

DISASTER RECOVERY

Adjusters International Disaster Recovery Consulting — FEMA recovery issues for decision-makers and leaders **TODAY**

Implementing the Recovery Plan



EDITOR'S NOTE

You've read about Project Worksheets in previous issues of Disaster Recovery Today. Now, in Issue No. 7, Adjusters International disaster recovery consultants discuss some of the important details to consider when organizing your recovery and writing a "PW"—formulation, validation, receipt of funds and appeals.

This issue moves our discussion of the FEMA grant management process from talk to action, and we hope it will get your disaster recovery program on the right track for funding.

—Sheila E. Salvatore, Editor

Project formulation, worksheet development and receipt of funds

By Jeff Shaw

In the preceding six issues of *Disaster Recovery Today*, we have discussed management approaches, determining and categorizing losses, determining eligibility, and developing recovery plans and funding approaches. It is now time to put the pieces together.

In this issue, "Implementing the Plan," brings us to the next level of grant development. This edition

will introduce the applicant to key contacts from the state and FEMA management teams and their areas of responsibility, and a discussion of recommended protocol to follow throughout the course of the working relationship with these management teams. Additionally, we focus on the detailed mechanics involved in grant development and receipt of funds, including an in-depth discussion of the core



document of your disaster recovery, the project worksheet; certification and validation of small projects; appeals; and a discussion of key deadlines.

This issue will provide information to get your organization on track for the funding it requires, and provide you with the rules of the game for keeping your project on course in the event of challenges.

Meet the Players: State & FEMA

As we have emphasized in previous issues, it is extremely important to develop a good channel of communication with those personnel from the state and FEMA assigned to assist with your recovery; however, sometimes that is difficult due to the nature of the work. The applicant usually has very specific considerations that need to fit into a model of federal public assistance designed to help under broad circumstances.

A source of disagreement can develop early—with issues such as eligibility, scope of repairs, or interpretation of regulations.

Another source of difficulty could be the manner in which an applicant conducts their business and how this translates into the resources and priorities the applicant gives to correctly assess the damage scope and write up the grant application.

It is difficult to maintain good communication simply due to the fact that the FEMA staff assigned to an applicant can rotate in and out, sometimes as often as every two weeks.

It becomes difficult to maintain a good flow of communication simply due to the fact that the FEMA staff assigned to an applicant can rotate in and out, sometimes as often as every two weeks.

In general, the state and FEMA will assemble their team which is comprised of a Public Assistance Coordinator (PAC), State Public Assistance Coordinator/Liaison (PAC/PAL), Project Officer (PO) and Technical Assistance Contractors (TACs) who may specialize in the areas of debris, accounting, buildings and equipment, roads and bridges, or mitigation.

FEMA's PAC

The *FEMA Policy Digest* describes the PAC as “a customer service manager who works with the applicant to resolve disaster-related needs and ensure that the applicant’s projects are processed as efficiently and expeditiously as possible. By being involved from the declaration to the obligation of funds, the PAC ensures continuity of service throughout the delivery of the public assistance program.”

State PAC/Applicant Liaison

The *FEMA Applicant Handbook* uses the term “Applicant Liaison” to describe the state’s equivalent of a PAC: “The liaison is the state’s customer service representative assigned to work with you and

the [FEMA] PAC. The liaison is responsible for providing you with specific information on state regulations, documentation and reporting requirements. The liaison is also there to provide technical assistance, when requested...”

Project Officer

The PO is the person responsible for handling day-to-day activities including Project Worksheet (PW) formulation and development, eligibility determinations, field inspections, small project validation, etc. The PO is also responsible for identifying areas that require special expertise and requesting the necessary specialists to assist. Ideally an applicant and their PO will meet several times a week, if not daily.

Technical Assistance Contractors

According to the *FEMA Applicant Handbook*, Technical Assistance Contractor (TAC) is the term used to describe specialists from engineering firms nationwide that FEMA keeps on stand-by contract. The TACs provide specific skills and services relative to the particular needs of a Public Assistance program and support FEMA staff with additional expertise.

In light of possible difficulties in maintaining smooth, open communication, the need to document each step of the process is critical. As a rule, each time an applicant meets with the PAC, or another FEMA representative, the exchange should be documented.

Promptly after completion of any meeting or conversation, an applicant should develop and forward a Memorandum of



Understanding (MOU) detailing their understanding of the issues and solutions that were discussed. Another valuable tool is asking the state and FEMA to sign a transmittal each time documents or photographs are surrendered.

