

Course Overview, Course Goal, and Objectives

Welcome to the Determination Memorandums and Appeals course.

This course will provide an overview of Public Assistance eligibility determination memoranda and the appeals process. By the end of the course, State, local, Tribal, Territorial Applicants and Recipients will be able to understand all aspects of Public Assistance eligibility determination memorandum and the appeals process.

Upon successfully completing the course, participants will be able to:

- Explain the FEMA Public Assistance determinations which may be appealed.
- Explain the Request for Information process during field operations.
- Increase stakeholder knowledge of the Determination Memorandum and letter process, including key communication mechanisms and information included in the document.
- Provide detailed information on the format, content, and timeframe requirements for submitting a first and second level appeal.

[Select this link to access the Public Assistance acronym list.](#)

Lesson 1 Overview and Objectives

This lesson presents a high-level overview of the Determination Memorandum and letter. This lesson also provides an overview of the appeals process.

At the end of this lesson, participants will be able to:

- Identify administrative requirements of the course
- State the goals and objectives of the course
- Explain Determination Memorandums, determination letters, arbitration, and appeals

Introduction to the Request for Information Process (1 of 2)

The intent of a FEMA Request for Information is to obtain all disaster-related documentation or information related to a Public Assistance project. A Request for Information may come from various FEMA sources and may vary in importance relative to the incident.

If an Applicant receives a Request for Information from FEMA, the Applicant should make sure to include all information requested to expedite the processing of the case.

When the information is received, it becomes part of the Applicant's administrative record.



Introduction to the Request for Information Process (2 of 2)

If FEMA discovers that more information is needed to determine an Applicant's eligibility, FEMA will issue an initial informal Request for Information.

First Level Informal Request for Information

If the Applicant does not provide sufficient documentation to satisfy the initial informal Request for Information, the Program Delivery Manager will meet with the Applicant to inform the Applicant that a first level Informal Request for Information will be issued.



Second Level Formal Request for Information

If the Applicant still does not provide enough information to satisfy the Informal Request for Information, the FEMA Program Delivery Manager will meet with the Applicant to begin the Formal Request for Information process.

Lesson 2 will discuss the Request for Information process in further detail.

Introduction to Determination Memorandums and Letter

Most Public Assistance projects run smoothly and are free of eligibility disputes. When eligibility issues do arise, FEMA is usually able to resolve them quickly.

When eligibility issues cannot be worked out, FEMA will issue a formal eligibility determination letter, setting forth an Applicant's appeal rights, with an accompanying memorandum that explains the basis for the denial. The eligibility Determination Memorandum will clearly explain why the determination was made and specifically reference applicable provisions of law, regulation, and policy supporting the determination.



Reasons for a Determination Memorandum and Letter

Eligibility determination letters with attached eligibility Determination Memorandum will be issued when:

- Request for Public Assistance is denied
- Applicant, facility, work, and/or cost is wholly or partially ineligible
- Applicant or Recipient has not complied with the terms of the grant



Introduction to Appeals Process (1 of 2)

If an Applicant receives a Determination Memorandum and letter, it has the right to use FEMA's two-tiered administrative appeal

process. The Applicant has 60 days from its receipt of the determination letter and memorandum to submit its first appeal, beginning the appeal process.

The appeal must be sent to the Recipient, which has 60 days to review and forward it, along with a written recommendation, to the appropriate FEMA Regional Administrator. The Recipient has full discretion to support or oppose all or part of the Applicant's position in the appeal.

The first appeal will be reviewed by the Regional Administrator of the applicable FEMA Region. Once received, the FEMA Regional Administrator has 90 days to render a first appeal decision or request additional information from the Applicant.



Introduction to Appeals Process (2 of 2)

Upon receipt of a first appeal decision that is either a complete or partial denial, Applicants can appeal the determination to the Assistant Administrator for Recovery at FEMA Headquarters.

The second level appeal must be sent to the Recipient within 60 days of receiving the determination of the first appeal. The Recipient then has 60 days from receipt of the second appeal to review and forward it with a recommendation to the FEMA Regional Administrator, who forwards it to the Assistant Administrator for Recovery. Just as with the first appeal, the Recipient can express support for or disagreement with the Applicant's position in the appeal.

