



NATIONAL FLOOD INSURANCE PROGRAM

Bureau and Statistical Agent

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2015-01

MEMORANDUM TO: Write Your Own (WYO) Principal Coordinators,
For Dissemination to WYO Claims Managers

FROM: Joyce A. King, Claims and Underwriting Director
NFIP Bureau and Statistical Agent

DATE: May 17, 2001

SUBJECT: Revisions to Special Allocated Loss Adjustment Expenses –
Litigation Expense Procedures

Special Allocated Loss Adjustment Expenses (SALAE) are normally reimbursed to a Write Your Own (WYO) Company on the basis of the National Flood Insurance Program (NFIP) Fee Schedule, which allows a specified fee depending on the amount of the total net paid claim (assuming the application of standard deductibles). For ready reference, the NFIP Fee Schedule accompanies this bulletin. The Federal Emergency Management Agency (FEMA) recognizes that a company will sometimes incur extraordinary expenses on a claim. When justified, these extraordinary expenses will also be reimbursed to the WYO Company as special allocated expenses (SAE).

Types of SAE

A special allocated expense is defined as any incurred loss adjustment expense related to a claim other than the applicable schedule fee. FEMA has defined four types of SAE:

- Type 1 - Engineering expense incurred to adjust a specific claim.
- Type 2 - Adjuster expense, in excess of the applicable schedule fee, incurred to establish coverage or the property value on a specific claim, or otherwise to facilitate the adjustment.
- Type 3 - Litigation expense incurred to defend a suit brought against the company on a claim under a WYO policy.
- Type 4 - Cost of appraisal under the Standard Flood Insurance Policy Appraisal Clause, or cost of examination under oath.

Does the Expense Require Specific Approval?

The following special allocated expenses do not need specific FEMA approval before reimbursement can be made to the company:

- Expense Type 1, Engineering Expense - WYO Company is authorized to approve up to \$2,500 per claim without FIA's approval.
- Expense Type 2, Adjuster Expense (in excess of applicable schedule fee) - WYO Company is authorized to approve up to \$500 per claim without FIA's approval.
- Expense Type 3, Litigation Expense - WYO Company is authorized to approve up to \$5,000 per claim without FIA's approval.
- Expense Type 4, Cost of Appraisal (implementation of the Standard Flood Insurance Appraisal Clause) - WYO Company is authorized to approve up to \$2,500 per claim without FIA's approval.

However, specific FIA approval is required for the following special allocated expenses:

- Expense Type 1 - Expense exceeding \$2,500 in the aggregate
- Expense Type 2 - Expense exceeding the existing schedule fee and an additional \$500
- Expense Type 3 - Expense exceeding \$5,000 in the aggregate
- Expense Type 4 - Expense exceeding \$2,500 in the aggregate

When more than one Type 1 or Type 4 expense is incurred on a claim, the **\$2,500** threshold applies to all expenses of that type in the aggregate. For example, if the company engages on the same claim a soil engineer for \$1,600 and a structural engineer for \$1,000:

- The company must obtain approval for the **total type 1 expenses of \$2,500**, even though no single expense exceeded \$2,500.
- Each expense is less than \$2,500, and the company could transact an SAE for any one of these expenses without obtaining specific approval; and
- Approval for the sum of all expenses incurred must be obtained before transacting an SAE for the second expense.

When FIA approval is required, reimbursement of SAEs cannot be processed until they have been approved in an exact amount.

All expense requests that require FIA approval should be accompanied by copies of the actual bill(s) and itemized time and expense sheet(s). **Also, the company must provide a brief explanation as to why approval of the expenses should be granted.**

Litigation Expenses (Type 3)

The FIA requires all WYO companies to submit notification to the FIA of potential litigation against the NFIP. Such notifications should be sent to the following address:

Federal Emergency Management Agency
Federal Insurance Administration (Legal Liaison)
500 C Street, SW, Room 430
Washington, DC 20472

Notice to FIA should include a copy of the **Summons and Complaint** along with your **Case Plan and Budget** and your **Initial Case Analysis**. This information is forwarded to the FEMA Office of General Counsel (OGC), which may request additional information from the WYO Company. From that point on, legible copies of all itemized invoices should be sent to the NFIP Bureau and Statistical Agent at the address on the next page.

