



Mo' Disasters, Mo' Problems

Providing Legal Assistance in the Aftermath of a Disaster

Presented by:

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FEMA OVERVIEW

- Authorized by Robert T. Stafford Disaster Relief and Emergency Assistance Act & accompanying CFRs
- After a disaster, the State generally issues an emergency declaration.
- Once a certain financial amount of damage has occurred, the Governor sends a request for a federal declaration to the President. (This is why there is usually a lag before FEMA gets here.)
- FEMA can only offer assistance AFTER this official declaration.

FEMA Applications

- Everyone affected by the disaster should apply to FEMA.
EVERYONE!
- Ways to apply:
 - By phone: 1-800-621-FEMA (1-800-621-3362)
 - Online: <http://www.disasterassistance.gov>
 - In person: Disaster Recovery Center (DRC)
 - Link to search by address: <http://asd.fema.gov/inter/locator/home.htm>
- Deadline to apply = 60 days from date of federal declaration
 - **Deadline for Harvey applicants = October 25, 2017**
 - Most likely will be extended
- May apply late for GOOD CAUSE shown



Types of FEMA Assistance

- Housing Assistance
 - Temporary Housing
 - Repair
 - Replacement
 - Semi-Permanent or Permanent Housing Construction – usually in conjunction with the Small Business Administration



Types of FEMA Assistance (con't.)

- Other Needs Assistance (ONA)
 - Medical and dental expenses
 - Funeral and burial costs
 - Personal property
 - Cleaning your residence
 - Transportation
 - Moving and storage expenses related to the disaster (including storage or the return of property to a pre-disaster home)
 - General necessary expenses
 - Flood insurance



FEMA advice to provide clients

- Apply for FEMA assistance within 60 days of the date of federal disaster declaration
- Appeal any FEMA denial/decision within 60 days of the date of letter
- Respond to FEMA w/in 10 days if they request additional documents/evidence
- Use assistance money for what it is intended
- Keep receipts for 7 years
- FEMA does audit their files and asks applicants who received assistance to send in proof the money was spent on what FEMA intended it to be spent on

FEMA Reasons for Denial (Housing Assistance)

- The most common denial reasons are:
 - You have insurance to cover the losses;
 - The damages to your home were not caused by the disaster;
 - Your home did not sustain sufficient damages to essential living areas or personal property to qualify for disaster assistance, or
 - Your property is a secondary or vacation home.
- Also common:
 - Ownership not verified
 - Occupancy not verified



FEMA Reasons for Denial (ONA)

- Transportation
 - The vehicle was not insured with at least liability insurance; and/or
 - The vehicle was not registered with the state.
 - It is the family's second car.



W. Craig Fugate
 Administrator
 Federal Emergency Management Agency

State of Texas

National Processing Service Center
 P.O. Box 10055
 Hyattsville, MD 20782-8055
 1-800-621-FEMA (3362)
 Fax No.: 1-800-827-8112

Date: 06/22/2016

FEMA Application No.:

Disaster No. 4265

Dear

We recognize this is a difficult time for you and your family and understand many people need help following a disaster. We are committed to providing important information for your recovery.

The Federal Emergency Management Agency (FEMA) and State of Texas have carefully considered all available information regarding your appeal for assistance. Our decision(s) regarding your appeal is explained below.

CATEGORIES

Housing Assistance

DETERMINATION

IOWNV - Ownership Not Verified

Total Grant Amount:

\$0.00

IOWNV- Ineligible – Ownership Not Proven

In a previous letter, we explained that you have not proven that you owned your home at the time of the disaster. We described the documents that you could submit which would show ownership of the damaged home.

We have reviewed your appeal and any additional documents you may have provided and we are still not able to verify that you owned the home. As a result, your appeal is not approved and you are not eligible for FEMA home repair or replacement assistance.

This decision only applies to your appeal for FEMA housing assistance. Your request for any other form of assistance is considered separately.

If you have questions, please contact the FEMA Helpline at 1-800-621-FEMA (3362). Disaster assistance applicants, who have a speech disability or hearing loss and use a TTY, call 1-800-462-7585 directly; for those who use 711 or Video Relay Service (VRS), call 1-800-621-3362.