FEMA Headquarters has 90 days upon receipt of the second level appeal to render a decision or request more information from the Applicant. Second level appeal decisions are FEMA's final administrative decision.



The Appeals process will be discussed in detail in Lesson 5.

Lesson 1 Summary

In this lesson, you learned how to:

- Identify administrative requirements of the course
- State the goals and objectives of the course
- Explain Determination Memorandums, determination letters, and appeals

The next lesson will explain the process, deadlines, and implications of the Request for Information during the project development in the field.

Lesson 2 Overview and Objectives

This lesson explains the process, deadlines, and implications of the Request for Information during the project development in the field.

At the end of this lesson, participants will be able to:

- Explain the process, deadlines, and implications of the Request for Information during project development in the field

Intent of Request for Information

The intent of a FEMA Request for Information is to obtain all disaster-related documentation or information related to a Public Assistance project. A Request for Information may come from various FEMA sources and may vary in importance relative to the incident.

If an Applicant receives a Request for Information from FEMA, the Applicant should make sure to include all information requested to expedite the processing of the case. There are several ways to send documentation to FEMA. The Applicant can provide the documents by uploading them to the Grants Portal, email or by mail.



When the information is received, it becomes part of the Applicant's administrative record.

Initial Informal Request for Information

If FEMA discovers that more information is needed to determine an Applicant's eligibility, FEMA will issue an initial Informal Request for Information. This process is usually a verbal request and normally takes two days and occurs in-house at FEMA. The FEMA Program Delivery Manager will engage the Applicant to discuss the issue and to ask for the documentation needed to make the eligibility determination.



First Level Informal Request for Information

If the Applicant does not provide sufficient documentation to satisfy the initial informal Request for Information, the Program Delivery Manager will meet with the Applicant to inform the Applicant that a first level Informal Request for Information will be issued.

Once an Informal Request for Information is requested, the Applicant should fulfill the request and provide FEMA with the missing information. After the Applicant supplies the necessary documentation, the Applicant or the Program Delivery Manager will put the Request for Information in the Grants Portal/Manager or EMMIE.



Second Level Formal Request for Information

If the Applicant still does not provide enough information to satisfy the informal Request for Information, the FEMA Program Delivery Manager will meet with the Applicant to begin the Formal Request for Information process.

The Applicant should supply the information requested within seven days. The Program Delivery Manager/ FEMA Regional staff or Applicant will upload all information related to the Request for Information in the Grants Portal/Manager, which can be accessed by all parties involved with the Public Assistance project.



Analysis of Effort to Obtain the Documents by Applicant

Once a second formal Request for Information has been issued, if needed, FEMA will work with the Applicant to ensure success acquiring needed documentation. Based on this analysis of the Applicant's effort, FEMA will issue a Determination Memorandum and letter.

FEMA will issue the Determination Memorandum and letter for the following reasons:

- A second level Request for Information was not satisfied, and
- 45 days have passed since the Request for Information were sent to the Applicant

Lesson 2 Summary

In this lesson, you learned how to:

- Explain the process, deadlines, and implications of the Request for Information during project development in the field

The next lesson provides an overview of when and how Determination Memorandums occur and discusses the relationship between FEMA, Recipient, and Applicant.

Lesson 3 Overview and Objectives

This lesson provides an overview of when and how Determination Memorandums occur and discusses the relationship between FEMA, Recipient, and Applicant.

At the end of this lesson, participants will be able to:

- Identify when and how determinations occur
- Explain the role of FEMA and the Recipient in the Determination Memorandums process

The Importance of Open Communication with FEMA

Applicants should do everything they can to ensure constant communication with their FEMA Program Delivery Manager while they are still deployed to the field to avoid an adverse eligibility determination. If a Program Delivery Manager is no longer available, Applicants should work closely with the Recipient. The Recipient holds an important role for all the work that has been completed and discussing movement of those projects to ensure they align with the original scope of work, properly procured contracts and Applicants are meeting the terms and conditions placed on each project so there are no adverse eligibility determinations at closeout.

