



FEMA

W-15010

March 9, 2015

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators
for Dissemination to WYO Claims Managers, Compliance
Officers, and Legal Departments

A handwritten signature in black ink, appearing to read "Jordan S. Fried".

FROM: Jordan S. Fried
Director (Acting), Risk Insurance Division
Federal Insurance and Mitigation Administration

SUBJECT: **Amendment to W-10039 Special Allocated Loss Adjustment
Expenses Eliminating the \$2,500 Threshold for SALAE Type 1
Expenses for Experts – They Must Now be Sent to FEMA for
Approval From the First Dollar**

This bulletin amends Bulletin W-10039 and revises the manner in which FEMA will reimburse Write Your Own (“WYO”) Companies for Type 1 Special Allocated Loss Adjustment Expenses (“SALAE”). Under Bulletin W-10039, Type 1 SALAE were eligible for reimbursement without prior FEMA approval up to \$2,500. Effective for dates of loss beginning March 9, 2015, FEMA will require WYO Companies to seek FEMA approval prior to incurring Type 1 SALAE expenses. This bulletin does not revise any other SALAE process and requirements identified in W-10039 (W-10039 is attached to this bulletin).

How to Submit Expenses for FEMA Approval of SALAE Type 1

Submit requests for approval of Type 1 SALAE for a specific claim to:

NFIP iService
Bureau and Statistical Agent Claims Department
8400 Corporate Dr., Suite 350
Landover, MD 20785

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

1. Enter the WYO Company name [A], the policyholder’s name [B], the policy number [C],

- the date of loss [D], and the claim number [E].
2. Enter the building and contents policy limits [F].
 3. Enter the policy deductibles for the building and for contents [G].
 4. If appropriate, enter the total amounts paid on building and on contents [H].
 5. Identify the entity, company or person from whom engineering services is sought [I].
 6. Certify the entity, company or person from whom engineering services is sought is qualified and licensed to provide engineering services in the State or county where the insured property is located [J].
 7. Identify the amount you are requesting to procure engineering services [K].
 8. Provide an explanation and justification for the SALAE expense, *i.e.*, why it is necessary [L].
 9. Enter the date of the request [M], and the name and title of the requestor [N].
 10. Enter the requestor's return mailing address [O].

Upon receiving a request for SALAE Type 1 to adjust a claim, FEMA will review and respond to the WYO Company's request. FEMA will reimburse the Company for SALAE Type 1 only if FEMA provided the Company with prior approval and the Company provided FEMA with the actual bill(s) and any itemized time and expense sheet(s).

Attachments

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Claims, Underwriting



FEMA

W-10039

April 1, 2010

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators
for Dissemination to WYO Claims Managers, Compliance Officers,
and Legal Departments

A handwritten signature in black ink, appearing to read "James A. Sadler".

FROM: James A. Sadler, CPCU, AIC
Director of Claims
National Flood Insurance Program

SUBJECT: Revisions to Special Allocated Loss Adjustment Expenses

This memorandum provides updated procedures for handling Special Allocated Loss Adjustment Expenses (SALAE). These expenses are normally reimbursed to a Write Your Own (WYO) Company on the basis of the National Flood Insurance Program (NFIP) Adjuster Fee Schedules. For ready reference, the NFIP Adjuster Fee Schedules are appended to this bulletin. The Federal Emergency Management Agency (FEMA) recognizes that a Company will sometimes incur extraordinary expenses in handling a claim. When justified, these extraordinary expenses will be reimbursed to the WYO Company as a SALAE.

In all cases, the Insurer is responsible for and should take precautions to eliminate duplicate ALAE or SALAE payments, including making both an ALAE payment and seeking SALAE reimbursement for the same expense.

Any follow-up or second request to FEMA for SALAE reimbursement approval must be clearly marked as such and the supporting documentation should not be attached to the follow-up request. If duplicate documentation is required FEMA will request it.

Types of SALAE

A Special Allocated Loss Adjustment Expense is defined as any incurred loss adjustment expense related to a claim other than those paid using the applicable Adjuster Fee Schedules FEMA has defined four types of SALAE:

- SALAE Type I - Expert expense (Categories: Engineer, Surveyor, CPA, Salvor, etc.) incurred to adjust a specific claim.