This letter is about assistance you requested from FEMA. Other disaster relief agencies you applied to for assistance



LTE



2:49 PM

Medical

Ineligible

 Expand

Housing Assistance

Ineligible

 Expand

 **Vehicle**

 Collapse

 Denied Vehicle - Lack of Liability Insurance

Date: 04/30/2016

 Appeal

You have the right to appeal FEMA's decision regarding your application for disaster assistance. If you disagree with one or more of the decisions located above, please refer to [the appeal process information](#).

Menu

Help

Contact

Sign Off

 **Feedback**



FEMA Appeals

- Deadline to appeal = 60 days from date of decision letter
- Late appeals are accepted ONLY with good cause shown
- FEMA has 90 days to render its decision – denied as a matter of law if no response.
- Appeal in letter format with supporting documents
 - If an applicant appeals on his or her own, s/he MUST include and sign the statement “I declare under penalty of perjury that the information provided is true”
 - If you appeal on applicant’s behalf, the statement can be included in the Authorization for Release of Information that you provide to FEMA with the appeal. It doesn’t also have to be included in the appeal letter itself.
- Ask for a copy of the file.

FEMA and TX HHSC

- FEMA handles housing assistance (temporary, repair, replacement, etc.)
- HHSC handles ONA (transportation, personal property, etc) for FEMA.
- All appeals still go through FEMA, even if HHSC makes the ultimate decision. However, when calling with questions regarding a decision or other information, call HHSC directly at 1-800-582-5233.
- If denied multiple times, then HHSC requests a hearing before a Hearings Officer.

Small Business Administration (SBA)

- FEMA collaborates with the U.S. SBA in determining applicant eligibility for some types of assistance.
- The Small Business Act authorizes the SBA to provide low-interest disaster loans to applicants who have sustained damage in a disaster.
- An applicant must meet a minimum income test, which the SBA establishes, to be considered for a loan.
- FEMA refers the applicant's registration to SBA if the applicant's income meets SBA minimum guidelines.

Types of SBA Loans

- Business Physical Disaster Loans
 - Loans to businesses (of any size) to repair or replace property owned by the business.
 - Private, non-profit organizations such as charities, churches, etc. are eligible.
- Economic Injury Disaster Loans (EIDL)
 - Working capital loans to help small businesses, etc
 - Intended to assist through the disaster recovery period.
- Home Disaster Loans – loans to homeowners or renters to repair or replace disaster-damaged real estate & personal property, including automobiles.

SBA – Interest Rates

▪ **No Credit Available Elsewhere**

- Business Loans = 3.305%
- Non-profit org loans = 2.5%
- Economic injury loans
 - Businesses & agricultural coops = 3.305%
 - Non-profit orgs = 2.5%
- Home Loans = 1.75%

▪ **Credit Available Elsewhere**

- Business Loans = 6.610%
- Non-profit org loans = 2.5%
- Economic injury loans
 - N/A
 - N/A
- Home Loans = 3.5%

SBA Loan Amount Limits

- ◆ **Business Loans** – The law limits business loans to \$2,000,000 for the repair or replacement of real estate, inventories, machinery, equipment and all other physical losses. Subject to this maximum, loan amounts cannot exceed the verified uninsured disaster loss.
- ◆ **Home Loans** – SBA regulations limit home loans to \$200,000 for the repair or replacement of real estate and \$40,000 to repair or replace personal property. Subject to these maximums, loan amounts cannot exceed the verified uninsured disaster loss.

ONA: Non-SBA-Dependent

Category of ONA

- **1. Non-SBA-dependent ONA** FEMA provides assistance for these items without regard to whether a disaster survivor may obtain a SBA loan.

Type of ONA Assistance

- Funeral
- Medical
- Dental
- Childcare
- Assistance for Miscellaneous Items

ONA: SBA-Dependent

Category of ONA

- **2. SBA-dependent ONA** The applicant must first apply to the SBA for a loan for these expenses or serious needs.

Type of ONA Assistance

- Personal Property
- Moving and Storage
- Transportation Assistance



FEMA – Proof of Ownership

- FEMA defines an owner-occupied residence as one where the applicant:
 - Is the legal owner; or
 - Does not hold a formal title to the residence and pays no rent, but is responsible for the payment of taxes or maintenance of the residence; or
 - Has lifetime occupancy rights with formal title vested in another.