FEMA approved a Scope of Work for repairs to a bridge. The approved Scope of Work was for the replacement of the roadway over the bridge. When the Applicant's contractors began the road replacement work, they noticed that the bridge footers were also damaged. The Applicant had the contractor replace the footers, but did not request a scope change approval from FEMA.

After the work was completed, the Applicant submitted the cost of the footer replacement along with the roadway replacement to FEMA. Because this Scope of Work change had not been approved before the work began, FEMA issued a Determination Memorandum and letter stating that the Applicant went above and beyond the approved Scope of Work.



Determination Memorandums Occurrence (1 of 2)

A determination can occur at any point during the grant development or during the Request

for Public Assistance. An eligibility determination can occur at any of the following times:

- A Request for Public Assistance is denied
- Prior to project formulation, when FEMA determines if a facility was damaged as a result of the event and therefore eligible
- After the intake damage and eligibility analysis, when FEMA site inspectors have reviewed the Applicant's damage in the field
- During the Scoping and Costing process, after FEMA reviews the Applicant's scope and cost
- During compliance reviews, when FEMA must account for special considerations such as environmental or historic preservation, hazard mitigation, and insurance
- At closeout when the Applicant request closure of the completed projects



Determination Memorandums Occurrence (2 of 2)

As discussed in the previous lesson, the Public Assistance eligibility determination letter and attached memorandum serves as FEMA's official notice of its Public Assistance eligibility determination. FEMA provides Determination Memorandums for the following reasons:

- Determining that the Applicant, facility, work, and/or cost is wholly or partially ineligible
- Awarding a Project or a Project amendment that contains ineligible costs or results in the Applicant receiving less assistance
- Denying a Request for Public Assistance
- Denying a request for a time extension
- Denying any requested funding associated with a request for the closeout of a large project
- FEMA acting upon an Office of the Inspector General

- Denying a request for an Alternate Project
- Denying a request for an Improved Project
- Denying a hazard mitigation proposal

- Denying a change in Scope of Work

FEMA Role in the Determination Memorandums Process (1 of 3)

From the beginning of the Public Assistance grants process and throughout its lifecycle, FEMA will communicate openly and collaborate closely with Applicants and Recipients to ensure clarity and prevent misunderstanding.

Before any eligibility determination is made during project development, the FEMA Program Delivery Manager will ensure constant engagement with the Recipient, Applicant, and FEMA Region to resolve eligibility issues. If the Program Delivery Manager is no longer deployed to the event, the Applicant should work closely with the Recipient, particularly on incomplete projects to ensure potentially eligibility issues are caught early and can be addressed prior to closeout, so it doesn't jeopardize grant funding.

If more information is required to make an eligibility determination and the information is not provided in a timely manner, the FEMA Consolidated Resource Center will issue an informal Request for Information to ensure that the Applicant provides all information necessary for FEMA to make an eligibility determination.

If a Request for Information is issued, it is important for the Applicant to provide all pertinent information and supporting



documentation within the designated timeframe.

It is ultimately the Applicant's responsibility to comply (even though FEMA offers advice and guidance) to comply with all regulations, laws and Executive Orders.

FEMA Role in the Determination Memorandums Process (2 of 3)

FEMA will engage the Recipient and Applicant in informal discussions throughout the eligibility determination process, starting from the Applicant's first meeting. In many cases, open communication resolves misconceptions and provides a path forward.

When informal discussions reach an impasse, Public Assistance staff may offer the involved parties an opportunity to participate in a facilitated discussion led by a FEMA Dispute Resolution Specialist. These facilitated discussions are designed to identify, clarify, and resolve outstanding eligibility issues before FEMA makes a Public Assistance eligibility determination. Facilitated discussions can provide participants with different perspectives, clarity, and possible avenues for resolution. Applicants should take advantage of this service with offered.



FEMA Role in the Determination Memorandums Process (3 of 3)

A facilitated discussion, although not required, may be appropriate when:

- The parties have not established agreement on the precise eligibility issue involved, or do not understand

one another's position on the eligibility issue involved

- The Applicant is not forthcoming with documentation or information requested and needed by FEMA to resolve the eligibility issue

If an Applicant is offered the opportunity to participate in a facilitated discussion, Public Assistance program staff must inform the Applicant that it will not lose any appeal rights if the Applicant declines, or if a facilitated discussion does not resolve all issues.

