

Guide to Continuity of Government

For State, Local, Tribal and Territorial Governments

July 2021



FEMA

This page intentionally left blank

Table of Contents

1. Introduction and Purpose	2
2. Principals of COOP, COG and ECG	3
2.1. Relationship Between COOP and COG.....	5
3. Continuity of Government – A Coordinated Effort	5
3.1. COG - Representation and Cross Governmental/Jurisdictional/ Organizational Continuity Working Group	5
3.2. Branches of Government (Federal Model)	6
3.3. SLTT Departments, Agencies and Bureaus	8
4. Emergency Action Steps	9
4.1. Emergency Resources.....	10
Annex A: NEF 1 Description	A-1
Annex B: Acronyms	B-1
Annex C: References and Resources	C-1

1. Introduction and Purpose

Every day, individuals, organizations, communities and governments provide critical services and perform essential functions upon which citizens depend. Continuity ensures that the whole community has a plan for sustaining these services and functions when routine operations are disrupted. Implementation of continuity principles ensures that organizations, communities, and governments can support individuals during a crisis.



Figure 1: Whole Community Continuity

As detailed in FEMA National Continuity Program’s Continuity Guidance Circular¹, our nation’s resilience is based on continuity of operations (COOP), continuity of government (COG), and enduring constitutional government (ECG) programs, which collectively provide resilience for the performance of the National Essential Functions (NEFs). The NEFs, listed in Figure 2, are the foundation of all continuity programs and capabilities and are the primary focus of the Federal government before, during, and after a catastrophic emergency. The Federal government maintains these functions and services with the support of Whole Community partners (See Figure 1). The NEFs are accomplished through a collaborative effort with federal departments and agencies integrated with and supported by state, local, tribal and territorial governments, the private sector, non-governmental organizations, and the public.

For that integration and support to be successful, organizational essential functions should be identified by Whole Community partners. Essential functions are a subset of day-to-day government functions that are determined to be critical activities. These essential functions are then used to

¹ Refer to www.fema.gov/continuity-guidance-circular-cgc. The CGC guides whole community efforts to develop and maintain the capability to ensure COOP, COG, and ECG during an emergency that disrupts routine operations.

identify supporting tasks and resources that must be included in the organization’s continuity planning process. Annex A provides examples of how whole community partners’ essential functions can support NEF 1, “Ensuring the Continued Functioning of Our Form of Government.”

This “Guide to Continuity of Government for State, Local, Tribal and Territorial Governments”, a companion document to the [Continuity Guidance Circular](#), describes the relationship between COOP, COG and ECG, and provides guidance in the form of planning factors to assist state, local, tribal and territorial governments in achieving continuity of government through a viable continuity capability in order to ensure the resilience and preservation of government in the event of an emergency.



Figure 2: National Essential Functions

2. Principals of COOP, COG and ECG

Continuity of Operations ensures an *individual organization* can continue to perform its essential functions, provide essential services, and deliver core capabilities during a disruption to routine operations. Continuity is the foundation on which continuity of government and enduring constitutional government capabilities depend. Continuity planning is simply a good business practice. Performance of the NEFs requires that all governmental departments have a viable continuity capability. Like the NEFs at the national level, SLTT governments should identify as mission essential those functions that are necessary to lead and sustain their jurisdiction during a catastrophic emergency.

Continuity of government is intended to preserve essential functions and the statutory and constitutional authority of all levels of government across the United States.

Continuity of Government is a *coordinated effort within each of the executive, legislative, and judicial branches* to ensure that governance and essential functions continue to be performed before, during, and after an emergency. COG is an outcome of a viable continuity program and capability. *COG is intended to preserve essential functions and the statutory and constitutional authority of all levels of government across the United States.* Disasters can cause local or regional emergencies by threatening the ability of jurisdictions to execute their statutory authorities, perform essential functions, and deliver essential services. Plans should be scalable and flexible to meet the varying requirements, threats, and needs of the supported organizations or jurisdictions, whether small localities, large cities, or state, territorial, or tribal governments to achieve COG outcomes.

