

APPENDIX B

OVERVIEW OF FEDERAL DISASTER MANAGEMENT SYSTEM

A. Declaration of an Emergency or Disaster

Both disaster assistance and emergency assistance under the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)^{1/} are triggered by a Presidential Declaration. A Presidential Declaration of Emergency or Disaster is initiated by a request from the governor of the state in which the disaster has occurred.^{2/}

1. Disaster and Emergency Distinguished

A “major disaster” is a catastrophe that the President determines has caused damage of sufficient severity and magnitude to warrant federal disaster assistance to supplement state and local resources.^{3/} The full range of disaster assistance under the Stafford Act may be made available if a disaster is declared.^{4/} An “emergency” is generally declared by the President before a disaster occurs in order to help state and local

^{1/} The Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§5121 *et seq.*

^{2/} 42 U.S.C §5170; 44 C.F.R. §§206.35, 206.36.

^{3/} 42 U.S.C. §5122(2).

^{4/} 42 U.S.C. §§5170a, 5170b, 5170c.

governments prevent loss of life or property or lessen the impact of an impending catastrophe.^{5/} Assistance authorized by an emergency declaration is limited to immediate and short term assistance.^{6/}

2. The Declaration Process

^{5/} 42 U.S.C. §5122(1).

^{6/} 44 C.F.R. §206.63; see 42 U.S.C. §5192 for types of assistance.

The Governor's request for a declaration of either a major disaster or an emergency should be made through the Regional Director for the Federal Emergency Management Administration (FEMA) for the region in which the state is located, and must ordinarily be made within 30 days of the catastrophe or incident.^{7/} The Director of FEMA (Director) must arrive at a recommendation concerning the declaration and forward this recommendation to the President along with the Governor's request.^{8/}

The President may either grant or deny the Governor's request, or, in the case of a request for a declaration of major disaster, may declare an emergency instead.^{9/} The Director must notify the Governor promptly of the President's decision or declaration, and of the types of assistance available and of the geographic areas eligible for assistance.^{10/} The Governor may appeal the denial of a declaration within 30 days of the date of denial.^{11/}

3. Types and Geographic Areas of Assistance

^{7/} 44 C.F.R. §§ 206.36, 206.35.

^{8/} 44 C.F.R. § 206.37(c).

^{9/} 42 U.S.C. §5170; 44 C.F.R. §206.38.

^{10/} 44 C.F.R. §206.39.

^{11/} 44 C.F.R. §206.46

Both the designation of the disaster-impacted area, and the types of disaster assistance to be provided are usually included in the Presidential Declaration sent to the Governor.^{12/} The Associate Director has the authority to decide what additional forms of assistance will be provided at the request of the Governor.^{13/} The designation of the geographical area(s) which are considered impacted by the disaster must be published in the Federal Register.^{14/} The Governor, or the Governor's Authorized Representative, may request additional types of disaster assistance, and/or that additional areas be declared eligible for assistance, within 30 days of the declaration.^{15/}

3. The FEMA-State Agreement

Following the declaration, the Director and the governor must execute a FEMA-State Agreement setting forth the incident period for which disaster assistance will be made available, the type and extent of federal assistance to be provided, and the

^{12/} 44 C.F.R. §206.40(a). A copy of the Declaration of Disaster may be obtained from either FEMA or the Governor's office.

^{13/} *Id.*

^{14/} 44 C.F.R. §206.40(b). Any modifications of the Declaration of Disaster are also published in the Federal Register.

^{15/} 44 C.F.R. §206.40(c),(d).

commitment of the state and local governments.^{16/}

B. State and Federal Roles

FEMA has two major roles in the provision of disaster and emergency assistance:

(1) **coordination** of the relief efforts of federal, state and local governments and of non-governmental disaster assistance organizations,^{17/} and

^{16/} 44 C.F.R. §206.44.

^{17/} 42 U.S.C. §§5170a(2), 5170b; 44 C.F.R. §206.42(3).

