

Write Your Own Program

Financial

Control Plan

November 2022



FEMA



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Table of Contents

1	Financial Control Plan	4
1.1	Write Your Own Program Overview	4
1.2	Authority	5
1.3	Intent and Scope	5
1.4	Generally Accepted Accounting Principles.....	5
1.5	Write Your Own Accounting Procedures	5
1.6	Write Your Own Program Standards Committee	5
2	System of Record.....	6
2.1	Submissions.....	6
2.1.1	Validation of Policyholder Information	6
2.1.2	Rejected Policy and Claims Transactions.....	6
2.1.3	Unprocessed Policy and Claims Transactions	7
2.2	Report and Exhibit Monthly Reconciliations	7
2.3	Report Certifications	7
2.4	Submission Monitoring	7
2.5	Fraudulent Submissions.....	8
3	Audits	9
3.1	Biennial Audits	9
3.1.1	Biennial Audits for Underwriting.....	10
3.1.2	Biennial Audits for Claims.....	11
3.2	For-Cause Audits	13
3.2.1	For-Cause Audits for Underwriting	13
3.2.2	For-Cause Audits for Claims	13
3.2.3	For-Cause Audits for Financial Reporting and Accounting.....	14
3.2.4	For-Cause Audits for WYO Litigation	14
3.3	Improper Payment Audits	15
3.3.1	Improper Payment Audit Process:	16
3.4	State Insurance Department Audits	16

4 Claims Re-inspections 18

5 Random Claims Quality Check..... 19

 5.1 Random Sample Size Determination..... 19

6 Operation Reviews 20

 6.1 Operation Reviews for Underwriting 20

 6.1.1 Random Sample Size Determination 21

 6.1.2 Underwriting File Review 21

 6.1.3 Underwriting Departmental Review..... 22

 6.1.4 Underwriting Operation Review Results 23

 6.1.5 Underwriting Operation Review Scoring 23

 6.2 Operation Reviews for Claims 25

 6.2.1 Minimum Selection Size Criteria 26

 6.2.2 Claim File Review..... 27

 6.2.3 Claims Departmental Review 30

 6.2.4 Claims Operation Review Results 30

 6.2.5 Claims Operation Review Scoring 30

 6.3 Operation Reviews for Customer Service..... 32

 6.3.1 Random Selection Determination 32

 6.3.2 Customer Service Report Review 33

 6.3.3 Customer Service Departmental Review 33

 6.3.4 Customer Service Operation Review Results..... 33

 6.3.5 Customer Service Operation Review Scoring..... 33

 6.4 Operation Reviews for Marketing..... 34

 6.4.1 Marketing Operation Review..... 34

 6.4.2 Marketing Operation Review Results..... 35

 6.4.3 Marketing Operation Review Scoring..... 35

 6.5 Operation Reviews for Litigation 35

 6.5.1 Random Selection Determination 36

 6.5.2 Litigation File Review..... 36

 6.5.3 Litigation Operation Review Results..... 38

6.5.4 Litigation Operation Review Scoring	38
7 Risk Rating Information	40
8 Payment Management.....	41
9 Reporting Fraud	42
10 Improper Payments	43
11 Potential Consequences for Unsatisfactory Performance	44

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.

1.1 Write Your Own Program Overview

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

In 1983, to better market NFIP flood insurance, FEMA adopted regulations establishing the WYO program. 44 C.F.R. §§ 62.23, 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.* § 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; and
- Achieving equitable outcomes for NFIP policyholders.

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 [System of Record] Plan requirements of the WYO Financial Control Plan." 44 C.F.R. § 62.24(c). WYO companies must also enter into an arrangement with FEMA entitled the "Financial Assistance/Subsidy Arrangement," which is published annually in the Federal Register. 44 C.F.R. § 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 WYO Arrangement, the Federal Government acts as a "guarantor in which 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." 44 C.F.R. § 62.23(f). To achieve this goal, the Federal Insurance Administrator is tasked with establishing "A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program." *Id.* 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 company 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 C.F.R. § 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 WYO 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 issued by the Financial Accounting Standards Board 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 online¹.

1.6 Write Your Own Program Standards Committee

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

¹ The WYO Accounting manual is available online at nfipservices.floodsmart.gov/insurance-manuals.

