

**FEMA Followed Its
Declaration Request
Policies, but Could
Improve Its Records
Management**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

March 23, 2022

MEMORANDUM FOR: The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

**JOSEPH V
CUFFARI** Digitally signed by
JOSEPH V CUFFARI
Date: 2022.03.23
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SUBJECT: *FEMA Followed Its Declaration Request Policies,
but Could Improve Its Records Management*

For your action is our final report, *FEMA Followed Its Declaration Request Policies, but Could Improve Its Records Management*. We incorporated the formal comments provided by your office.

The report contains two recommendations aimed at improving FEMA's records management and maintenance of its declaration request files. Your office concurred with our recommendations. Based on information provided in your response to the draft report, we consider recommendations 1 and 2 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Bruce Miller, Deputy Inspector General for Audits, at (202) 981-6000.



DHS OIG HIGHLIGHTS

FEMA Followed Its Declaration Request Policies, but Could Improve Its Records Management

March 23, 2022

Why We Did This Audit

States, territories, and tribes may request Presidential disaster declarations through FEMA, which reviews the requests and makes recommendations to the President. From January 2017 to July 2020, total obligated funding exceeded \$113.6 billion for 572 approved disaster declarations. Our objective was to determine whether FEMA followed its policies and procedures consistently when responding to state, territorial, and tribal declaration requests.

What We Recommend

We made two recommendations to improve FEMA's records management and maintenance of its declaration request files.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

The Federal Emergency Management Agency (FEMA) consistently followed Federal laws, regulations, and its own policies and procedures when responding to disaster declaration requests from states, territories, and tribes, and making recommendations to the President. In most cases, FEMA properly maintained its declaration request files, but we identified 9 of 51 declaration request files with one or more missing records. Specifically, these files did not include a senior official's decision rationale for the official's recommendation when that decision differed from regional recommendations or program offices' inputs, or were missing some relevant records. Although FEMA eventually found some of the missing records, we attribute the missing information to FEMA not ensuring it (1) captured and maintained senior officials' rationale for their decisions in the official files, and (2) validated the accuracy and completeness of files, in accordance with its policies and procedures.

A disaster declaration provides access to a wide range of Federal assistance programs for individuals and public infrastructure. FEMA uses the declaration request process to validate the need for Federal assistance to help communities respond to and recover from a disaster when local, state, territorial, and tribal government resources are overwhelmed. Improving FEMA's records management policies and procedures could enhance transparency, organizational accountability, and public trust, as well as FEMA's ability to respond to inquiries about its recommendations.

FEMA's Response

FEMA concurred with both recommendations. Appendix A contains FEMA's response in its entirety.



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Background

When a disaster overwhelms the available resources of a local government and its respective state, territorial, or tribal (STT) government to respond, they can request Federal assistance to supplement their disaster response and recovery efforts. The *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act) gives the President the authority to declare a disaster.¹ The Stafford Act also designates the Federal Emergency Management Agency (FEMA) as the lead agency to manage these disasters. FEMA manages its disaster response at the local level in partnership with STT governments, helping them in the preparation, prevention, response, recovery, and mitigation phases of disaster management.

Depending on the disaster's nature and scope, the Stafford Act authorizes three types of declarations to provide supplemental Federal assistance:

- Emergency – declared by the President for any occasion or instance when the President determines Federal assistance is needed to supplement STT governments' efforts to lessen or avert the threat of a catastrophe. The total supplemental assistance may not exceed \$5 million for a single event. If the assistance exceeds this threshold, FEMA must report the nature and extent of the continuing emergency requirements to Congress.
- Major Disaster – declared by the President for any natural event, fire, flood, or explosion, regardless of cause, which the President determines has caused damage of such severity and magnitude that is beyond the combined capabilities of local and STT governments and disaster relief organizations to respond.
- Fire Management – declared by a FEMA Regional Administrator (RA) when an uncontrolled wildfire is determined to threaten destruction that constitutes a major disaster.

If an STT government determines an incident has exceeded local resources and its capability to respond, a Governor or Tribal Chief Executive may request an emergency or major disaster declaration from the President through FEMA.² The request must be submitted to FEMA within 30 days of the incident, but

¹ *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, 42 United States Code (U.S.C.) §§ 5121 et seq.

² The *Sandy Recovery Improvement Act of 2013* amended the Stafford Act to allow federally recognized tribal governments to request their own declarations.



