



**FEMA**

# **WRITE YOUR OWN PROGRAM FINANCIAL CONTROL PLAN**

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# 1 Financial Control Plan

This Financial Control Plan (Plan) sets out the financial requirements of companies participating in FEMA’s Write Your Own (WYO) Program and enables FEMA to exercise oversight of the WYO Program. FEMA will review the Plan annually and republish it every five years or earlier as needed.

## 1.1 NFIP History

The National Flood Insurance Act of 1968 (NFIA) authorizes FEMA to carry out the NFIP. The Federal Insurance and Mitigation Administration (FIMA), a component of FEMA, operates the NFIP.

The NFIP is a voluntary federal flood insurance program that aims to reduce the impact of flooding on structures by providing affordable insurance to property owners, renters, and businesses in participating communities. To participate in the NFIP and be eligible to purchase NFIP flood insurance, communities must adopt and enforce sound land use ordinances consistent with FEMA’s floodplain management regulations found at 44 CFR Pt. 60. *See* 42 U.S.C. 4022.

In 1983, to better market NFIP flood insurance, FEMA adopted regulations establishing the WYO Program. 44 CFR §§ 62.23 and 62.24. Private insurance companies participating in the WYO Program, referred to as WYO companies, may sell NFIP policies under their own property business lines of insurance. WYO companies are responsible for all aspects of servicing the NFIP policies, including issuing, endorsing, underwriting, renewing, and cancelling policies. *Id.* at 62.23(a), (d). WYO Program goals include the following:

- Increasing the NFIP policy base and the geographic distribution of policies
- Improving service to NFIP policyholders through the infusion of insurance industry knowledge
- Helping survivors and their communities recover from floods by effectively delivering customer-focused flood insurance products and information

To participate in the WYO program, insurance companies must meet the eligibility requirements in FEMA’s regulations, including demonstrating an “ability to process flood insurance and meet the Transaction Record Reporting and Processing (TRRP) [System of Record] Plan requirements of the WYO Financial Control Plan.” 44 CFR 62.24(c). WYO companies must also enter into an annual arrangement with FEMA entitled the “Financial Assistance/Subsidy Arrangement,” published annually in the Federal Register. 44 CFR 62.23(a).

The Financial Assistance/Subsidy Arrangement (referred to as the WYO Arrangement), sets out the responsibilities of WYO companies and FEMA. Under the Arrangement, the Federal Government is the “guarantor in the primary relationship between the WYO Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended. In furtherance of this end, the Federal Insurance Administrator has established ‘A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program,’” 44 CFR 62.23(f). This plan serves that purpose.

The WYO Arrangement defines the way FEMA will reimburse WYO companies for selling, servicing of flood insurance policies, and adjusting flood losses. The Arrangement authorizes WYO companies to withhold a portion of their written premiums in compliance with the agreed upon Expense Allowance as reimbursement for selling and servicing NFIP policies. In addition to these amounts, FEMA may further incentivize WYO companies with a growth bonus based on the WYO meeting marketing goals. FEMA

also reimburses WYO companies for expenses incurred in the course of adjusting insurance claims, referred to as Loss Adjustment Expenses (LAE).

## 1.2 Authority

The Plan is authorized by 44 CFR 62.23(f). WYO companies agree to comply with all requirements listed in the Plan as part of the annual Financial Assistance/Subsidy Arrangement. If a provision of the Plan conflicts with the Arrangement, the provisions of the Arrangement will prevail.

## 1.3 Intent and Scope

The Plan will provide requirements for WYO companies on compliance with the statutory, financial, and programmatic requirements of the NFIP. Following these requirements will ensure WYO companies are accountable for taxpayer funds.

## 1.4 Generally Accepted Accounting Principles

WYO companies must use Generally Accepted Accounting Principles for financial reporting.

## 1.5 Write Your Own Accounting Procedures

WYO companies must follow the WYO Accounting Procedures Manual for matters of cash-management and accounting procedures. The WYO Accounting Procedures Manual is available [online](#).

## 1.6 Write Your Own Program Standards Committee

FEMA will convene the Standards Committee to receive WYO companies' biennial audits and Operation Review reports. The Committee will review these reports and make recommendations, as appropriate. The Committee will consist of FEMA employees designated by FEMA.

# 2 System of Record

FEMA's System of Record (SOR) is Pivot, an internet-based, digital reconciliation, and recordkeeping system. FEMA's regulations refer to Pivot's predecessor SOR, the Transaction Record Reporting and Processing (TRRP). WYO companies must submit all transactions to the current SOR for purposes of recordkeeping. WYO companies must also reconcile all claims and policy transactions with financial transactions using the SOR. WYO companies must enter financial transactions into financial exhibits and claims and policy transactions into claims and policy transaction reports generated by the SOR. FEMA will monitor transactions and reconciliations to ensure WYO companies explain and properly account for any discrepancies between the exhibits and reports. WYO companies must follow the *Pivot Use Procedures (PUP)* and the *Pivot Claims and Policies Application Programming Interface*.

## 2.1 Submissions

WYO companies may submit transactions at least daily to the SOR in accordance with requirements. The SOR will validate policy and claim submissions by either accepting or rejecting each transaction. The SOR will also record and allow certification of financial transactions. WYO companies must retain all SOR transaction documentation for at least six years and provide it to FEMA upon request.

### 2.1.1 Validation of Policyholder Information

The SOR will validate policyholder information on transaction types including:

- New business;
- Renewals;
- Endorsements;
- Cancellations; and
- Corrections of records previously submitted for premium transactions

### 2.1.2 Rejected Policy and Claims Transactions

Rejected policy and claims transactions occur when WYO companies submit a policy or claims transaction to the SOR and the transaction fails due to criteria outlined in the Flood Insurance Manual, Claims Manual, the Pivot Application Program Interface, or other applicable requirements. WYO companies must correct rejected submissions, unless the rejection is found to be appropriate, and resubmit the transaction within three business days of receiving a rejection notification.

If a WYO company cannot correct a transaction that must be corrected and resubmitted, the WYO company may submit a policy inquiry or exception request to FEMA using the SOR. WYO companies must acknowledge and/or submit policy inquiries and exception requests within three business days of receiving a rejection notification. If FEMA approves a policy inquiry or exception request, the WYO company must resubmit the transaction. If FEMA denies the inquiry or exception request, the WYO company must correct the rejected transaction before resubmission.