A facilitated discussion will take place only if the Applicant agrees to participate. If an Applicant requests a facilitated discussion, it should take place if the Public Assistance Infrastructure Branch Directors and Regional Public Assistance Branch Chiefs determine that such discussion is warranted.



Adverse Eligibility Determinations

After the facilitated discussion and careful review of the specific project, FEMA may still issue an adverse eligibility determination if:

- An Applicant or Recipient does not comply with the conditions of the Public Assistance grant, or
- It is determined that a specific incident and project does not qualify for Public Assistance

FEMA will issue a Determination Memorandum and letter to inform the Applicant of the adverse eligibility determination. The Determination Memorandum will contain the rationale for the determination and specifically reference any laws and policies supporting the determination.

Determination Memorandum Delivery Method

The eligibility determination letter and eligibility Determination Memorandum will be issued simultaneously to the Recipient and Applicant by certified mail with return receipt requested, and/or by email with read receipt acknowledgment. Applicants should ensure that they provide a read receipt acknowledgment.

The Determination Memorandum will be available for the Recipient and Applicant within the Grants Portal and/or EMMIE. In addition, the FEMA Program Delivery Manager will also review all Determination Memorandums at the Recovery Transition Meeting.

Lesson 3 Summary

In this lesson, you learned how to:

- Identify when and how determinations occur
- Explain the role of FEMA and the Recipient in the Determination Memorandums process

The next lesson provides an overview of the Public Assistance Program Determination Memorandums and letters, and the purpose of the Document Index.

Lesson 4 Overview and Objectives

This lesson provides an overview of the Public Assistance Program Determination Memorandums and letters to include, the components, purpose, and elements. This lesson also covers the purpose of a Document Index.

At the end of this lesson, participants will be able to:

- Identify components included in a Determination Memorandum and letter
- Explain the purpose of the Document Index

Delivery of Determination Memorandum and Letter

As discussed previously, the eligibility Determination Memorandum and letter serve as FEMA's official eligibility determination. The eligibility determination letter notifies the Applicant of its appeal rights.

Eligibility determination letters with attached eligibility Determination Memorandum are issued simultaneously to Recipients and Applicants by certified mail with return receipt requested and/or by email with read receipt acknowledgement.



Components of FEMA's Notification for a Determination

FEMA's notification of an adverse determination will contain the following components:

- Determination Letter
- Determination Memorandum
- Document Index

Purpose of Determination Letter (1 of 4)

The Determination Letter serves as the official notice of a Public Assistance eligibility determination. The letter also sets forth the Applicant's rights to appeal the eligibility determination.

When receipt of the letter is acknowledged by mail and/or email, this serves as the date from which the Applicant has 60 days to file a first appeal.



Purpose of Determination Letter (2 of 4)

The Determination Letter states that if the Applicant elects to appeal, the first appeal must include all of the following:

1. Contain documented justification supporting the appeal position
2. Specify the monetary figure in dispute
3. Cite the provisions in Federal law, regulation or policy with which the Applicant or Recipient believes the Public Assistance eligibility determination was inconsistent



Purpose of Determination Letter (3 of 4)

The Determination Letter explains that the Applicant must submit the first appeal to the Recipient, who will forward the first appeal to

the appropriate FEMA Regional Administrator.

The letter also states that the Applicant can provide documentation and other information in support of its position at the first appeal; and that FEMA will not accept additional materials, unless requested by FEMA, after it issues a first appeal decision.



Purpose of Determination Letter (4 of 4)

The Determination Memorandum provides the rationale behind FEMA's eligibility determination.

The eligibility Determination Memorandum will clearly explain why the determination was made and specifically reference applicable provisions of law, regulation, and policy supporting the determination.

The memorandum will include a concise index of documents compiled and considered up to that point, listing all relevant materials associated with the Applicant and the Public Assistance eligibility determination.



