

Tribal Listening Session at National Congress of American Indians (NCAI) Executive Council Winter Session (ECWS) on FEMA's Individual Assistance Reform

Summary

- FEMA's Office of External Affairs and the Individual Assistance (IA) Division hosted an in-person tribal listening session with the IA Deputy Division Director and leadership of Tribal Nations attending NCAI's ECWS in Washington, D.C. The meeting served to gather Tribal Nation's feedback on the new IA Reform that will help implementation of this rule, share key elements of the rule, and to offer valuable input on how FEMA can better meet the needs of Tribal Nations via this rule. This session was the first in a series of listening sessions and tribal consultations on FEMA's IA Reform.

Topics of Discussion

Dialogue with Tribal Leadership

- Topic 1: Introductions
- Topic 2: IA Overview
- Topic 3: IA Reform Changes

"Get backs"

- Share information on the Building Resilient Community Infrastructure and flood mitigation grant programs.
- Develop trifold or cheat sheet for tribal community members to navigate programs.
- Look into Tribal Nations who have to permanently relocate and how to make sure tribal lands are federally recognized.
- Follow up with information on Assistance to Fire Fighter Grant Program and connect with Tribal Nations in Region 6 that were successful in the grants.

FEMA

Introductions and Opening Statements

[Opening prayer was then given]

- Kelbie Kennedy:
 - Introduced herself to attendees stating she is FEMA's first ever Tribal Advocate in the history of FEMA and DHS and her role advises FEMA leadership to make sure FEMA lives up to treaty and trust responsibility.
 - Noted will send a copy of slides from today's listening session and to please sign in legibly.
 - Respectfully asked if any member of the press is here, to please leave.
 - Mentioned today's session is being recorded. The IA Reform is in the Federal Register and comments will be added anonymously.
 - She then turned the floor over to Zachary Usher.
- Zachary Usher:
 - Said he appreciated everyone taking the time to listen to this update in their busy schedules.
 - Noted these are significant changes to FEMA's programs that assist people who are impacted by disasters.
 - Introduced himself to attendees and mentioned IA is the program that provides humanitarian assistance to communities after a disaster.
 - Mentioned he has been with FEMA for 21 years and has seen and worked on many disasters. Some of the changes that attendees will hear about today are some of the most significant he has seen in emergency management.

Presentation

- Zachary Usher:
 - Started with process by which disasters are declared from a federal perspective. Mentioned there is an established process for an Indian Tribal Government to index damages and make a choice of requesting disaster federal assistance. Noted a Tribal Nation can come in a government-to-government declaration or work in partnership with a state in a state issued declaration. Whichever pathway the tribal government pursues, there is a standard way to indexing and assessing who and how people have been impacted.
 - Said after there is a formal request from a Tribal Executive that is sent to the FEMA Regional Office that will work with the tribal government to see where help is needed and then a request is sent to President as the final decider.
 - Noted IA is a humanitarian program that FEMA delivers, and FEMA also provides assistance for public infrastructure known as Public Assistance and it is separate than what we do for IA.
 - Said aid that is available includes assistance for emergency needs, housing, mental health and crisis counseling, disaster unemployment, disaster legal services, and disaster case management.
 - Added that when we talk about disaster recovery, the process for recovery after a disaster is unique for every individual and family and there is a level of customization to get a family to recover.
 - Introduced significant changes coming to IA.
 - Mentioned we received feedback on IA program including tribal community members, FEMA staff who support Indian Tribal Governments, and media that covers what it is like to go through recovery. Said there are places where current programs have gaps where we do not have solutions for certain needs so FEMA is establishing new benefits. Another aspect is making FEMA programs simpler to access and asking for the minimum amount of documentation for FEMA to make a decision.
 - Added changes to documentation for people who are self-employed like artist, authors, and craftspeople. FEMA is making changes to the documentation requirement to replace tools in the workplace, particularly for people who are self-employed where before it might not have been possible. Changes will go into effect March 22nd and for disaster declarations on or after that day. Said individuals can provide a statement to FEMA for tools for their work that were damaged, impacted, or destroyed during a disaster.
 - Emphasized that how FEMA looks at insurance is changing. Currently, FEMA has to assess any available insurance to family or individually to make sure FEMA is not duplicating benefits. Added where we are

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going is to make a change that if they have insurance, but it is not enough for them to recover, FEMA will do more to provide assistance to address needs and facilitate ability to recover.