Policy inquiries take place when a correction requires additional information or documentation. FEMA will only review policy inquiries once it receives all required documentation from the WYO company. WYO companies may ask for an exception request when they believe the rejected transaction is due to a system error or the WYO company can justify that the transaction should be excepted. FEMA will review exception requests within five business days of receipt of the exception request.

### 2.1.3 Unprocessed Policy and Claims Transactions

Unprocessed transactions are when WYO companies fail to submit a claim or policy transaction in a claim or policy transaction report, despite recording the transaction in the SOR financial exhibit. WYO companies with unprocessed transactions must report the unprocessed transaction to FEMA before certifying any financial exhibits. WYO companies must provide FEMA with documentation that explains the reason for the unprocessed transaction and the documentation must give a planned correction date.

## 2.2 Report and Exhibit Monthly Reconciliations

WYO companies must reconcile individual policy and claim transaction reports with financial expense transaction exhibits and provide a reconciliation statement explaining any dollar-value or transaction number differences or variances each month. WYO companies must submit the monthly financial reconciliation and certified statements no later than 12:00 P.M. Eastern Time (ET) on the 12<sup>th</sup> calendar day of the month following the close of the month being reported. If the 12<sup>th</sup> calendar day falls on a weekend or on a Federal holiday the submission must be made on the next business day.

## 2.3 Report Certifications

WYO companies must certify, under penalty of perjury, that the information submitted in the SOR reports is true and correct, pursuant to 28 U.S.C. 1746. WYO companies must inform FEMA of the individual representatives authorized to sign certification statements on behalf of the WYO companies and immediately notify FEMA of any changes. FEMA will maintain a list of authorized individuals.

## 2.4 Submission Monitoring

FEMA will monitor WYO company submission performance as part of WYO company oversight and require corrective actions, when necessary.

### **Initial Transaction Monitoring**

FEMA will monitor initial transactions, reports, and exhibits for compliance with applicable timeliness and accuracy standards.

### **Reconciliation Accuracy Monitoring**

FEMA will monitor reconciliation reports for dollar value variances and/or discrepancies between claim and policy transactions and financial exhibit transactions. Financial transactions may lag claim and policy transactions due to longer financial processing timeline requirements, which could result in WYO companies having variances between claim and policy transaction submissions and financial submissions at times of monthly reconciliation. If variances exist in monthly reconciliation reports, WYO companies must provide a reason for the variance and ensure variance sums remain within the below thresholds.

Variance Thresholds:  
\$50,000 – Net Written Premium  
\$50,000 – Net Paid Loss  
\$5,000 – Federal Policy Fee  
\$5,000 – Reserve Fund Assessment  
\$5,000 – HFIAA Surcharge

FEMA will send WYO companies with unresolved variances warnings following the 4th, 6th, and 9th consecutive months above the variance thresholds.

## 2.5 Fraudulent Submissions

Fraudulent financial reporting is the intentional misstatement or omission of amounts or disclosures in financial statements to deceive financial statement users. This could include intentional alteration of accounting records, misrepresentation of transactions, or intentional misapplication of accounting principles. FEMA will report fraudulent financial reporting to the Department of Homeland Security Office of the Inspector General (DHS OIG).

## 3 Audits

Audits provide FEMA with independent quality assessments of WYO company internal controls, financial integrity, and reporting accuracy. WYO companies participate in regular audits as a regular course of business, including NFIP-required Biennial audits and State Insurance Department audits. FEMA may also require at-will audits, as appropriate. Nothing in this section or document limits the ability of the Government Accountability Office (GAO) or DHS OIG to review the activities of the WYO Program.

## 3.1 Biennial Audits

WYO companies must “[h]ave a biennial audit of the flood insurance financial statements conducted by an independent Certified Public Accountant (CPA) firm at the Company’s expense to ensure that the financial data reported to [FEMA] accurately represents the flood insurance activities of the Company.” 44 CFR 62.23(j)(1). WYO companies must submit to FEMA the “report of the CPA firm’s detailed biennial audit.” *Id.*

- FEMA will remind WYO companies to arrange a biennial audit. FEMA will provide this reminder in writing at least 120 calendar days before a biennial audit is due.
- WYO companies must select an independent CPA firm to conduct biennial audits.
- Biennial audits must cover the previous two financial years of NFIP program activity.
- The costs of biennial audits are normal administrative operating costs and are not reimbursable.
- The auditors must perform the audit using the Generally Accepted Government Auditing Standards (GAGAS) and Government Auditing Standards, also known as the “Yellow Book” requirements.
- The auditors will review flood insurance financial statements to ensure WYO company compliance with Generally Accepted Accounting Principles.
- FEMA will review the results of the audit and “will convey [FEMA’s] determination to the Standards Committee.” 44 CFR 62.23(j)(1).
- The auditors must ensure proper segregation of duties for billing, accounts receivable generation, and collections responsibilities in the audit to ensure financial integrity. In addition, there must be a clear separation of private business lines.
- WYO companies must submit biennial audit reports, observations, and recommendations to FEMA by March 31, following the fiscal year under audit. For example, the biennial audit for the fiscal year audit period ending September 30, 2019, is due on March 31, 2020.

### 3.1.1 Biennial Audits for Underwriting

Biennial audits must include a review of WYO company underwriting functions. FEMA will provide the auditors with samples of new business policies, renewals, endorsements, cancellations, and Mortgage Portfolio Protection Program business, as applicable. In addition, FEMA will also provide biennial audit instructions. The auditors may supplement the samples FEMA provides with additional samples that the auditors may obtain independently. If any files are unavailable, the auditors must determine the reason for the absence and include an explanation in its audit.

The auditors will conduct biennial audits for underwriting using the minimum procedures such as:

- Review of the WYO company’s underwriting department’s responsibilities, authorities, and composition.
- Interviews with management and key personnel to determine current processing activities, planned changes, and problems.
- Thorough examination of a random sample of underwriting files to measure the quality of work.
- The auditor must provide a representative sample of its review to substantiate its opinion and findings. At a minimum, the auditors must review files to verify that:
  - Property is eligible for NFIP coverage.
  - Policy effective dates are correct.