Enduring Constitutional Government is the result of a *cooperative effort among the executive, legislative, and judicial branches* to preserve the framework under which people are governed. ECG focuses on the ability of the branches of government to coordinate with each other and execute constitutional responsibilities, provide for orderly succession and appropriate transition of leadership, and support essential functions during an emergency.

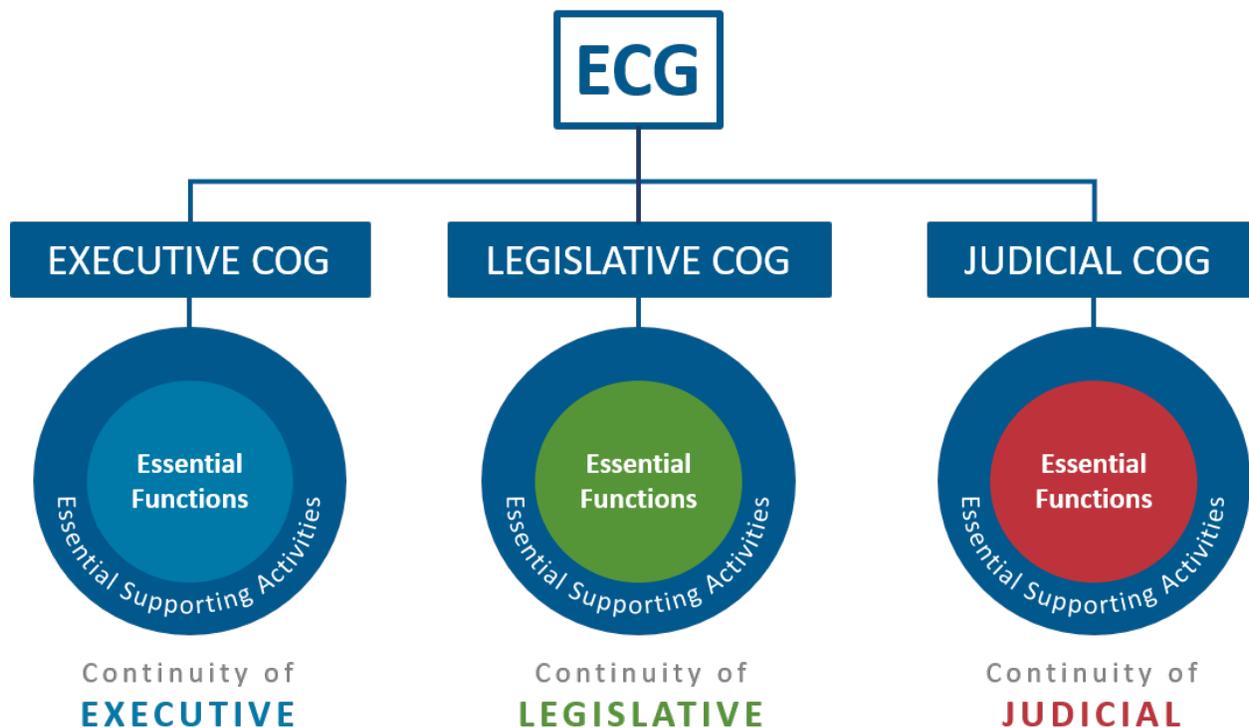


Figure 3: COOP, COG ECG Relationship

2.1. Relationship Between COOP and COG

Table 1: COOP vs COG

Continuity of Operations	Continuity of Government
Effort within individual organizations to continue essential functions.	Coordinated effort across governments and jurisdictions to continue national, state, local, tribal, and territorial essential functions.
Applies to all organizations within the whole community, including non-governmental organizations, faith- and community-based organizations, and the private sector.	Specific to the executive, legislative, and judicial branches of government (at all levels).
All events (fire, flood, hurricane, etc.)	Major or catastrophic disasters that could impact the entire nation, state, tribe, or jurisdiction and overwhelm a government’s ability to respond unless it is prepared to deal with the situation. Events that threaten the institutional stability of SLTT governments effect the ability to achieve COG.