Such actions could be considered adversarial, but the intention is to create a record that applicants have been cooperative and have met necessary timing requirements, such as those for reporting damage.

The working relationship gets its true test after the applicant briefing and kickoff meeting as the recovery process turns to grant development. This process has two portions: project formulation and Project Worksheet development.

Project Formulation

Before project worksheets (PWs) can be written, projects need to be formulated. *FEMA Job Aid for Project Formulation* defines this process as follows:

“A project is a logical method of performing work required as

a result of the declared event. Projects may consist of one damage site or may be made up of several sites. This offers flexibility in organizing and managing work around the applicant’s needs.”

The applicant works with the PAC to categorize and organize the recovery needs. Eligible work and damage from multiple sites can be combined into a single project for any variety of reasons, but the logic should first be discussed with the PAC. All in all, both parties are looking for any reasonable method to manage the project and complete the work.

Listed are examples of project groupings as outlined in the *FEMA Job Aid for Project Formulation*:

Specific Site — All work at a specific site may be a project, such as a single road washout site. This method is often used if the site has special considerations.

Specific Facility — All work on a bridge or all restoration of a building and its contents may be a project. This method is often used for large projects.

Type of Damage — All work under a specific category may be a project such as debris removal (category A), or all work at certain types of facilities may be classified together, such as all gravel roads on one project and all paved roads on another.

System — All work to a system may be a single project; for example, repairs to the water distribution system, including multiple waterline breaks, may be one project.

Jurisdiction — All work within a specific area such as a park may be a project, or all work within an administrative department of an applicant, such as the city police, fire, or public works.

Method of Work — A project may be grouped around how the work will be completed. All work completed under a single contract may be a project, or all work performed by a force account work crew may be a project.

Complex — Extensive damage to several facilities at a complex, for example, a high school, can be grouped together. All damage at the complex could be combined into one project, or separated into several projects, such as all roof repairs.

Special Considerations — A project may be grouped by special issues that might take longer to resolve, such as environmental or historic concerns, or hazard mitigation proposals.

In addition to these categories, applicants must also evaluate the damage sites to classify emergency work and determine whether the emergency recovery aspect is part of the permanent recovery.



Debris removal and emergency protective measures are the two categories of emergency work.

Permanent work falls into five categories: repairs to road systems; water control facilities; public buildings and equipment; public facilities; and parks, recreational, and other.

According to the *FEMA Job Aid for Project Formulation*, “more than one category of work may be combined in a single project if the combination is practical and within the emergency or permanent work categories.” Emergency work can be combined with permanent work if the emergency work is part of the permanent repair.

FEMA will provide assistance for applicants who are unable to formulate a project and develop a Project Worksheet.

There is a lot to consider in formulating the project, and both parties should work together

to come up with a logical and reasonable plan for recovery. FEMA encourages applicants to come forward with an assessment for the scope of work and, for small projects, a cost estimate.

Project Worksheet (PW) Development

We firmly believe that it is important that applicants develop a hands-on knowledge of the preparation of PWs and maintain an active role in the recovery process. The PW’s starting point is **FEMA Form 90-91, SEP 98**.

The PW and its attachments A-D are drafted to document an applicant’s financial claim for disaster-related expenses. The PW will travel through the entire reimbursement program from formation to drawdown, thus an applicant will hear it referred to often. Familiarity with its contents and its role in the reimbursement program is essential.

The PW process is the foundation of an applicant’s public assistance effort. Experience shows the importance of the applicant taking a proactive role to ensure that vital and objective information is included.

It is an applicant’s responsibility to identify the eligible scope of work to the project officers. Applicants should present well-documented information to the PO or the inspection team that includes clear, descriptive, date-stamped photos (submit copies, keep originals on file).

The document should include a concise narrative regarding methods and requirements for the specific repair, and create a file of labor, material, and equipment records based on FEMA criteria. This should be submitted with actual repair costs detailed by labor, materials, and equipment costs.

Project Categories:

FEMA offers flexibility in organizing and managing work around the applicant’s needs. Some ways to categorize projects are:

- ▶ **Specific site**
- ▶ **Specific facility**
- ▶ **Type of damage**
- ▶ **System**
- ▶ **Jurisdiction**
- ▶ **Method of work**
- ▶ **Complex**
- ▶ **Special considerations**





Visual documentation (maps and sketches, video and photographs) showing an overview as well as details of the repair and the facility gives strong support to your disaster recovery project.

Throughout the process, applicants are advised to strive for reasonableness in formulating projects, to be proactive and helpful, but also to be assertive.