FEMA – Proof of Ownership (con't)

- **Ownership Documentation:** When FEMA is unable to verify an applicant's ownership of their primary residence during inspection or through an automated public records search, the applicant may provide FEMA with documentation to prove ownership. There are various documents that may be used to prove ownership and are outlined on the next slide.
- The document provided must reflect:
 - The name of the applicant or co-applicant registering for assistance; if a minor child is registering for assistance, the document must be in the adult co-applicant's name;
 - The address of the damaged pre-disaster residence; and
 - A date prior to the disaster incident period.

Documentation to Verify Ownership

Document and Description

Deed or Official Record:

Original Deed or deed of trust to the property listing the applicant as the legal owner.

Mortgage Documentation:

Mortgage statement or escrow analysis.

Real property insurance doc, bill or pmt record, structural insurance docs.

Acceptable Document Date

Deed must be current/effective during the disaster incident period.

The most recent mortgage statements available should be submitted (within 3 months of the disaster incident period) and escrow docs should be from the last quarter.

Within 3 months of the disaster incident period.

FEMA – Proof of Ownership (con't)

- **Document Exceptions:** FEMA may accept a written statement from the applicant indicating how long they lived in the disaster-damaged residence prior to the Presidential disaster declaration, and an explanation of the circumstances that prevent standard ownership verification (e.g., insular areas, islands, tribal lands).
- Applicants who pay rent to another party to live in the home do not qualify as owners. There may be an exception if the applicant is legally responsible (e.g., lease to own or land installment agreements) for major repairs and/or taxes on the damaged residence (e.g., ownership in the islands or insular areas such as family compounds, adverse possession, hereditary family lands, and cultural traditions).

Alternate Verification Docs

Document and Description

- Property tax receipt or property tax bill
- Manufactured home certificate of sale
- Real Estate Provision
- Contract for Deed
- Land Installment Contract
- Quitclaim Deed
- Bill of Sale or Bond for Title
- Will naming the applicant as the heir to the property and a death certificate

Acceptable Document Date

Current and/or effective during the disaster incident period

FEMA – Home Ownership (Intestacy)

- According to the Texas Estates Code, if a person dies intestate not leaving a spouse, then “the estate to which the person had title descends and passes in parcenary to the person’s kindred in the order provided by this section . . .(b) The person’s estate descends and passes to the person’s children and the children’s descendants.”
 - Texas Estates Code Sec. 201.001.

FEMA – Proof of Ownership (mobile homes)

- Check the Texas Dept. of Housing & Community Affairs website to see if applicant is listed as the owner.
- If the applicant is not listed as the owner, then they may provide one of the documents verifying ownership (listed on a previous slide).
- If the applicant does not have any documents proving ownership, then FEMA MAY accept the following as proof:
 - Affidavit from owner listed on TDHCA's website stating the mobile home was sold to applicant.
 - The affidavit must contain the mobile home's current address, VIN#, and date of sale.

Flood Insurance – It's Complicated!

- File a claim with flood insurance carrier first, but also file for FEMA assistance.
- FEMA or SBA can provide an advance on flood insurance proceeds or can address difference between insurance pay-outs and damages. (They will not call this paying your deductible, but that's what they're doing.)
- If the insurance company isn't going to settle within 30 days, people can write a letter to either FEMA or SBA and use FEMA or SBA money as an advance on insurance.
 - They must pay it back when they get their insurance money!
- Renters can have flood insurance for their personal property in a rented home/trailer/apartment.

Flood Insurance – Proof of Loss

- A Proof of Loss is a policyholder's statement of the amount of money being requested, signed to and sworn to by the policyholder with documentation to support the amount requested.
- The complete Proof of Loss, signed and sworn to by the policyholder, along with documentation to support the amount requested initially and any requests for additional payment must be sent to the NFIP servicing Agent or Write Your Own Company ("NFIP Insurer") **within 60 days after the date of loss or within any extension of that deadline.**

Proof of Loss Waiver (Harvey claims only)

