



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

INTERIM FACT SHEET ON
ARBITRATION OF PUBLIC ASSISTANCE ELIGIBILITY
OR REPAYMENT UNDER 42 U.S.C. § 5189a(d)

As of October 2018, the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. § 5189a(d), authorizes the Board to arbitrate certain disputes between the Federal Emergency Management Agency (FEMA) and applicants for Stafford Act public assistance disaster grants.

The Board can decide eligibility for public assistance (or a duty to repay past assistance) in binding arbitration if:

- the disaster occurred after January 1, 2016;
- either the applicant has completed a first appeal within FEMA and FEMA's decision is not yet final, or the first appeal has been pending for at least 180 days; and
- the disputed amount is at least \$100,000 for applicants in rural areas (as defined by FEMA) or exceeds \$500,000 for other applicants.

The Board has published proposed arbitration rules in the Federal Register, at 84 Fed. Reg. 7861 (March 5, 2019). Pending issuance of final rules, applicants may request arbitration by following the FEMA regulation at 44 CFR 206.209(e) and emailing the request to the Board (the "arbitration administrator") at cbca.efile@cbca.gov. See Board Rule 1(b) for further e-filing instructions. The Clerk of the Board will issue a docketing notice.

The Board has conducted arbitration since 2009 regarding FEMA public assistance grants for Hurricanes Katrina, Rita, and Gustav. As in those arbitrations, an arbitration panel convened under the amended Stafford Act will usually schedule a hearing within sixty days after an initial conference and issue a written decision within sixty days after a hearing.

Applicants (or grantees other than applicants) need not have counsel or present expert witness testimony, and may, but need not, supplement the record of the first FEMA appeal. All party representatives should file notices of appearance complying with Board Rule 5.

An arbitration decision is final and binding on all parties.

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