

Floods of 2016: Federal Declaration Process and Cultural Resource Reviews



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Purpose of Presentation

- Provide background on Federal Response to floods of 2016 and the disaster declaration process
- Introduce FEMA's compliance procedures for cultural resource reviews of tribal properties under Section 106 of the NHPA



Background

- Federal Response to floods of 2016
- Tribal Declaration Process
 - Preliminary Damage Assessments
 - Disaster Declaration
- FEMA Response once a declaration is granted
 - Considers impacts both to Tribal lands and to areas of interest to Tribes



Introduction to Tribal Declaration Process

- President Barack Obama signed the Sandy Recovery Improvement Act, 2013
- Amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)
 - Recognized Tribal Sovereignty
 - FEMA Tribal Declaration Pilot Guidance



Preliminary Damage Assessment (PDA)

- Types of PDAs
 - Public Assistance (PA)
 - Source of recovery funds for disaster-damaged public facilities and infrastructure
 - Individual Assistance (IA)
 - Provides supplemental assistance to individuals and households



Preliminary Damage Assessment (PDA)

- Public Assistance (PA)
 - Debris removal
 - Emergency Protective Measures
 - Roads and bridges
 - Water control facilities
 - Parks & recreational facilities
 - Utilities
 - Buildings and equipment



Preliminary Damage Assessment (PDA)

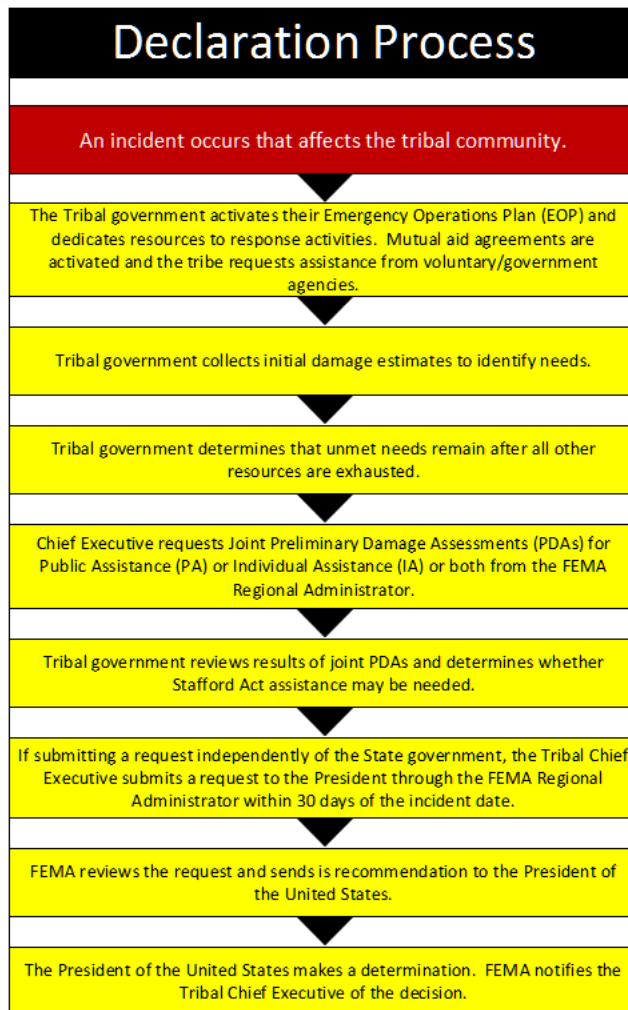


- Individual Assistance (IA)
 - Individual and Household Program
 - Disaster Unemployment Assistance
 - Disaster Legal Services
 - Crisis Counselling Assistance and Training Program
 - Disaster Case Management Program



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Declaration Process



- Eligibility Information
- Exhausted Tribal governments capabilities
- Tribal Mitigation Plan
- Tribal Emergency Operations Plan
- Minimum damage criteria



FEMA Response to Federal Declaration

- Deployment of FEMA staff
 - FEMA Tribal Liaison
 - Regional Incident Management Assistance Team (IMAT)
 - Identify a Federal Coordinating Officer (FCO)
- FEMA Facilities
 - Establishment of a Joint Field Office (JFO)
 - Establish Disaster Relief Center (DRC), if Individual Assistance
- Coordinate/collaborate with Tribal government to meet needs
- FEMA Response Management
 - Employ other Federal agencies
 - Emergency Support Functions
 - Collect Resource Data



Cultural Resource Reviews

- Tribal identification and notification
- Dataset reflects
 - Information from Tribes and previous tribal consultations
 - NAGPRA Database
 - NATHPO website
 - BIA directory
 - Other agency databases
- FEMA's data is a starting point for identification only; this data not considered complete