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- SALAE Type 2 - Adjuster expense, in excess of the applicable NFIP Adjuster Fee Schedule, incurred to establish coverage on a specific claim, or to otherwise facilitate the adjustment.
- SALAE Type 3 - Litigation expense incurred to defend a suit within the scope of the Financial Assistance/Subsidy Arrangement (Appendix A Part 62) (Arrangement) brought against the Company on a claim under a WYO policy.
- SALAE 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 SALAE do not need specific FEMA approval before reimbursement can be made to the company:

- SALAE Type 1, Expert Expense - WYO Company is authorized to be reimbursed to \$2,500 per claim without FEMA approval.
- SALAE Type 2, Adjuster Expense (in excess of the applicable schedule fee) - WYO Company is authorized to be reimbursed to \$500 per claim without FEMA approval.
- SALAE Type 3, Litigation Expense - WYO Company is authorized to be reimbursed to \$5,000 per claim without FEMA approval.
- SALAE Type 4, Cost of Appraisal (implementation of the Standard Flood Insurance Policy Appraisal Clause) - WYO Company is authorized to be reimbursed to \$2,500 per claim without FEMA approval.

However, specific FEMA approval is required for the following SALAE:

- SALAE Type 1, expenses exceeding \$2,500 in the aggregate
- SALAE Type 2, expenses exceeding the existing NFIP Adjuster Fee Schedule of over \$500 in the aggregate.
- SALAE Type 3, expenses exceeding \$5,000 in the aggregate
- SALAE Type 4, expenses 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 category, e.g., Engineer. For example, on the same claim, the Company engages a soils engineer for \$1,600 and a structural engineer for \$1,000:

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- The Company must obtain approval for the *total Type 1 expenses of \$2,600*, even though no single expense exceeds \$2,500.
- Since each expense is \$2,500 or less, the SALAE could be reimbursed to the Company for any one of the expenses without obtaining FEMA approval; but,
- Once the total incurred expense for the same SALAE category exceeds \$2,500, FEMA approval for all incurred expenses for that category must be obtained before the second SALAE may be reimbursed.

When FEMA approval is required, reimbursement of SALAE Types 1, 2, and 4 cannot be made to the Company until FEMA has approved the exact amount of the SALAE.

All FEMA SALAE approval requests should be accompanied with copies of the report (including any previous reports), all actual bill(s), and any itemized time and expense sheet(s). *Also, the Company must briefly explain in writing why FEMA should approve the expenses.*

Litigation Expenses (Type 3)

FEMA requires all WYO companies to submit notification of litigation. The Arrangement specifies qualifying litigation against the WYO Company. This notification should be sent to the following address:

**NFIP IServices
Bureau and Statistical Agent
Claims Department
Attn: FEMA Legal Liaison
8400 Corporate Drive, Suite 350
Landover, MD 20785**

The notice should include two copies of the *Summons and Complaint* along with two copies of the attorney's *Case Plan and Budget and Initial Case Analysis*. FEMA may forward this information to the FEMA Office of Chief Counsel (OCC) who may request additional information from the WYO Company. From that point forward, legible copies of all itemized invoices and any new pleadings should be sent monthly to the above address.

Notification of potential NFIP-related litigation against a WYO Company should be sent promptly, to allow the FEMA OCC to monitor and, if necessary, assist in the disposition of the NFIP-related legal claims. Monitoring by FEMA can result in minimizing the legal expenses for all parties.

FEMA expects Companies that employ staff counsel who respond to suits in other lines of business to do so with NFIP flood policies, when possible. In such cases, these costs will be a part of the Company's unallocated loss adjustment expense allowance. FEMA recognizes, however, that the

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engagement of outside counsel will sometimes be necessary, and that reasonable expenses relating to such outside counsel are reimbursable as SALAE Type 3 expenses.

The WYO Company should submit a request for a legal expense approval each time a new invoice is received. Prior to seeking FEMA approval the invoice must be thoroughly reviewed for accuracy and reasonableness and approved by the WYO Company management or technical staff prior to submission. Evidence of that approval must be apparent.

WYO outside counsel should not send invoices directly to FEMA. FEMA does not retain and is not responsible for payment of counsel representing WYO Companies. The WYO Company is responsible for paying its counsel without delay and for seeking reimbursement under the terms of the Arrangement. FEMA reimburses WYO Companies for the costs the companies incur defending NFIP litigation.

Please review the *Guide for WYO Counsel* for a comprehensive handling of litigation files.

How to Submit Expenses for FEMA Approval

Submit requests for approval of Type 1, Type 2, and Type 4 SALAE to:

NFIP I Services
Bureau and Statistical Agent
Claims Department
8400 Corporate Drive, Suite 350
Landover, MD 20785

If SALAE of more than one type or more than one category within a SALAE Type are incurred on the same claim, submit a separate FEMA approval request for each.

