



# FEMA

## DISASTER ASSISTANCE POLICY

DAP9521.4

**I. TITLE: *Administering American Indian and Alaska Native Tribal Government Funding***

**II. DATE:** April 30, 2007

**III. PURPOSE:**

Provide guidance in administering Public Assistance funding to American Indian and Alaska Native Tribal Governments when Tribal Governments choose to act as Grantee, or when the State cannot legally act as the Grantee.

**IV. SCOPE AND AUDIENCE:**

This policy is applicable to all major disasters and emergencies declared on or after its publication date. It is intended for Federal Emergency Management Agency (FEMA) personnel involved in making eligibility determinations under the Public Assistance Program. This policy applies only to Federally-recognized Indian Tribal Governments. It does not apply to other Tribal Governments, e.g., State-recognized Tribes or Alaska Native Corporations.

**V. AUTHORITY:**

Sections 403, 406, 407, 420, 502 and 503 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5206, and 44 CFR §206.44, 206.202(f)(1), and 206.222(c); Federal Register: January 12, 1999 (Vol. 64, No. 7), Final Agency Policy for Government-to-Government Relations with American Indian and Alaska Native Tribal Governments.

**VI. BACKGROUND:**

The State usually serves as the Grantee for all Public Assistance funding, and is responsible for administering all funds provided for subgrantees under this program. However, 44 CFR §206.202(f)(1) provides an exception for Indian Tribes or authorized tribal organizations when the State cannot legally act as the Grantee. In keeping with the intent of FEMA's overall policy, "Government-to-Government Relations with American Indian and Alaska Native Tribal Governments," published in the January 12, 1999, issue of the Federal Register, a qualified Tribal Government will be permitted to deal directly with FEMA on Public Assistance funding and act as its own Grantee. Administrative Plans should be developed before a disaster to expedite response and recovery actions and to ensure an understanding of roles and responsibilities.



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**VII. DEFINITIONS.** For the purposes of this policy, the following definitions apply:

A. **Indian Tribe.** An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

B. **Indian Tribal Government.** The recognized governing body of an Indian Tribe, band, nation, pueblo, village, or community, including any Alaska Native Village defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.* The shortened name, Tribal Government, is used throughout this policy.

### **VIII. POLICY:**

A. A Tribal Government may act as Grantee if the State Governor has requested a major disaster or emergency declaration, and the disaster or emergency has been approved by the President. In such cases, the Tribal Government must submit an SF 424, Application for Federal Assistance, directly to FEMA.

B. A Tribal Government that assumes Grantee status becomes responsible for the entire non-federal share of the public assistance grant, unless the State provides some or all of that cost. The State should be encouraged to continue existing relationships with the Tribe.

C. The Tribal Government and State will operate under the same disaster declaration number issued as a result of the Governor's request. Disasters on tribal lands that cross State borders must be requested in separate disaster requests. Arrangements for administering disasters on tribal lands crossing State borders will be made on a case-by-case basis.

D. The Tribal Government will be required to comply with the following conditions in order to receive Public Assistance funding.

1. A Tribal Government must meet all requirements placed on a Grantee in accordance with 44 CFR Part 13.

2. A formal FEMA-Tribal Agreement must be executed between FEMA and the Tribal Government. The Agreement is similar to the FEMA-State Agreement in that it reflects the understandings, commitments, and conditions under which assistance will be provided to the Tribal Government. FEMA Headquarters Disaster Assistance Directorate, Public Assistance Division will draft the basic provisions for the Agreement. FEMA Regional Administrators will add specific provisions related to the disaster and the Tribal Government. All proposed



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changes to the basic Agreement must be reviewed by FEMA Headquarters and the affected Tribe(s) prior to inclusion or approval.

3. The Tribal Government must develop and submit a Public Assistance Administrative Plan as outlined in 44 CFR §206.207. The Plan must be approved by FEMA.

4. The Tribal Government, acting as Grantee, will receive project funding, Grantee management costs, and administrative allowances under the Public Assistance Program (see Disaster Assistance Policy DAP9525.14, Public Assistance Grantee Administrative Costs). Subgrantee administrative allowances will be provided to subgrantees if they are subdivisions of the tribal government. The Grantee management cost and administrative allowance will no longer be applicable upon publication of the final management cost rule pursuant to Section 324 of the Stafford Act.

5. When the Tribal Government does not have access to SMARTLINK, it must submit Form 270, Request for Advance or Reimbursement, to request payment or reimbursement of Federal funding.

6. The Tribal Government, as the Grantee, will be subject to a financial closeout.

**IX. RESPONSIBLE OFFICE:** Disaster Assistance Directorate (Public Assistance Division).

**X. SUPERSESSION:** This policy supersedes all previous guidance on this subject.

**XI. REVIEW DATE:** Three years from date of publication.



David Garratt  
Acting Assistant Administrator  
Disaster Assistance Directorate