

JONES WALKER'S GUIDE TO FAQs ABOUT FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE

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I. OVERVIEW OF FEDERAL EMERGENCY MANAGEMENT AGENCY

This guide summarizes the basics of individual and household assistance available through the Federal Emergency Management Agency and may answer some preliminary questions you may have regarding FEMA, the process for registering for assistance from FEMA, your eligibility for assistance from FEMA, the amount and type of assistance available to you from FEMA, and your remedy if you are unhappy with FEMA's disposition of your claim for assistance. While this is not a comprehensive guide to either FEMA or the assistance possibly available to you from FEMA, it is a readily available guide that may address your immediate FEMA questions.

Regardless of whether you are eligible for assistance or the amount of assistance you may be eligible to receive, you must register for FEMA assistance to take advantage of your eligibility. Therefore, you should **immediately** register for FEMA assistance. The process is outlined below.

Also, many of the benefits available through FEMA require documentation of your disaster related expenses in order to receive assistance. Accordingly, you should save receipts for and begin to document, if you have not yet done so, all of your disaster related expenses.

II. GENERAL INFORMATION AND ELIGIBILITY

What is FEMA and what does it do?

FEMA is an acronym for the Federal Emergency Management Agency, established in 1979. Its purpose was to consolidate in one agency different functions of the Department of Commerce, the Department of Defense, the Department of Housing and Urban Development, and the Executive Office of the President, as well as a number of other agencies, to allow for the efficient administration of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") as well as other similar laws.

FEMA is charged with the responsibility of formulating disaster preparedness, mitigation, relief, and recovery plans as well as implementing those plans. Among other things, FEMA may utilize federal resources to aid state and local governments in the relief and recovery processes, distribute food, medicine, and other consumables to disaster victims, and perform work or services on public or private land to save lives or protect and/or preserve property. It is important to note, in this time of need, that FEMA also provides financial assistance not only to state and local governments but also directly to individuals and/or households.¹

¹ 42 U.S.C. § 5121, *et seq.*; 5 U.S.C. Reorganization Plan No. 3 of 1978, 43 F.R. 36037, 92 Stat. 3783.

What type of assistance can FEMA immediately provide directly to individuals and/or households as a result of Hurricanes Gustav and Ike?

The Stafford Act authorizes FEMA to provide several types of assistance directly to individuals and/or households. Individuals can apply for and receive assistance for “Housing Needs” and “Non-Housing Needs” (such as medical, dental, funeral, personal property, transportation, moving and/or storage costs) that result from a disaster, such as Hurricanes Gustav and Ike.

In the realm of housing needs, FEMA is first authorized to provide temporary housing assistance to individuals or households by either providing direct financial assistance to the disaster victims to rent alternative housing accommodations or by providing temporary housing directly to the individuals. Second, FEMA can provide housing repair assistance to aid in the repair of owner occupied private residences. Third, FEMA can provide financial assistance for the replacement of private residences damaged by a major disaster.

In the realm of non-housing needs, FEMA is authorized to provide financial assistance to individuals or households for personal property, transportation, and other necessary expenses or other serious needs, including medical, dental, and funeral expenses, resulting from a covered disaster.²

Am I eligible to receive money or help for damage or destruction to my home?

Maybe. In order to be eligible:

- Your home or other losses must be in an area that has been declared a “disaster area” by the President.
- You or someone who lives with you must be a citizen of the United States, a non-citizen national, or a qualified alien.
- Your home, either one you own or use as your primary residence, has been destroyed, is uninhabitable, is inaccessible, or is no longer available as a result of Hurricanes Gustav or Ike or the subsequent flooding.³

What might disqualify me from eligibility to receive money or help for damage or destruction to my home?

You may not be eligible for money or help from FEMA if:

- The home that is destroyed, uninhabitable, or inaccessible is not your primary residence;
- If you have adequate rent-free housing elsewhere;

² 42 U.S.C. § 5174.

³ 44 CFR § 206.113.