For example, if there is a request for additional information and it appears unreasonable, then raise issue with the request. Often there are multiple requests for the same information, mostly due to turnover in FEMA personnel.

Additionally, applicants should be aware of the governing regulations and any policy changes arrived at through negotiations between the state and FEMA.

A key element to maintaining a proactive stance in the grant process is participation in the on-site inspections, and documentation of everything possible when performing the repair (especially if the state/FEMA site visit has not yet occurred). Transmit all information to FEMA project officers through your state contact, and never negotiate with FEMA without the presence of a state contact.

If, for example, it is necessary to report additional damage, the reporting channel for previously undiscovered disaster-related damage is through the state. Any damage not shown to the project officer during the initial site visit must be reported within 60 days.

The PW process is the foundation of an applicant's Public Assistance effort. The applicant should take a proactive role in writing a PW to ensure that vital and objective information is included in it.

Receipt of Funds

FEMA categorizes PWs as large or small projects based on a set project-repair value that is adjusted each year. The two categories follow quite different funding paths.

Small Project Funding

Funding for small projects is designed to be expeditious and simple, according to the *FEMA Public Assistance Guide*. The small project receives an upfront payment based on estimated repair costs, if actual costs are not yet available.

Once FEMA has obligated the funds, the federal government's share of the money is released to the state. The state turns over the funds to the applicant after the work is approved, and then takes the responsibility for certification and validation of the project work.

"Once all small projects are complete, the state must certify that work has been completed in accordance with the approved scope of work on the PW, in compliance with FEMA standards and policies, and that all payments due have been made," states the *FEMA Public Assistance Guide*.

Certification does not require the state to work its way line by line through the project history, but rather acts as a simple check that

the project work was completed. If the applicant spends less on the small project repairs than originally specified in the PW, the federal share is not reduced in kind.

If the applicant spends more than originally specified by the approved PW, the federal share is not automatically increased. The extra costs can be covered if the applicant applies for additional funding. But for FEMA to grant the additional funding, according to the *FEMA Public Assistance Guide*, the average cost of all small projects for that applicant must be more than the initial estimates.

"Note that this [additional funding] opportunity applies only to a net cost overrun for all small projects, not to an overrun for an individual project. This policy is based on the fact that small projects with cost under-runs typically will offset those small projects where the applicant experienced cost overruns."

Validation of Small Projects

Another step in the funding process for small projects is called validation. Validation is common for applicants who prepare their PWs without assistance from FEMA or the state.

The goals of the small project validation process are quite



Large projects initially are approved based on estimated costs. Funds generally are made available to the applicant on a progress payment basis as work is completed.

basic: to check the accuracy of the applicant's scope of work and associated costs, and also to verify that the proposed project is eligible for FEMA funds.

According to the *FEMA Public Assistance Guide*, only 20 percent of an applicant's small projects are assessed during validation. "However, if significant discrepancies are found in the sample, a second sample of 20 percent is assessed. If discrepancies are again found in that sample, the applicant will be provided with technical assistance for review of all small projects."

Additional validation is required for projects submitted more than 30 days after the kickoff meeting. An applicant has 60 days from kickoff to submit all small PWs, but the PW validation requirement increases from 20 percent to 100 percent. This should be considered an incentive to applicants to submit small project PWs as early as possible.

The applicant should find many advantages to writing its own projects, and validation should not discourage an applicant. If documents are clear, consistent and accurate, the scrutiny applied by the state/FEMA may be minimized.

Large Projects

Funding for large projects is initially based on cost estimates,

but the funds ultimately paid to the applicant are based on the actual documented costs as the project work progresses. "Funds generally are made available to the applicant on a progress payment basis as work is completed," says the *FEMA Public Assistance Guide*. This funding system is necessary because of the complexity and expense of most large projects.

The state parcels out FEMA funds to its applicants as the work progresses, and when all project work is completed, the state will submit to FEMA the documentation to account for the actual expenses the applicant incurred for final funding adjustments.

There are four basic payment methods for large project PWs:

Basic Requirement—Methods and procedures for payment shall minimize the time elapsing between the time that funds are paid to the state and their onward disbursement to the applicant.

Advances—Advance payments will be available where the state can demonstrate that such procedures for timely disbursement are in place.

Reimbursement—Reimbursement of actual expenses paid (limited to the federal share of eligible costs) is FEMA's preferred method. The state provides forms to the applicant to request reimbursements.

Working Capital Advances—

Where advances are not paid because the state is unable to demonstrate that adequate procedures are in place, yet the applicant lacks adequate working capital funds to undertake the work set out in the PW, a working capital advance may be requested.