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FEMA may grant an extension based on a written request from the Governor or Tribal Chief Executive.³

For most disasters requiring a declaration request, STT and local government officials perform a pre-assessment to determine whether supplemental Federal assistance is needed. If the disaster is beyond the STT and local governments' capabilities to respond, they should request that the appropriate FEMA Regional officials help conduct a joint preliminary damage assessment (Joint PDA) to verify damages and estimate the needed supplemental assistance. The RA, in consultation with STT government officials, may waive Joint PDAs for unusually severe incidents, when a field damage assessment is not necessary to establish the need.

The STT government's request and damage assessment provide the basis for requesting any of the following three types of Federal assistance programs:

- Individual Assistance (IA) – provides assistance through seven programs for individuals and households, as well as STT governments, to support individual survivors.
- Public Assistance (PA) – provides grants under seven categories of work to assist STT governments and certain nonprofit organizations with disaster response and recovery, for emergency and permanent work.
- Hazard Mitigation Grant Program (HMGP) – provides funding for measures designated to reduce future losses to life and property.

Not all Federal assistance programs are activated for every disaster declaration. Some declarations provide only IA, only PA, or some combination of both. Under an emergency declaration, IA is limited to one program and PA is limited to two categories of work. Hazard mitigation is assessed in most major disaster declarations.

Although the President declares emergencies and major disasters for STT governments and RAs declare fire disasters for states and territories, the request for declaration must be submitted through the appropriate FEMA Region. In the case of emergencies and major disasters, FEMA regional officials review the STT government's request, evaluate the STT government's resources and capabilities, and develop their recommendation. The RA's recommendation and supporting documentation are then sent to FEMA Headquarters for its review. After review, the FEMA Administrator formalizes its recommendation to the President. Based on this recommendation, the President may declare an emergency or major disaster, activating one or more

³ 44 Code of Federal Regulations (C.F.R.) § 206.35(a), *Requests for Emergency Declarations*; 44 C.F.R. § 206.36(a), *Requests for Major Disaster Declarations*; FEMA's *Tribal Declarations Pilot Guidance*, (effective January 10, 2017), Chapter VI, Section D, *Declaration Request* and Chapter VIII, *Requests for Emergency Declarations*.



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of the Federal assistance programs. Alternatively, the President can deny the STT declaration request. If the request is denied, the Governor or Tribal Chief Executive may appeal the decision to the President through the appropriate FEMA regional office.⁴

When an event falls under the responsibility of the Federal Government, the President has the authority to declare an emergency without an STT government's request under the Stafford Act. On March 13, 2020, the President exercised this authority to declare the coronavirus disease 2019 (COVID-19) pandemic as an emergency. For this reason, STT governments were not required to submit declaration requests and FEMA initiated the emergency declarations outside of its usual request processes. Subsequently, all states and territories and some tribes requested and received major disaster declarations, providing them with more program assistance.

FEMA's fire management declarations help state and local governments respond to wildland fires and differ from the emergency and major disaster declarations process. For the request to qualify under this type of declaration, the wildland fire must be burning uncontrolled and threaten such destruction as would constitute a major disaster. The Governor or Governor's Authorized Representative must submit a fire management declaration request to the RA, who is delegated the authority to declare this type of disaster declaration. However, if lives and communities are threatened or impacted, subsequent declaration requests should meet the requirements for an emergency or major disaster declaration.

From January 1, 2017, through July 31, 2020, FEMA received 599 disaster declaration requests, of which 572 resulted in approved declarations and 27 resulted in turndowns.⁵ Other than those related to COVID-19, most of these disaster declarations were for severe storms and wildfires. FEMA's total obligations for these disasters exceeded \$113.6 billion.⁶ Table 1 provides a breakdown by declaration type.

⁴ According to 44 C.F.R. § 206.46(a), *Denial of declaration request*, and FEMA's *Tribal Declarations Pilot Guidance*, Chapter XI, Section I, *Appeals*, an appeal must be made within 30 days after the date of the letter denying the request and should include additional information justifying the need for supplemental Federal assistance.

⁵ A turndown is the authorized action of the President to deny a request for an emergency or major disaster declaration.

⁶ Based on total estimated obligations as of October 5, 2020.



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Table 1. Declarations Requested from January 2017 to July 2020

Declaration Type	Total Requests	Approved Requests	Turndown Requests
Emergency	153	153	-
Major Disaster	290	263	27
Fire Management	156	156	-
Total	599	572	27

Source: DHS Office of Inspector General (OIG) analysis of FEMA data

We conducted this audit to determine whether FEMA followed its policies and procedures consistently when responding to state, territorial, and tribal declaration requests.