- Policies are issued under the correct policy form.
- Rates are correct and consistent with the amount of insurance requested on the application.
- The policy files include:
  - A completed application or a photocopy of the most recent application or similar documentation, with the appropriate updates to reflect current information, is on file for each risk.
  - The required supporting documents to issue policy, such as elevation certificates, Standard Flood Hazard Determination Form, etc. If any supporting documentation is missing, the WYO company provides a valid reason for the absence.
- Coverage does not include more than one building or its contents per policy.
- The Flood Insurance Rate Map (FIRM) zone shown on the application is applicable to the community in which the property is located or, if incorrect, WYO companies document the changes in the file.
- The community shown on the application is eligible for insurance purchases under the NFIP.
- Information on the type of building and other rating factors is correct.
- The correct recording of applicable deductibles.
- Coverage does not bind until the WYO company issues it in accordance with applicable requirements.
- Review of endorsement processing.
  - Verify the appropriate application of waiting period requirements on requests for additional coverage.
  - Verify the collection of the correct endorsement premium.
  - Verify that under endorsement provisions, no risk is insured that is not acceptable as a new business risk (for example: a property located in a suspended community).
  - Verify retention of supporting documentation, such as Elevation Certificates, a letter from the mortgage company, etc.).
- Review of cancellation processing.
  - Verify retention of the proper cancellation supporting documentation.
  - Verify a valid reason for the cancellation.
  - Verify application of the correct cancellation effective date.
  - Verify that the correct premium refund was issued.
- Review of renewal processing that verifies controls.
  - Ensure proper notification per FEMA guidelines.
  - Ensure that premium processing is correct.
  - Ensure that all necessary information needed to complete the transaction is on file.
  - Ensure the correct calculation renewal policy effective date.
- Review of prior-term refunds.
  - Verify that issuance of prior-term refunds for valid reasons.
  - Verify that the file contains proper supporting documentation.
  - Verify the use of the correct effective date.
  - Verify that the correct premium refund was issued.
- Expired policy review that verifies controls ensure properly timed steps.
- Review of record retention.
  - Retention of postmarked envelopes for three years from the date of application (via hard copy, scanned document, or computer).
  - Date-stamping and retention of the new business applications (via hard copy, scanned document, or computer).

- Other reasonable insurer methods of verifying transactions involving requests for coverage and receipts of premium, including Internet and credit card premium receipt records.

### 3.1.2 Biennial Audits for Claims

Biennial audits will include a review of WYO company claims functions. FEMA will provide the auditors with sample claim files, in addition to biennial audit instructions. The auditors may supplement the samples FEMA provides with additional samples that the auditors may obtain independently. If any files are unavailable, the auditors must determine the reason for the absence and include an explanation in its audit.

The auditors will conduct biennial audits for claims using the following minimum procedures:

- Review of the Claims Department’s responsibilities, authorities, composition, standard operation procedures, and insurance examiner authorization levels.
- Interview of management examining staff and key clerical personnel to determine current processing activities, planned changes, problems, managerial staff controls over payment authorization levels, and FEMA/WYO company engagement.
- Review to verify compliance with company procedures, WYO company disaster plans, and surge staff plans.
- Thorough examination of a random sample of claims files to measure the quality of work. At a minimum, the auditors must review files to verify that:
  - Controls to ensure that a file is set up for each Notice of Loss received.
  - Adjuster reports contain adequate evidence to substantiate the payment or denial of claims, including the amount of losses claimed, applicable taxes, any salvage proceeds, depreciation, and subrogation.
  - Building and contents loss payments match the amount of covered loss.
  - The file contains evidence identifying subrogation possibilities.
  - Advance or additional payments were properly considered in processing the final draft or check.
  - Loss payees were correctly listed (consider the insured(s) and the mortgagees).
  - The total amount of the drafts or checks is within the policy limits.
  - The WYO company’s examiner acted promptly after receiving information from an independent adjuster to provide proper feedback with instructions or to pay or deny the claim.
  - The Claims Department is using a procedure for reporting possible misrated policies and other errors.
  - For purposes of cancellation, the Claims Department notifies the underwriting department when a total loss has occurred.
  - The WYO company’s examiner reviews the dwelling estimate and personal property inventory to validate the information for coverage, quantity, like kind and quality and FEMA adjusting practices followed.
  - The WYO company’s examiner ensures the proper application of a co-insurance formula in the NFIP Claims Manual to residential condominium building claims, including the determination of the correct replacement cost value of the building.
  - To the extent possible, that the square footage measurements are correct.
  - The unit prices used are within the established guidelines for the event.
  - The calculation of square footage times the unit price is correct.

- When fraud or the attempt of fraud occurs, WYO companies report the occurrences in a timely manner to FEMA.
- Review of the WYO company updated reserves per FEMA guidelines upon receipt of adjuster's initial and interim reports and close reserves upon receipt of the adjuster's final report.
- FEMA reviews the effectiveness of the WYO's claims servicing operation.
- FEMA reviews to ensure claims history reviewed prior to paying a current claim.

## 3.2 For-Cause Audits

FEMA may conduct additional audits of WYO companies whenever FEMA believes there is cause. FEMA will provide WYO companies a minimum of 60 calendar days from the date of request to complete a for-cause audit. The following occurrences may collectively or individually provide cause to initiate an audit.

### 3.2.1 For-Cause Audits for Underwriting

Underwriting activity that may result in a for-cause audit includes:

- Excessively high frequency of errors in policy processing and underwriting, including:
  - Policies issued for ineligible risks;
  - Policies issued in ineligible communities;
  - Policies issued with premium and/or total amount of paid errors;
  - Missing or insufficient documentation in the policy file; and
  - Other patterns of consistent errors.
- Excessively high rate of policy cancellations or non-renewals;
- Large number of policies not processed in a timely manner;
- Excessively high rate of duplicate policies;
- Excessively high rate of policyholder complaints; and
- Biennial audit indicates significant problems.