- If you own and can reside in another home (i.e. vacation home or rental property) within a reasonable commuting distance;
- If you evacuated as a precaution and are able to return to your home immediately;
- If your home is not destroyed, inaccessible, or uninhabitable and you are only trying to make improvements or additions to your home to bring it to its pre-disaster condition;
- If you have insurance coverage and there is no indication that the proceeds will be denied and/or delayed;
- If your home is in a special flood hazard area and in a community not participating in the National Flood Insurance Program (“NFIP”) (exceptions may be made if you need financial assistance to rent housing, have medical/dental/funeral needs or if the community enters the NFIP within six months of the disaster);
- If you received federal disaster aid in the past and did not purchase the required flood insurance; or
- Business losses are not recoverable.⁴

Can I take advantage of FEMA’s direct assistance to individuals and/or households if I have not applied for or received a loan or other financial assistance from the Small Business Administration (“SBA”) or any other federal agency?

Yes. An individual or household may not be denied **temporary housing assistance**, replacement housing assistance, or permanent housing construction assistance on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration (“SBA”) or any other federal agency, even though such assistance may be available. However, an individual may be denied **housing repair assistance** if he has received any loan or other financial assistance from the Small Business Administration (“SBA”) or another federal agency.⁵

Can I take advantage of FEMA’s direct assistance to individuals and/or households if I have other financial assistance from any other federal agency?

Maybe. As a general matter, no person, business concern, or other entity should receive FEMA assistance with respect to any part of the loss suffered as to which he has received financial assistance under any other program or from insurance or any other source. FEMA is charged with the responsibility of preventing any such duplication of benefits.

However, you receive financial assistance under FEMA and a collateral source, it is within the discretion of the source that improperly duplicated the award or the FEMA Regional Director to decide whether to attempt to seek recovery of duplicative benefits. If those agencies do not attempt any recovery action, you may be allowed to keep the duplicative benefits.

⁴ 44 CFR § 206.113.

⁵ 42 U.S.C. § 5174.

Moreover, if you have accepted assistance from all other sources and it is less than the maximum amount of assistance FEMA can authorize (\$26,200), and if the proceeds are not enough to cover your necessary expenses or needs, FEMA can still provide you assistance.⁶

Can I take advantage of FEMA’s direct assistance to individuals and/or households if I am currently insured against the loss I have suffered?

Maybe. As a general matter, no person, business concern, or other entity should receive FEMA assistance with respect to any part of the loss suffered as to which he has received financial assistance under any other program or from insurance or any other source. FEMA is charged with the responsibility of preventing any such duplication of benefits.

However, if an insurer has been tardy in providing benefits to you or contests your right to any such insurance benefits, you may be eligible, at the very least, temporarily, for FEMA assistance. FEMA should not prevent you from receiving FEMA benefits on the basis that you may be entitled to receive benefits for the same purposes from an insurer if you have not received any insurance benefits by the time of application for Federal assistance and if you agree to repay all duplicative assistance to the agency providing the federal assistance. Moreover, you may be entitled to recover from FEMA if your insurance proceeds are less than the maximum amount of assistance FEMA can authorize (\$26,200) and the proceeds are insufficient to cover the necessary expenses or serious needs.

Also, if you receive financial assistance from both FEMA and an insurer, it is within the discretion of the FEMA Regional Director to decide whether to attempt to seek recovery of duplicative benefits. If the FEMA Regional Director does not attempt recovery, the individual may be allowed to keep the duplicative benefits.⁷

Am I eligible to receive money or help for needs other than housing that are the result of a disaster?

Yes. However, you must meet the qualifications for initial housing assistance and you must also:

- Apply to the United States Small Business Administration’s (SBA) Disaster Home Loan Program for all available assistance under that program and be declined for SBA Disaster Home Loan Program assistance; or
- Demonstrate that the SBA assistance received does not satisfy your total necessary expenses or serious needs.⁸

⁶ 42 U.S.C. § 5155; 44 CFR § 206.191;

⁷ 42 U.S.C. § 5155; 44 CFR § 206.191.