- “To expedite processing of NFIP claims for Hurricane Harvey, the NFIP is waiving the requirement for a policyholder to submit an initial Proof of Loss (POL) document. Here’s how the expedited process will work:
 - After a policyholder files a claim, a time is set up for the adjuster to inspect the flood damaged property. The adjuster will document the damage and submit a report to the policyholder’s insurance company.
 - If additional damage is discovered or a policyholder does not agree with the payment amount, a policyholder can seek additional payment if the policy’s coverage limits have not been met. A POL will be required to seek supplement payment on the claim. If payment is issued based upon the adjuster’s initial report and an additional proof of loss is not submitted by the policyholder, the insurer will close the file.
- If a policyholder decides to request an additional payment, which must be done by completing a POL, the policyholder will have one year from the date of filing the initial claim, to submit the request to the insurance company. FEMA has informed all of its NFIP insurance partners about this process and how it will work. NFIP policyholders are encouraged to work closely with an adjuster on this expedited process.”

Proof of Loss – Deadline to submit extended

- ✓ 365 days to file POL from date of loss
- ✓ No set deadline date yet – for now, file by August 24, 2018

Proof of Loss – where to submit

- If your policy was issued by a Write Your Own program-participating insurance company, please contact the insurance agent or carrier directly to find out the proper address for submitting your Proof of Loss.
- If your policy was issued by FEMA through the National Flood Insurance Program (NFIP) Direct Servicing Agent, the only addresses to which your Proof of Loss must be sent is the following:
 - **Regular Mail:**
NFIP Direct Servicing Agent
P.O. Box 2966
Shawnee Mission, KS 66201-1366
 - **Overnight Mail:**
NFIP Direct Servicing Agent
7701 College Blvd.
Overland Park, KS 66210

Advance Payments (Harvey claims only)

- ◆ When a policyholder contacts his/her insurer and verifies his/her identity, he/she can receive an advance payment for up to \$5,000 on a flood claim, without an adjuster visit or additional documentation. When the advance payment is issued, a letter is sent as well to the policyholder, which explains that by accepting this payment, the policyholder is certifying the damage.
- ◆ Up to \$20,000 may be advanced to a policyholder who provides photos and/or videos depicting damage and receipts validating out-of-pocket expenses related to flood loss, or a contractor's itemized estimate. Policyholders with significant damage who have a contractor's itemized estimate may be eligible for a larger advance payment and should discuss this with the adjuster.

Advance Payments (Con't)

- Advance payments are deducted from a policyholder's final claim settlement amount.
- Advance payments may only be used according to the terms of the policy.
 - For example, if a policyholder has a building/structure flood insurance policy, the advance payment must be used to repair or rebuild the structure.
 - Or if a policyholder has contents coverage, the advance payment must be used to repair or replace contents that were within the structure. Advance payments may not be used for temporary housing and living expenses.

Flood Insurance – Pro Tips



- PHOTOS – there can never be too many!
 - Take photos of damage from a distance (to see the entire room) and also up close.
 - Take photos of the home from the outside and photos of every room inside.
 - Take photos of personal property.
 - If you have 20 of the same type of chair, take photos of all 20 chairs (make groups of 5 or 10 in each photo).
 - Take photos of appliances and the serial numbers.
- Make a line item list of everything and its cost.
- Consider hiring a public adjuster if you do not agree with the dollar amount your insurance adjuster provided. But, do your research.

Landlord/Tenant Issues (premises is partially unusable)

- The tenant is entitled to reduction in the rent in an amount proportionate to the extent the premises are unusable because of the casualty, **but only on judgment of a county or district court.**
 - Casualty loss must not have been caused by the negligence or fault of the tenant (or a member of the tenant's family, a guest, or invitee).

Source: Texas Property Code Section 92.054(c)

- Ask landlord for repairs.
 - By law tenant must be current on rent in order for landlord to be obligated to repair, but tell them to ask anyway.
 - If they are not current on their rent, pay it as soon as possible. Whether they are current on their rent can determine what their rights are under the law, even if it doesn't seem fair.

Save all temporary housing/lease receipts, payment agreements, etc. — FEMA will require them in return for continued payments.

