



Solving the Crisis at the Border: Immigration FEMA

As recent high-profile events at the U.S.-Mexico border have shown, our border enforcement policies and resources are currently unable to adequately handle extraordinary migration events, particularly ones involving vulnerable populations. Migrant caravans and changing migration patterns that lead to a higher number of arrivals at the border seeking asylum are often identified months in advance, yet we continue to respond reactively, rather than proactively. **The United States needs a flexible, nimble response plan to address and manage dramatic shifts in migrant flows. We need to establish a FEMA-like capacity for immigration events.**

BPC's Proposal: Immigration FEMA

The National Response Framework (NRF) guides the nation's response to a major disaster, regardless of cause or size. Although closely linked to the Stafford Act, the NRF is always in effect and does not require a formal Stafford Act declaration to be used. The NRF establishes 14 different Emergency Support Functions (ESF) to organize the response capabilities of the federal government. ESFs group federal agencies with pertinent authorities, resources, and expertise to accomplish a set of tasks needed in disaster response.

The NRF can be used as a model to develop a similar coordinated, inter-agency response to the current and future migration crises. However, the current authorities are lacking in several aspects:

- The current "emergency declaration" authority for a FEMA-like response may not be available for immigration-related events that emerge over time.
- Existing FEMA emergency authorities to require support from other federal agencies on a non-reimbursable basis (in other words to compel support out of existing resources), are tied to a national emergency declaration.
- The immigration and border agencies have fewer authorities and capabilities to work collaboratively with non-governmental humanitarian and relief agencies through grants or cooperative agreements that FEMA uses in response to a declared emergency.
- Coordination among all levels of government—federal, state, local, and private sector and non-governmental organizations that is the hallmark of a FEMA response are absent in response to immigration events that are seen from a strictly law-enforcement lens, leading to humanitarian tragedies and diversion of law enforcement resources to humanitarian relief efforts.

Therefore, Congress should consider legislation authorizing the following:

Authority to Declare an Extraordinary Migration Event

A Presidential declaration of an extraordinary migration event could be made at the request of the Secretary of Homeland Security or a state or local governmental entity. Such a request shall be based on a finding that the event is of such a magnitude that an appropriate, timely, and effective response is beyond the scope of the existing infrastructure and staffing levels of the Department or has overwhelmed local community or governmental resources.



Appointment of a Federal Coordinating Officer

Immediately upon the declaration of an extraordinary migration event, the President shall appoint a Federal coordinating officer to operate in the affected area. The Federal coordinating officer shall-

- Make an appraisal of the types of resources most urgently needed;
- Establish such field offices as he deems necessary and as are authorized by the President;
- Coordinate the administration of assistance and support to the Department of Homeland Security (DHS) by other federal departments and agencies, related activities of state and local governments when requested by those governments, and other relief and assistance organizations operating in the area and providing services to migrants in response to the extraordinary migration event.

Formation of Migration Support and Response Teams

Upon declaration of an extraordinary migration event by the President, the Secretary of Homeland Security shall form support and response teams to be deployed to an area affected by an extraordinary migration event to assist the Federal coordinating officer in carrying out their responsibilities; including:

- Coordinating the construction of larger, specialized migration processing facilities with additional staff from other agencies, governmental or non-governmental entities to assist with the humanitarian needs of the arriving migrants.
- Working with CBP, FEMA, and the Department of Health and Human Services and other appropriate organizations to set up temporary housing for migrants. The facilities would operate like disaster relief centers for affected communities that provide individuals with shelter, food, and access to medical services.
- Coordinating with the FEMA National Disaster Medical System to provide these facilities with doctors and nurses that would provide medical assistance to these populations; FEMA Corps to provide additional humanitarian support to these facilities; and other volunteers from Department of Defense (DOD) medical staff or national guard who have assisted in similar humanitarian situations.

Formation of Asylum Processing Teams, Additional Judicial Resources

Upon declaration of an extraordinary migration event by the President, the Secretary of Homeland Security shall undertake various actions designed to process an additional volume of asylum claims in a timely manner, including:

- Reassigning asylum officers and interpreters to CBP border facilities to form asylum processing teams responsible for the asylum interview process after migrants arrive to the processing facility. The teams would process each case within 20 days to ensure that families can present their cases together.
- Authorizing asylum officers to adjudicate asylum claims in the first instance and approve "clearly approvable" cases without resorting to an immigration court.



- Working with the Department of Justice (DOJ) to create new border courts with newly hired judges (who do not have existing caseloads that would be displaced) located near the DHS processing facilities who would prioritize processing the cases from recent arrivals at the U.S.-Mexico border.
- Working with DOJ to expand the cadre of immigration judges by 110 percent to ensure that the immigration court system can process influxes of complex cases without sacrificing its ability to effectively review asylum and removal cases.
- Working with DOJ and DHS to establish an “On Call Reserve” of retired judges and asylum or immigration adjudication officers or other qualified individuals (subject to mandatory annual training to remain eligible for call up) that could be activated on short notice to address major migration events and respond to increased case processing claims.

Use of Coordination and Relief Organizations, Grant Making Authority

- In providing relief and assistance under this Act, the Secretary may utilize, with their consent, the personnel and facilities of relief organizations in providing essential services including providing housing, temporary shelter, medical or other essential facilities and for the distribution of food and other supplies.
- The President is authorized to enter into agreements with relief organizations under which the activities of these organizations may be coordinated with the Federal coordinating officer. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination.

Notification to Congress and Reporting Requirements

- Within 30 days of a Presidential declaration under this title, the President shall submit to Congress a report outlining the additional resources used.
- Authority to request supplemental appropriations as appropriate.

For more information on this proposal or BPC’s other immigration work, please contact Laura Hall: lhall@bpcaction.org.