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. See 44 C.F.R. § 62.23(j)(2), (3). 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 must submit transactions daily to the SOR in accordance with the PUP and the Pivot Claims and Policies Application Programming Interface 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 exhibits. 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 and premium information on transaction types including:

- New business;
- Renewals;
- Endorsements;
- Cancellations; and
- Corrections of records previously submitted for 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 NFIP Flood Insurance Manual, NFIP 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 WYO companies cannot correct a transaction that must be corrected and resubmitted, WYO companies may submit a policy inquiry or exception request to FEMA using the SOR. WYO companies must acknowledge, 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

A transaction is designated unprocessed 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 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 provides 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 on the 12th calendar day of the month following the close of the month being reported. If the 12th calendar day falls on a Saturday, Sunday, 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 found in guidance documents such as the PUP.

Reconciliation Accuracy Monitoring

FEMA will monitor reconciliation reports for dollar value variances 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 following 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 audits in the 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 C.F.R. § 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 C.F.R. § 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, 2022, is due on March 31, 2023.

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, and cancellations. 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 the audit.

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

- Review of the WYO company 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.
 - Policy premium information used to issue a policy is based on premium information provided by FEMA.
 - Policy information used to obtain a premium and issue policy is consistent with FEMA guidance.
 - 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, 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, or as stated in the Standard Flood Insurance Policy.
 - The flood zone shown on the application is correct per the latest effective Flood Insurance Rate Map (FIRM) for 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 participating in the NFIP and eligible for federal flood insurance.
 - 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 based on FEMA guidance.
- 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 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 the 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, insurance examiner authorization levels, and records showing the retention of both current and past employees.
- 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 catastrophic claims handling plan, 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 are in place 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 rating corrections needed on policies and other errors.
 - For purposes of cancellation, the claims department notifies the underwriting department when a property is totally destroyed.
 - 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 to ensure FEMA adjusting guidance is 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, the WYO company reports the occurrences in a timely manner to FEMA and cooperates with the DHS OIG, per 44 C.F.R § 62.23(j)(7).
- 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 company's claims servicing operation.
- FEMA reviews to ensure claims history is 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

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

- High frequency of errors in policy processing and underwriting, including:
 - Policies issued for ineligible risks;
 - Policies issued for buildings or contents located in ineligible communities;
 - Policies issued with premium or policy fee errors; and
 - Missing or insufficient documentation in the policy file.
 - Multiple incidences of consistent errors or anomalies.
- High number of:
 - Policy cancellations or non-renewals;
 - Policies not processed in a timely manner;
 - Duplicate policies;
 - Policyholder complaints; and
 - Significant problems indicated in the biennial audit.

3.2.2 For-Cause Audits for Claims

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

- Multiple incidences of any of the following:
 - Issuing payments for losses not covered;
 - Incorrect information on loss adjustment;
 - Not adequately addressing salvage or subrogation;
 - Overpayment or underpayment of claims;

- Excessively high numbers of either erroneous assignments, claims closed without payment, or both;
- Untimely processing of claims;
- Paying Special Allocated Loss Adjustment Expense (SALAE) prior to receiving authorization or paying an amount other than the amount authorized; or
- Having insufficient documentation for paid claims;
- Claim payments that are significantly different from the NFIP-wide average;
- Failure to address underwriting issues reported during the claims handling process;
- SALAE irregularities.
- 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;
- Violation of FEMA or Federal Government rules around the withdrawal of NFIP funds;
- 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; and
- Biennial audit indicates significant problems.

3.2.4 For-Cause Audits for WYO Litigation

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

- Biennial audit indicates significant problems;
- Consistent pattern of claims settled without concurrence;
- Consistent pattern of filing briefs without first providing them to FEMA for review;

- Unusually high number of rejected or reduced requests for reimbursement;
- Expenses that consistently exceed the amount at issue;
- Consistent late submission of Case Plans and Budgets (CP&Bs), SALAE 3 requests for reimbursement, notices of litigation, or other documents required by the NFIP Litigation Manual;
- Taking positions inconsistent with NFIP policy and practice or contrary to direction provided by FEMA;
- Repeated failure to respond fully and in a timely manner to questions raised by FEMA concerning case-specific inquiries or compliance with the SALAE 3 Billing Requirements and/or the NFIP Litigation Manual; and
- Repeated failure to comply with the SALAE 3 Billing Requirements and/or the NFIP Litigation Manual.

