



USET

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May 11, 2023

Melissa Forbes
Assistant Administrator for Recovery
Federal Emergency Management Agency
Department of Homeland Security
301 7th St. SW
Washington, DC 20407

Dear Assistant Administrator Forbes,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Tribal consultation held on the draft, "Achieving Equitable Recovery: A Post-Disaster Guide for Local Officials" (Equity Guide). The Federal Emergency Management Agency (FEMA) held this consultation on April 11, 2023 to solicit feedback from Tribal Leaders on the contents of the Equity Guide before its final publication. We appreciate FEMA's efforts to engage Tribal Leadership on these important matters, especially to ensure local coordination and disaster recovery efforts address issues facing Tribal communities. While USET SPF generally supports the draft Equity Guide, it is imperative that FEMA uphold its trust and treaty obligations and work directly with Tribal Nations to achieve equitable, post-disaster recovery. Although local coordination is important to ensure resources are being equitably sourced and shared with Tribal Nations, as an agency of the federal government, FEMA must hold state and local governments accountable during these processes. USET SPF also stresses the importance of ensuring cultural competency and sensitivity when directing state and local coordination with Tribal Nations.

USET Sovereignty Protection Fund (USET SPF) is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

^[1] USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Hold State and Local Governments Accountable for Sharing Resources and Coordinating with Tribal Nations

The Equity Guide aims to provide a framework for local leaders to correct prior underinvestment and address longstanding recovery challenges of people and places with the most need and fewest resources. We appreciate the inclusion of Tribal Nations in the Equity Guide, which mentions the unique challenges we may experience during a natural disaster and examples of Tribal recovery and response efforts. However, we strongly emphasize that Tribal Nations exist as more than an ‘un/underserved community’ or ‘stakeholder’ due to our unique status as sovereign governments. This status has been established by the U.S. Constitution, treaties, congressional statutes, and upheld through legal interpretations by the federal judiciary. USET SPF recommends that the Equity Guide include language that educates non-Tribal state and local leaders about our inherent sovereign status as well as the special legal relationship between the federal government and Tribal Nations.

Due to our unique status as sovereign governments, we appreciate that the Equity Guide states that it is important for local governments working with Tribal Nations to build and establish trust up front, establish a physical presence in meeting us where our communities are located, and having cultural sensitivity when working with Tribal Nations and communities. Although local recovery and disaster response efforts must include and address the priorities of our communities, we remind FEMA that it is important for the agency to uphold its trust and treaty obligations by working directly with Tribal Nations to provide disaster relief funds directly to our governments. Tribal governments are the best positioned to determine how to respond to disasters and other emergencies within our communities and FEMA must ensure that we receive the appropriate resources and assistance needed when responding to these events. Additionally, FEMA must ensure that funds being allocated to state and local governments during a disaster or emergency event occurring outside of our jurisdictional boundaries should be equitably shared with Tribal Nations when those events affect the public health and safety of our citizens. While disaster and emergency response efforts may be focused on communities outside of our jurisdictional boundaries, it is critical that state and local governments coordinate with Tribal Nations when we identify large population areas of our citizens residing in neighboring localities outside of our jurisdictional boundaries.

Include References to Pre-Disaster Planning Information for Tribal Nations in the Equity Guide

Due to the limited staff capacity of Tribal Nations, our Tribal emergency managers usually fulfill other job responsibilities within our communities, such as a Tribal Historic Preservation Officer, natural/cultural resources manager, and other public safety responsibilities. Tribal Nations may not have a fully staffed emergency response department and instead rely on single or multiple individuals that fulfill other job responsibilities within our communities. For these reasons, FEMA must work with and provide adequate and appropriate resources to Tribal Nations to assist with pre-disaster planning efforts. Oftentimes, it can be difficult from a personnel capacity and availability of resources perspective for Tribal Nations to adequately develop pre-disaster recovery plans for our communities. This pre-disaster planning can include an estimation of costs for recovery efforts, identifying steps to initiate during a recovery process, identification of relevant personnel to participate in recovery efforts, and navigating the plethora of federal resources available, applying for them, and implementing them within our communities. USET SPF recommends that pre-disaster recovery materials be developed for Tribal Nations and included in the Equity Guide.

We note that FEMA published a “Pre-Disaster Recovery Planning Guide for Tribal Governments” in September 2019, which provides guidance for developing a recovery plan. This guide should be referenced in the Equity Guide and we would also suggest FEMA develop some easily digestible 1-pager materials

that could provide initial information on how Tribal Nations can establish pre-disaster recovery plans. FEMA should also work with state and local governments to ensure that pre-disaster recovery plans also take into consideration the needs of Tribal communities. This is especially important in the areas of cultural sensitivity and preservation. Developing relationships with Tribal Nations prior to a disaster or emergency event will ensure that state and local governments are aware of the relevant Tribal Nation personnel they should be coordinating with during response and recovery efforts. Establishing this relationship will also ensure that cultural sensitivity and competency is integrated in local disaster and emergency response plans.

Conclusion

An essential aspect of federal trust and treaty obligations to Tribal Nations is the duty to ensure that we receive the appropriate resources and assistance when responding to and recovering from a disaster or emergency event. It is also important that these trust and treaty obligations are upheld by extension to our citizens residing in local communities outside our jurisdictional boundaries, as well as to Tribal citizens of landless Tribal Nations. For these reasons, FEMA must hold state and local governments accountable to ensure that disaster and emergency relief funds are appropriately directed to Tribal Nations and our citizens during response and relief efforts. Furthermore, the Equity Plan should emphasize the inherent sovereign status of Tribal Nations, and the legal foundations upholding this status, to educate state and local leaders as they pursue coordination and collaboration with Tribal Nations. These actions would adhere to FEMA's 2022-2026 Strategic Plan Goal 1.2 and 2022-2026 National Tribal Strategy Goal 1.4, which acknowledge Tribal Nation sovereignty and transformation of service delivery to respond to the priorities of Tribal Nations by further committing FEMA to increase Tribal Nation access to vital programs and resources. We look forward to continued dialogue with you on these important matters and appreciate the inclusion of Tribal Nations in the draft Equity Guide. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 615-838-5906.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director