



FEMA

December 5, 2014

Dear Write Your Own Partners:

The Write Your Own (WYO) companies are a critical FEMA partner in running the National Flood Insurance Program (NFIP). I know that your companies stand with FEMA in supporting disaster survivors, maximizing federal funds to support policyholders, and helping communities and survivors recover from the devastating effects of disasters. I write, however, to express my deep concern about allegations concerning the integrity of the WYO claims adjustment and litigation processes for claims arising from Superstorm Sandy.

As you are well aware, although the vast majority of Sandy-related claims have been successfully resolved, there are approximately 1,500 claims in litigation, mostly in New York and New Jersey. The courts, Members of Congress, the media, and the public we serve have expressed outrage over allegations of underpayments; excessive litigation expenses and inadequate oversight of litigation; disreputable engineering practices by contractors; and lack of transparency on peer reviews conducted by those contractors. In particular, Judge Gary Brown concluded in one case in the Eastern District of New York that there had been “reprehensible gamesmanship” and that “unprincipled practices may be widespread.” We must do better and we must provide the transparency necessary to address these serious concerns head on.

You represent FEMA, and like FEMA you are stewards of taxpayer funds. Unnecessary litigation tactics or failure to resolve litigation in a timely manner could result in excessive legal fees and costs which are ultimately reimbursed from the National Flood Insurance Fund. Policyholders deserve to be paid for every dollar of their covered flood losses, and taxpayers deserve to expect good stewardship of tax dollars. FEMA has requested recommendations from the Department of Homeland Security Office of Inspector General on FEMA’s oversight of flood litigation. We will also take other necessary and prudent actions to ensure WYO companies and their attorneys are acting responsibly with the Program’s funds and are acting in good faith with respect to their duty to the courts and policyholders.

With respect to the activities of contractors, Judge Brown is requiring all of us to produce draft engineering reports created during the adjustment of Sandy-related claims. I want to expand that practice to all Sandy-related claims in litigation – not just in New York – to make draft and final engineering reports available to the affected policyholders. While I recognize these documents are not in the possession of the WYO or FEMA, we owe it to our policyholders to provide this level of transparency. Additionally, we must undertake a careful joint examination of these documents and your claims adjustment process to address the allegations made against your contractors and to restore the public’s faith in the NFIP and the WYO companies. Notice will be forthcoming this month providing details on how engineering reports can be submitted to the NFIP/FEMA.

Concerns that there may be systemic incentives to undervalue claims warrant considered and deliberate discussion between FEMA and the WYOs as well as members of the New Jersey and New York congressional delegations. In particular, we must ensure that claims adjustment practices designed to prevent over-payments are not also incentivizing under-payments. FIMA will therefore, by separate cover, invite you to a meeting to occur before the end of the year, with FEMA and congressional representatives to commence this discussion.

I am grateful to you for your partnership with FEMA in the NFIP. During Superstorm Sandy, we adjusted over 144,000 claims and paid over \$8.1 billion to our policyholders. Those payments contributed greatly to the ongoing recovery we are witnessing in New Jersey, New York and other affected states along the East coast. We have, however, some serious work to do in the weeks ahead to restore the faith of the courts, the Congress, and the public in our program and the WYO companies.

Sincerely,



W. Craig Fugate
Administrator

cc: The Honorable Robert Menendez
The Honorable Charles E. Schumer
The Honorable Kirsten E. Gillibrand
The Honorable Cory A. Booker