In this circumstance, cash is advanced to cover the applicant's estimated disbursement needs for an initial period generally geared towards the applicant's disbursement cycle. After the work has commenced, reimbursements will be made based on actual expenses.

When FEMA finishes writing or reviewing a PW, they should present a copy to the applicant for review and comment. If the applicant agrees with the findings, he/she will sign the original and retain a copy for his/her files. If they do not agree, an attempt should be made to negotiate a suitable outcome to avoid the already over-burdened appeal process.

When reviewing a PW, applicants should request a copy of the full document. It would be very difficult for project managers to follow an approved scope of work without the entire set of FEMA calculations and narrative.

Applicants should keep in mind that the PW will be evaluated for eligibility and funding and, eventually, audited.

The Process of Appeal

If an applicant and FEMA do not agree on an issue such as scope of work, cost or eligibility, they may enter into the appeals process.



An applicant has the right to appeal any decisions involved in the process of applying for federal assistance. An appeal to the state must be submitted within 60 days of the notice of action, with the documents necessary to support the grounds of appeal. As a rule of thumb, we suggest that applicants use the Project Approved for Payment (PAP) date as the official starting point to enter into appeal.

The state then has 60 days to review and forward the appeal to the FEMA Regional Director (RD), with a recommendation in favor or against, or with no comment. The state may ask for more information or conduct its own investigation during these 60 days.

The FEMA RD has 90 days to review the appeal, collect additional information with a written request, or make a decision. If the RD asks the applicant for further documentation, the RD has another 90 days after that request to notify the applicant of a decision.

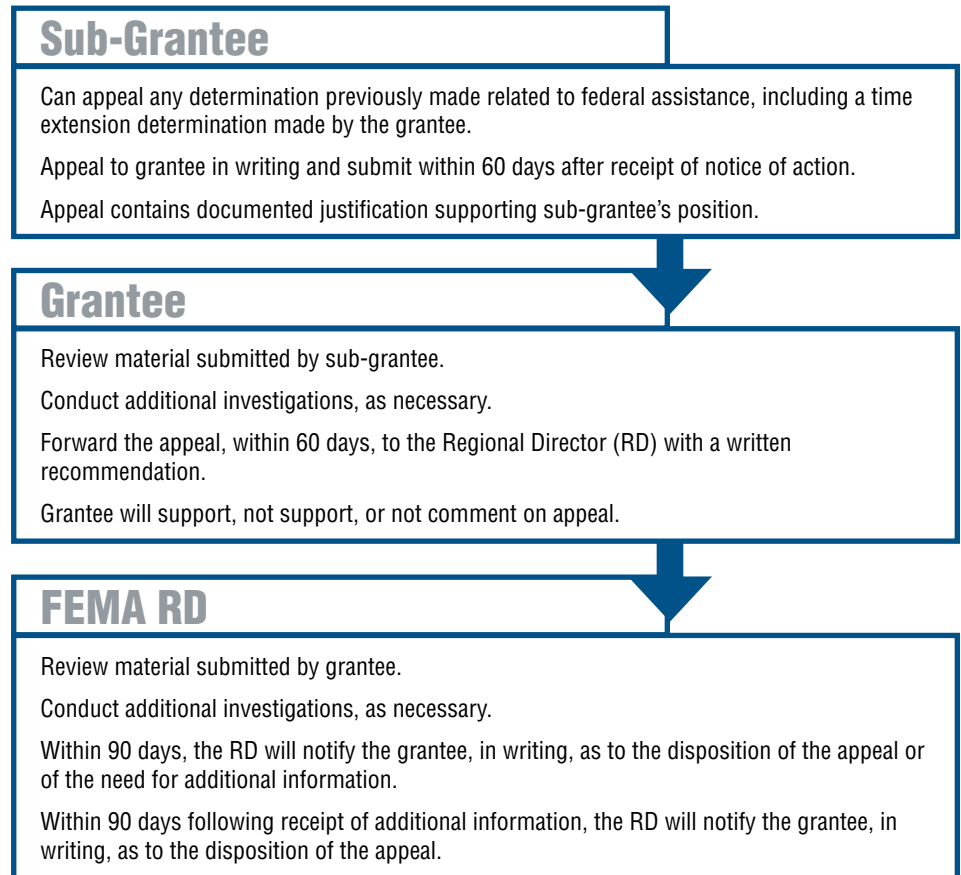
Within 60 days of a denial, an applicant has the right to a second appeal, which moves through the state and RD to the Director of FEMA. The Director has 90 days to rule on the appeal or make a request for more information. A request for additional information will prolong the decision-making process by another 90 days.