### 3.2.2 For-Cause Audits for Claims

Claims activity that may result in a for-cause audit includes:

- Consistent patterns of:
  - Issuing payments for losses not covered;
  - Incorrect information on loss adjustment;
  - Not adequately addressing salvage or subrogation;
  - Overpayment or underpayment of claims;
- Consistent pattern of excessively high numbers of either erroneous assignments, claims closed without payment, or both;
- Claim payments that are significantly different from the NFIP-wide average;
- Failure to address underwriting issues reported during the claims handling process;
- Consistently having insufficient documentation for paid claims;
- Consistent patterns of untimely processing of claims;
- Failure of a WYO company to receive authorization for Special Allocated Loss Adjustment Expenses (SALAE) prior to incurring them;
- High submission rate of SALAEs;

- Consistently high policyholder complaint level or repetitive numbers of claim handling irregularities discovered upon appeals;
- Consistently low numbers of salvage or subrogation; and
- Biennial Audit indicates significant problems.

### 3.2.3 For-Cause Audits for Financial Reporting and Accounting

FEMA may perform for-cause audits for reasons such as:

- Consistently incorrect financial exhibit information.
- Consistently high reconciliation variances.
- Consistently failing to explain large variances in cash reconciliations.
- Consistent late submission of financial information.
- Letter of Credit violations.
- Consistently failing to deposit funds into a restricted account in a timely manner.
- Regularly failing to transfer funds through the automated clearinghouse in a timely manner.
- Consistently significant premium amounts in suspense, older than sixty (60) days or not detailed sufficiently in statements.
- Unusual or negative balance in Cash - Other (receivables or payables).
- Large, unusual, or consistent balances or variations between months noted for key reported financial data.
- Repeated failure to respond fully and in a timely manner to questions raised by FEMA concerning monthly financial reporting.
- Biennial audit indicates significant problems.

## 3.3 Improper Payment Audits

FEMA will perform audits to identify improper payments as required by the Improper Payments Information Act of 2002 (IPIA), the Improper Payments Elimination and Recovery Act of 2010 (IPERA), and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA). WYO companies will cooperate with Improper Payment audits and provide any NFIP related information that FEMA requests.

Improper Payment Audit Process:

- FEMA will review information available in the SOR and identify random sample transactions.
- FEMA will notify WYO companies of the audit and request hard or electronic copies of claim files that support the selected sample transactions.
- WYO companies will send the selected hard or electronic copy claim files to FEMA.
- FEMA will review the information to ensure that the issued amounts match the reported amounts.
  - If amounts match, FEMA notifies WYO companies of the audit completion by email.
  - If amounts do not match, FEMA will contact WYO companies and request additional information.
    - If WYO companies agree with the findings, then WYO companies must reimburse the NFIP for any overpayments and policyholders for any underpayments.
    - If WYO companies contest the findings, then WYO companies must submit an explanation with applicable support documentation.
    - FEMA will review the additional information and determine if an improper payment took place.

- FEMA will submit final reports to the Office of Management and Budget and provide WYO companies with a copy by email.
- WYO companies will have 30 days to reimburse the NFIP for overpayments, from the date FEMA issues the debt collection notification.

### 3.4 State Insurance Department Audits

WYO companies must cooperate with flood insurance audits conducted by state insurance departments. When a state insurance department initiates an audit of a WYO company's NFIP business, the company must notify FEMA and provide a brief statement on the scope of the audit. When a state audit of a WYO company concludes, the company will:

- Notify FEMA of the auditing entity's identification;
- Provide FEMA with a brief statement of the conclusions that relate to flood insurance and the insurer's financial condition, when available;
- Maintain, on file, any reports resulting from audits; and
- Submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusions.

In addition to state audit specific material, WYO companies must provide FEMA with copies of all submissions to the National Association of Insurance Commissioners related to their flood insurance activities and must attest to the accuracy of those submissions.

## 4 Claims Re-inspections

Re-inspections are secondary reviews that follow the initial claims inspection. Re-inspections assist in maintaining quality claims processing and add additional oversight to the policyholder claims process. FEMA may re-inspect any claim.

FEMA may re-inspect any claim with or without cause. However, FEMA is more likely to re-inspect a claim in the following situations:

- WYO Special Assists - Issued following a WYO company's written request for assistance;
- Government Inquiry - Issued following a government request for additional information;
- FEMA Appeals - Issued following an appeal to FEMA for additional information;
- Random Claims Quality Check (RCQC) - See Section 5 for more details; and

FEMA typically conducts re-inspections by virtual desk reviews or on-site physical re-inspections. FEMA performs virtual desk reviews by electronically reviewing claim files and physical re-inspections by visiting the property location.

## 5 Random Claims Quality Check

A RCQC is when FEMA chooses to re-inspect claims during or following a large flooding event. Considering the increase in volume that large flooding events cause, RCQCs allow FEMA to identify and mitigate technical and procedural problems during all stages of the claims process. RCQCs provide FEMA with trend analysis on both open and closed files.

The RCQC reinspection process:

- FEMA will randomly select approximately 2% to 3% of all claims related to a disaster for re-inspection;
- FEMA will determine and notify WYO companies selected for re-inspection;
- When possible, 25% of claims selected for re-inspection will involve a physical inspection with the policyholder and a WYO company representative;
- FEMA will begin reviewing individual claims after the date of inspection;
- FEMA will re-inspect claims and notify the WYO of identified errors for further review;
- FEMA will notify WYO companies upon the identification of an error;
- WYO companies must provide a written response to errors identified by FEMA within seven business days of notice;
- FEMA will review information and response provided by the WYO and determine whether the error stands or not. Further conversations with the WYO may be warranted.
- Upon full review of the WYO responses, FEMA will provide the WYO companies with a summary report;
- Excessive errors may indicate the need for additional RCQC reviews; and
- As summary reports are final determinations, WYO companies may not further contest the results.

## 6 Operation Reviews

Operation Reviews are assessments FEMA will conduct of WYO companies to evaluate overall operational activities pursuant to 44 CFR 62.23(j)(2). Operation Reviews will focus on five areas: Underwriting, Claims, Marketing, Customer Service, and Litigation. FEMA will evaluate each focus area independently. FEMA will provide Operation Review results to the Standards Committee.

### 6.1 Operation Reviews for Underwriting

At least once per year, FEMA will conduct underwriting Operation Reviews for each WYO, consisting of an analysis of operational activities and processing procedures. Operation Reviews for underwriting will provide FEMA with an analysis of WYO company's operational activities and ensure compliance with existing administrative and technical, established policies and procedures.

