

Stafford Act Emergency Declarations for Attacks on Federal Property

January 12, 2021

In response to an attack (or other exigency) on federal property, the President may issue a declaration of an emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, Stafford Act; [42 U.S.C. §§5121 et seq.](#)).

This Insight describes the types of federal assistance that may be provided by the Federal Emergency Management Agency (FEMA) under an emergency declaration to support response and recovery efforts following an attack on federal property and includes historical examples of such declarations.

Stafford Act Emergencies

A Stafford Act emergency declaration authorizes FEMA to coordinate and provide emergency assistance for response efforts. Section 501 of the Stafford Act [defines](#) an emergency as:

...any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect...public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Primary Federal Responsibility

Generally, the [governor](#) of an affected state or territory, or the [chief executive](#) of an affected Indian tribal government make a formal request for an emergency declaration from the President. [Section 501\(b\)](#) of the Stafford Act, however, authorizes the President to issue an emergency declaration without a request when:

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...the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the governor of any affected state, if practicable.

Subsequent to an emergency declaration, the governor or the chief executive may also request a major disaster declaration, which may make additional types of federal assistance available.

Historical Section 501(b) Emergency Declarations

The President rarely declares an emergency without a governor or chief executive's request. Examples of Section 501(b) declarations include the [Coronavirus Disease 2019 \(COVID-19\) pandemic](#), the loss of the Space Shuttle Columbia (emergency declarations were issued for [Louisiana](#) and [Texas](#)), the [9/11 terrorist attacks on the Pentagon](#), and the [bombing of the Alfred P. Murrah Federal Building in Oklahoma City](#). As detailed below, additional assistance was subsequently provided under a major disaster because the incident also caused damage to households as well as state and local infrastructure.

Bombing of Alfred P. Murrah Federal Building

On April 19, 1995, former President William J. Clinton [declared](#) an emergency under Stafford Act Section 501(b) authorizing [Public Assistance](#) (PA). Under the declaration, FEMA was authorized to provide 100% federal funding for eligible response activities in Oklahoma City. FEMA also deployed [Urban Search and Rescue](#) teams and coordinated debris removal operations.

On April 26, 1995, the President declared a [major disaster authorizing Individual Assistance](#) (IA). Assistance provided included Temporary Housing Assistance, Crisis Counseling Assistance, and Disaster Unemployment Assistance, as well as Mortgage/Rental Assistance and the Individual and Family Grant program, both of which are no longer available as forms of IA.

The 9/11 Terrorist Attacks on the U.S. Pentagon

On September 12, 2001, former President George W. Bush [declared](#) an emergency under Stafford Act Section 501(b) authorizing PA in response to fires and explosions in the Commonwealth of Virginia. Under the declaration, FEMA was authorized to provide 100% federal funding for eligible emergency response activities in Arlington County. FEMA [deployed](#) Urban Search and Rescue teams, including search dogs and structural engineers, and activated its regional emergency operations centers to help coordinate the federal, Commonwealth, and local emergency response.

Subsequently, the Commonwealth of Virginia received a presidential [major disaster declaration](#) on September 21, 2001. The declaration authorized IA and PA for Debris Removal and Emergency Protective Measures in the designated areas, and Hazard Mitigation throughout the Commonwealth.

Potential Applications of Section 501(b)

Section 501(b) could provide the President the authority to issue an emergency declaration for incidents involving federal buildings and property such as the January 6, 2021, breach of U.S. Capitol security. Such a declaration could provide emergency assistance under the Stafford Act, including PA or IA. For emergencies, FEMA may provide financial assistance through PA for urgent response activities (*Emergency Work*) including Debris Removal and Emergency Protective Measures (e.g., response operations, personnel, and materials), as authorized in Section 502 of the Stafford Act (42 U.S.C. §5192). Through PA, FEMA may reimburse state, local, tribal, territorial, or eligible nonprofit entities for eligible response costs, including search and rescue, emergency medical care, and law enforcement and security operations. FEMA may also provide assistance directly (Direct Federal Assistance) by tasking FEMA personnel or other federal agencies to respond through “mission assignments.” For example, FEMA may task the U.S. Army Corps of Engineers for debris removal and other emergency response functions.

If warranted, IA may be designated under an emergency declaration and may be limited to the Individuals and Households Program (IHP) (42 U.S.C. §5174). The IHP may provide financial assistance for Housing Assistance (e.g., Rental Assistance) and Other Needs Assistance (e.g., Personal Property Assistance) and/or Direct Housing Assistance (e.g., a FEMA-leased Temporary Housing Unit) to eligible individuals and households who have uninsured or under-insured necessary expenses and serious needs that cannot otherwise be met.

Emergency Declarations for Inaugural Events

The President may also declare an emergency under the Stafford Act in anticipation of a threat “to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.” In anticipation of the 56th Presidential Inauguration, former President George W. Bush declared an emergency for the District of Columbia. The declaration authorized FEMA to provide Direct Federal Assistance and reimburse the District of Columbia for Emergency Protective Measures through the PA program in the case that other appropriations for the event were exhausted.

The District of Columbia has requested and received an emergency declaration in anticipation of the 59th Presidential Inauguration. On January 11, 2021, President Donald J. Trump declared an emergency providing 100% federal funding for Direct Federal Assistance for Emergency Protective Measures executed from January 11 to January 24, 2021.

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