Results of Audit

FEMA Consistently Followed Federal Regulations and Its Own Policies and Procedures for Responding to Disaster Declaration Requests

The Code of Federal Regulations defines the declarations request process for states and territories.⁷ FEMA has internal policies and procedures for responding to these requests. Additionally, after passage of the *Sandy Recovery Improvement Act*, FEMA implemented formal guidance for determining tribal governments' eligibility for various types of supplemental Federal assistance.⁸ Through review of 51 declaration request files judgmentally selected from January 1, 2017, through July 31, 2020, as well as interviews with FEMA officials, we determined that FEMA followed Federal regulations and its own policies when reviewing declaration requests. Specifically, FEMA used a multi-level review process to analyze declaration requests prior to making its recommendation to the President. In addition, as part of the pre-decisional process, FEMA Regions, Headquarters' program offices, legal counsel, and senior officials independently reviewed the declaration requests.

Based on review of the 51 declaration request files, after the RA received the STT government's request, most Regions acknowledged the request in writing, in accordance with 44 C.F.R. § 206.37(a). Regional officials used the information from the damage assessment, Federal regulations, FEMA policies, weather reports, historical data, and geographical modeling systems, as applicable, to evaluate requests. The Region then created a summary

⁷ 44 C.F.R. § 206, Subpart B, *Federal Disaster Assistance, The Declaration Process* and 44 C.F.R. § 204, Subpart B, *Fire Management Assistance Grant Program, Declaration Process*.

⁸ *FEMA Tribal Declarations Pilot Guidance*, January 2017. The guidance accounts for unique tribal circumstances, and also includes processes for the tribal declaration requests that are similar to the process used for requests from states and territories.



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document of its pre-decisional findings, called the *Regional Validation and Recommendation* (RVAR), which included a discussion of state and local resources and capabilities, and a recommendation on whether a disaster should be declared. The Regions' legal counsel stated that they reviewed the RVAR and supporting documentation for legal sufficiency before it was sent to the RA for signature. The STT declaration request, RVAR, and any supporting documentation, were then provided to the FEMA Headquarters Office of Response and Recovery (ORR) for its review and recommendation.

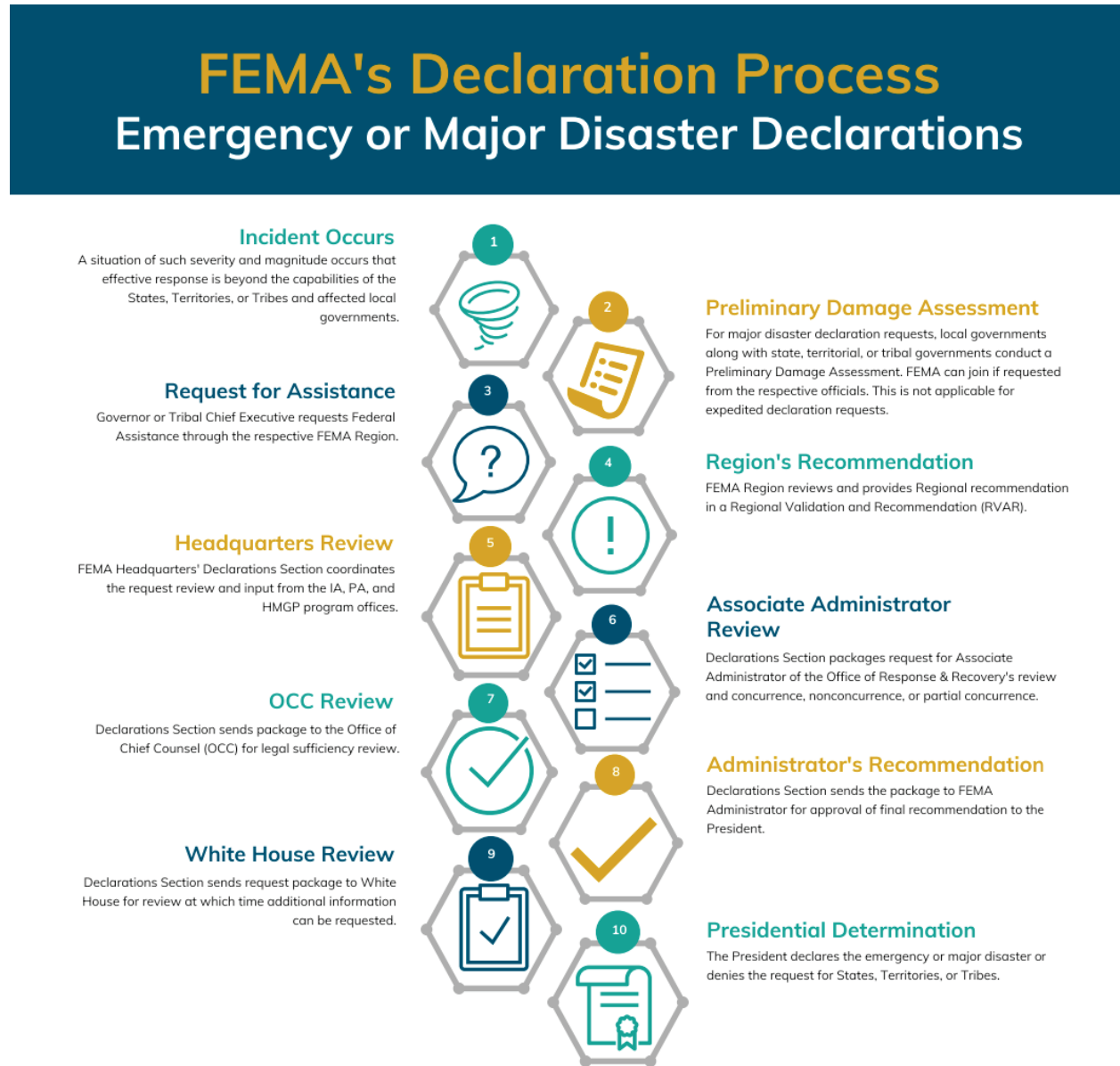
FEMA ORR's Declarations Section coordinated the reviews and responses of the various offices at Headquarters. The IA, PA, and HMGP program offices independently reviewed, as applicable, the declaration requests and indicated whether they concurred, non-concurred, or partially concurred with the Region's recommendation. After the Declarations Section received the program offices' inputs, it combined those inputs with the original STT government's request and regional documentation to form the declaration request package. A Briefing document, prepared for the Associate Administrator of ORR, summarized the disaster information and Headquarters' position on the RA's recommendation. The Associate Administrator of ORR provided a decision based on all available information. A FEMA official stated that the Declarations Section drafted the Memorandum for the President with FEMA's recommendation. According to the official, the Declarations Section then sent the Memorandum and the declaration request package to the Office of Chief Counsel for a final legal sufficiency review and to the Administrator for approval. The Administrator then formalized the recommendation and FEMA forwarded the declaration request package to the White House for the President's determination.

