



Second Appeal Job Aid for the Hazard Mitigation Grant Program

Purpose

This Job Aid describes the Hazard Mitigation Grant Program (HMGP) second appeal process set forth in 44 CFR Part 206.440, Appeals. The second appeal provides an eligible Applicant, subapplicant, or a non-Federal entity the right to dispute monetary disputes or programmatic determinations of a previous decision.

Scope and Audience

This Job Aid offers Applicants/subapplicants, FEMA Regions and FEMA Headquarters (HQ) insight to the process, timetables, deadlines, and criteria for the second appeal process.

Second Appeal Submission

In support of Executive Order 13589, *Promoting Efficient Spending*, and 5 CFR Part 1320, *Controlling Paperwork Burdens on the Public*, the second appeal process no longer requires a hard copy submission.

Two options are available to the Regional Office to submit second appeals to HQ. The recommended method is via email with a summary sheet¹ using the HQ internal delivery list.² The second option is to mail the appeal to the address provided in the delivery list with a courtesy email of the expected arrival date.³

The Region may determine its preferred submittal process.

Second Appeal Implementation

This section delineates the process of second appeals for stakeholders. For an illustrated diagram, see the Second Appeal Process Chart provided below.

Appellant

To begin the second appeal process, appellants must submit documentation after receiving the initial notice of the action on the first appeal. When the appellant is the subapplicant/subrecipient, the appeal must be submitted to the pass-through entity prior to the expiration of the 60 day period. The appeal should cite the provision(s) in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent. Appeals must be in writing and contain supporting documentation that justifies the request for reconsideration. Such documentation may include scope of work, budgets, environmental planning and historical preservation review, technical testimony, purchase receipts, before and/or after photos, and changes to the application, or other relevant information that may help HQ to make a final decision.

¹ An example of the summary sheet is provided in this document.

² The HQ internal delivery list contains the emails of the HQ staff that should be emailed when sending a second appeal to HQ. This list is available on the HMA SharePoint.

³ The internal delivery list also contains the mailing address.

Pass-through entity⁴

The pass-through entity reviews the appeal and prepares a recommendation to submit to the Regional Administrator (RA). The appeal along with supporting documentation must be forwarded to the RA within 60 days of receipt of the second appeal. Upon receipt of the appeal package, the Region will review package for regulatory requirements. Once completed, the RA will in turn forward the appeal, along with his or her recommendation, to the Associate Administrator (formerly Assistant Administrator) for the Mitigation Directorate. If a Recovery Office is operational, contingent on the communication and command chain developed for that office, the pass-through entity should submit the appeal through the Recovery Office to the RA.

Note: When the appellant is the Recipient, no recommendation is needed because the appeal acts as its disposition. Otherwise, the pass-through entity acts as the reviewer.

Region

An appeal verification package confirms that the appellant is eligible for a second appeal. As part of the verification package, the Region should prepare the following six items to submit to HQ:

1. **Decision Letter** – documents the initial action taken by the Region or Recovery Office regarding the HMGP application or subapplication, precedes the first appeal, and usually outlines the basis for denial.
2. **First Appeal** – the set of documents submitted by the appellant opposing the decision letter.
3. **Pass-through Entity Recommendation for First Appeal** – documents the pass-through entity’s position on the first appeal (if applicable).
4. **Notice of the Action** – documents the first appeal decision of the RA, which is typically the action disputed in the second appeal.
5. **Second appeal** – the set of documents submitted by the appellant opposing the notice of the action (first appeal decision).
6. **Appeal Recommendation from the RA and/or Recovery Office** – documents the Region’s preliminary review of the second appeal. If the appellant submits supplemental information, the Region should note these changes. No matter which office (Region or Recovery Office) provides the second appeal, the recommendation must accompany the appeal submission to HQ.

The verification package should be submitted to HQ within 14 days of receipt of the second appeal. If the appeal is not received in a timely manner, the appeal will not be considered eligible for review.