- Concluded presentation that the changes we are making are simplifying processes, providing new benefits, and ensuring we are asking for minimum documentation to make a responsible decision.
- Said FEMA is taking comments on IA reform until July 22nd this year. Mentioned FEMA values the feedback, and the policy teams will be looking through it in detail to make adjustments to programs.
- Stated the main takeaway: FEMA is looking to reform the program and taking actions; it is based on feedback from decades of disaster and tribal community members and look forward to dialogue.
- He then turned the floor over to Kelbie Kennedy to moderate discussions.

■ Kelbie Kennedy:

- Thanked Zachary Usher for presentation and noted everyone will get a copy of the slide and the tribal one-pager is in the packet in their seats.
- Mentioned she stressed that these IA changes will have an impact on tribal community members whether a Tribal Nation chooses their own declaration or goes with a state declaration. Added it also means there could have a tribal declaration for PA and go with the state with IA.
- Explained tribal community members is whoever the Tribal Nation decides who is in their community, which may include enrolled tribal members, descendants, employees, and non-natives.
- Emphasized there is a cost share with some IA programs that the president cannot waive.
- Reviewed framing questions.
 - Are there specific challenges you foresee with the implementation of this rulemaking?
 - What other ways can FEMA IA simplify processes, remove barriers to entry, and increase eligibility for Tribal Nations and tribal community members?
 - What is missing in the IA Reform to address the unique needs and considerations of Tribal Nations?
 - What would Tribal Nations like to see in the future in terms of engaging with FEMA IA?
- Stated IA does have flexibility to change this rule. This is the most changes seen in 20 plus years and if there is something we missed for Tribal Nations, we want to get it right.
- Shout out to Sierrah and Megan that attended the tribal declarations guide consultations the past year. There are some people who said they would never request IA and they were able to have a sidebar.
- Explained deference to tribal leaders and tribal elders first. Then open the door for tribal designees, and then tribal organizations. It is not closing the doors, feel free to hop in later.
- Noted to please say your name, title, and Tribal Nation.
- Added to remember this is being recorded, but all comments are anonymous and will not be attached to a specific person in the record.
- She then opened to floor to tribal leaders or elders.

Comments

■ Comment 1:

- Noted that when there were horrible fires in Lahaina there was a \$750 payment to individuals. Asked if there has there been any discussion to raise the amount? Doesn't feel like that is an appropriate amount. Is there any discussion about raising the amount?
- Zachary Usher:
 - Thanked commenter for their feedback and question. Noted one of the things FEMA is doing for the IA reform is standardizing that type of assistance. Currently, the Indian Tribal Government or state government has to make a special extra-ordinary request. Added feedback we heard that that type of emergency aid is needed by many and not extra-ordinary. There are emergency expenses that arise, and FEMA is standardizing that for IA declaration as a potential for payment for all registered disaster applicants. There is also an opportunity to request it to be more than a one-time payment.

■ Comment 2:

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- Asked that if we had to relocate or move people off of tribal land, how is that going to be handled through FEMA and how will it be determined how they get their federal recognition? In our case, we have a power plant 700 yards from reservation. If there was ever an incident there, the Tribal Nation would be displaced. If our tribe had to be relocated, how does our federal recognition get transferred. How will FEMA help?
- Kelbie Kennedy:
 - Asked if he was talking about permanent relocation and not if there is a storm or flood and being temporary relocated.
- Comment 2 :
 - Correct. Noted knows three tribes that have been relocated recently. FEMA is there to assist us and take us back to our homeland as quick as possible, but wants to make sure that if something does come up, how would FEMA help us? If we cannot come back to the reservation, how would our federal recognition be determined?
- Zachary Usher:
 - Noted it is a great question, thanked them. Noted in the short term, 18-24 months, one of principal modes of support is through IA for temporary housing. Added from a community relocation standpoint, if FEMA is involved, it is through our Resilience program that orients around moving people or individuals away from areas that are impacted or harmed. From his knowledge, FEMA does not have a specific relocation program.
 - Mentioned FEMA has financial assistance we can provide, like in some cases to fund an acquisition where a property owner will receive compensation for an at-risk property or one that has flooded multiple times and then take that funding to find another housing solution. Mentioned that occurs in the Mitigation or Resilience side of the Agency. There has been a significant expansion in the funding for the current administration like Building Resilient Community Infrastructure and flood mitigation. Stated we can share some information about the availability of that as a follow up to this.
- Comment 3:
 - We had a flooding and was provided little folding cards that directed people how to work with FEMA. Asked if there is still those available?
 - Zachary Usher:
 - Answered yes, FEMA does have some tri-fold brochures and especially on the mitigation side. We will have to check with colleagues.
- Kelbie Kennedy:
 - Noted one of the things FEMA has done is created a FEMA Tribal Affairs Hub to make it easier for tribal leaders to come in and have a one stop shop.
 - Mentioned will take it back to do a trifold. We have these cards for a tribal declaration checklist. Region 10 made some.
 - She has heard Tribal Nations bring up permanent relocation and will take that back. Said she hears their concerns if a Tribal Nation has to permanently relocate, how do we make sure tribal lands are federally recognized. Emphasized she does not have an answer, but we will take that back.
- Comment 4:
 - Stated process as far as Santo Domingo Pueblo in 2013, FEMA assessed one community home, their homes are adobe homes. Each tribe, each community and nation are all different. Not all homes are the same. Added they want FEMA to know about this.
 - Asked if homeowners can apply for the rest of their housing to be covered under IA and not part of the tribal package? Noted it is great that individuals can go after this funding. When FEMA came in and mandated a certain part of the house, it wasn't enough. There are 10-12 people in one home, and they share a common