3.3 Improper Payment Audits

On November 26, 2002, Congress enacted the Improper Payments Information Act of 2002 (IPIA), Pub. L. No. 107-300, 116 Stat. 2350 (codified as amended at 31 U.S.C. § 3321 note (2002)). Pursuant to this statute, federal agencies were instructed to annually review all their programs and activities to identify those which may be susceptible to “significant improper payments.” Federal agencies were also responsible for submitting annual reports to Congress, estimating the amount of improper payments, and, in certain circumstances, noting any actions the agency was taking to reduce those payments.

Congress amended the IPIA in 2010 with the Improper Payments Elimination and Recovery Act of 2010 (IPERA), Pub. L. No. 111-204, 124 Stat. 2224 (codified as amended at 31 U.S.C. § 3301 note (2010)) and again in 2013 with the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), Pub. L. No. 112-248, 126 Stat. 2390 (2013) (codified as amended at 31 U.S.C. § 3321 note (2013)). In compliance with these acts, FEMA began its annual review of improper payments within the NFIP in 2009 and continued its reviews through 2019. The Office of Management and Budget granted a waiver to FEMA for its review of improper payments in the NFIP in 2020.

On March 2, 2020, Congress enacted the Payment Integrity Information Act of 2019 (PIIA), Pub. L. No. 116-117, 134 Stat. 113 (2020) (codified as amended at 33 U.S.C.A. §§ 3351–58 (2022)), which repealed the IPIA, the IPERA, and the IPERIA. Pursuant to the PIIA, the NFIP is no longer required to undergo annual improper payment reviews. Rather, FEMA is required to review the program no less than once every three fiscal years. The NFIP is currently undergoing a three-year risk assessment cycle. During risk assessments, federal agencies are responsible for identifying programs and activities susceptible to “significant improper payments,” defined as the sum of which either “exceeded \$10,000,000 of all reported program or activity payments . . . made during th[e] fiscal year and 1.5% of program outlays; or \$100,000,000.” In compliance with the PIAA, if a program is below the thresholds of 1.5% or \$10 million for two consecutive testing cycles, it falls into the normal risk assessment cycle until such time as it is deemed as high risk.

DHS may require components to conduct preliminary risk assessments every year to determine if there are any significant changes that could deem the program high risk. If the preliminary risk assessment concludes that there have been significant changes, then instead of a three-year cycle, FEMA will conduct a full risk assessment that fiscal year.

FEMA will perform audits to identify improper payments as required by PIIA. WYO companies will cooperate with Improper Payment audits and provide any NFIP related information that FEMA requests.

3.3.1 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 supporting 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 (name and information of the auditing firm);

- 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 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;
- **Random Claims Quality Check (RCQC)** – See Section 5 for more details.

FEMA typically conducts re-inspections by desk reviews or on-site 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 significant 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 determine random sample selection size, as shown in Section 5.1;
- FEMA will determine and notify WYO companies selected for re-inspection;
- When possible, 25 percent of claims selected for re-inspection will involve a physical re-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 WYO companies of identified errors for further review;
- WYO companies must provide a written response to errors identified by FEMA within 72 hours of notice, at which point:
 - FEMA will review the information and response provided by the WYO companies and determine whether the error stands or not.
 - WYO companies must sign off on each RCQC Report and may include comments or disagreement on the form.
 - Upon full review of the WYO company responses, FEMA will provide the companies with summary reports; and
 - As summary reports are final determinations, WYO companies may not further contest the results. Further conversations with the WYO company may be warranted.

5.1 Random Sample Size Determination

FEMA will randomly select claims related to a disaster for re-inspection depending on claims made. Additional claim files may be requested to determine trends if errors are found.

Sample Size Determination	
Number of Claims For an Event	Samples Reviewed (at a minimum)
Less than 5,500	150
5,501 – 10,000	200
10,001 – 25,000	500
25,001 – 50,000	900
50,001+	1,500

6 Operation Reviews

Operation Reviews are assessments FEMA will conduct of WYO companies to evaluate overall operational activities pursuant to 44 C.F.R. § 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. See Section 11. Potential Consequences for Unsatisfactory Performance for more information on scoring consequences.

6.1 Operation Reviews for Underwriting

FEMA will conduct annual underwriting Operation Reviews for each WYO company, consisting of an analysis of operational activities and processing procedures. Operation Reviews for underwriting will provide FEMA with an analysis of the WYO company's operational activities and ensuring compliance with FEMA guidance. There are multiple review periods during the year. A review period may be skipped for reasons that include low transaction volume or disaster operational response activity.

