

PUBLIC ASSISTANCE APPEAL PROCESS for ALTERNATIVE PROCEDURES (PILOT) PROJECTS

A Subgrantee may appeal any determination that FEMA makes during the PW approval and obligation process. However, the Subgrantee cannot appeal a fixed grant cost estimate once it has agreed to accept the estimate and FEMA obligates funding. If FEMA, the Grantee, and the Subgrantee disagree on the scope of work, eligibility, and/or cost estimate for a PW, this PW should not be considered for the alternative procedures. A Subgrantee may appeal changes that are made to an alternative procedure PW following an audit.

APPEALS INVOLVE:

- Applicant eligibility
- Project eligibility (Facility/Work/Costs)
- Project denial
- Time limits
- Significant net costs overruns on small projects

REFERENCES

- Section 423 of the Stafford Act
- 44 CFR §206.206
- FEMA 322, PA Guide, Pages 109, 1112-114.

Alternative Procedures Appeals

- An appeal must be made in writing to ADEM within 60-days of the applicant's receipt of the Project Worksheet(s) that identify FEMA's determination.
- The applicant must provide documentation to support the appeal and why the original determination is wrong. This documentation must identify the specific line item(s) or the specific matter of concern, and include copies of reference material not otherwise available to ADEM or FEMA.
- If the required information to support an appeal is not available within the 60-day appeal timeframe, the applicant must (within the 60-day period) request an extension from ADEM in writing. The extension request should identify the amount of time needed and reasons for not submitting the documentation in the time frame allowed.
- Upon receipt of the appeal documentation, ADEM will review the materials submitted and forward to the FEMA Regional Administrator (RA) within 60-days with a written recommendation.
- The RA will review the material submitted within 90-days and will either notify the state of the appeal decision or request additional information.
- If additional information is requested, the applicant has 60-days to provide the additional information and the RA provides an appeal decision within 90-days of receipt of the information.
- If granted, the project will be amended as necessary.
- If denied, the applicant can proceed with the second appeal process.

SECOND APPEAL

- The second appeal must be submitted in writing to ADEM no later than 60-days after the applicant is notified in writing of the RA's denial of the first appeal.
- The appeal information must include additional information that was not previously submitted in the project or first appeal.
- The state will forward the second appeal with a written recommendation to the RA within 60-days.
- The RA will review the information submitted and either request additional information or forward the second appeal with a recommendation to FEMA HQ as soon as practicable.
- FEMA HQ will review the appeal documentation and provide a decision within 90-days or request additional information.
- If additional information is required, FEMA HQ will provide a decision within 90-days of receipt of the additional information.
- Any obligation or de-obligation of funds will be managed by the RA.