Notification of potential NFIP-related litigation against a WYO Company should be sent promptly, to allow the FEMA OGC, which has extensive expertise in NFIP-related litigation, to monitor, and, if necessary, assist in the disposition of NFIP-related legal claims. Prompt notification also allows the NFIP Bureau and Statistical Agent to monitor the process of litigation. This can result in minimizing the legal expenses of all parties involved in the litigation].

FEMA expects companies that normally employ staff counsel to respond to suits in their other lines of business to do so also in connection with their NFIP flood policies, whenever possible. In such cases, these costs will be a part of the company's unallocated loss adjustment expense allowance. FEMA recognizes, however, that the engagement of outside counsel will sometimes be necessary. Thus, reasonable expenses relating to such outside counsel are reimbursable as Type 3 expenses. The WYO Company should submit a request for a legal expense approval each time an actual bill is received.

When the urgency of responding to a Summons and Complaint makes it impractical for a WYO Company to obtain approval through normal means, the company is encouraged to contact the FIA Legal Liaison at 202-646-4350 for interim oral approval. WYO Companies must submit the above required documentation as soon as possible.

How to Submit Expenses for Approval

Submit requests for approval of special allocated expenses to:

Claims Coordinator
NFIP Bureau and Statistical Agent
P.O. Box 310
Lanham, MD 20703-0310

If special expenses of more than one type are incurred on the same claim, submit a separate request for approval for each type.

There is no particular form on which requests must be submitted. The company may use whatever format it chooses, including an ordinary letter, so long as the following information is provided. For convenience and clarity, a model format accompanies this bulletin.

1. Enter the company name [A], the policy number [B], the date of loss [C], and, if there is one, the claim number [D].
2. Enter the reserve amounts on the building and on contents, if any [E].
3. If you have closed the claim, enter the total building and content payments issued as the date of the initial closing [F].
4. If you have issued claim payments after the initial claim closing, enter the amounts of supplemental payments made on the building and on contents [G].
5. Enter the total amounts paid on the building and contents [H]. This will be the sum of the closing payments [F] and supplemental payments [G] under each coverage.
6. Enter the policy deductibles for the building and for contents [I].
7. Check the expense type for which approval is requested [J].
Note: If more than one type of special expense is incurred on a single claim, submit a separate request for approval (if required) for each type.
8. If the request is for interim approval of expenses incurred to date, check [K].
9. If the request is for final approval of the exact amount of total expenses, check [L].
10. On all requests for Type 2 expense, enter the schedule fee applicable to the claim as of the initial closing [M].
11. On all requests for Type 2 expense relating to a supplemental claim, enter the schedule fee applicable to the supplemental claim [N].

Note: The model request format is not well suited to address a situation where more than one supplemental claim has been made. In such cases, prepare a request in any convenient format that gives all the required information listed here, including separate claim payments and applicable schedule fees relating to the initial closing and to each supplemental claim.

12. At [O], for Type 1, 3, and 4 expenses, enter the total amount of the types of expenses incurred for the entire claim, including all supplemental claims (also include in the expense type all expenses incurred that were previously submitted for approval). For Type 2 expense, enter only the amount of adjuster expense that relates to this request. For the initial closing, this will be the entire amount of adjuster expense incurred. For a supplemental claim, this will be only the amount of the adjuster expense relating to that particular supplemental claim. Include in the adjuster expense entered at [O] the amount covered by the applicable schedule fee.
13. On requests for Type 2 expense, enter the applicable fee [R]. (Approval is not required for this amount.)
14. If any portion of the expense entered at [O] was previously approved, enter at [Q] the amount so approved.
15. Enter the amount for which approval is requested [R]. This should be the amount at [O] less the amounts at [P] and [Q].
16. Provide an explanation and justification of the expense at [S], including the reason the expense was incurred, why it was necessary, what activity or work it was for, and what effect this activity or work had on the adjustment. With respect to special adjuster expense, explain the work performed by the adjuster outside the scope of work normally required to adjust a flood loss. Attach pertinent documentation (invoice, time-and-expense billing rates, activity log, etc.). Explain any unusual circumstances thoroughly (such as multiple supplemental claims, giving claim and fee amounts for each).
17. Date [T] and sign [U] the request.
18. Enter your return mailing address [V].