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wall with their neighbor. For individual homeowners, can they go after this funding to cover the rest of their homes? Can we simply for the process?

○ Zachary Usher:

- Thanked them for sharing their perspective. Noted the changes will take affect for any disasters declared on or after March 22 of this year.
- Mentioned for inspections, FEMA has heard from those we serve about a variety of challenges with our current process for assessing the impacts on an individual structure or home. He added there have been some changes over the 3-4 years like in 2021 where we provided more flexibility for how an individual or family can demonstrate ownership and it has made a difference. Since making change in 2021, over half a billion dollars has been provided largely because of this change.
- Added another place FEMA is making changes is when we consistently see that when we reach out to people, there best experience with navigating the process is when they are interfacing with a FEMA employee. As a result of that, in 2019 and 2020, we are training our own staff in performing those housing inspections. We are now doubling that team, so we are using FEMA own staff to do that inspection.
- Concluded the last highlight is expanding habitability. Currently, our programs only provide assistance for what happens directly to the home in the particular disaster declared. After the IA Reform changes, FEMA is going to be able to look at it by systems and parts of a home. For example, currently if there is a roof that has leaks and further damaged by disaster, we only pay for disaster damage. It is very complicated to understand and difficult for inspector to analyze and frustrating for individuals. We are expanding definition, things that are pre-existing on that roof could be included in financial assistance we can give out. If we can find a way to help, we want to help.

○ Kelbie Kennedy:

- Added FEMA wouldn't be able to address the 2013 damage but if there is any other future damage to a part, it would be able to be addressed. In particular, the 2013 declaration for Santo Domingo Pueblo was for PA declaration, there are tribal homes that no one has that ownership title. Stated FEMA will work with Tribal Nations to fund tribal home repairs through PA, and it is not something they do with state governments. There are still needs tribal community members have. Damages to all equipment required for self-employment, with these changes, they can repair their equipment if they are an artisan. Noted we are making sure we are working with Tribal Nation and giving you all the options.
- Consultations are not a black hole; PA has updated policy was referring to Tribal Nations for traditional residences regarding how much money will it cost. We cannot tell you how much it will take to fix a long house or pueblo. Apologized it will not fix the 2013 issue.

○ Comment 4:

- Thanked Kelbie for speaking to taking our word because we are the ones that take care of our homes. He really appreciates Kelbie saying that. We live in those homes. We know how to take care of them.

■ Comment 5:

- First, he wants to recognize FEMA, we went to a tribal nation consultation last week in Region 6. Commend you when we first declared our first disaster, there was no policy or instructions for native nations at all. It fits perfect if you live in a city or a well-developed neighborhood, the parameters were very small like fitting a square peg in a round hole. Thanked FEMA, the resources they spent last week to host us was incredible. He has a lot more respect for FEMA. He is now a FEMA fan because see FEMA is trying. It isn't perfect but FEMA is trying. There are now disaster policies for Tribal Nations and be very flexible.
- Second, mentioned there was a cost share, what is that cost share?
- Zachary Usher:
 - Other Needs Assistance is made available, like funds for replacement of personal property, noted there is

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a 75% federal government and 25% non-federal government cost share similar to PA.

