

**FEMA's Plan to Provide  
Permanent or Semi-Permanent  
Housing to the Oglala Sioux  
Tribe of the Pine Ridge Indian  
Reservation in South Dakota**





# DHS OIG Highlights

## *FEMA's Plan to Provide Permanent or Semi-Permanent Housing to the Oglala Sioux Tribe of the Pine Ridge Indian Reservation in South Dakota*

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November 5, 2015

### Why We Did This

FEMA requested our assistance in determining whether its preliminary proposal to provide permanent or semi-permanent housing construction to the Oglala Sioux Tribe of the Pine Ridge Indian Reservation is consistent with Federal statutes and regulations and FEMA guidelines. FEMA has begun disaster recovery efforts in response to a disaster declaration for severe storms, straight-line winds, and flooding that occurred in May 2015.

### What We Recommend

The report contains no recommendations.

#### **For Further Information:**

Contact our Office of Public Affairs at (202) 254-4100, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

### What We Found

In limited circumstances, section 408 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)* grants the Federal Emergency Management Agency (FEMA) the authority to provide individuals or households affected by a disaster permanent or semi-permanent housing. However, to ensure the integrity of the Individual Assistance program, FEMA should adequately document the facts and circumstances that justify this decision. FEMA should also ensure that its proposed actions are the most cost-effective solution to the Oglala Sioux Tribe's unique housing problems as compared to other alternatives.

Further, before providing funding, FEMA should take reasonable steps to avoid duplicate benefits by ensuring applicants have exhausted all other sources of benefits. These sources should include the U.S. Department of Housing and Urban Development and the U.S. Department of the Interior's Bureau of Indian Affairs.

### FEMA Response

At the exit conference, FEMA officials expressed their thanks and appreciation for the timeliness and value of this report. Because FEMA is still deliberating on how to provide permanent or semi-permanent housing construction for individual assistance applicants, this report does not require a formal written response from FEMA.




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Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

November 5, 2015

MEMORANDUM FOR: Elizabeth Zimmerman  
Associate Administrator, Response and Recovery  
Federal Emergency Management Agency



FROM: John V. Kelly  
Assistant Inspector General  
Office of Emergency Management Oversight

SUBJECT: *FEMA's Plan to Provide Permanent or Semi-Permanent  
Housing to the Oglala Sioux Tribe of the Pine Ridge  
Indian Reservation in South Dakota*  
Report Number OIG-16-05-D

At the request of the Federal Emergency Management Agency (FEMA), we reviewed FEMA's preliminary plan to provide permanent or semi-permanent housing to the Oglala Sioux Tribe of Pine Ridge Indian Reservation in South Dakota (Oglala Sioux Tribe). The purpose of our review was to determine whether FEMA's preliminary decision to approve permanent or semi-permanent housing construction for the Oglala Sioux Tribe adhered to Federal statutes and regulations and FEMA guidelines.

### Background

During the period of May 8–29, 2015, severe storms, straight-line winds, and flooding damaged the homes of the Oglala Sioux Tribe on the Pine Ridge Indian Reservation. Located in remote south central to southwestern South Dakota, the Pine Ridge Indian Reservation occupies 3,469 square miles of land and is the eighth-largest reservation in the United States. The reservation is larger than the combined land mass of Delaware and Rhode Island.

At the time of our review, FEMA reported approximately 40 percent of the residences on the reservation were without some form of essential utility (such as electricity, running water, or sewer services). Approximately 250 families were living in uninhabitable homes, with many families sometimes occupying one home.



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**Figure 1: Damaged Home on Pine Ridge Indian Reservation**



Source: FEMA

### **Results of Review**

In limited circumstances, section 408 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)* grants FEMA the authority to provide individuals or households affected by a disaster permanent or semi-permanent housing. However, to ensure the integrity of the Individual Assistance program, FEMA should adequately document the facts and circumstances that justify this decision. FEMA should also ensure that its proposed actions are the most cost-effective solution to the Oglala Sioux Tribe's unique housing problems as compared to other alternatives.

Further, before providing funding, FEMA should take reasonable steps to avoid duplicate benefits by ensuring applicants have exhausted all other sources of benefits. These sources should include the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of the Interior's Bureau of Indian Affairs.

#### *FEMA Is Considering Providing Manufactured Housing Units to Individuals and Households if the Disaster Rendered Their Home Uninhabitable*

On August 28, 2015, FEMA prepared an internal briefing paper to outline its proposed criteria for providing manufactured housing units (MHU) as permanent or semi-permanent housing for the Oglala Sioux Tribe. To be eligible for the Individuals and Households Program grant funds, the



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habitability of the applicant's primary residence must first have been impacted by the disaster. If the applicant satisfies this requirement, FEMA proposes a two-part test to determine further whether the applicant is eligible for permanent or semi-permanent housing construction and what type of construction they will receive. Specifically, FEMA must—

1. inspect the applicant's home to determine eligibility for repair or replacement assistance, and
2. determine whether the applicant's home can be repaired to a habitable standard.