3. Continuity of Government – A Coordinated Effort

The foundation of COG is continuity planning. All organizations should have a viable continuity capability in order to continue their essential functions. However, COG is the result of a coordinated effort among SLTT jurisdictions, branches of government, and organizations that are critical for effective governance and must withstand the most devastating disaster or emergency. One of the expected goals of a COG outcome is the continuation of those items of “governance” such as enacting laws, ordinances, or codes, convening of boards or legislatures, and hearing cases and appeals, the totality of which provides authority for emergency operations. Achieving COG requires an enhanced level of resilience, coordination, communication, and deconfliction among the organizations and positions most critical to the continued functioning of the government.

A COG outcome requires an enhanced level of resilience, coordination, communication, and deconfliction among the organizations and positions most critical to the continued functioning of the government.

3.1. COG - Representation and Cross Governmental/Jurisdictional/Organizational Continuity Working Group

Governmental jurisdictions at all levels should establish a cross-functional Continuity Working Group or groups to address intra- and inter-branch coordination dependencies. The composition of this group may vary by jurisdiction but should include planning, operational, and leadership representatives from all branches of government, neighboring jurisdictions, and representatives from

the various SLTT departments, agencies, bureaus, and other organizations deemed most critical to the continued functioning of the jurisdiction during an emergency.

Table 2: Branches of Government and Critical Functions

Branches of Government Model		
 Executive	 Legislative	 Judicial
<ul style="list-style-type: none"> ▪ Continuity of leadership (succession) ▪ Declaration of emergency ▪ Implement response operations and initiate emergency actions/authorities ▪ Make emergency appointments ▪ Safeguard/protect resources, facilities and personnel 	<ul style="list-style-type: none"> ▪ Continuity of leadership (succession) ▪ Continuity of legislative process ▪ Provide authority for necessary government action ▪ Ensure laws support COG emergency requirements ▪ Allow seat of government to move or operate virtually and modify quorum requirements 	<ul style="list-style-type: none"> ▪ Continuity of leadership (succession) ▪ Continuity of court system ▪ Ensure due process ▪ Ensure checks and balances ▪ Decide matters that arise due to the emergency ▪ Prioritize court dockets and functions ▪ Ensure access to legal services

3.2. Branches of Government (Federal Model)

The objective of continuity planning efforts within each branch of government is to ensure that succession to office when required is clearly defined and that procedures exist that list and specify the emergency actions that leadership must be prepared to take to create a viable continuity capability which supports a COG outcome. There should also be provisions to maintain the system of checks and balances between branches of government. As an example, the federal system based on three branches of government is described below.

Executive: In a catastrophic emergency, it is essential that a recognized authority can execute direction and control. The jurisdiction’s executive branch provides for day-to-day management and is responsible for implementing emergency response and recovery operations. Executive branch continuity planning considerations include:

- Providing direction to response and operational personnel;

- Issuing orders, proclamations, and messages or declaring a state of emergency as a basis to impose curfew, evacuate, restrict movement, quarantine, declare powers of eminent domain, etc.; and
- Making appointments or designating appointees for vacated offices (both elected and appointed positions).

Legislative: Laws provide the legal authority, requirements, and directions under which public officials carry out their responsibilities and democratic societies function. The legislative system is important in the preparedness phase to legislate emergency powers and authorities and must be sustained through recovery and reconstitution to provide authority for implementation of necessary government actions not otherwise authorized by the law. The order of succession for SLTT senior executives, other elected officials, and appointed positions under emergency conditions must be established pursuant to law.