Processing Expenses Subject to Approval

When a Type 2 expense exceeds the \$500 authorized (over the schedule fee) to the company, process the schedule fee routinely and the \$500 SAE when the claim is closed. The requested amount (in excess of the \$500) should be processed only upon receipt of approval.

Example:

The adjuster expense was approved on a time-and-expense basis and totaled \$1,845.50 on a paid claim of \$64,000 with a date of loss of May 5, 1995. The applicable fee of \$1,000 and the authorized \$500 may be processed immediately. The additional \$345.50 should be processed when the approval is received.

Note: The entire amount of \$845.50 should be processed as a Special Allocated Expense, not just the \$345.50. For Type 1, 3 and 4 expenses, the entire expense amount is processed as an SAE. Do not process different expenses in a single transaction.

Supplemental Claims

Often supplemental claims will not involve any Type 2 special allocated expense because the NFIP Fee Schedule allows a fee for adjuster expense relating to a supplemental claim. Adjuster expense up to the amount of this fee does not qualify as a special allocated expense, and approval of such expense in an amount up to the fee amount is not required.

Example:

For losses that require reopening and reassignment of the same or a different adjuster, the additional fee for the supplemental claim will be the larger of:

- (a) the CWOP fee; or
- (b) the difference between the fee determined by the entry value when the claim was initially closed and the entry value for the entire claim after the supplemental claim is concluded.

Only in the event that the adjuster expense exceeds the authorized fee of \$500 allowed under the Fee Schedule does the supplemental claim involve a special allocated expense. In this case, submit a request for approval of the special expense as explained above under "How to Submit Expenses for Approval."

Please refer to the attachments for the Model SAE Approval Request Form and the two-page NFIP Fee Schedule.

Attachments

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Claims and Underwriting

NFIP Fee Schedule
For Dates of Loss of May 1, 1997, or Later

Claim Range	Fee
Erroneous Assignment	\$40.00
Closed Without Payment (CWOP)	125.00
\$.01 -600.00	150.00
600.01 - 1000.00	175.00
1000.01 - 2000.00	225.00
2000.01 - 3500.00	275.00
3500.01 - 5000.00	350.00
5000.01 - 7000.00	425.00
7000.01 -10,000.00	500.00
10,000.01 - 15,000.00	600.00
15,000.01 - 25,000.00	750.00
25,000.01 - 35,000.00	900.00
35,000.01 - 50,000.00	1,200.00
50,000.01 - 100,000.00	3.0%
100,000.01 - 250,000.00	2.3%, but not less than \$3,000
250,000.01 and up	2.1%, but not less than \$5,750

Note: Based on Gross Loss

- Gross loss shall mean the agreed cost to repair before application of depreciation, deductible, or other limiting clauses or conditions.
- For the purpose of this schedule, should the loss exceed the available coverage, gross loss shall mean the total amount of coverage.
- If the claim involves salvage "buy-back," gross loss shall mean the amount of the claim before the salvage value is deducted.
- If the insured qualifies for replacement cost coverage, gross loss is determined on the basis of the entire replacement cost claim (including depreciation holdback).

NFIP ICC Fee Schedule
For Dates of Loss of May 1, 2000, or Later

Claim Range	Fee
Erroneous Assignment	\$40.00
Closed Without Payment (CWOP)	125.00
\$.01 - 600.00	150.00
600.01 - 1000.00	175.00
1000.01 - 2000.00	225.00
2000.01 - 3500.00	275.00
3500.01 - 5000.00	350.00
5000.01 - 7000.00	425.00
7000.01 - 10,000.00	500.00
10,000.01 - 15,000.00	600.00
15,000.01 - 20,000.00	750.00

Note: Based on Gross Loss

- Gross loss shall mean the agreed cost to repair before application of depreciation, deductible, or other limiting clauses or conditions.
- For the purpose of this schedule, should the loss exceed the available coverage, gross loss shall mean the total amount of coverage.
- If the claim involves salvage "buy-back," gross loss shall mean the amount of the claim before the salvage value is deducted.

If the insured qualifies for replacement cost coverage, gross loss is determined on the basis of the entire replacement cost claim (including depreciation holdback).