According to FEMA officials, the Automated Declarations Solution software was implemented in January 2021 to streamline, centralize, and track declarations from initial request at the Region to the President's determination. During our audit, FEMA started training its personnel to use the software. FEMA's comprehensive declaration process ensured its recommendations to the President were consistent with Federal regulations and FEMA policies. Figure 1 shows an overview of FEMA's declaration process for emergency or major disaster declarations.



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Figure 1. FEMA’s Declaration Process for Emergency or Major Disaster Declarations



Source: DHS OIG representation of FEMA’s declaration process

FEMA Could Improve Its Records Management

Although in most cases FEMA properly maintained its declaration records and the official declaration request files, we found 9 of the 51 declaration request files we reviewed did not include senior officials’ decision rationale for their recommendations when their decision differed from regional recommendations or program offices’ inputs or were missing some relevant records. These files were missing information because FEMA did not ensure senior officials’



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rationale for their decisions were captured and maintained in the official files and did not ensure they validated the accuracy and completeness of those files, in accordance with FEMA policies and procedures.

Some Declaration Request Files Did Not Include Senior Officials' Decision Rationale

The United States Code requires the head of each Federal agency to create and preserve adequate and proper documentation of the decisions, procedures, and essential transactions of the agency.⁹ Additionally, FEMA requires all its offices to create and maintain official records documenting its activities, regardless of format.¹⁰ In the declaration request files we reviewed, FEMA typically included the declaration page, if a disaster was declared; memorandum from the President with the decision to declare or deny the request; FEMA's Memorandum for the President providing its recommendation; the RVAR with supporting documents; the Governor's or Tribal Chief Executive's declaration request with supporting documents; and internal correspondence supporting analyses and inputs related to the Region's recommendation.¹¹

We reviewed 40 of the 51 declaration request files that contained both FEMA Headquarters and regional inputs. We excluded six COVID-19 emergency declaration files and five fire management assistance declarations because those requests did not require FEMA Headquarters' reviews and recommendations. In these 40 declaration request files, we found FEMA supported the recommendation in its Memorandum for the President with attachments and detailed discussions of its analysis of the declaration request. Further, FEMA captured and maintained the Regions' and most of the Headquarters program offices' analyses of disaster declaration requests and documented their respective recommendations and inputs, along with the senior official's decision.