Legislative continuity plans, whether included in the overall jurisdictional plan or developed independently, are designed to give a legislature the ability to communicate, convene, and make decisions during a crisis. The foundations for legislative continuity that support a COG outcome are constitutional or statutory provisions that:

- Allow the seat of government to be moved or operate virtually;
- Suspend or modify legislative quorum requirements;
- Provide for emergency interim legislative succession; and
- Support all continuity requirements with supportive legislation.

Judicial: The judicial system implements due process and other basic tenets of the American form of government. The judicial system must be sustained through recovery and reconstitution and is necessary to decide on matters that may arise due to the emergency and maintain the system of checks and balances with other branches of government. During an emergency, flexibility in court rules may be required, including suspending rules and timelines for filings and allowing magistrates and judges more jurisdictional flexibility to allow them to hold court outside of their normal areas of jurisdiction or virtually. Judicial operations to create a COG outcome may include:

- Making emergency appointments of judicial officials;
- Deciding on matters that arise due to the emergency; and
- Prioritizing court dockets and functions.

3.3. SLTT Offices, Departments, Agencies and Bureaus

SLTT jurisdictions do not all necessarily follow the three-branch model as described above. The functions associated with SLTT offices, departments, agencies and bureaus may be distributed differently jurisdiction to jurisdiction but are still responsible for emergency preparedness, response, recovery, and restoration of services essential to manage the implementation of executive and legislative directives and statutes. They are also essential to direct critical support services and to provide emergency services and resources required by the public. Responsibilities of these organizations may be technical or operational in nature, but each organization may require its own appropriate emergency powers and authorities. Maintaining leadership authorities to exercise these powers during emergencies is critical. Table 3 offers some potential organizations and functions that may need to be included in a jurisdiction’s planning effort.

Table 3: SLTT Organizations

Critical SLTT Departments, Agencies, Bureaus, and Other Offices					
 Health and Human Services	 Public Safety	 Transportation	 Education	 Finance	 Commerce / Trade
<ul style="list-style-type: none"> ▪ Health and welfare of citizens ▪ Distribution of equipment and supplies, including Personal Protective Equipment ▪ Shelter and housing ▪ Public health information ▪ Emergency medical services ▪ Environmental response and management ▪ Public health surveillance 	<ul style="list-style-type: none"> ▪ Emergency services ▪ Law enforcement ▪ Emergency dispatch (911) ▪ Fire ▪ Search and Rescue ▪ Emergency management ▪ Emergency medical services ▪ Mass care 	<ul style="list-style-type: none"> ▪ Evacuation ▪ Mass transit policies ▪ Transportation infrastructure resilience 	<ul style="list-style-type: none"> ▪ School opening / closings ▪ Virtual education ▪ Student services 	<ul style="list-style-type: none"> ▪ Emergency procurement and acquisition ▪ Contracts 	<ul style="list-style-type: none"> ▪ Policy and guidance for essential and non-essential business ▪ Modification of permitting and licensing requirements ▪ Invoking rationing, price controls, antiblack-marketing, and anti-hoarding regulations ▪ Making use of public / private property

4. Emergency Action Steps

Due to the catastrophic nature of events that could drive emergency scenarios, jurisdictions should consider the development of Emergency Action Steps. Emergency Action Steps are actions that facilitate the ability of government personnel to respond quickly and efficiently to emergencies. These Emergency Action Steps (which may take the form of directives, checklists, or Standard Operating Procedures) should identify emergency assignments, responsibilities, and emergency duty locations. They may also detail procedures for alerting, notifying, locating, and recalling key members of the government. These actions are not unique to creating capabilities which result in COG but are commonly associated with all emergency operations activities.

Planners should ensure that procedures exist that list and specify the actions that senior officials in leadership positions of the executive, legislative, and judicial branches of government must be prepared to take in response to emergency conditions. These actions should be coordinated between the branches of government. For example, the executive branch develops the emergency action steps, the legislative branch ensures laws are sufficient to enact them, and the judicial branch ensures and upholds their legality.