#### **Operation Review Process for Underwriting:**

The operation review process may include but is not limited to:

- FEMA will select a random sample of policy transactions that reflect the operational activities listed below.
  - New business policies
  - Cancellations
  - Policy renewals
  - Endorsements
  - Prior Term Refunds (PTR)
- FEMA will determine random sample selection size, as shown in section 6.1.1.
- FEMA will notify the WYO companies of the selected documents necessary to review the operational activities.
- WYO companies must provide selected documents to FEMA within 30 calendar days from the notification date.
- FEMA will provide WYO companies with the Operation Review results that include all errors and observations.

- FEMA will provide WYO companies with 14 calendar days to respond to errors and observations identified during the review and will resolve outstanding questions.
- FEMA may require corrective action(s) based on trends from errors and observations identified during the Operation Review.
- WYO companies will address the observations, address all errors, and provide a plan for any required corrective action(s) within 60 calendar days.
- FEMA may also establish additional follow-up procedures and, if necessary, require a for-cause audit or additional oversight activity.

### 6.1.1 Random Sample Size Determination

Annually, FEMA will review, at a minimum, five cancellations, five renewals, and five endorsements that each WYO company processes with policy effective dates within the last six months. The number of new business policies FEMA will review corresponds with the number of new policies written.

<b>Sample Size Determination</b> <i>(accrued annually)</i>	
<b>New Business Policies Written</b>	<b>Samples Reviewed</b> <i>(at a minimum)</i>
0-50	0
51-100	5
101-2,500	10
2,501-5,000	20
5,001-10,000	50
10,001 +	100

### 6.1.2 Underwriting File Review

FEMA will review Underwriting files using the below criteria.

#### **New Business Review**

FEMA will review new business applications to verify that WYO companies:

- Confirm property is eligible for NFIP coverage;
- Ensure policies are issued under the correct policy form (for example: Standard Flood Insurance Policy, General Property, or Residential Condominium Building Association Policy);
- Verify policies are issued with correct calculated premium and total amount paid by the policyholder (correct rates, discounts, assessments, surcharges);
- Confirm policies are issued with correct Policy Effective Date;
- Verify policy files include all the required supporting documents to issue a policy;
- Processed new business within 15 business days;
- Sent request for correction within 10 business days when unable to issue the policy due to incomplete or erroneous information, or insufficient funds;
- Used rating information to calculate the premium for the policy issued is correct and consistent with the rating information reported to FEMA; and
- Application information and supporting documentation on file is consistent with the rating of the policy.

### **Cancellation Processing Review**

FEMA will review cancellation processing to verify that WYO companies:

- Utilize and provide an accurate and complete reason per FEMA guidelines for the cancellation;
- Retain proper supporting documentation;
- Apply an accurate cancellation effective date;
- Calculate the premium refund amount; and
- Process cancellations within 15 business days.

### **Renewal Processing Review**

FEMA will review renewal processing to verify that WYO companies:

- Process the renewal in accordance with the NFIP guidelines;
- Calculate the correct renewal premium;
- Calculate the correct renewal policy effective date;
- Maintain all necessary information and documentation for renewal processing; and
- Process renewals within seven business days.

### **Endorsement Processing Review**

FEMA will review endorsement processing to verify that WYO companies:

- Sent endorsement notices in accordance with NFIP guidelines;
- Applied an accurate endorsement effective date;
- Calculated the correct endorsement premium;
- Verified the endorsement reason and retained all support documentation; and
- Processed the endorsement within 15 business days.

### **Prior Term Refund Review**

FEMA will review PTR processing to verify that WYO companies:

- Apply an accurate PTR effective date;
- Calculate the correct PTR premium; and
- Verify the PTR reason and retain all support documentation.

### **6.1.3 Underwriting Departmental Review**

FEMA may include a review of the WYO company underwriting department's responsibilities, authorities, and structure (managerial, technical, and clerical).

The review may include:

- Review of the WYO company's underwriting department's responsibilities, authorities, and composition;
- Interviews with management and key personnel to understand current processing activities, planned changes, and problems;
- Review of WYO company's policyholder communication;
- Review of WYO company's pending management and controls; and
- An administrative review to verify compliance with NFIP procedures.

### 6.1.4 Underwriting Operation Review Results

At the end of an Operation Review, FEMA will provide WYO companies with a final report. FEMA will distribute reports digitally by means of the SOR. FEMA will include observations and errors relating to NFIP’s statutory, regulatory, or policy guidelines. The report will also include recommendations on steps necessary to rectify errors. The reports will provide either a Satisfactory or Unsatisfactory rating.

### 6.1.5 Operation Review Scoring

FEMA will base WYO company scores on an Error Score calculated during the review of new business files. FEMA will classify issues into either minor “Non-Critical Errors” or major “Critical Errors.” FEMA will calculate the Error Score by adding Critical Errors and dividing by the total number of new business files it reviews. FEMA will include Non-Critical Errors in the report; however, they will not impact Error Score. FEMA will use the Error Score to determine if an Underwriting Operation Review is Satisfactory or Unsatisfactory.

$$\frac{\text{Critical Errors}}{\text{New Business Files Reviewed}} = \text{Error Score}$$

*\* Non-Critical Errors = (no point reduction)*

Review Item	Sub-Categories
Effective Date	<ul style="list-style-type: none"> <li>• Loan Transaction or Lender Required</li> <li>• Map Revision</li> <li>• Rollover</li> <li>• Standard Waiting Period</li> </ul>
Eligibility	<ul style="list-style-type: none"> <li>• Eligible Building or Contents</li> <li>• Eligible Community</li> <li>• Policy Type</li> </ul>
Rating Element	<ul style="list-style-type: none"> <li>• Base Flood Elevation</li> <li>• Basement, Enclosure, Crawlspace, or Subgrade Crawlspace</li> <li>• Building Diagram Number</li> <li>• Building Occupancy</li> <li>• Building Type or Number of Floors</li> <li>• Building Under Construction</li> <li>• Building Walled and Roofed</li> <li>• Condominium Ownership/Condominium Coverage</li> <li>• Contents Location</li> <li>• Coverage</li> <li>• Date of Construction</li> <li>• Elevation Difference</li> </ul>

