 1-362 and FEMA website at www.fema.gov/index.shtm. Accessed January 31, 2012.

⁵ FEMA. "Eligible Applicants." Available at www.fema.gov/government/grant/pa/eligibility_applicants.shtm. Accessed January 31, 2012. See also 44 CFR Part 206.

⁶ FEMA. "Hazard Mitigation Grant Program." Available at www.fema.gov/government/grant/hm/gp/index.shtm. Accessed January 31, 2012. See also 44 CFR Part 206.

⁷ FEMA. *Emergency Assistance for Human Influenza Pandemic Disaster Assistance Policy 9523.17*. November 25, 2009.

⁸ FEMA. *Mutual Aid Agreements for Public Assistance and Fire Management Assistance Disaster Assistance Policy 9523.6*. August 13, 2007.

This document was compiled from June-December 2011 and reflects the laws current then. It reflects only portions of the laws relevant to public health emergencies and is not intended to be exhaustive of all relevant legal authority. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice. The document was funded by CDC Award No. 1U38HM000454 to the Association of State and Territorial Health Officials; Subcontractor PI Elliott, Logan Circle Policy Group LLC.