⁸ 44 CFR § 206.119(a)(1)-(3).

An outline for applying for a United States Small Business Administration's (SBA) Disaster Home Loan is also posted on Jones Walker's website.

For how long may I receive FEMA assistance?

Generally, 18 months.⁹ This time period may be extended by FEMA if it decides that an extension would be in the public interest. After the 18 month period, FEMA may charge rent at the full fair market price of the housing unit.

However, some assistance will not be provided over the entire 18 month period. Repair assistance is provided as a one-time payment. Temporary housing assistance (or a mobile home/travel trailer) is provided for an initial period of one, two or three months. To be considered for continued assistance, you must demonstrate that you have used any previous assistance from FEMA as instructed and your efforts to re-establish permanent housing. Continued assistance is provided for one, two or three months at a time.

How much financial assistance may I receive from FEMA?

The maximum cash grant that may be recovered under Individual Assistance Programs is \$26,200.00. This amount includes:

- Housing assistance
- Lodging expenses or reimbursement (for a hotel or motel)
- Rental assistance (cash payment for a temporary rental unit or a manufactured home)
- Home repair cash grant – maximum of \$5,200.00 recoverable
- Home replacement cash grant – maximum of \$10,500.00 recoverable
- Permanent housing construction in rare circumstances
- Other needs assistance
- Medical, dental, funeral costs
- Transportation costs
- Other disaster-related needs¹⁰

What types of non-housing assistance might I be eligible to receive?

Medical, dental, funeral expenses, personal property, transportation, and other approved expenses, including moving assistance. Personal property assistance is generally limited to clothing; household items, furnishings or appliances; tools, uniforms/clothing, and equipment required by your employer; supplies required for educational purposes; and cleaning or sanitizing products. Transportation assistance is limited to repairing or replacing vehicles and/or financial assistance for public transportation. Medical assistance is generally limited to medical costs, dental costs, and the cost of repair or replacement of medical equipment. Moving expenses

⁹ 44 CFR § 206.117; 42 U.S.C. § 5174(c)(1)(B)(ii).

¹⁰ 44 CFR § 206.110, *et seq.*

includes storage of personal property while disaster-related repairs are being made to your home and return of the personal property to you or your home. FEMA may also provide you other miscellaneous items or services that FEMA determines are necessary expenses or are serious needs.¹¹

Can FEMA provide me with an attorney?

Maybe. Any disaster victim, who requires legal services as a result of Hurricanes Gustav or Ike and lacks sufficient resources to secure legal services in non-fee generating cases (i.e., lawsuits for relief other than money damages), may receive legal advice, counseling, and/or representation in non-fee generating cases paid for by FEMA.¹²

Can FEMA provide my family member or me with crisis counseling?

Yes. An individual is eligible for crisis counseling services, administered through the State of Louisiana and overseen by FEMA, if he or she was either a resident of the area affected by Hurricanes Gustav and Ike or was in the area at the time the hurricanes hit or the flooding occurred and he or she has a mental health problem that was caused or aggravated by Hurricanes Gustav and Ike or their aftermath or he or she could benefit from preventive care techniques.¹³

Is there a deadline to apply for FEMA assistance?

Yes. You must apply for FEMA assistance within **60 days** of the date the President declared the area a major disaster area. As a result of Hurricane Gustav, President Bush declared **Louisiana** a major disaster area on **September 2, 2008** and **Alabama** on **September 10, 2008**. As a result of Hurricane Ike, a major disaster declaration was made on September 13, 2008 for **Texas** and **Louisiana**. Although the 60 day deadline may be extended when an affected State requests more time to collect registrations from the affected population, such an extension is not guaranteed.¹⁴

What is continued assistance?

After FEMA has provided you with any applicable initial assistance, any additional assistance is generally considered continued assistance.

A distinction is made between initial assistance and continued assistance because FEMA generally expects recipients of temporary housing assistance to obtain and occupy permanent housing at the earliest possible time. Therefore, FEMA imposes additional requirements on

¹¹ 44 CFR § 206.119.