	<ul style="list-style-type: none"> <li>• Estimated Replacement Cost</li> <li>• FIRM Zone</li> <li>• Floodproofing</li> <li>• Grandfathering - Current Community Info</li> <li>• Is Building Elevated</li> <li>• Is Building Over Water</li> <li>• Leased Federal Property</li> <li>• Low Rise or High Rise</li> <li>• Lowest Adjacent Grade</li> <li>• Lowest Floor Elevation</li> <li>• Mobile Home Info</li> <li>• Number of Occupancies (Units)</li> <li>• Obstruction Indicator</li> <li>• Obstruction Type</li> <li>• Post-FIRM indicator</li> <li>• Premium</li> <li>• Rated Community number</li> </ul>
Documentation Validity	<ul style="list-style-type: none"> <li>• Application</li> <li>• Certification of Breakaway Walls</li> <li>• Condominium Ownership Validation</li> <li>• Elevated Building Determination Form</li> <li>• Elevation Certificate</li> <li>• Photographs</li> <li>• PRP Zone Documentation</li> <li>• Newly Mapped Zone Documentation</li> <li>• Replacement Cost Documentation</li> <li>• Rollover Documentation</li> <li>• SFR Worksheet</li> <li>• Variance</li> </ul>
Unresolved discrepancies	<ul style="list-style-type: none"> <li>• Additional Comments</li> <li>• Policy file notes</li> </ul>

Examples of Critical Errors include:

- Any error that impacted the correct rating of the policy;
- The insuring of an ineligible risk;
- The failure to obtain the information necessary to properly identify and underwrite a risk; and
- The issuance of a policy with an incorrect effective date.

**Satisfactory**

If FEMA determines a WYO company’s Error Score is 10 percent or below, FEMA will consider the outcome of the Operation Review Satisfactory. If FEMA determines an Operation Review is Satisfactory, the WYO company does not need to take additional steps.

**Unsatisfactory**

If FEMA determines a WYO company’s Error Score is above 10 percent, FEMA will consider the Operation Review Unsatisfactory. All WYO companies with Unsatisfactory ratings will provide FEMA with a Corrective Action Plan that defines the scope of the issue, lists corrective actions and future mitigation actions, and provides a timeline for completion. FEMA may additionally require

WYO companies with an Unsatisfactory rating to perform a re-underwriting of policies that were issued incorrectly. FEMA will work with the WYO to determine the scope of the re-underwriting, based on the types of errors found.

## 6.2 Operation Reviews for Claims

At least once per year, FEMA will conduct an Operation Review of WYO companies with closed claims with a date of loss in the six months prior to a review. FEMA's Operation Reviews for claims will ensure compliance with the NFIP's statutory, regulatory, and policy guidelines and procedures. FEMA's analysis will include a review of claims operations, documentation, policyholder experience, and payments.

### **Operation Review Process for Claims:**

- FEMA will select a random group of claims with a date of loss within the past six months.
- FEMA will notify the WYO companies of the selected documents necessary to review the claims.
- WYO companies must provide selected documents to FEMA within 30 calendar days.
- FEMA will provide WYO companies with the Operation Review results that include all errors and observations.
- FEMA will provide WYO companies with seven business days to respond to errors and observations identified during the initial review.
- FEMA may require corrective action(s) based on trends from issues and observations identified during the Operation Review.
- WYO companies must address the observations, correct all errors, and provide a plan for any required corrective action(s).
- FEMA may also establish additional follow-up procedures and, if necessary, require a for-cause audit or other additional oversight activity.

### 6.2.1 Minimum Selection Size Criteria

The number of claims FEMA will randomly select for review will be based on the number of closed claims processed by each WYO company with a date of loss in the six months prior to a review. FEMA will limit the random selection of claims to closed claims with a date of loss within the past six months. FEMA will select claims from all policy forms. Additionally, FEMA’s review will include Coverage D - Increased Cost of Compliance (ICC).

<b>Number of WYO Company Claims</b> (Date of Loss Six Months Prior to Review)	
<b>Total Closed Claims*</b> <i>(number)</i>	<b>Claims Selected for Review</b> <i>(minimum)</i>
1 – 49	3
50 – 249	5
250 – 999	10
1,000 – 2,499	20
2,500 – 9,999	25
10,000 or more	35

\* If a WYO company does not process any closed claims with a date of loss in the six months prior to a review, FEMA will defer the review to the next review cycle.

### 6.2.2 Claim File Review

FEMA will review claim files to measure the quality of investigations, scope of loss, and adjustment and supervision of NFIP claims activities. FEMA’s file review will address the completeness, accuracy, and validity of the selected claim files and supporting documentation. Additionally, FEMA’s file review will include adjuster registration to verify that the adjuster has a valid Flood Control Number to adjust the assigned claims.

FEMA will review claims files using the below criteria.

<b>All Claim Files</b> <i>(must have)</i>	<b>Circumstantial Requirements</b> <i>(as applicable)</i>
Photographs	Inventory and invoices for stock losses and other documentation
Examiner log notes	Check copies of claim payments
Transaction records	Denial letters
All correspondence	Underwriting referrals
Proof of loss <i>(or counterevidence)</i>	Expert (engineer, CPA, salvor, etc.) reports and invoices
Adjuster reports	Waivers

## **Operations**

FEMA will review claim documentation to verify that the WYO companies:

- Provide timely updates to reserves upon receipt of the adjuster's initial and interim reports and close reserves upon receipt of the adjuster's final report;
- Ensure adjuster reports contain adequate evidence to substantiate the payment or denial of claims, including the amount of loss, applicable taxes, salvage buy-back and proceeds, depreciation, and subrogation;
- Use procedures for reporting possible misrated policies and other errors;
- Report the occurrence of fraud to FEMA in a timely manner;
- Apply the co-insurance formula to residential condominium building claims, including the determination of the correct replacement-cost value of the building;
- Perform a claims prior loss history review before paying a claim;
- Validate entities listed on reports have an insurable interest on the property;
- Verify that the loss was due to flooding;
- Validate the coverage and policy effective date at the time of loss;
- Consider other insurance or losses;
- Use technical experts, when appropriate;
- Document and itemize damages;
- Determine the quantity and value of contents losses;
- Ensure the photographs in the file reflect the building description in the policy.
- Validate that the square footage measurements are correct by using the adjuster's room by room diagram;
- Ensure that the adjuster's estimate of the unit pricing for the event is within the established guidelines and specifications;
- Validate replacement cost value and actual cash value of the policyholder's property; and
- Ensure that the building and contents loss payments equal the amount of covered loss.