Landlord/Tenant Issues (premises is completely unusable)

- **Landlord or tenant may terminate the lease.**
 - Casualty loss must not be caused by negligence or fault of the tenant (or member of tenant's family, guest, or invitee).
 - Must give written notice to the other any time before repairs are made.
- If the lease is terminated, the tenant is entitled only to a pro rata refund of rent from the date the tenant moves out and to a refund of any security deposit otherwise required by law.
 - Provide landlord with forwarding address.
 - Get an agreement of any refund of rent/security deposit in writing.

Source: Texas Property Code Section 92.054(b)

Landlord/Tenant – Subsidized Housing

- For Voucher Program (a tenant based subsidy), the tenant may receive a replacement voucher from a public housing authority.
- For Subsidized Projects (where the complex, not the tenant, is subsidized) the tenant will not receive a voucher from a public housing authority but, depending on the type of program, can be relocated under by other methods, or by a tenant protection voucher issued by HUD.
- If a damaged/destroyed housing project does not have existing non-damaged units available, Landlord is required to transfer the contract to another multi-family funded property that will accept the remainder of the subsidy.
 - Notice H-2015-03 (HUD)
- Housing project is required to provide notification regarding transfers in tenant's primary language and in formats for persons with communication disabilities.
 - Notice should be provided to each unit in the project or mailed to each tenant and must be posted in common areas.
- For tenants who choose not to relocate, Landlord must send notice to that tenant that they may be offered a tenant protection voucher (TPV).
 - TPVs are meant to ensure there is no displacement of low-income residents as a result of various actions resulting in loss of subsidy assistance.



Landlord/Tenant – Pro Tips

- Discuss options with the Landlord (LL).
- No self-help eviction.
 - A LL cannot tell a person whose home is unreachable because of floodwaters that the person must have his/her personal belongings out of the residence immediately.
- If terminating lease, remember to ask for return of the security deposit and provide a forwarding address.
- Weigh the options.
 - There is going to be less housing for rent in Houston after Harvey, so it may be best to keep the lease while repairs are being made if the residence is habitable.

Contractor Fraud

- Get an estimate BEFORE you sign a contract.
 - Try to get bids or estimates from 3 different contractors.
 - Specify the work to be done and agree on a price.
- Do NOT sign on an iPad or other tablet.
 - Get a copy of anything you sign.
 - Do not sign anything you don't understand.
- Do NOT sign over FEMA or insurance proceeds directly to the contractor.
- Do NOT pay for an entire job up front.
- Do NOT make the final payment until you have inspected the work.

Supplemental Nutrition Assistance Program (SNAP) Replacement

- September 1st = TX HHSC issued all September 2017 SNAP benefits to SNAP households in the 29 counties that received a Presidential Major Disaster Declaration.
- Also, TX HHSC issued automatic, mass replacement of August 2017 SNAP benefits to SNAP households in the 29 declared counties.
 - The mass replacement benefits were issued to replace food that was purchased with August 2017 SNAP benefits that was destroyed due to the disaster.
 - Replacement benefits were automatically issued to all regular SNAP households in the affected counties, by means of an automated credit to their Electronic Benefits Transfer (EBT) cards.

SNAP Replacement (Con't)

- FNS approved the State's request to waive the 10-day reporting requirement for replacement of food purchased with August 2017 SNAP benefits destroyed in certain counties.
- Affected households have until September 30, 2017, to report food losses to their local offices and request replacement benefits.
- FNS approved the State's hot foods' waiver request to allow recipients to purchase hot foods and hot food products prepared for immediate consumption with their benefits at authorized SNAP retailers statewide through September 30, 2017.

Disaster SNAP

- Disaster food stamps are not always available. If they become available, there will be a press release.
- If Disaster-SNAP is available:
 - If the applicant was not enrolled in SNAP prior to the disaster but now needs assistance because they have experienced a loss of income due to the disaster, they should apply for SNAP through TX HHSC.
- As of today, D-SNAP has not been approved for Hurricane Harvey victims.

