



Public Assistance Appeals

The Public Assistance appeals process provides applicants (e.g., State, tribal, and local governments and certain private nonprofit organizations applying for Public Assistance disaster funds) the opportunity to appeal FEMA determinations regarding their application for the provision of assistance.

First Level Appeal

After an initial Public Assistance determination is made, an applicant may appeal the determination. The applicant must file an appeal through the grantee (e.g., State or Tribe) to the FEMA Regional Administrator within 60 days of the applicant's receipt of FEMA's initial determination. The appeal must be made in writing and contain a documented justification supporting the applicant's position.

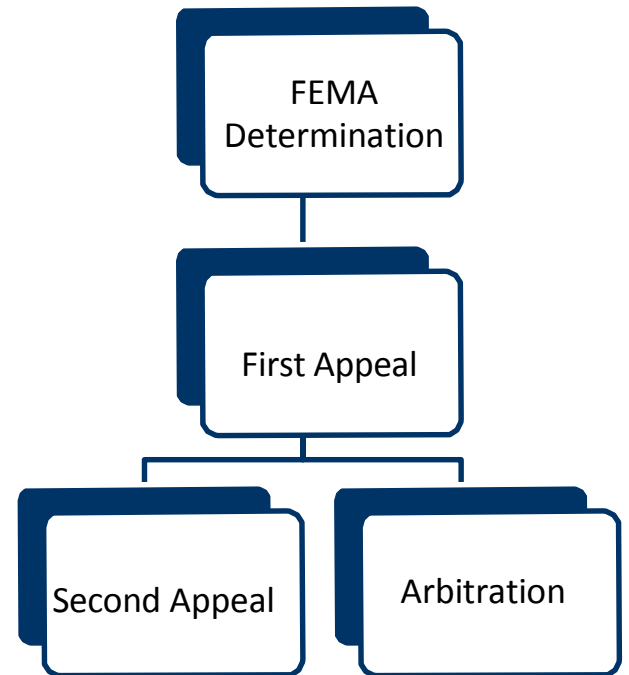
This documentation must explain why the applicant believes the initial determination is inconsistent with law or policy and the monetary amount in dispute. The Grantee must forward the appeal and a written recommendation to the FEMA Regional Administrator within 60 days. The Grantee has full discretion to support or oppose all or part of the applicant's position in the appeal. First level appeals are evaluated and decided by the FEMA Regional Administrator.

The FEMA Regional Office has 90 days to render a first appeal decision or request additional information from the applicant. Once a decision on the appeal is made, the FEMA Regional Administrator will notify the Grantee who will, in turn, notify the applicant.

Upon receipt of a denial or partial denial from the Regional Administrator, all Applicants have the option to file a second level appeal, while certain Applicants could opt to commence arbitration in lieu of a second level appeal.

Second Level Appeal

The Applicant may file a second level appeal with the Grantee within 60 days of receiving the first appeal decision. The administrative record closes for first appeals received after October 1, 2013 upon issuance of the first appeal decision. The applicant cannot provide new documentation with the second appeal. The second appeal must explain why the applicant believes the original determination is inconsistent with law or policy and the monetary amount in dispute. The Grantee has 60 days to provide a written recommendation to FEMA. In reviewing the second appeal, just as with the first appeal, the Grantee has full discretion to support or oppose all or part of the applicant's position in the appeal. The FEMA Assistant Administrator for Recovery has 90 days upon receipt of the second level appeal to render a decision or request more information from the applicant. Second level appeals decisions are FEMA's final administrative decision, as outlined in regulation (44 CFR § 206.206). All second level appeal determinations are posted on the FEMA website, so applicants can review previous decisions FEMA has made on similar issues.



Arbitration¹

Under certain circumstances, an applicant may choose to pursue arbitration instead of a second level appeal. The option of pursuing arbitration is available only if:

- The applicant disagrees with a first level appeal decision received from the Regional Administrator;
- the amount in dispute is greater than or equal to \$1,015,000²;
- there is a non-Federal cost share; AND
- the disaster was declared on or after October 30, 2012.

The Applicant must submit a Request for Arbitration form simultaneously to the Grantee (State or Tribe), the arbitration sponsor, which is the United States Coast Guard Office of Administrative Law Judges (OALJ), and FEMA within 15 calendar days of receipt of the first appeal decision. All filings must be made electronically to FEMA at fema-occ-drpp@fema.dhs.gov and to the OALJ at aljdoCKETcenter@uscg.mil.

The applicant and FEMA will submit a written statement of claim citing supporting documents from the administrative record. The Grantee may, but is not required to, submit a statement of support or opposition to the applicant's claim.

The arbitration sponsor will convene an independent three-person panel for each arbitration case requested. Within 15 calendar days of the panel's receipt of FEMA's response to the applicant's statement of claim, the panel will conduct a preliminary administrative conference where parties will discuss the disputed issues and may request an oral hearing. A party must request a hearing to the panel no later than the time of the preliminary administrative conference. If a hearing is requested, within 10 calendar days of the preliminary conference the panel will issue a scheduling order for the arbitration.

The independent three-person panel will then either issue a written decision within 60 days after the hearing or, if there is no hearing, within 60 days from the preliminary administrative conference. The decision of the majority of the arbitration panel is a final decision, binding on the parties. The final decision is not subject to further administrative or judicial review, except in some very limited exceptions permitted by the Federal Arbitration Act, 9 U.S.C. § 10.

###

"FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards."

May 2016

¹ There are two distinct arbitration processes available to certain applicants: (1) FEMA's Dispute Resolution Pilot Program (44 C.F.R. § 206.210), which is described in this document, provides certain applicants a right to choose arbitration in lieu of a second appeal for disasters declared on or after October 30, 2012, and (2) FEMA's arbitration for Public Assistance disputes related to Hurricanes Katrina and Rita (44 C.F.R. § 206.209) affords certain applicants a right to choose arbitration in lieu of a first or second appeal.

² As of August 15, 2014 due to Consumer Price Index (CPI) increase from the original \$1 million