## **Documentation**

FEMA will review claims documentation to verify that WYO companies:

- Ensure, for purposes of cancellation, that WYO company claims departments notify WYO company underwriting departments when a total loss occurs;
- Validate that a file is set up for each Notice of Loss; and
- Confirm that the claims file contains evidence identifying subrogation when appropriate.

## **Policyholder Experience**

FEMA will review policyholder's experience to verify that WYO companies:

- Confirm that the WYO company's examiner acted promptly after receiving information from an independent adjuster to provide proper feedback with instructions on paying or denying the claim;
- Assign the claim to an adjuster within 24 hours of Notice of Loss;
- Validate adjuster attempts to contact policyholders within 48 hours of notification;
- Ensure preliminary report submissions occur within 15 days of the assignment of the claim;
- Provide the Claims Handbook and ICC Brochure to policyholders;
- Provide regular and clear communication to policyholders for the duration of claims; and
- Apply the Flood Insurance Reform Act (FIRA) requirements, only when applicable.

## Payments

FEMA will review claims payments to verify that WYO companies:

- Routinely offer an advance or additional payment when processing final drafts or checks;
- Validate that the total amount of the drafts or checks is within the policy limits;
- Correctly list loss payees and mortgagees on drafts or checks, when applicable;
- Apply correct deductibles;
- Request and document a proof of loss waiver from FEMA, when appropriate; and
- Request and document appropriate authorization from FEMA to pay SALAE Type 1, 2, or 4 expenses.

### 6.2.3 Claim Departmental Review

FEMA may include a review of a WYO company claims department's responsibilities, authorities, and structural composition (managerial, technical, and clerical). Upon FEMA's request, WYO companies will provide an overview of the department's responsibilities, authorities, and staffing, prior to the on-site review.

The review may include:

- Statement of Primary Function(s);
- Interview management examining staff and key clerical personnel, as needed;
- WYO company structure and staffing composition;
- Responsibilities and authorities;
- Company procedures and processing activities;
- Current or reoccurring issues;
- Planned changes; and
- WYO Company disaster and surge staff plans.

### 6.2.4 Claims Operation Review Results

At the end of an Operation Review, FEMA will provide WYO companies with a final report. FEMA will distribute reports digitally by means of the SOR. The report will include the number of claims FEMA reviewed, listing any violations, findings, observations, communications, and any under or overpayments. The report will also include recommendations on steps necessary to rectify issues FEMA identifies. The reports will either provide a Satisfactory or Unsatisfactory rating.

## 6.2.5 Operation Review Scoring

Operation Review reports will include an Error Score based on the accuracy of WYO company claims samples. FEMA will calculate Error Score scores by multiplying the number of files it reviews by 12 and dividing total Errors by the number. Minor issues, or “findings,” will result in one (1) Error. Major issues, or “violations,” will result in three errors. FEMA will use the Error Score to determine if a Claims Operation Review is Satisfactory or Unsatisfactory.

$$\frac{\text{Errors}}{\text{Claims Reviewed} \times 12} = \text{Error Score}$$

Reviews	Error Categories
Operations	<ul style="list-style-type: none"> <li>• Case Loss Reserves</li> <li>• No Signed Proof of Loss (POL)</li> <li>• Special Allocated Loss Adjustment Expenses (SALAE)</li> <li>• Unauthorized Adjusters</li> <li>• Adjuster Issues</li> <li>• Claims Closed without Payments (CWOP)</li> </ul>
Documentation	<ul style="list-style-type: none"> <li>• Improper Denial Letters</li> <li>• Not Obtaining Waivers when Required</li> </ul>
Policyholder Experience	<ul style="list-style-type: none"> <li>• Time Standards</li> <li>• Communications</li> </ul>
Payments	<ul style="list-style-type: none"> <li>• Overpayments</li> <li>• Underpayments</li> </ul>

Examples of major violations include:

1. An overpayment or underpayment resulting from a misapplication of building or personal property coverage under the SFIP;
2. Use of an incorrect deductible;
3. Duplicate payments;
4. Proof of Loss time standard infractions that result in a delay of payment to policyholders of more 90 days after the insurance adjuster files an adjuster’s report in lieu of a signed proof of loss if documentation supporting the delay is not provided;
5. Any underwriting error that results in a reduction or reformation of coverage affecting the premium and subsequent claim payment;
6. Incorrect Special Allocated Loss Adjustment Expense (SALAE) payment;
7. Payments issued without proof of loss waiver when required by FEMA;
8. Insufficient exceptions documentation (for example: adjuster’s judgment, SALAE exceptions, etc.);
9. Insufficient documentation of an expert’s state licensing credential validation;
10. Incorrect denial letters;
11. Missing mortgagee or loss payee information;
12. Proof of Loss time standard infractions that result in a delay of payment to policyholders of more than 60 days after receiving a proof of loss if documentation supporting the delay is not provided;

13. Incorrect adjuster expense payment that falls outside of the FEMA guidelines without proper documentation noted in the file;
14. Deficient or redundant case loss reserves; and
15. Improper adjuster authorization.

### **Satisfactory**

If FEMA determines a WYO company's Error score is below 10 percent, FEMA will consider the outcome of an Operation Review as satisfactory. When FEMA determines an Operation Review is satisfactory, the WYO company does not need to take additional steps.

### **Unsatisfactory**

If FEMA determines a WYO company's Error score is 10 percent or above, FEMA will consider the outcome of an Operation Review as unsatisfactory. FEMA will provide the Unsatisfactory rating in a report format. The report will describe each Unsatisfactory condition and provide support documentation. WYO companies will provide a Plan of Action to address all deficiencies in response to the Unsatisfactory review. The Plan of Action will define the scope of the issue, list planned corrective actions and future mitigation actions, and provide a timeline.

## 6.3 Operation Reviews for Customer Service

FEMA will review WYO company customer service operations annually. FEMA will perform the reviews in combination with the WYO company operation plans. WYO companies will submit information on current and future operations, describing current practices and efforts to improve policyholder experience.