Elements of a Determination Memorandum (1 of 5)

A Determination Memorandum will include the following elements:

- Introduction
- Project Description
- Issue
- Applicable Statutes, Regulations, and Policies
- Analysis
- Eligibility Determination

[Select this link for a full image description.](#)

ELIGIBILITY DETERMINATION MEMORANDUM
 Town of Narnia, PA ID 111-1111-111
 FEMA-0000-DR-ST, Project Worksheet 20447
 Work Eligibility – Direct Result of Disaster

Date:	7/6/2016		
PW Facility / Title:	20447 - Milky Way Road Culvert	Applicant Type:	<input type="checkbox"/> State Agency <input checked="" type="checkbox"/> Local Government <input type="checkbox"/> Tribe <input type="checkbox"/> Private Nonprofit
Category:	C - Roads and Bridges		
Amount Requested:	\$24,892.36	Amount Approved:	\$0.00
Small Project potentially subject to Net Small Project Overrun (NSPO) Appeal:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

Project Description:
 Between March 26 and April 5, 2016, heavy rains from Hurricane Skillet caused major flooding and damage throughout the Town of Narnia (Applicant). Flood and stormwater runoff from the Caramel River damaged the Applicant owned and maintained Milky Way Road.

The Caramel River flows under Milky Way Road through a 24 inch diameter by 35 foot long corrugated metal pipe culvert. A partial concrete and stone headwall exists at the culvert inlet. At the outlet, the culvert pipe extends past the existing slope into the Caramel River with no headwall or flared end section. FEMA observed damage to the asphalt road surface, both sides of the embankment, riprap, and gravel. The Applicant also claimed damage to the culvert and requested \$24,892.36 to replace it. The Applicant provided an engineering report and letters from the Highway Superintendent and the Park Superintendent to substantiate its claim.

FEMA prepared Project Worksheet (PW) 20447 to award \$7,472.78 in Public Assistance funding to repair damage to the road surface, embankments, riprap, and gravel. No funding was awarded to replace the culvert.

Issue(s) Is damage to the culvert a direct result of Hurricane Skillet?

Applicable Statutes, Regulations, and Policies in Effect at the Time of the Emergency or Disaster

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1958, Pub. L. No. 85-828: Stafford Act § 406(a)(1)(A)
- Title 44 of the Code of Federal Regulations (C.F.R.): 44 C.F.R. § 206.223(e)(1)
- Other Federal Regulations: N/A

Page 1 of 3

Elements of a Determination Memorandum (2 of 5)

Introduction

The Determination Memorandum opens with a table showing the following information:

- Facility name and/or title
- Work Category
- Amount of funds requested
- Indication of whether the project is a Small Project potentially subject to net small project overrun
- Applicant type (State Agency, Local Government, Tribe, or Private Nonprofit)
- Amount of funds approved

[Select this link for a full image description.](#)

ELIGIBILITY DETERMINATION MEMORANDUM
 Town of Narnia, PA ID 111-1111-111
 FEMA-0000-DR-ST, Project Worksheet 20447
 Work Eligibility – Direct Result of Disaster

Date:	7/6/2016		
PW Facility / Title:	20447 - Milky Way Road Culvert	Applicant Type:	<input type="checkbox"/> State Agency <input checked="" type="checkbox"/> Local Government <input type="checkbox"/> Tribe <input type="checkbox"/> Private Nonprofit
Category:	C - Roads and Bridges		
Amount Requested:	\$24,892.36	Amount Approved:	\$0.00
Small Project potentially subject to Net Small Project Overrun (NSPO) Appeal:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

Elements of a Determination Memorandum (3 of 5)

Project Description

The project description section contains a brief summary of the project as it pertains to the eligibility issue.

Issue

The Issue section provides a description of the issues involved with the Applicant, facility, work, and/or cost.

Applicable Statutes, Regulations, and Policies

The Applicable Statutes, Regulations, and Policies section contains a list of the applicable statutes, regulations, and policies in effect at the time of the emergency or disaster.

[Select this link for a full image description.](#)

Elements of a Determination Memorandum (4 of 5)

Analysis

The Analysis section provides a description of how the statutes, regulations, or policies in effect at the time of the emergency or disaster apply to the issue.

Eligibility Determination

The Eligibility Determination section shows a checkmark indicating whether the request was approved, partially approved, or denied; and a brief description of the final determination.