¹² 44 CFR § 206.164.

¹³ 44 CFR § 206.171(h)(1).

¹⁴ 44 CFR § 206.112.

applicants seeking continued assistance. Continued assistance is based on need and is generally only available when adequate alternative housing is not available or the applicant, through no fault of his own, cannot obtain permanent housing.¹⁵

Am I eligible to receive continued assistance from FEMA?

Maybe. In order to receive continued rent assistance, you must establish a realistic permanent housing plan and be able to supply documentation of your plan. You can then request continued rent assistance by submitting rent receipts to show that you have exhausted your rent funds and that you have a continuing need. You may also receive continued rent assistance when adequate, alternate housing is not available or if you are unable to create a permanent housing plan. You can receive additional repair assistance by submitting information and/or documentation identifying your continuing need. You can also request additional assistance for personal property, transportation, medical, dental, funeral, moving and storage, or other necessary expenses and serious needs by submitting such information and/or documentation identifying your continuing need.¹⁶

The most important thing you can do in this regard is to document all of your disaster related expenses.

Can I use the assistance FEMA gives me for any purpose I want?

No. The financial assistance FEMA is authorized to give individuals and households must be used in accordance with the purposes for which FEMA gives the financial assistance. For instance, financial assistance given to aid with temporary housing must be used by the individual or household on securing temporary housing. Failure to do so could result in substantial civil, or even criminal liabilities or penalties.¹⁷

If I am already registered with FEMA, will FEMA take any steps to make sure I will receive state-based assistance, if available?

Yes. In providing assistance to individuals and households, FEMA is obligated to provide for the substantial and ongoing involvement of the states in which the individuals and households are located. FEMA is also obligated to provide the states access to the electronic records of individuals and households receiving assistance in order for the states to make available to them any additional state and local assistance.¹⁸

¹⁵ 44 CFR § 206.114.

¹⁶ 44 CFR § 206.

¹⁷ 44 CFR § 206.116; 42 U.S.C. § 5157.

¹⁸ 42 U.S.C. § 5174(f)(2).

Regardless of what FEMA can do for me, is there anything I need to do right now to ensure that, if I am eligible for benefits through FEMA, I will receive them?

Yes. The most important step you can take and the most immediately pressing obligation you have to ensure that you receive assistance from FEMA is to register *right now* for FEMA assistance and to document your losses and expenses. The process for registering is explained below.

III. HOW DO I REGISTER?

Registration is the most important step you can take to ensure reception of assistance from FEMA. If you take nothing else away from this guide, register for FEMA assistance immediately, even if you are unsure whether you are eligible for FEMA benefits. Concerns about eligibility and the amount of assistance available may be addressed later. Also, you should immediately begin documenting all of your disaster related loss and expenses, if you have not already begun doing so.

You can submit applications to FEMA either on-line or by telephone. Applications can also be submitted in person at FEMA Disaster Recovery Centers.

On-line: www.fema.gov/register.shtm

By telephone: 1-800-621-FEMA (3362)

In person: See attached list in appendix.

You will need the following information to complete the application process:

- social security number
- address of the affected property
- current contact information
- names of all occupants of the affected property
- insurance information (type of insurance and name of insurers)
- details of uninsured expenses (can be amended later as well)
- bank account information, including routing number (for electronic funds transfer)

After you submit your application, you will be provided with a **FEMA application number**. This number will allow you to check the status of your application. **You will need to use this number in all subsequent dealings with FEMA.**

What can I expect after I apply?

- Once your application is submitted, FEMA may require an inspection of your property. If so, an inspector will contact you to coordinate the inspection. According to FEMA, you will be contacted by a FEMA inspector within ten (10) days of your application.

You must be present for the inspection and have proof of both ownership and occupancy to show to the inspector.