FEMA will review WYO operations plans to ensure plans include the below customer service elements:

1. Description of overall customer service practices, listing existing and planned improvement efforts
2. Up-to-date information
  - a. Customer Care
    - i. Ability to track total call volume
    - ii. Ability to track total call abandon rate
    - iii. Ability to track speed to answer
    - iv. Ability to track talk time
  - b. Website (*with flood insurance reference*)
  - c. Validate Time Standards Reporting – The ability of the WYO to measure, validate, and generate reports which provide the total number of items processed and the average number of days to process for the items below.
    - i. Application Processing
    - ii. Renewal processing
    - iii. Endorsement processing
    - iv. Cancellation processing
    - v. File examination
    - vi. Claims draft processing
    - vii. Claims adjustment
    - viii. Upload transactions to PIVOT

## 6.4 Operation Reviews for Marketing

FEMA will conduct marketing operation reviews annually. FEMA will perform the reviews using WYO company marketing operations plan submissions. WYO companies will submit current and future marketing plans describing forecasted growth, efforts to achieve that growth, and the ability to comply with any marketing guidelines provided by FEMA. Marketing plan submissions must include evidence that WYO companies encourage current property insurance policyholders to purchase flood insurance through the NFIP. FEMA will review WYO company marketing plans to ensure compliance with the Arrangement Operations Plan, and FEMA marketing guidelines.

FEMA will review WYO companies marketing plans to ensure the plans include:

- Agent Networks
  - Agent incentives and support
    - Online Agent Resources
    - Agent Marketing Strategies
    - Methods of WYO Company Communications with Agents
    - Agent training
- Distribution Networks
  - Marketing Activities
  - Sales Force Communication
  - Sales Force Education and Training
  - Utilization of FEMA programs

## 6.5 Operation Reviews for Litigation

FEMA will conduct an operation review for litigation activities every two years. This operation review will supplement FEMA's ongoing oversight of WYO companies' litigation activities in accordance with the NFIP Litigation Manual.

WYO companies must submit the standards and policies that govern the company's litigation practices for their flood insurance line of insurance. Such standards and policies should address a wide range of decisions, such as when to litigate a case, when to settle a case, whether to hire outside counsel, how much to pay outside counsel, etc.

WYO companies must also submit the comprehensive litigation standards and policies that govern the company's lines of property and casualty insurance.

As part of the operation review, FEMA will examine:

- Whether WYO companies' litigation standards and policies follow FEMA's guidance as set forth in the NFIP Litigation Manual and the NFIP Claims Manual when litigating and reporting matters under the NFIP; and

Whether WYO companies follow their customary business practices when litigating cases under the WYO program.

Upon request WYO companies must submit the required standards and policies to [FEMA-NFIP-WYO-Oversight@fema.dhs.gov](mailto:FEMA-NFIP-WYO-Oversight@fema.dhs.gov).

## **7 Risk Rating Information**

WYO companies must establish procedures to carry out the NFIP rating system. WYO companies must adapt underwriting practices to the underwriting rules and rates in effect, as provided by the NFIP, and cooperate with FEMA in the implementation of NFIP program changes.

## **8 Letter of Credit**

To ensure WYO companies have the funds needed to pay claims in a timely fashion, and other authorized WYO company expenses, FEMA established the Letter of Credit (LOC) process. FEMA will establish LOCs to allow WYO companies to withdraw funds. To draw on a LOC, WYO companies must submit a request on company letterhead by email to FEMA. The request must include:

- Name of company making request;
- Name of the flooding event;
- States affected;
- Reason for LOC request;
- Authentication letter signed by the company's accounting supervisor or higher;
- Supporting documentation, including:
  - The amount required to pay claims, premium refunds, adjuster expenses, etc.;
  - Current LOC balance, if any; and
  - Company reserves report.

WYO companies must not include personally identifiable information or other sensitive information on policyholders. If FEMA determines the request is reasonable and complete, the agency will approve the request and initiate the payment process. FEMA will notify the WYO company that the request is complete after the funds post. The LOC withdrawal process normally takes one to three business days.

## **9 Reporting Fraud**

WYO companies must report suspected instances of fraud to FEMA immediately. FEMA will refer any suspected instances of NFIP program fraud, including intentional misstatements, omissions of amounts, or disclosures in financial exhibits or policy and claims reports to the DHS OIG.

The DHS OIG serves as an independent body to deter, identify, and address fraud, abuse, mismanagement, and waste in DHS programs and operations. WYO companies must cooperate fully in any DHS OIG investigations related to their NFIP participation.

## **10 Improper Payments**

When a WYO company becomes aware of an overpayment, the WYO company must notify FEMA if FEMA is unaware and reimburse the NFIP for the overpayment amount. If a WYO company receives a debt collection notification from FEMA, the WYO company will have 30 calendar days to reimburse the NFIP from the date of notification. WYO company reimbursements to the NFIP due to overpayments may not come from NFIP program funds. When a WYO company becomes aware of an underpayment, it must notify FEMA if FEMA is unaware and provide the policyholder with the additional amount due. WYO company reimbursements to policyholders due to underpayments may come from NFIP program funds. FEMA will track instances of overpayments and underpayments from discovery to resolution.

## 11 Potential Consequences for Unsatisfactory Performance

Improper SOR submissions, failure to resolve audit findings and recommendations, and Unsatisfactory performance in an Operations Review all constitute material failures to comply with the WYO Arrangement and are cause to cancel a company's participation in the WYO Program. FEMA may offer companies opportunities to comply with remedial conditions and requirements to avoid cancellation of participation, such as:

- Requiring companies to submit additional reports, including:
  - Corrective Action Plans containing:
    - Definition of the scope of the issue
    - Planned Corrective Actions
    - Future Mitigation Actions
    - Implementation Timeline
  - Informal ad hoc reports on the area of defined non-compliance
  - Formalized periodic reports on the area of defined non-compliance
- Requiring WYO company personnel to receive additional technical assistance
- Enhanced FEMA oversight, such as:
  - Increase in communications and reporting requirements (*routine meetings*)
  - Additional reconciliation scrutiny
  - Additional documentation submission requirements
  - Initiation of for-cause Audit