[Select this link for a full image description.](#)

Elements of a Determination Memorandum (5 of 5)

Document Index

Project Description:
Between March 26 and April 5, 2016, heavy rains from Hurricane Skittles caused major flooding and damage throughout the Town of Narnia (Applicant). Flood and stormwater runoff from the Caramel River damaged the Applicant owned and maintained Milky Way Road.

The Caramel River flows under Milky Way Road through a 24 inch diameter by 35 foot long corrugated metal pipe culvert. A partial concrete and stone headwall exists at the culvert inlet. At the outlet, the culvert pipe extends past the existing slope into the Caramel River with no headwall or flared end section. FEMA observed damage to the asphalt road surface, both sides of the embankment, riprap, and gravel. The Applicant also claimed damage to the culvert and requested \$24,892.36 to replace it. The Applicant provided an engineering report and letters from the Highway Superintendent and the Park Superintendent to substantiate its claim.

FEMA prepared Project Worksheet (PW) 20447 to award \$7,472.78 in Public Assistance funding to repair damage to the road surface, embankments, riprap, and gravel. No funding was awarded to replace the culvert.

Issue(s): Is damage to the culvert a direct result of Hurricane Skittles?

Applicable Statutes, Regulations, and Policies In Effect at the Time of the Emergency or Disaster:

- [The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, Pub. L. No. 92-788](#)

As shown in the engineering report on file in the photograph depicts an intact concrete and stone headwall without cracks or undermining that would permit water intrusion. On the outlet side, the photographs demonstrate that the "scouring" was in fact embankment erosion caused by the floodwaters overflowing the inlet embankment, flowing over Milky Way Road, and crossing the outlet embankment slope. The report's assertion that Milky Way Road was undermined is also not supported. The report does not provide any documentation to demonstrate that portions of the road were undermined. Conversely, the FEMA Civil Engineer that performed the site visit notes in the PW that there was no "evidence of subsidence" and that the damage to the asphalt road was "superficial" in nature.

The letters from the Highway Superintendent and the Park Superintendent include only drive-by and casual observations that the road and culvert were damaged, but fail to identify or demonstrate any specific damage.

Because the Applicant was unable to demonstrate any damage or signs of damage (i.e., undermining of Milky Way Road or scouring at the culvert outlet), its presumption that the culvert's stability was affected to such an extent that it requires replacement is unsupported.

Eligibility Determination: Approved Partial Denied

The Applicant has not established that the culvert was damaged as a result of the declared event. Thus, the Applicant's request for \$24,892.36 to replace the culvert is not eligible per 44 C.F.R. § 206.223(a)(1).

The Document Index is a list of all the documents and materials directly or indirectly considered by FEMA and relied upon in making the Public Assistance eligibility determination.

Documents may include, but are not limited to, Projects (all versions), supporting backup documentation, photographs, technical reports, pertinent correspondence, engineering reports (such as letters and emails), and other relevant information.

The Document Index is also used as the starting point of the Administrative Record, which is required for appeals. If there are missing documents, the Applicant needs to include them in their justification of the first appeal.



Lesson 4 Summary

In this lesson, you learned how to:

- Identify components included in Determination Memorandum and letter
- Explain the purpose of the Document Index

The next lesson will cover the first and second level appeals process.

Lesson 5 Overview and Objectives

This lesson describes the appeals process for Public Assistance Program grants determinations. This lesson also describes the net small project overrun appeals process, and arbitration.

At the end of this lesson, participants will be able to:

- Explain the first and second level appeals process, including who is involved and the timeline for submission and reply

Overview of Appeals Process

If an Applicant receives an eligibility Determination Memorandum, the Applicant

has the right to appeal the decision through FEMA's appeals process. The Applicant has the right to appeal any decision through FEMA's appeals process.

The Applicant has 60 days from receipt of notification of a Public Assistance eligibility determination to submit the appeal. The Applicant must make the appeal in writing.

For Alternative Procedures projects, the Applicant may submit an appeal only for insurance or corrective actions resulting from reviews such as an audit. Applicants may not submit appeals for additional costs related to the fixed estimate grant.



First Level Appeal (1 of 2)

The Applicant should send the first appeal to the Recipient. The appeal must contain the following information:

- Documented justification for the appeal
- The specific monetary figure in dispute
- Relevant statutes, regulations, and policies with which the Applicant believes FEMA was inconsistent

All documentation and other supporting information must be included with the first appeal. FEMA will not accept additional materials, unless requested by FEMA, after issuing a first appeal decision.