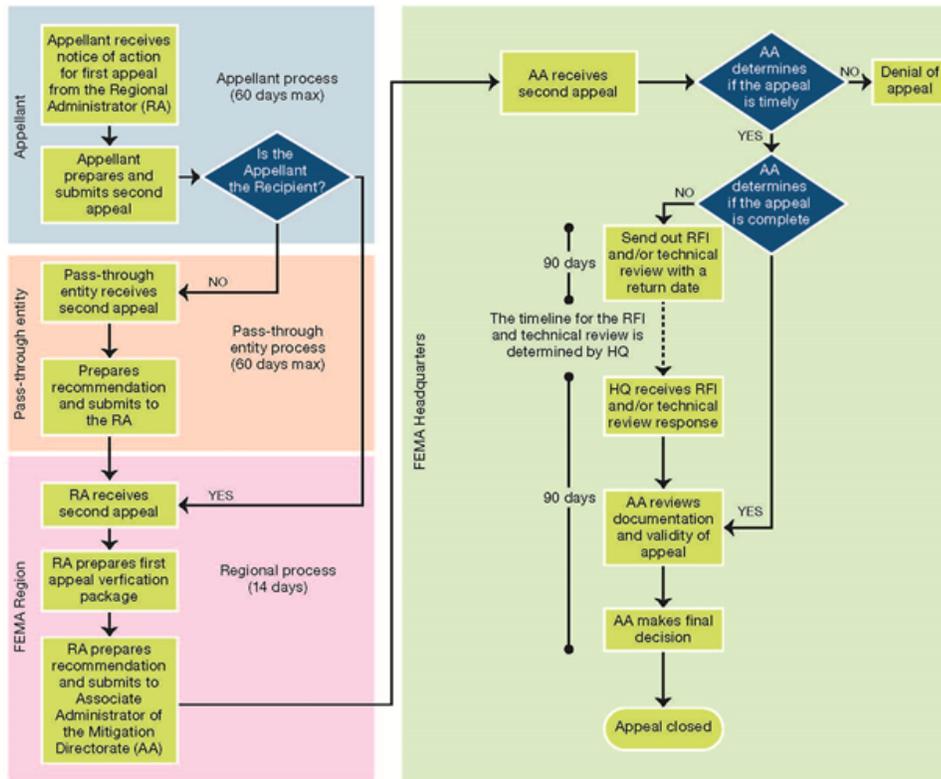
Headquarters

Upon receipt from the Region, HQ will make an independent assessment of the appeal. If all documentation is included, the Associate Administrator for the Mitigation Directorate notifies the Recipient or pass-through entity in writing of the disposition of the appeal within 90 days. If additional information is needed, regardless of an internal or external request, HQ determines a date by which the Request for Information (RFI) must be returned. In cases when the appeal requires a highly technical analysis, HQ will consult an independent scientific or technical expert on the subject. Once the RFI and technical review processes have been completed, HQ notifies the Recipient or pass-through entity in writing of the disposition within 90 days. The Associate Administrator for the Mitigation Directorate makes the final decision pursuant to 44 CFR Part 206.440, Appeals.

Note: A FEMA delay in issuing a decision beyond the applicable 90 or 180 days does not compel the RA or Associate Administrator to decide in the appellant’s favor.

⁴ If the pass-through entity initiates the appeal and is therefore the Recipient, refer to Section 5.1 Appellant of this job aid. This section provides the expectations of the appellant. Otherwise, the pass-through entity acts as the reviewer.

Second Appeals Process Chart



NOTE: When the Appellant/Pass-through entities deliver the appeal in less than the maximum amount of allocated time, the remaining timeframe does not carry over to the next level of adjudication.



FEMA

Second Appeal Summary Sheet

Appellant Name		
Project Title		
Disaster Number		
Region	Choose an item.	
Project Type	Choose an item.	
	If other, please specify:	
Amount Disputed		
	Date	Included in Package?
Decision Letter	Click here to enter a date.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Appellant First Appeal	Click here to enter a date.	<input type="checkbox"/> Yes <input type="checkbox"/> No
First Appeal Recommendation (Pass-through entity or Recipient)	Click here to enter a date.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Notice of the Action from the RA	Click here to enter a date.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Appellant Second Appeal	Click here to enter a date.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Second Appeal Region or Recovery Office Recommendation	Click here to enter a date.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Background		
First Appeal Comments		
Second Appeal Comments		