Depending on the nature of the appeal, the director may also bring in outside resources to assist in the evaluation of the appeal. The Director has an additional 60 days to evaluate the recommendations of any outside experts.

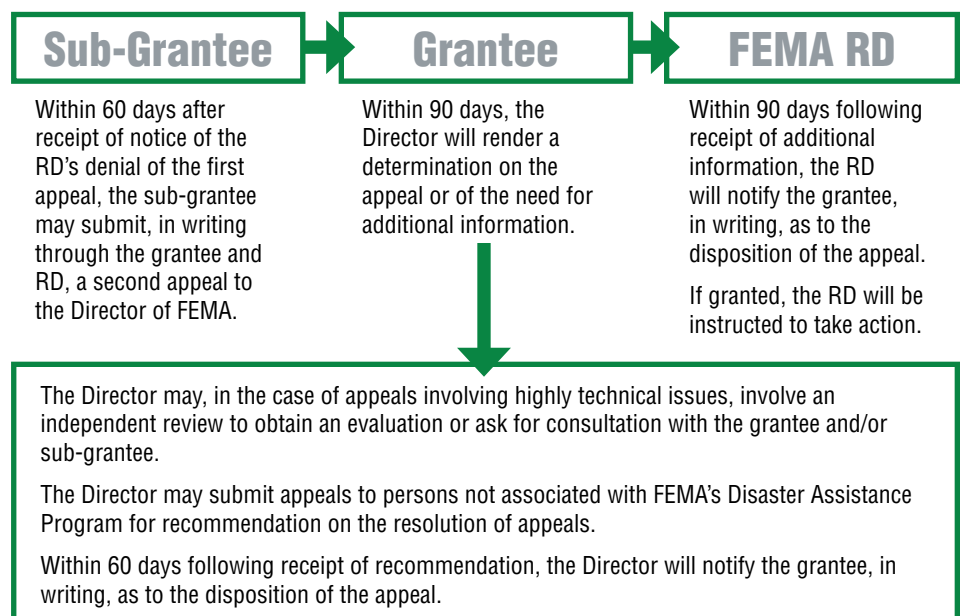
The Appeal Process¹

Title 44 of the Code of Federal Regulations

First Appeal



Second Appeal





Following our discussion of the appeals process, we remind applicants of the statutory deadlines imposed by FEMA when implementing your recovery plan.

A reference source for these deadlines is Title 44 of the Code of Federal Regulations (44 CFR), which imposes the timeline for many disaster response and recovery activities undertaken by FEMA grant applicants. Deadlines are delineated for submitting the Notice of Interest, for identifying damage, for completing work, and

for filing appeals, to name a few.

We hope we have sufficiently emphasized the need to keep all records and perform all activities by the book, especially since it is FEMA's guidelines being followed. It is important to keep accurate records, and follow the scope of work outlined by the applicable Project Worksheet. In the next issue, we will discuss issues such as record-keeping, changes to scope and costs in a PW, and project filing in anticipation of final inspection and close-out.



*Jeff Shaw
Adjusters International*

Key FEMA deadlines Title 44 of the Code of Federal Regulations

File Request for Public Assistance

- Within 30 days of area designation.
- Submitted to the RD via the state on FEMA Form 90-49.²

Submission of applicant-prepared small PWs

- Within 30 days of kickoff meeting with the PAC, subject to 20% validation.
- Within 31-60 days of kickoff meeting, subject to 100% validation.

File documents for damage discovered after first inspection

- Within 60 days after initial visit.
- Submitted to the RD via the state.²

Debris Removal (Category A)

- 6 months.³
- The state is empowered to extend the deadlines for an additional 6 months.

Emergency Protective Measures (Category B)

- 6 months.³
- The state is empowered to extend the deadlines for an additional 6 months.

Permanent Work (Categories C through G)

- 18 months.³
- The state is empowered to extend the deadlines for an additional 30 months.

File Appeal

- 60 days from formal notification for the first or second appeal.

² The RD may extend deadlines "when justified and requested in writing...based on extenuating circumstances beyond the grantee's or sub-grantee's control." 44 CFR, 206.202 (f)(2)

³ If a further extension of a deadline is required, then the state, acting on the applicant's behalf—must submit a written request to the FEMA RD for an extension. The request should include detailed information about all previous time extensions, an explanation of why more time is required, and an estimated completion date.



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