The Applicant should also provide a current email address to receive electronic correspondence. If an acknowledgement email is not received, the Applicant should confirm receipt of the appeal to the Recipient. Then confirm receipt that the Recipient has sent the appeal to FEMA.



First Level Appeal (2 of 2)

Upon receipt of the first appeal, the Recipient has 60 days to review the appeal and forward it, along with a written recommendation, to the appropriate FEMA Regional Administrator. The Recipient has full discretion to support or oppose all or part of the Applicant's position in the appeal.

Once the first appeal is received, the FEMA Regional Administrator has 90 days to issue a first appeal decision or request additional information from the applicant. When a Regional Administrator is considering denying a first appeal in whole or in part, the Regional Administrator must issue to the Applicant a Final Request for Information, noting all information in the administrative record the Regional Administrator is considering in deciding the appeal, and requesting that the applicant provide any additional information to support its appeal. The Final Request for Information will include an Administrative Record Index and the Applicant should review it closely to ensure FEMA has considered all the documentation it believes is relevant. If anything is missing from the Administrative Record Index, the Applicant should submit the documents for consideration as it is the last opportunity to submit new information. If a Request for Information is received, Applicants must respond to FEMA within the stated deadline, which is typically 30 days. Appeals can be denied if it is filed untimely.

Upon receipt of additional information the FEMA Regional Administrator will have 90 days to issue the first appeal decision to the Applicant and the Recipient. The first appeal decision consists of a letter explaining the Applicant's second appeal rights and an appeal analysis. Applicants should closely review the analysis to understand the basis for the decision.



Keep in mind overall eligibility is reviewed during an appeal and is not exclusive to just the issues presented in the determination memo. If a new eligibility issue is found, FEMA is required to submit a Request for Information and allow the Applicant 60 days to respond.

Second Level Appeal (1 of 3)

If an Applicant's first appeal is denied or partially approved, it may submit a second appeal.

Regulations require that the Applicant include all of the following information in a second level appeal:

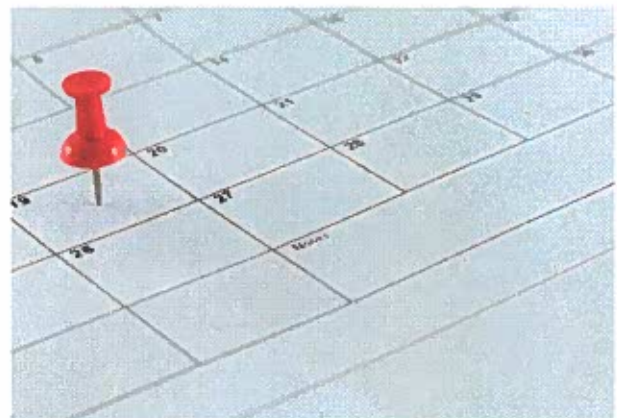
- Explain why it believes the original determination is inconsistent with law or policy
- Specify the amount in dispute
- Cite authorities with which it believes FEMA's determination and first level appeal decision were inconsistent



Second Level Appeal (2 of 3)

Under Federal regulations, the same timelines and procedures for submitting first appeals apply to second appeals. The Applicant must send the second level appeal to the Recipient within 60 days of receiving the first appeal. If an acknowledgement email is not received, the Applicant should confirm that the appeal was received by the Recipient.

The Recipient has 60 days from receipt of the second appeal to review it and forward it with a recommendation to FEMA. The second appeal is submitted through the Regional Administrator to the Assistant Administrator of the Recovery Directorate at



FEMA Headquarters. Just as with the first appeal, the Recipient can express support for or disagreement with the Applicant's position in the appeal.

Second Level Appeal (3 of 3)

The FEMA Headquarters has 90 days upon receipt of the second level appeal to render a decision or request more information from the Applicant. Applicants and Recipients can check the status of second appeals online at the FEMA Public Assistance Second Appeals Tracker: [Public Assistance Second Appeals Tracker](#).