However, in these files, the senior official's decision was limited to either concurrence or non-concurrence with the Region's recommendation and did not include the decision rationale. This was not an issue in situations where the program office and the senior official concurred with the Region's recommendation, as the Region and program offices analyses clearly presented all of the information that was considered. However, the missing rationale stood out in 5 of 40 declaration files when the senior official's decision differed from the Region's recommendation or program offices' inputs. In all five of

⁹ 44 U.S.C. § 3101, *Records Management by Agency Heads; General Duties*.

¹⁰ FEMA Manual 141-1-1, *Records Management Files Maintenance and Records Disposition*, Chapter 1, Section 1-5, *Policy*, March 7, 2014.

¹¹ The declaration request files constituted hundreds of pages of records.



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these declaration request files, FEMA did not capture and maintain sufficient documentation to support the senior official's decision rationale.

In two of the five declaration request files, the program office provided its analysis and did not concur with the Regions' recommendation, but the senior official concurred with the Regions. In the remaining three files, the senior official recommended approval of one category of work even though the FEMA Region and Headquarters' program office both recommended approval of two categories of work. Although FEMA retrieved documentation to support the senior official's decision rationale for recommendations in the remaining three declaration requests, FEMA did not initially include that explanation in the official declaration request files prior to OIG inquiry.

We attribute the missing information to FEMA not capturing all senior officials' rationale for their decisions and then maintaining documentation of their rationale in the official declaration request files. A FEMA official acknowledged FEMA does not normally capture all senior officials' analysis in declaration request files in which differing regional recommendations and program offices' inputs exist. Further, according to a FEMA senior official, the RVAR contains the information for the analysis and the Memorandum for the President with FEMA's recommendation serves as the official documentation of this analysis. However, when the senior official's decision differed from the Region's recommendation and program offices' inputs, the declaration file did not explicitly capture or maintain the rationale for the senior official's position. Although the Memorandum for the President supports FEMA's recommendation, FEMA could improve the accuracy and completeness of its record of activities by including the rationale for the senior official's decision when different recommendations exist.

Some Declaration Request Files Did Not Contain All Relevant Records

FEMA requires senior officials and program managers to ensure accurate and complete records are created and maintained in the official files.¹² Additionally, according to the Code of Federal Regulations, the RA should acknowledge a Governor's request in writing.¹³ Six of the 51 declaration request files we reviewed had minor inconsistencies at either the Region or Headquarters level.

Although Region officials asserted they maintained official declaration records and most of the regions provided the documentation we requested, two FEMA Regions could not provide the RA's written acknowledgments of the Governor's

¹² FEMA Manual 141-1-1, *Records Management Files Maintenance and Records Disposition*, Chapter 1, Section 1-7, *Responsibilities*; Section 2-7, *Recordkeeping Requirements*, March 7, 2014.

¹³ 44 C.F.R. § 206.37(a), *Acknowledgment*.
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requests for Federal assistance in three instances. We attribute the three missing acknowledgments to these Regions not ensuring all regional personnel involved in processing declaration requests created and maintained official records in accordance with Federal and FEMA records management requirements. During our audit, these Regions updated internal guidance and established parameters to meet the regulatory requirement.

At FEMA Headquarters, three declaration request files were missing either the program offices' concurrence or the signed memorandums to the President. Although the Declarations Section was later able to locate and provide the missing documents to OIG, FEMA's practices did not ensure that the official files were complete and accurate. The minor inconsistencies in the files were due to ORR not always implementing FEMA's records management policies and procedures to ensure the accuracy and completeness of the official declaration files. FEMA Headquarters officials provided a description of a sample declaration file to explain which documents should be included in the declaration request file. Nevertheless, as noted previously, in our file review we identified missing records.

Although a FEMA official said they officially maintain both physical folders and electronic records in a shared drive, the official explained the missing documentation was not filed because of a lack of resources, staff turnover, and simultaneous response to multiple disaster events, which hindered validation of documentation. Without integrating records management policy into program-specific declarations guidance, ORR did not ensure the declaration request files were complete. Furthermore, ORR was unaware of the missing records until OIG requested the information.