- Proof of ownership – deed, tax records, mortgage payment book, or insurance policy for the address showing you as the owner
- Proof of occupancy – driver’s license with affected address, recent utility bill, recent government mail sent in your name to the affected address
- Approximately ten (10) days following the inspection, you will receive a decision letter from FEMA advising you of one of three outcomes:
 - Eligible for assistance
 - This will be followed by a check or notification of a transfer into your account
 - The decision letter will explain what expenses the money can be used to pay for, and you later may be asked to provide proof that the money was spent on allocated expenses
 - Not eligible for assistance
 - The decision letter will give the reason for the denial
 - You will be advised of your appeal rights, outlined below
 - A referral to the Small Business Administration (SBA) for possible assistance from the SBA Disaster Assistance Program

The SBA application procedure is outlined in another guide also posted on Jones Walker’s website.

IV. APPEALS

What can I do if I am unhappy with the relief or lack thereof provided by FEMA?

You may appeal it to the appropriate Regional Director. FEMA is charged with the responsibility of determining not only an applicant’s eligibility for assistance, but also the amount or type of assistance, the duration of assistance, and the applicant’s eligibility for continued assistance.

You may appeal any of the following decisions of FEMA: (1) a determination of eligibility for assistance, including recoupment; (2) the amount or type of assistance; (3) cancellation of your application; (4) the rejection of a late application; (5) the denial of continued assistance; (6) FEMA’s notification of its intent to collect rent from occupants of a housing unit that FEMA provides; (7) termination of direct housing assistance; (8) denial of your request to purchase a FEMA-provided housing unit at the termination of eligibility; (9) the sales price of a

FEMA-provided housing unit you wish to purchase; or (10) any other eligibility related decision.¹⁹

How do I appeal the decision?

In determining how to proceed after an adverse decision from FEMA, you may wish to contact an attorney for legal advice. However, you are not obligated to obtain legal representation to proceed.

In order to properly appeal a FEMA decision, you must file a written appeal with the appropriate FEMA Regional Director within 60 days after you have been notified of the adverse award or denial of assistance explaining the reasons for the appeal.

The Regional Director or the appropriate state official will notify you of receipt of the appeal and, after reviewing the original decision, will give you written notice of the disposition of the appeal. This decision will be the final disposition you may receive from FEMA.²⁰

The Acting Regional Director for the Louisiana and Texas areas is William E. Peterson. He may be reached at:

William E. Peterson
Acting Regional Director, Region VI
Federal Emergency Management Agency
Federal Regional Center
800 N. Loop 288
Denton, Texas 76209
Phone Number: (940) 898-5399

The Regional Director for Mississippi, Alabama, and Florida is Major Phillip May. He may be reached at:

Major Phillip May
Regional Director, Region IV
Federal Emergency Management Agency
3003 Chamblee-Tucker Rd.
Atlanta, Georgia 30341
Phone Number: (770) 220-5200

When can I expect a decision?

You should receive written notice of the disposition of the appeal within 90 days.²¹

¹⁹ 44 CFR § 206.115.

²⁰ 44 CFR § 206.115.

Can a friend, family member, or other file an appeal on my behalf?

Yes. You or a person you authorize to act on your behalf must sign the appeal. If someone other than you files the appeal, then you must also submit a signed statement giving that person authority to represent you.²²

What can I do if I am unhappy with the decision of the Regional Director?

You may seek review of the final decision of the Regional Director by filing suit against FEMA in the appropriate United States District Court. The decision to file suit against FEMA is a decision that will likely require the advice of a competent attorney. More importantly, given the complexity of the legal system, any suit, once filed should be prosecuted by a competent attorney.²³

May I receive a copy of the information in my FEMA file?

An applicant may ask for a copy of the information in his or her file by writing to FEMA or the state as appropriate. If someone other than the applicant is submitting the request, then the applicant must also submit a signed statement giving that person authority to represent him or her.²⁴

²¹ 44 CFR § 206.115.

²² 44 CFR § 206.115.

²³ 5 U.S.C. § 701, *et seq.*; *Lockett v. Fed'l Emergency Management Agency*, 836 F. Supp. 847, 851 (S.D. Fla. 1993) (where victims of Hurricane Andrew brought suit against FEMA).

²⁴ 44 CFR § 206.115.