Second level appeal decisions are FEMA's final administrative decision. All second level appeal decisions are posted in the Public Assistance Appeals Database so Applicants can review previous decisions FEMA has made on similar issues. The appeals database can be found here: [Appeals Database](#).



Net Small Project Overrun Appeal (1 of 2)

An Applicant is not able to appeal an individual small project, even if the actual costs for completing the project differ from the estimated amount funded. Instead, the Applicant must submit an appeal to request a Net Small Project Overrun when all projects are completed.

Exceptions where FEMA is able to adjust the approved amount of an individual small project without a Net Small Project Overrun occur when one of the following conditions applies:

- Applicant did not complete the approved Scope of Work



- Applicant requests additional funds related to an eligible change in the Scope of Work
- The project contains inadvertent errors or omissions
- Actual insurance proceeds differ from the amount deducted in the documented project. In these cases, FEMA only adjusts the specific cost items affected

Net Small Project Overrun Appeal (2 of 2)

An Applicant must wait until all small projects are finished and then appeal within 60 days. Also, the documentation needs to include overruns and underruns, etc. The reason for this is because some projects will have exceeded the grant amount, but others will have come under the grant amount and FEMA needs this information to reconcile all costs for all small projects. An Applicant may submit a Net Small Project Overrun appeal if:

- Small project does not meet any of the conditions for funding adjustment, and
- Total actual cost of its Small Projects combined exceeds the total amount obligated for all of their Small Projects

In this case, the Applicant must request the additional funding through the Appeals process, within 60 days of completion of its last Small Project.

These appeals follow the same process and timeline discussed previously in this lesson.



Additional Resources

Appeals information can be found here: [Appeals Information](#)

The appeals OpenFEMA website can be accessed here: [Open FEMA](#)

The FEMA Recovery Directorate Appeals Manual is located here: [FEMA Recovery Directorate](#)

Lesson 5 Summary

In this lesson, you learned how to:

- Explain the first and second level appeals process, including who is involved and the timeline for submission and reply

The next lesson will review the course objectives. Participants will take a Post-Course Assessment and complete the Course Evaluation Form.

Lesson 6 Overview and Objectives

This lesson will review the course objectives. Participants will take a Post-Course Assessment at its conclusion.

This lesson will review the course objectives. Participants will take a Post-Course Assessment at its conclusion. At the end of this lesson, participants will be able to summarize the content of the course.

Course Objectives

In this course, you learned how to:

- Explain the FEMA Public Assistance determinations which may be appealed
- Explain the Request for Information process during field operations
- Increase stakeholder knowledge of the Determination Memorandum and letter process, including key communication mechanisms and information included in the document
- Provide detailed information on the format, content, and timeframe requirements for submitting a first and second level appeal

Lesson 1 Objectives

Lesson 1 provided a high-level overview of the Determination Memorandum and letter. This lesson also provided an overview of the appeals process.

You should now be able to:

- Identify administrative requirements of the course
- State the goals and objectives of the course

- Explain Determination Memorandums, Determination Letters, and appeals

Lesson 2 Objectives

Lesson 2 discussed the process, deadlines, and implications of the Request for Information during project development in the field.

You should now be able to:

- Explain the process, deadlines, and implications of the Request for Information during the project development in the field

Lesson 3 Objectives

Lesson 3 explained when FEMA makes a determination during the grant lifecycle and Request for Public Assistance. This lesson also explained the relationship between FEMA, Recipient, and Applicant before the Determination Memorandum and letter is issued.

You should now be able to:

- Identify when and how determinations occur
- Explain the role of FEMA and the Recipient in the Determination Memorandums process

Lesson 4 Objectives

Lesson 4 provided an overview of the Public Assistance Program Determination Memorandums and letters, including the components, purpose, and elements. This lesson also covered the purpose of a document index.

You should now be able to:

- Identify components included in a Determination Memorandum and letter
- Explain the purpose of the document index

Lesson 5 Objectives

Lesson 5 described the appeals process for Public Assistance Program grants determinations. The lesson also described the net small project overrun process.

You should now be able to:

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- Explain the first and second level appeals process, including who is involved and the timeline for submission and reply

Course Summary

Congratulations! This course is complete.

This course provided an overview of Public Assistance Determination Memorandums and the appeals process.