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

1. Enter the WYO Company name [A], the policyholder's name [B], the policy number [C], the date of loss [D], the claim number [E], and for Type 3 only, the Case Name [F].
2. Enter the building and contents policy limits [G].
3. Enter the policy deductibles for the building and for contents [H].
4. Enter the total amounts paid on building and on contents [I].
5. Check the expense type for which approval is requested [J]. **Note:** If more than one SALAE or more than one category within a SALAE Type is incurred on a single claim, submit a separate request for approval for each.

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6. If the request is for interim approval of SALAE incurred to date, check [K].
7. If the request is for final billing approval of the exact amount of total SALAE after the case has been settled, check [L].
8. At [M], for Type 1, 3, and 4 SALAE, enter the total amount of the types and categories of SALAE incurred for the entire claim, including all supplemental claims (include all incurred SALAE that were previously submitted for approval). For Type 2 SALAE, enter the entire amount of adjuster expense incurred including the amount covered by the applicable Adjuster Fee Schedule.
9. On requests for Type 2 expense, enter the amount of the applicable Adjuster Fee Schedule ALAE [N]. (Approval is not required for this amount.)
10. If any portion of the SALAE entered at [M] was previously approved, enter at [O] that approved amount.
11. Enter the amount for which FEMA approval is requested [P]. This should be the amount at [M] less the amounts at [N] and [O].
12. Provide an explanation and justification of the SALAE at [Q] 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 Type 2 SALAE for adjusters expenses, explain the work performed by the adjuster outside the scope of work normally required to adjust a flood loss and included in an Adjuster Fee Schedule. Attach pertinent documentation (invoices, 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). With respect to Types 1 and 4, include copies of the experts' reports.
13. Enter the date of request [R] and the name and title of the requestor [S].
14. Enter the requestor's return mailing address [T].

Reimbursement of SALAE Amounts Subject to FEMA Approval

When a Type 2 expense is in excess of the \$500, Companies are authorized to pay without FEMA approval the requested amount (in excess of the \$500), however reimbursement to the Company can only occur after FEMA approval.

Example:

The adjuster expense was approved on a time-and-expense basis and totaled \$2,045.50 on a paid claim of \$45,000 with a date of loss of May 5, 2009. The applicable Adjuster Fee Schedule amount of \$1,400 and the authorized \$500 SALAE Type 2 may be reimbursed immediately. The additional \$145.50 SALAE Type 2 should be reimbursed to the Company only after FEMA approval.

Supplemental Claims

Often supplemental claims will not involve any Type 2 SALAE 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 SALAE, and approval of such expense in an amount up to the NFIP Adjuster Fee Schedule amount is not required. **NOTE:** The NFIP Adjuster Fee Schedule does not allow an additional adjuster expense for supplemental claims resulting from the adjuster's carelessness or inattention at the initial inspection or in completion of the initial estimate.

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: the CWOP fee; or 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 allowed under the NFIP Adjuster Fee Schedule does the supplemental claim involve a SALAE. In this case, submit a request for approval of the SALAE as explained above under "How to Submit Expenses for Approval".

Companies should not duplicate ALAE and SALAE expenses

Except for unusual circumstances, expert services, such as inspections of heating and cooling systems, appraisals of property in order to determine replacement cost value, construction inspections and estimates of repair costs, and photos taken to assess the extent of the loss should not be utilized for inherent adjusting duties. These services are largely performed by the adjuster and the adjuster is paid according to the NFIP Adjuster Fee Schedule. To hire experts in these areas, except in rare instances, may create duplicate expense payments.

Please refer to the attachments for the model SALAE Approval Request Form and the NFIP Adjuster Fee Schedule.

Attachments

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Claims, Underwriting

SALAE APPROVAL REQUEST FORM

WYO COMPANY: <u>A</u>	
POLICYHOLDER: <u>B</u>	POLICY NUMBER: <u>C</u>
DATE OF LOSS: <u>D</u>	CLAIM NUMBER: <u>E</u>
CASE NAME: (Litigation only) <u>F</u>	

	Building	Contents
Policy Limits	<u>G</u>	<u>G</u>
Policy Deductibles	<u>H</u>	<u>H</u>
Total Claim Payments	<u>I</u>	<u>I</u>

- Expense Type:
- 1 Expert
 - 2 Adjuster
 - 3 Litigation
 - 4 Appraisal/Examination Under Oath

This request is for INTERIM APPROVAL of incurred expenses to date.