Initiating Consultation for Disaster Damages

- Damages off Tribal Lands:
 - Notify Tribes of declaration and request comment
 - Follow FEMA's protocol for consultation
- Damages on Tribal Lands:
 - Tribal or State Declarations
 - Initiate consultation to determine procedures for review



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Damage off Tribal Lands: Notification Letter

For Disaster Notification:

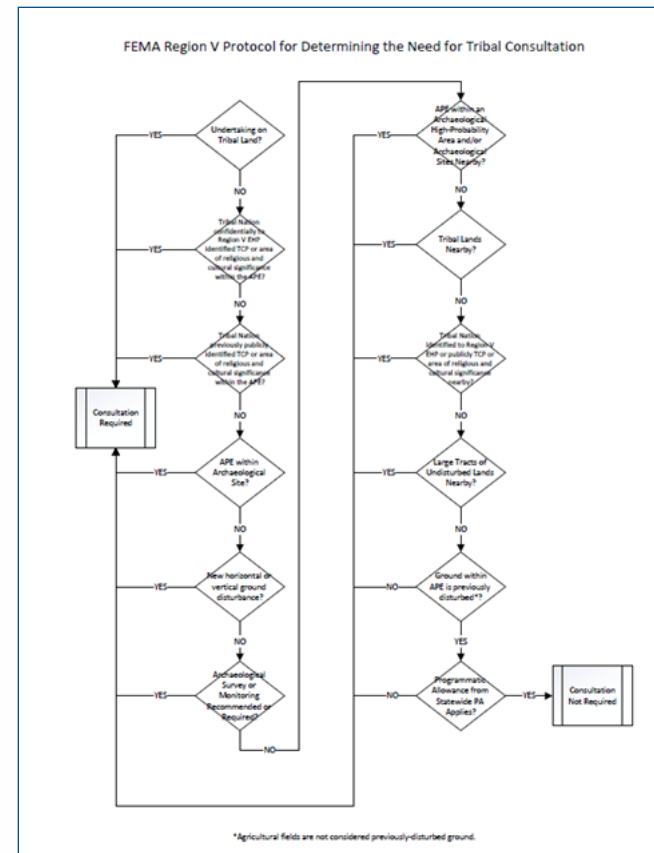
- Letter signed by Federal Coordinating Officer
- Identifies declared areas, FEMA programs, and disaster damages
- Invites comment on areas of interest in the declared area
- Provides list of Tribes consulted, and requests identification of other Tribes with potential interests
- Includes confidentiality statement



Damage off Tribal Lands: Consultation Protocol

For individual projects:

- Understand tribes have unique and special expertise in assessing properties of cultural importance
- Understand not all actions have potential to affect resources
- Developed protocol for when to initiate tribal consultation
- Continually update information that helps FEMA determine which Tribes to contact



Damage off Tribal Lands: Consultation Protocol

- Potential triggers for consultation
 - Previously-identified areas of interest
 - New ground disturbance
 - Near Tribal lands or known archaeological sites
 - In areas with high probability for potential archaeology
- Notification
 - Includes project location, brief narrative, and maps
 - Invites comment
 - Lists Tribes notified, and requests identification of other Tribes with potential interests
 - Includes confidentiality statement



Damage on Tribal Lands: Consultation Protocol

- FEMA will request a face-to-face meeting
- For Tribal signatories to a programmatic agreement, conduct procedures in PA
- For all other Tribes, review disaster damages
 - Discuss disaster impacts to Tribe
 - Determine consultation procedures for resources on and off tribal lands
- Document procedures



Damage on Tribal Lands: Consultation Protocol

- Procedures established for a disaster may include:
 - Use of Tribal specific forms
 - Requirements for submission to THPO (or, if there is no THPO, notification to Tribe of consultation with SHPO)
 - Defined response times
- Recent disaster in Wisconsin (DR-4276-WI)



Damage on Tribal Lands: Consultation Protocol

- Documentation typically includes
 - Scope of work narrative
 - Ground disturbance estimates
 - Maps of area
 - Plans, if available
 - Reports of previously-conducted archaeological surveys



Summary of Cultural Resource Protocol

Damage off Tribal Lands

- Notify all potentially interested Tribes of the disaster declaration and areas affected and request comment
- For individual undertakings with potential to affect
 - Determine Tribes to be notified
 - Provide project details and request comment
 - Continue and conclude consultation as requested by Tribe

Damage on Tribal Lands

- Conduct consultation to review provisions of programmatic agreement or define consultation procedures
- Consult as necessary on individual projects

Contact Information

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Any Questions?

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