

Congress of the United States
Washington, DC 20515

August 14, 2020

The Honorable Donald J. Trump
President of the United States of America
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Trump,

We write to express serious concern about your Administration's National Guard and FEMA cost-share requirements for the national COVID-19 pandemic response and urge you to take immediate steps to waive cost-shares for all states and territories.

An estimated 25,000 National Guard troops are currently deployed throughout the country selflessly providing crucial assistance to state and local government COVID-19 responses. This includes helping to administer and staff testing sites, building field hospitals, bolstering contact tracing efforts, stocking food banks, delivering supplies, sanitizing assisted living facilities, assisting hospitals, and so much more. National Guard support continues to be invaluable to local communities, and we strongly support your Administration's recent decision to extend National Guard deployments under Title 32, Section 502(f) for COVID-19 response through December 31 of this year.

Yet we were frustrated to learn that you initially required 47 states and territories to cover 25 percent of their National Guard costs. These states and territories, which are already under immense financial strain due to COVID-19, will have difficulty providing all the needed services to their communities if they are burdened with the additional costs of the National Guard's crucial assistance.

We are even more troubled that your Administration has apparently carved out an exception to cover 100 percent of National Guard costs for Texas and Florida through the end of the year, and, after initial criticism, granted Arizona, California, and Connecticut temporary 100 percent coverage through September 30.¹ As noted by publicly available COVID-19 data, other states have similar if not worse COVID-19 numbers than Texas,² and Florida.³ The National Guard Association, who represents the interests of tens of thousands of National Guard personnel, says it has yet to receive an explanation for this decision, stating that "there are other states with very high rates and they weren't included...we're shrugging our shoulders."⁴ We are deeply concerned that the rationale behind this decision-making is politically motivated.

¹ <https://www.politico.com/states/california/story/2020/08/07/trump-temporarily-exempts-arizona-california-connecticut-from-national-guard-coronavirus-deployment-cuts-1305935>

² <https://www.whitehouse.gov/presidential-actions/memorandum-extension-use-national-guard-respond-covid-19-facilitate-economic-recovery-texas/>

³ <https://www.whitehouse.gov/presidential-actions/memorandum-extension-use-national-guard-respond-covid-19-facilitate-economic-recovery-florida/>

⁴ <https://www.politico.com/newsletters/politico-nightly-coronavirus-special-edition/2020/08/04/are-you-better-off-today-489979>

Furthermore, your Administration's National Guard cost-share decision comes on top of your ongoing Federal Emergency Management Agency (FEMA) cost-share requirements, which for months have required state, local, tribal, and territorial (SLTT) governments to cover 25 percent of FEMA-related COVID-19 response efforts. SLTT governments' public health and emergency management capabilities continue to operate past normal capacity as the pandemic continues, with many of the nation's governors urgently calling for more robust support from the Federal government.

While FEMA is able to increase the Federal cost-share to 100 percent for a limited period of emergency work, including direct Federal assistance,⁵ it has yet to do so. With more than 5,000,000 cases and 165,000 deaths in the United States, the unprecedented nature of the COVID-19 response stretches beyond the scope of the states and territories and warrants the full resources and support of the Federal government. Further, by invoking Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended) on March 13 of this year, you recognized that there was a preeminent and exclusive responsibility of the Federal government to respond to the pandemic⁶. As President, you have the authority to adjust the FEMA cost share from 75 percent Federal/25 percent non-Federal to 100 percent Federal, which would align with your decision for FEMA to coordinate the Federal response to this pandemic.

We reiterate that your National Guard and FEMA cost-share policies come at a time when SLTT governments are already struggling financially and short on resources due to the effects of COVID-19. While we applaud the monumental efforts of the National Guard and FEMA to help state and local communities throughout the country, we believe SLTT governments have endured additional and unnecessary hardship because of these cost-sharing requirements and the lack of a more robust Federal response. As a result, the pandemic continues and SLTT governments don't have the resources or support they need.

In addition to waiving these unnecessary and burdensome cost-sharing requirements, we ask that you respond to the following questions:

1. Why has your Administration decided to require state and local governments to cover 25 percent of National Guard costs?
2. Why has your Administration decided to continue covering the full National Guard costs for Texas and Florida, despite clear evidence that other states and territories are enduring equal, if not greater, impacts of COVID-19 outbreaks?
3. Why, after initial criticism, has your Administration now decided to cover the full National Guard costs for Arizona, California, and Connecticut, but only through September 30?
4. Please provide any information, analysis, and/or data collected by FEMA and its Federal partners which aided the Administration in its determination to extend Title 32 authorities for use of National Guard personnel for COVID-19 relief efforts, including any information, analysis, and/or data to continue providing 100 percent Federal cost share for those authorities to Florida and Texas but not others.

⁵ 44 CFR § 206.47(d)

⁶ <https://www.whitehouse.gov/briefings-statements/letter-president-donald-j-trump-emergency-determination-stafford-act/>

5. Why has your Administration continued the 25 percent non-Federal cost share requirement for SLTT governments for FEMA-eligible assistance, despite previous reporting regarding a willingness to waive the requirement⁷?

Your cost-share policies have the effect of punishing SLTT governments during a public health crisis exacerbated by Federal inaction and underwhelming coordination. It is time for the Federal government to step up and finally fulfill its role as a leader during a crisis.

Sincerely,

Peter A. DeFazio
Member of Congress

Adam Smith
Member of Congress

Stacey E. Plaskett
Member of Congress

Barbara Lee
Member of Congress

James P. McGovern
Member of Congress

David N. Cicilline
Member of Congress

Eleanor Holmes Norton
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Ed Case
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André Carson
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Marcy Kaptur
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Juan Vargas
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Salud Carbajal
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Mark Pocan
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⁷ <https://thehill.com/homenews/state-watch/494114-cuomo-describes-trump-meeting-as-productive>

John Garamendi
Member of Congress

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Danny K. Davis
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Marcia L. Fudge
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Stephen F. Lynch
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