### *The Stafford Act Provides FEMA Limited Authority to Construct Permanent or Semi-Permanent Housing in Insular and Other Locations*

Section 408 of the *Stafford Act* authorizes FEMA to provide both financial and direct assistance for individuals and households displaced from their pre-disaster primary residence, when that residence is uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, because of a declared event.<sup>1</sup> Ordinarily, FEMA's basic mission is to provide temporary, rather than permanent, housing.<sup>2</sup> However, Section 408 (c)(4) authorizes FEMA to fund the construction of permanent or semi-permanent housing in insular areas outside the continental United States and in other locations provided it can demonstrate that (1) no other housing resources are available; and (2) other types of financial and direct housing assistance are unavailable, infeasible, or not cost effective.<sup>3</sup>

To satisfy that exacting criteria, FEMA needs to complete a comprehensive cost benefit analysis to prove the cost effectiveness of providing permanent or semi-permanent housing construction. In preparing the cost benefit analysis, FEMA might want to compare the total costs associated with the purchase, transportation, and installation of the MHUs to the total costs of the financial and direct assistance FEMA would incur for both temporary housing and repair or replacement of the affected housing unit. FEMA should also document that tribal members are pre-disaster homeowners to be eligible to receive an MHU. FEMA officials said they were aware of this requirement and that they were working on a solution to provide permanent or semi-permanent housing construction to renters that would comply with Federal regulations and guidelines. Again, we caution FEMA that it should demonstrate and document the cost effectiveness of its decisions and actions.

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<sup>1</sup> *Stafford Act* § 408(b)(1), 42 United States Code (U.S.C.) § 5174(b)(1).

<sup>2</sup> 44 Code of Federal Regulations (CFR) 206.110(c).

<sup>3</sup> *Stafford Act* § 408(c)(4), 42 U.S.C. § 5174(c)(4). See 44 CFR 206.117(b)(4).



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#### FEMA Should Avoid Duplication of Benefits

Insurance and assistance from other Federal agencies including HUD and the Bureau of Indian Affairs may be available to cover some or all of FEMA's costs in providing financial and direct assistance as well as permanent or semi-permanent housing construction to individual members of the Oglala Sioux Tribe. For instance, according to the *National Disaster Housing Strategy*, HUD has the lead responsibility and will coordinate with its partners to provide housing and community development resources when individuals need Federal permanent housing assistance.<sup>4</sup> In addition, when FEMA determines that disaster survivors need housing assistance beyond that provided under the Individuals and Households Program guidelines, it refers those survivors to HUD.<sup>5</sup> Therefore, FEMA should avoid the duplication of benefits by reaching out to other Federal agencies including HUD and the Bureau of Indian Affairs to identify other potential sources of funding.<sup>6</sup>

#### Conclusion

To ensure compliance with the spirit and intent of the *Stafford Act*, FEMA should carefully consider the stringent requirements of providing permanent or semi-permanent housing and ensure compliance with those requirements. Moreover, FEMA should consider the possible precedent-setting nature of providing permanent or semi-permanent housing and the impact it will have on individual members of the Oglala Sioux Tribe and the tribal government. These factors make it imperative that FEMA take extra care to support and document fully its decision to provide permanent or semi-permanent housing construction. FEMA also owes taxpayers the assurance that its proposed actions are the most cost-effective solution to the Oglala Sioux Tribe's unique housing problems compared to other alternatives.

### **Discussion with Management**

We discussed our observations and concerns with FEMA officials on September 9, 2015, and provided them with a draft report on September 16, 2015. FEMA officials generally concurred with our observations and conclusions. FEMA officials said they intend to provide permanent housing to the Oglala Sioux Tribe and expedite their inspections of the damaged homes in preparation of the quickly approaching winter season. FEMA officials said they do not anticipate any construction projects at this time—only the repair of

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<sup>4</sup> *National Disaster Housing Strategy*, January 16, 2009, p. 17.

<sup>5</sup> *Disaster Operations Legal Reference*, Version 2.0, June 1, 2013, p. 6-51.

<sup>6</sup> Section 312 of the *Stafford Act* states that no entity will receive assistance for any loss for which it has received financial assistance from any other program, insurance, or from any other source.



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eligible MHUs if repairable. FEMA also said it is experiencing challenges with limited access to certain areas of the Pine Ridge Indian Reservation and developing methods to dispose of damaged and non-repairable MHUs.

We also discussed the draft report with FEMA at an exit conference in Washington, DC, on October 6, 2015. FEMA officials expressed their thanks and appreciation for the timeliness and value of this report. Because FEMA is deliberating on how to provide permanent or semi-permanent housing construction for individual assistance applicants, this report does not contain any recommendations, and we do not require a response from FEMA.

The Office of Emergency Management Oversight major contributors to this report are Paige Hamrick, Director; John Polledo, Audit Manager; David B. Fox, Auditor-in-Charge; and Raeshonda Keys, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Paige Hamrick, Director, Central Regional Office - North, at (214) 436-5231.



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### Appendix A

#### Objective and Methodology

In September 2015, we conducted a special review of FEMA’s proposed process to approve or not approve permanent or semi-permanent housing construction to the Oglala Sioux Tribe. Our objective was to discuss with FEMA both the relevant policies and procedures and the types of audit steps we would perform to ensure FEMA’s ultimate decision complied with the *Stafford Act*.

We discussed Federal statutes, regulations, and FEMA guidelines with FEMA officials in Washington, DC who are engaged in disaster recovery activities for FEMA Disaster DR-4237-OST; reviewed Federal statutes, regulations, and FEMA guidelines to gain an understanding of the Individuals and Households Program’s permanent or semi-permanent housing construction in insular and other locations; reviewed FEMA’s Leadership Briefing documents and other relevant documents associated with Individual Assistance and housing; conducted internet research on the Oglala Sioux Tribe and the Pine Ridge Indian Reservation to become familiar with the cultural propensities of the tribe and the geographical factors associated with the reservation; and performed other procedures considered necessary to accomplish our objective.

We conducted our work pursuant to the *Inspector General Act of 1978*, as amended. The objective of our review was not to audit FEMA or its grant recipients and subrecipients. Therefore, we did not conduct our review or prepare this report in accordance with generally accepted government auditing standards.





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