Conclusion

The declaration request process helps FEMA validate the need and coordinate Federal assistance when a disaster overwhelms local and STT government resources. It also helps communities to respond to and recover from the disaster. Any failure in FEMA's processes for responding to these requests could result in the public not receiving needed assistance and could ultimately put the lives of American citizens at risk. As such, it is important that FEMA maintains complete records of its review of declaration requests. FEMA made recommendations on disaster declarations to the President in accordance with Federal regulations and FEMA policies. However, the absence of clear records management policies and procedures for the declaration request files resulted in inconsistencies in 9 of the 51 declaration request files we reviewed. Improving FEMA's records management policies and procedures could enhance transparency, organizational accountability, public trust, and FEMA's ability to respond to inquiries about its recommendations.



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Recommendations

Recommendation 1: We recommend FEMA's Associate Administrator of the Office of Response and Recovery integrate component records management policy into program-specific declarations guidance to specify the records that should be created and maintained in official declaration request files. The program-specific guidance should require the Office of Response and Recovery to maintain, in the official file, senior officials' decision rationale when the regional offices' and program offices' recommendations differ.

Recommendation 2: We recommend FEMA's Associate Administrator of the Office of Response and Recovery ensure that component records management policies are adhered to both at Headquarters and Regional offices to validate that each declaration request package is accurate, complete, and in compliance with Federal regulations.

Management Comments and OIG Analysis

FEMA concurred with both recommendations. We included a copy of FEMA's response in its entirety in Appendix A. FEMA also provided technical comments and suggested revisions to our report in a separate document. We reviewed the technical comments and made changes to the report where appropriate. A summary of FEMA's response and our analysis follows.

FEMA's Comments to Recommendation 1: Concur. FEMA officials stated they will publish the Declarations Process Guide, which will include instructions for documenting senior decision-making rationale when the regional offices' and program offices' recommendation differ. They also identified the new Automated Declarations Solution system that will capture the rationale, which will enhance overall efficiency and transparency of the declarations process. The estimated completion date is June 30, 2022.

OIG Analysis: FEMA's corrective action is responsive to the recommendation, which will remain open and resolved until FEMA provides evidence showing that corrective actions are completed.

FEMA's Comments to Recommendation 2: Concur. FEMA officials stated they will continue to ensure that the records management for the declarations process is performed in accordance with Federal regulations and FEMA policy. Additionally, FEMA intends to publish the Declarations Process Guide, which will outline the records to be included within each official declaration file. The estimated completion date is June 30, 2022.



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OIG Analysis: FEMA's corrective action is responsive to the recommendation, which will remain open and resolved until FEMA provides evidence showing that corrective actions are completed.

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this audit to determine whether FEMA followed its policies and procedures consistently when responding to STT declaration requests. Due to the COVID-19 pandemic, we conducted our communications via telephone, email, and video calls. Although the team did not physically travel for meetings or site visits, we gathered sufficient evidence to support our audit conclusions.

To achieve our objective, we reviewed relevant Federal laws and regulations, as well as FEMA policies and procedures, related to the declaration process and its records management program. Specifically, we reviewed:

- *Robert T. Stafford Disaster Relief and Emergency Assistance Act*
- *The Sandy Recovery Improvement Act of 2013*
- *The Disaster Recovery Reform Act of 2018*
- 44 U.S.C. § 3101, *Records management by agency heads; general duties*
- 44 C.F.R. § 206, Subpart B, *Federal Disaster Assistance, The Declaration Process*
- 44 C.F.R. § 204, Subpart B, *Fire Management Assistance Grant Program, Declaration Process*
- *FEMA Tribal Declarations Pilot Guidance*, January 2017
- *FEMA Public Assistance Program and Policy Guide*, FP-104-009-2, versions 1-4
- *FEMA Individual Assistance's Declarations Factors Guidance*, June 2019
- *FEMA Hazard Mitigation Assistance Guidance*, February 2015
- *FEMA Fire Management Assistance Grant Program Guide*, FEMA P-954, February 2014
- *FEMA Manual 141-1-1, Records Management Files Maintenance and Records Disposition*, March 2014

We also interviewed officials from FEMA's ORR, including the Associate Administrator; the Declarations Section, IA Division, and the PA Division, including Fire Management Assistance Grant officials and Hazard Mitigation Assistance Division; Office of Chief Counsel; and officials from all 10 FEMA Regions to determine the extent of each office's role in the declaration process. The intent of our interviews and inquiries was also to obtain documentation



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and additional information related to items we identified during our document review.

