

Federal Emergency Management Agency

Washington, D.C. 20472

MEMORANDUM FOR: Regional Directors
Regions I-X

ATTENTION: Mitigation Division Directors

FROM: Richard W. Krimm
Acting Associate Director for Mitigation

DATE: 07-MAY-96

SUBJECT: Clarification of the Appeal Process under the Hazard Mitigation
Grant Program (HMGP)

This memorandum clarifies existing regulations on the appeal process for the Hazard Mitigation Grant Program under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended.

Current regulations, found at Section 423 of the Stafford Act and 44 CFR 206.440, outline the appeal process for subgrantees and grantees. Section 423 (a) of the Stafford Act states that “any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of such assistance.” The Section does not explicitly state that the party filing the appeal must be the subgrantee, and it speaks to all forms of assistance available through the Stafford Act.

The appeal process delineated at 44 CFR 206.440 speaks specifically to the HMGP and distinguishes the roles and responsibilities of the subgrantee (the applicant) and grantee (the State) when appealing a grant determination. If the applicant chooses to initiate an appeal, Part (a) mandates that the applicant must submit a written appeal to the State within 60 days of receipt of the determination notice. The appeal must include documented justification supporting the applicant’s challenge. Part (b) goes on to identify the State’s role in the appeal process, relating that the State, upon receipt of the appeal, has an additional 60 days to review the appeal, conduct any necessary inquiries, and forward the appeal with a written recommendation to the Regional Director for review.

Because the State establishes the priorities for HMGP funds, defines the project identification and selection process, ranks and prioritizes projects for funding, then forwards the projects to a Regional office for approval, FEMA recognizes that the State can have as much of an investment in the appeal process as a subgrantee.

Given this investment and the language found in Section 423, the State may appeal a grant determination on its own initiative as well as at the initiative of a subgrantee. Under this scenario, the State is responsible for supplying the justification for the appeal and has 60 days from the date of notification to do so. This interpretation, which deviates from the appeal process for Section 406, Public Assistance funds found at 44 CFR 206.206, is allowable because of the unique role of the State under the HMGP, described above.

Should you have any additional questions concerning this guidance, please contact Robert F. Shea at (202) 646-3619.