Advice re: Disaster SNAP

- Once the program has been approved, the TX HHSC sets a limited period for you to file a D-SNAP application. If you qualify, you'll get benefits for one month on an Electronic Benefit Transfer (EBT) card. The EBT works like a debit card at most grocery stores.
- You may qualify for D-SNAP benefits after a disaster in Texas if you:
 - Do not get regular SNAP benefits. (Current SNAP households may qualify for supplemental disaster or replacement benefits.)
 - Were living in the disaster area at the time of the disaster.
 - Have at least one of these disaster-related effects or expenses:
 - Lost or no access to income;
 - Home or business repairs;
 - Temporary shelter or evacuation expenses;
 - Home or business protection expenses;
 - Cost to replace personal or household items;
 - Clean-up expenses;
 - Personal injury, including funeral expenses.
- D-SNAP applications are usually accepted for a period of seven days. If you qualify, you are issued funds to help meet your food needs for 30-days. Program requirements vary by state.

Disaster Unemployment Assistance (DUA) benefits

- Unemployment insurance benefits for people who:
 - Lost their job or self-employment or who are no longer working as a direct result of a major disaster, and
 - Applied for but are NOT eligible for regular unemployment insurance.
- An individual's unemployment is a **direct result** of the major disaster if ONE of these situation applies:
 - The individual's place of employment or self-employment was physically damaged or destroyed;
 - The place of employment or self-employment is inaccessible to the individual because it is located in an area closed by or at the request of the federal, state, or local government in immediate response to the disaster; or
 - The individual lost a majority of income or revenue from a business that was damaged or destroyed in the disaster, or is located in the major disaster area closed by the federal, state, or local government.

Qualifying for DUA benefits

- You may qualify for benefits if ONE of the following occurred as a *direct result* of the disaster:
 - You lost your job, which was your principal source of income (more than 50% of your total income);
 - You live in, work in, or travel through the disaster area;
 - Your place of employment was damaged or closed;
 - You were scheduled to start work but the job no longer exists or you can no longer reach the new job;
 - You suffered injury or incapacitation; or
 - You became the breadwinner or major support of the household due to the death of the head of household.

Applying for DUA benefits

- Texas Workforce Commission (TWC) must find out whether you are eligible for regular or extended benefits before you can receive DUA benefits.
 - 1. Apply for regular benefits.
 - Complete an application at ui.texasworkforce.org OR call a TWC Tele-Center.
 - 2. If you are potentially eligible for regular or extended benefits.
 - TWC must pay those benefits first before taking an application for DUA. TWC will mail you a standard UI benefits information packet.
 - 3. If you are not eligible for regular or extended benefits, you can apply for DUA benefits:
 - Call a TWC Tele-Center OR
 - Complete an application for UI benefits online at ui.texasworkforce.org, and then call the Tele-Center to complete the DUA application.
- TWC Tele-Center # 1-800-939-6631

Lost Documents

- **Driver's License:** contact local TX DPS. Offices listed on the website: www.txdps.state.tx.us
- **Social Security Card:** there is not a current emergency procedure for replacement. Must complete an "Application for a Social Security Card" (Form SS-5)
- **Birth/Death /Marriage/Divorce Certificates:** go to local courthouse
 - Can also check (for Texas) online: <https://txapps.texas.gov/tolapp/ovra/index.htm>
 - To request these records from other states, visit the National Center for Health Statistics website: www.cdc.gov/nchs/w2w.htm

Lost Documents (con't)

- **Debit Card/Checks:** must contact bank for replacement procedures.
 - If sensitive papers kept in bank safety deposit box, should ask if boxes are unharmed
 - If the bank or credit union's contact information is unknown, call the FDIC's toll-free number: 1-877-275-3342 for contact information.
- **Credit Cards:** to replace, call the card issuing entity (bank or credit card company). Advise them to contact credit card companies even if a new card is not required because some may be willing to waive some fees and payments due to disasters. Major credit card companies include:
 - American Express: 1-800-992-3404 / www.americanexpress.com
 - Discover: 1-800-347-2683 / www.discover.com
 - MasterCard: 1-800-627-8372 / www.mastercard.us/
 - VISA: 1-800-847-2911 / www.usa.visa.com

Phone Numbers

- TX HHSC (Food stamps): 1-877-541-7905
 - 2-1-1
 - TX Dept. of Insurance: 1-800-252-3439
 - TX Workforce Commission (Unemployment): 1-800-939-6631
 - FEMA Customer Support: 1-800-621-3362
 - TX HHSC (ONA Assistance): 1-800-582-5233
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- Amanda Bosley abosley@lonestarlegal.org
 - Sandra Brown sbrown@lonestarlegal.org