We performed testing to determine whether FEMA followed the processes outlined in Federal regulations and FEMA policies. We reviewed the declaration request files to determine whether FEMA followed 44 C.F.R. § 204 Subsection B and § 206 Subsection B. We also analyzed the declaration request files to ensure FEMA considered the indicators for IA and PA established in 44 C.F.R. § 206.48, and Fire Management evaluation criteria according to 44 C.F.R. § 204.21. We validated FEMA's PDA calculations for major disaster requests using U.S. Census data and state and county-wide per capita impact indicators. Further, we obtained written acknowledgments from the regional offices to ensure compliance with 44 C.F.R. § 206.37(a).

The audit scope included 599 disaster declaration requests FEMA processed from January 1, 2017, through July 31, 2020. To accomplish our objective, we judgmentally selected 51 files, consisting of 30 major disasters, 11 emergencies, and 5 fire management assistance declarations, as well as 5 turndowns. For survey, we judgmentally selected approved major disaster declaration requests based on region, the requesting STT government, COVID-19 pandemic, and those we determined to be high risk. We considered requests with more than 60 elapsed days from the STT government's request to Presidential determination to be high risk. For fieldwork, we used a combination of judgmental selections and random selection to select our sample from each declaration type. The sample included declaration requests from all 10 regions, as well as declaration requests related to the COVID-19 pandemic.

Initially, FEMA requested the team review the declaration files in person. However, due to travel restrictions from the COVID-19 pandemic, FEMA provided the declaration files electronically, but restricted our access to unredacted versions for 14 days and later provided redacted versions of the files. We developed summary documentation to support auditor review of the unredacted files. FEMA eventually agreed to provide the audit team full electronic access to the unredacted files.

We tested the reliability of component-generated data during survey and fieldwork. Prior to selecting our samples, we conducted a virtual walkthrough of FEMA's National Emergency Management Information System (NEMIS) to understand how FEMA pulled the declaration request data from the system. Additionally, we conducted interviews with FEMA Headquarters and the Regions to understand how FEMA tracked the declaration requests, generated the declarations and turndown detail reports, and controlled NEMIS access based on individuals' assigned roles and responsibilities. We traced information, including incident dates, declaration dates, types of disaster,



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states and regions, from source documentation in the declarations request files to the NEMIS report. We determined the information was sufficiently reliable to support our audit conclusions.

We assessed the internal controls significant to the audit objective throughout the audit. This included FEMA's Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring controls. We designed our audit procedures to include steps to mitigate the risks that were identified. Specifically, we included steps to perform substantive testing of FEMA's declaration request files.

We conducted this performance audit between September 2020 and December 2021 pursuant to the *Inspector General Act of 1978, as amended*, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

The Office of Audits major contributors to this report are Loretta Atkinson, Director; Julian Brown, Audit Manager; Lena Stephenson-George, Auditor-in-Charge; Angelica Esquerdo, Auditor; Joseph O'Gorman, Program Analyst; Christopher Graham, Auditor; Kevin Dolloson, Communications Analyst; and Pete Christopher, Independent Referencer.



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Appendix A
FEMA Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20472



FEMA

February 25, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Cynthia Spishak CYNTHIA
Associate Administrator SPISHAK
Office of Policy and Program Analysis

Digitally signed by
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Date: 2022.02.25 17:33:14
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SUBJECT: Management Response to Draft Report: “FEMA Followed Its Declaration Request Policies, but Could Improve Its Records Management” (Project No. 20-056-AUD-FEMA)

Thank you for the opportunity to comment on this draft report. The Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

FEMA leadership is pleased to note OIG’s recognition that FEMA consistently followed Federal laws, regulations, and its own policies and procedures for responding to disaster declaration requests from states, territories, and tribes, and making recommendations to the President of the United States (President). The disaster declarations request process is foundational to FEMA’s response and recovery work, and must be effective, efficient, and adaptable, accordingly. Disaster events can vary widely in their type, scope, duration, and impact; and each state, tribe, or U.S territory has a different topography, history, economic and social environment, and capacity to respond and recover from such incidents.

During the period January 1, 2017 through July 31, 2020, FEMA processed an unprecedented 290 requests for major disaster declarations, 153 emergency declarations, and 156 Fire Management Assistance Grant declarations and numerous post-disaster declaration actions including appeals, program and area add-ons, and cost share adjustments. Although challenging, FEMA’s disaster declarations request process nevertheless succeeded in accounting for the range of natural and governmental circumstances that are a part of the nation’s potential disaster landscape, and continues to deliver upon that purpose in the face of ever-expanding demands.