Senior officials should have available an emergency action checklist that details their emergency authorities, responsibilities, duties, and duty location, and the specific circumstances and/or sequences of events that require actions or implementation during an emergency. Some actions that a jurisdiction may want to consider developing Emergency Actions Steps for include:

- An emergency notification list that describes how, when, and by whom primary/alternate executive, legislative, and judicial decision makers will be notified/alerted during emergency conditions;
- Scripted announcements and periodic (e.g., semiannual) review and update of notifications/alerts list used to contact designated executive, legislative, and judicial decision makers;
- Procedures for declaring a state of emergency;
- Issuing emergency Executive Orders (EOs), proclamations, and regulations that have the full force and effect of law;
- Proclaiming and enforcing curfews;
- Issuing stay at home or shelter in place orders;
- Permitting professional and business entities/organizations to operate without additional licenses;
- Permitting local government personnel and property to be used outside of the jurisdiction;

- Shutting down nonessential government operations;
- Making use of public and private property; and
- Invoking rationing, price controls, anti-black-marketing, and anti-hoarding regulations.

4.1. Emergency Resources

During emergencies, critical resources may be in short supply including those required to support the essential functions of each of the branches of government. It is recommended that jurisdictions proactively establish relationships and agreements with providers of critical supplies and equipment. Jurisdictions should plan to acquire and distribute these resources and may need to work with multiple service providers to establish Mutual Aid Agreements/Memoranda of Understanding and service contracts for:

- Alternate locations (to include telework and virtual support);
- Video Teleconferencing or other communications methods/technologies;
- Personnel with specific expertise such as court reporters or security/law enforcement;
- Additional vehicles, power generation equipment, and fuel;
- Personal Protective Equipment) stockpiles;
- Wifi “Hotspots”;
- Cell phone service, including portable or temporary towers;
- Lodging;
- Food and water; and
- Other critical resources required to support the essential functions.

Additionally, local jurisdictions should consider establishing agreements with each other such as those that form the basis of the Emergency Management Assistance Compact (EMAC)². The EMAC process can provide assistance during declared states of emergency or disasters through allowing states to send personnel, equipment, and commodities to assist with response and recovery efforts in other states. Larger jurisdictional frameworks may have already established these agreements to which a local jurisdiction may become part of.

² For additional information on EMAC, refer to: www.emacweb.org

Annex A: NEF 1 Description

Continuity is the ability to provide resources and services during a disruption to normal operations and can only occur if each partner within the community plays a role.

To perform essential functions and provide critical services, all levels of government – federal, state, local, tribal and territorial – require the support of individuals, families, private sector, critical infrastructure, non-governmental organizations, and faith-based organizations. Figure 6 illustrates this coordination by providing one example each of the many actions the members of the whole community take in building a viable continuity capability in support of accomplishing NEFs.

NEF 1 is the ideal end-state of a robust nationwide continuity capability, defined as “continuity of both government and enduring constitutional government.”