(2) **direct administration** of the Individual and Household Assistance program,^{18/} of the Public Assistance program for state and local governments,^{19/} and of Emergency programs such as temporary public transportation,^{20/} debris removal,^{21/} and clearance of roads and construction of bridges.^{22/}

Other individual assistance disaster programs authorized under the Stafford Act are administered by state agencies and other federal agencies and coordinated by FEMA. These include the Disaster Unemployment Assistance program,^{23/} Disaster Food Stamps and Food Commodities programs,^{24/} Emergency Grants to Low-Income Migrant and Seasonal Farmworkers,^{25/} Disaster Legal Services,^{26/} and Crisis Counseling Assistance.^{27/} Finally, the Small Business Administration (SBA) Disaster Loan program is administered separately by the SBA under its own statutory and regulatory authority,^{28/} although in coordination with FEMA.

^{18/} 42 U.S.C. §5174; 44 C.F.R. §§206.117, 206.119. Part of this program may be administered by the state, as explained below.

^{19/} 42 U.S.C. §5172; 44 C.F.R. §206.203.

^{20/} 42 U.S.C. §5186.

^{21/} 42 U.S.C. §5170b(3)(A) ; 44 C.F.R. §206.224.

^{22/} 42 U.S.C. §5170b(3)(C).

^{23/} 42 U.S.C. §5177; 44 C.F.R. §206.141.

^{24/} 42 U.S.C. §5179; 44 C.F.R. §206.151.

^{25/} 42 U.S.C. §5177a.

^{26/} 42 U.S.C. §5182; 44 C.F.R. §206.164. Disaster Legal Services are provided by *pro bono* attorneys through the Young Lawyers Division (YLD) of the American Bar Association (ABA).

^{27/} 42 U.S.C. §5183; 44 C.F.R. §206.171.

^{28/} 15 U.S.C. §636(b)(1); 13 C.F.R., Part 123.

1. Federal Disaster Officers

Immediately after a Declaration of Disaster, the Director of FEMA appoints a Federal Coordinating Officer (FCO), and the Regional Director of FEMA appoints a Disaster Recovery Manager (DRM).^{29/} The FCO is required to coordinate all relief activities in the disaster area, and to establish field offices for the administration of this relief.^{30/} The DRM serves as the representative of the Regional Director of FEMA and exercises all of the Regional Director's authority with respect to the disaster.^{31/}

2. The State Disaster Officers

Following a declaration of disaster, the Governor must appoint a State Coordinating Officer (SCO) to coordinate state and local disaster assistance with that provided by the federal government and to ensure that all local jurisdictions are informed of the declaration, the types of assistance authorized, and the areas eligible to receive assistance,^{32/} and a Governor's Authorized Representative (GAR) to administer federal disaster assistance programs on behalf of state and local governments, and to ensure state compliance with the FEMA-State agreement.^{33/}

C. Disaster Field Offices and Recovery Centers

Following a disaster declaration, the FCO must establish a Disaster Field Office

^{29/} 42 U.S.C. §5143(a); 44 C.F.R. §206.41.

^{30/} 42 U.S.C. §5143(b); 44 C.F.R. §206.42(a).

^{31/} 44 C.F.R. §206.41(b).

^{32/} 42 U.S.C. §5143(b); 44 C.F.R. §§206.41(c), 206.42(b).

(DFO) and Disaster Recovery Centers (DRCs) in consultation with the SCO.^{34/}

1. The Disaster Field Office (DFO)

The DFO serves as the local headquarters for FEMA. Its purpose is to coordinate and monitor disaster assistance programs. It may house other disaster agencies such as the SBA and or the state agencies administering other disaster relief programs. The DFO is generally in existence for the duration of the disaster, and is the work station for the FCO, and other FEMA officials such as the Individual Assistance Officer (IAO), the Public Assistance Officer (PAO), and the Public Information Officer. The DFO is generally the office that an advocate must contact in order to advocate either on behalf of individual clients, or regarding systems issues such as outreach, or the administration of disaster programs.

2. The Disaster Recovery Centers (DRCs)

^{33/} 44 C.F.R. §206.41(d).

^{34/} 44 C.F.R. §206.42(a)(2).

The DRCs are application centers set up in the disaster area, at which disaster victims can typically apply for all available individual benefits, whether administered by FEMA or some other agency. They also serve as an information center for victims regarding available disaster assistance. The DRCs remain in existence only during the application period, and may be closed and reopened in new locations as determined by the FCO, in coordination with the SCO. They should be sufficient in location and number to disseminate information, accept applications, and counsel individuals, families and businesses concerning available assistance.^{35/}

^{35/} 44 C.F.R. §206.42(a)(2).