This request is for FINAL APPROVAL when the case has been settled and final billing.

Total amount of this expense type to date: \$ M

Deduct the applicable scheduled fee (for Type 2 only): \$ N

Deduct total expense amounts previously approved: \$ O

This request is for approval of this amount: \$ P

Explanation of Expense (attach pertinent documentation and additional comments as necessary):

Q

DATE OF REQUEST: <u>R</u>	NAME & TITLE OF REQUESTOR: <u>S</u>
REQUESTOR'S MAILING ADDRESS: <u>T</u>	

NFIP Fee Schedule

For Claims with Dates of Loss on or after October 25, 2012

Claim Range *	Fee
<i>Erroneous Assignment</i> ¹	\$90.00
<i>Claim Withdrawn</i> ²	\$90.00
<i>Closed Without Payment (CWOP)</i> ³	\$370.00
.01 - \$1,000.00	\$490.00
1,000.01 – 5,000.00	\$750.00
5,000.01 – 10,000.00	\$970.00
10,000.01 – 15,000.00	1,100.00
15,000.01 – 25,000.00	1,200.00
25,000.01 – 35,000.00	1,390.00
35,000.01 – 50,000.00	1,640.00
50,000.01 – 100,000.00	3.4% but not less than \$1,760
100,000.01 – 250,000.00	2.6% but not less than \$3,400
250,000.01 – 1,000,000.00	2.4% but not less than \$6,500
1,000,000.01 and up	2.1% but not less than \$24,000

The NFIP reserves the right to withhold compensation on adjustment work that is deemed:

- 1) Not to comply with NFIP's standards; or
- 2) Improperly prepared, thereby requiring the claim to be substantially readjusted; or
- 3) Not timely adjusted requiring reassignment.

* **Claim Range** — Based on Gross Loss:

Gross loss shall mean the agreed cost to repair before application of depreciation or the applicable deductible(s), but subject to policy limitations (such as those dollar amounts specified in Coverage B – Personal Property Special Limits and Coverage C – Other Coverages, Loss Avoidance Measures and Property Removed to Safety) and exclusions.

For the purpose of this schedule, should the loss exceed the available coverage, gross loss shall mean the total amount of available coverage.

If the claim involves salvage "buy-back," gross loss shall mean the amount of the claim before the salvage value is deducted subject to the total amount of coverage.

All adjusting expenses associated with the proper conclusion of a claim are considered in this fee schedule.

In the event of a claim subject to the Closed Without Payment (CWOP) fee of \$370.00, an adjuster may submit a request for a Special Allocated Loss Adjustment Expense (SALAE) for mileage for distances traveled (in excess of 100 miles) at the prevailing Internal Revenue Service standard mileage reimbursement rate on the date of inspection. Mileage shall be pro-rated between assignments.

NFIP Fee Schedule Guidance

¹ ***Erroneous Assignment*** — occurs when a loss is assigned to more than one adjuster or more than one adjusting firm. One adjuster will be removed from the claim and will receive a fee based on an erroneous assignment.

² ***Claim Withdrawn*** — refers to a claim where the insured elects to withdraw the claim after the NFIP Direct Servicing Agent, a WYO carrier or the WYO carrier's service provider / vendor assigns the claim to an adjusting firm but before the adjusting firm completes the inspection.

³ ***Closed Without Payment (CWOP)*** — Must include an adjuster site visit, meeting with the policyholder or their representative, photographs, and completed forms.

- ***Less Than Deductible*** — Claim should be billed based on the gross loss per the schedule subject to any policy limitations (such as Coverage B – Personal Property Special Limits and Coverage C – Other Coverages Loss Avoidance Measures) and exclusions.
- ***No Coverage*** — When it is determined that no claim payment is due, e.g., the damage was not caused by flood or the damaged property is not covered by the policy, then the file must be closed as a CWOP. The adjuster's report should contain sufficient explanation and documentation of the facts regarding the reason no payment is due.
- ***Telephone Contact Only*** — Will be billed at the Erroneous Assignment or Claim Withdrawn rate.

Supplements — Supplements shall be billed on the basis of the scheduled fee for the final adjustment, less any fees paid previously. Supplemental billings will not be considered for inadequate or incorrect scope of repairs or avoidable estimating errors. Concealed or progressive flood related damage is considered appropriate for supplemental billings.

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.