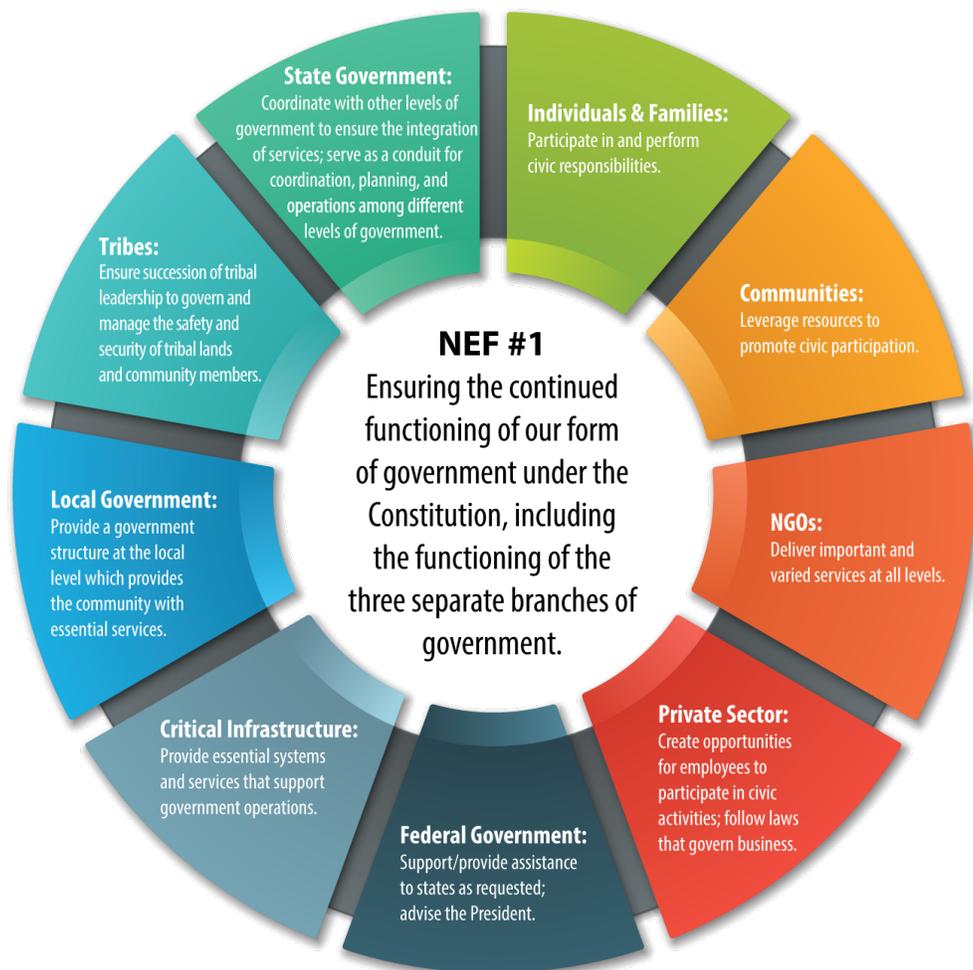


Figure 4: NEF 1

Annex B: Acronyms

Acronym	Definition
CGC	Continuity Guidance Circular
COG	Continuity of Government
COOP	Continuity of Operations
CWG	Continuity Working Group
DHS	Department of Homeland Security
ECG	Enduring Constitutional Government
EMAC	Emergency Management Assistance Compact
EO	Executive Order
FCD	Federal Continuity Directive
HSEEP	Homeland Security Exercise and Evaluation Program
MOA/MOU	Memoranda of Agreement/Memoranda of Understanding
NEF	National Essential Function
PPD	Presidential Policy Directive
SLTT	State, Local, Tribal and Territorial

Annex C: References and Resources

References

- Continuity Guidance Circular: <https://www.fema.gov/sites/default/files/2020-10/continuity-guidance-circular-2018.pdf>
- Federal Continuity Directive 1: <https://www.fema.gov/sites/default/files/2020-07/January2017FCD1.pdf>
- Federal Continuity Directive 2: https://www.fema.gov/sites/default/files/2020-07/Federal_Continuity_Directive-2_June132017.pdf

Resources

- Continuity Resource Toolkit: www.fema.gov/continuity-resource-toolkit
- FEMA Continuity Training and Continuity Certificates: www.fema.gov/continuity-excellence-series-professional-and-master-practitioner-continuity-certificate-programs
- Ready.gov website: www.ready.gov
- Emergency Management Assistance Compact (EMAC): www.emacweb.org
- National Conference of State Legislatures (NCSL):
 - “Continuity of Government in State Legislatures”: www.ncsl.org/research/about-state-legislatures/examples-of-constitutional-provisions-relating-to-continuity-of-government.aspx
 - “Legislative Continuity of Government”: www.ncsl.org/research/about-state-legislatures/legislative-continuity-of-government.aspx