The disaster declaration request process preserves both the discretion of the governor, tribal, or territorial leader to request assistance, as well as that of the President to decide



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whether to grant supplemental assistance, and FEMA's role in this process is to develop a thorough, evidence-based recommendation to inform the President's decision. FEMA's recommendation is provided in the form of a memorandum to the President, which is the culmination of the declarations request process, and distills FEMA's situational reporting, preliminary assessments, and insights from across the agency's regional, programmatic, and executive leadership. In all the declaration request files that the OIG reviewed, the President received one of these memoranda, as well as a complete standardized package of supplemental reference materials. Therefore, in all request files reviewed, the President ultimately had the information needed to make an informed decision.

FEMA leadership disagrees with the OIG's conclusion that FEMA has records management issues with its declaration request files. FEMA takes records management responsibilities seriously, and recognizes that proper records are essential for a responsive and responsible government. FEMA Manual 141-1-1, "Records Management Files Maintenance and Records Disposition," dated March 7, 2014, for example, requires personnel at all FEMA offices to create and maintain official records documenting their activities, regardless of format. Accordingly, FEMA maintains physical files, electronic files on protected network drives, and email records. Due to COVID-19 restrictions, the OIG audit team could not visit FEMA Headquarters to view and analyze agency records, as was done in prior audits on FEMA's declaration request process. Instead FEMA scanned 51 physical declaration request packages maintained in the agency's archive, transmitted these files electronically, and discussed them with the auditors via video conference.

Although the OIG states that 9 of the 51 declaration request files contained missing records, it is important to clarify that these 51 files and associated supplemental materials include hundreds of pages worth of records, within which the OIG ultimately found fewer than ten pages missing or with minor inconsistencies. For example, the OIG indicated that three declaration files were missing either the program offices' concurrences or a signature on the Presidential memorandum. However, these missing items primarily resulted from scanning errors rather than a true absence of records, as evidenced by the fact that FEMA later supplied the information when OIG indicated they were missing from the scanned packages FEMA initially shared. Further, as FEMA's declaration procedures do not allow for the transmission of a memorandum to the President without proper concurrences and a signature from the FEMA Administrator, it is important to note that all appropriate concurrences and signatures were obtained and maintained for these records, indicated by virtue of the fact that a compiled memorandum and supporting evidence were transmitted for the President's consideration. In the instances where concurrences or a signature appeared like they were missing, the documentation was immediately provided to the OIG upon request, as acknowledged on page 10 of the draft report.



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With respect to the OIG's finding regarding the absence of senior official decision rationale, it is also important to note that FEMA regional and program office recommendations seldom diverge. In fact, the OIG's finding only applied to 5 out of the 51 declaration files in their sample. In these cases, as with any declaration request package, the Associate Administrator for Response and Recovery reviewed the reports and insights provided by each program office and respective Regional Administrator and then decided which course of action to propose the FEMA Administrator recommend to the President. The Associate Administrator's decision was driven by the evidence provided, as well as their consistent engagement with regional and program leadership throughout the process. While FEMA does not view this OIG finding as a widespread problem, the agency will seek to address it through the publication of the Declarations Process Guide and the implementation of the Automated Declarations Solution (ADS) software. Once complete, the Declarations Process Guide will serve as FEMA's comprehensive disaster declarations process resource, further codifying a standard set of procedures that documents institutional knowledge and best practices for managing the declarations process.

The draft report contained two recommendations with which FEMA concurs. Attached find our detailed response to each recommendation. FEMA previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Attachment



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**Attachment: Management Response to Recommendations
Contained in 20-056-AUD-FEMA**

OIG recommended that FEMA’s Associate Administrator for the Office of Response and Recovery (ORR):

Recommendation 1: Integrate Agency records management policy into program-specific declarations guidance to specify the records that should be created and maintained in official declaration request files. The program-specific guidance should require the Office of Response and Recovery to maintain, in the official file, senior officials’ decision rationale when the regional offices’ and program offices’ recommendations differ.

Response: Concur. FEMA’s ORR will publish the Declarations Process Guide, which will include instructions for documenting senior decision-making rationale when program and regional offices’ recommendations diverge. This rationale will also be documented through FEMA’s new ADS system, which will enhance the overall efficiency and transparency of the declarations process. Estimated Completion Date (ECD): June 30, 2022.

Recommendation 2: Ensure that Agency records management policies are adhered to both at Headquarters and Regional offices to validate that each declaration request package is accurate, complete, and in compliance with Federal regulations.

Response: Concur. FEMA ORR will continue to ensure that records management for the declarations process is done in accordance with federal regulations and FEMA Manual 141-1-1, and will publish the Declarations Process Guide, which will outline the records required for inclusion within each official declaration file. ECD: June 30, 2022.



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