- Comment 5:
 - Our communities are 80% self-employed farmers and ranchers. Many of our 5,500 tribal members fall below poverty level. Many do not make enough to file taxes. Asked if there is a match through sweat equity that would work instead of monetary.
- Zachary Usher:
 - Stated in terms of cost shares, there is mechanism for a request to be made for there to be an adjustment. It is done from time to time at the request of the Indian Tribal Government by the Chief Executive requesting the declaration. Sometimes the relief is provided in terms of adjusting cost-share or for a period of time up to 100% federal. This is a conversation you can have with FEMA team out of Denton. ** Only for TSA**
 - Mentioned there are opportunities with PA for in-kind. Where he has seen this done is volunteers who are helping clear debris and tracking those hours and assigning a value.
- Kelbie Kennedy:
 - Flag Tribal Nations can use any Indian Self-Determination and Education Assistance funding losing the federal character. Added there are some Tribal Nations may not have the funding and may rely on federal funding. Have conversations at regional level about in-kind or other funding source.
- Comment 5:
 - Santo Domingo Pueblo is non-gaming tribe, and it is hard to pay another grant. Something to consider and thank you.
- Comment 6:
 - Stated there is a need for the state and FEMA applications to be one. People go through losing their house and apply and then weeks or months later FEMA shows up and has to apply again. He has been advocating for this for 15 years. Not sure what the issue is but there has to be a way to do it through electronic or another way.
 - When it comes to IA, noted the cost to build in Alaska is so high. Added the amount FEMA gives individuals for an Alaska house covers the freight and that is it. Maybe there is some form of a COLA or something.
 - Mentioned they have a great working relationship with state where they pick up the cost share. Noted cannot in good conscious recommend a tribe to declare directly unless we can get 0% cost share. For example, flood in 2013, the Tribal Nation would have been on the hook for \$20 million and that would have bankrupted them.
 - Zachary Usher:
 - Thanked him for sharing and appreciates the difficult position he is in to provide advice on what path to take. Noted data sharing between agencies continues to be an impediment to speeding disaster recovery. There is still work to be done between protecting information but not impeding disaster recovery. Stated one way we are working on this is the design of the next generation of information technology systems that support programs like IA.
 - Kelbie Kennedy:
 - Stated we know that Alaska specific IA system follows FEMA system and are open to conversation about that process. Added an update to the Tribal Declarations Policy that we closed our public comments and are going through internal FEMA review and then it will go to DHS. After, it will go to public comment about what the changes are based on tribal consultation. That is an active part of the discussion.
- Comment 7:
 - Asked for individual applications, do Tribes have to have a declaration to apply for this? Their area was

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affected by a flood, but it did not happen overnight, it was over a period of time. We have a lot of homes that have been affected by rising waters. Do tribes have to have a declaration? Additionally, could we put our own sweat equity into the cost share? Like many other tribes, poverty level is very high.

- Zachary Usher:
 - Stated yes, there does have to be a federal disaster declaration authorizing this program for individuals to register for the aid through FEMA.
- Kelbie Kennedy:
 - Mentioned it does not have to be a tribal declaration. If the state has a declaration for the county on your tribal lands, it will include the Tribal Nation. When the president gives a declaration for IA, tribal members have ability to choose which declaration they want to go under.
- Comment 8:
 - Noted reclaimed some of their land back in national forest with Bureau of Land Management. There was a fire and was getting close to our land. Asked if there is a possibility FEMA can provide a grant to buy us some equipment to fight the fire ourselves? Mentioned in the past, we used to have firefighting organization and went to other areas to help.
 - Zachary Usher:
 - Stated we will follow up with information about grants to build capability with the Assistance to Firefighters Grant program.
 - Kelbie Kennedy:
 - Mentioned Tribal Nations talked about how successful they were with this grant program. Want to connect you with Tribal Nations that were successful in Region 6. We will follow up.
- Comment 9:
 - Asked if FEMA would consider allocating funds for needs after emergencies for individuals. Currently, they are dealing with land erosion by individual homes. Noted looking at having a heavy flow again with the water and some people are not able to use roads to access their home. Stated also has a comment from an elder about completing the FEMA application. It was hard to maneuver and had to do it from a phone. Ended up having to go with other counties because did not meet the threshold.
 - Kelbie Kennedy:
 - Thanked them for their comment and will take into consideration the longer-term impacts. Noted we will also take back the process conversation. Not only cost-shares being brought up but also the 250,000 threshold for PA.

Closing

- Kelbie Kennedy:
 - All slides will be sent to you. For additional resources, there is FEMA Tribal Affairs Hub, make sure you sign in. Noted will be additional virtual consultations on Tuesday, February 27 from 3-5pm ET and Wednesday, March 27 from 2-4pm ET.
- Zachary Usher:
 - Thanked attendees for sharing their time in this very busy week. Noted hope they came away with FEMA leaning into the feedback from people who need our programs. If you engaged with FEMA after a disaster, our workforce views their job as a calling. In places our policy and rules do not always match the way our staff want to deliver assistance. This is what this rule is here to do, to improve in little and big ways.

[Closing prayer was then given]