Operation Review Process for Underwriting

The operation review process may include, but is not limited to, the following steps:

- FEMA will select a random sample of the policy transactions 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 documents necessary to review the operational activities.
- WYO companies must provide requested 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

For New Business transactions: The number of new business policies FEMA will review corresponds to the number of new policies written during the preceding review period.

New Business Sample Size Determination	
New Business Policies Written	Sample Size <i>(at a minimum)</i>
0 – 50	0
51 – 1,000	5
1,001 – 2,500	10
2,501+	25

For Other Transactions: FEMA may review other transactions such as policy renewals, cancellations, endorsements, or prior term refunds. The sample size will be no more than 10 for these transaction types.

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: Dwelling Form, General Property Form, or Residential Condominium Building Association Policy Form);
- Verify policies are issued with correctly calculated premium and total amount paid by the policyholder (correct full-risk premium, discounts, assessments, fees, 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;
- Rating information used to calculate the premium for the policy issued is correct and consistent with the rating information reported to FEMA;
- Send the policy declaration page; and

- Application information and supporting documentation on file is consistent with the rating of the policy and is retained in the file.

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;
- Obtain and retain proper supporting documentation;
- Apply an accurate cancellation effective date;
- Calculate the correct premium refund amount;
- Send cancellation notification; 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;
- Issue renewal with the correct renewal premium;
- Calculate the correct renewal policy effective date;
- Maintain all necessary information and documentation for renewal processing;
- Process renewals within seven business days;
- Send renewal declaration page; and
- Send renewal notices in accordance with NFIP guidelines.

Endorsement Processing Review

FEMA will review endorsement processing to verify that WYO companies:

- Apply an accurate endorsement effective date;
- Charge the correct endorsement premium;
- Verify the endorsement reason and retain all support documentation;
- Process the endorsement within 15 business days; and
- Send the updated endorsement declaration page in accordance with NFIP guidelines.

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 request 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 Standard Operating Procedures;
- 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 management and controls of pending policy transactions; and
- An administrative review to verify compliance with NFIP procedures.

6.1.4 Underwriting Operation Review Results

At the end of the annual Underwriting Operation Review, FEMA will provide WYO companies with a final report. FEMA will include identified observations and errors. The reports will provide either a Satisfactory or Unsatisfactory rating and include recommendations on steps necessary to rectify errors. FEMA will request the status of any corrective action or recommendations to be completed by the WYO company as a result of the period or annual review.

6.1.5 Underwriting Operation Review Scoring

The underwriting Operation Review result is based on an Error Score calculated during the review of new business files. FEMA will classify issues as either minor “Non-Critical Errors” or major “Critical Errors.” FEMA will calculate the Error Score percentage based on the number of Critical Errors divided by the total number of new business files. FEMA will include Non-Critical Errors in the report; however, they will not impact the Error Score. FEMA will use the Error Score to determine if an Underwriting Operation Review is rated Satisfactory or Unsatisfactory.

$$\left[\frac{\text{Critical Errors}^*}{\text{New Business Files Reviewed}} \right] \times 100 = \text{Error}$$

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

The Check List below is a list of items that FEMA will review during an underwriting Operation Review.

Underwriting Check List	
Category	Sub-Categories
Eligibility	<ul style="list-style-type: none"> • Eligible Building/Contents • Eligible Community • Is Building Over Water? • Policy Type
Rating Elements	<ul style="list-style-type: none"> • Effective Date

Underwriting Check List	
Category	Sub-Categories
	<ul style="list-style-type: none"> ○ Loan Transaction or Lender Required ○ Map Revision ○ Transfer ○ Standard Waiting Period ○ Post-Wildfire Exception ● Property Address ● Foundation Type ● Building Occupancy ● Building Description ● Number of Floors ● Building Under Construction ● Coverage ● Date of Construction ● Building Replacement Cost ● Current Flood Zone ● Floodproofing ● Elevation Certificate <ul style="list-style-type: none"> ○ First Floor Height ● Mobile Home Information ● Number of Units ● Premium Components ● Current Community number ● Construction Type ● Building Square Footage ● Unit Floor ● Newly Mapped Discount ● Pre-FIRM Discount ● Machinery and Equipment Discount ● Proper Flood Openings
Valid Documentation	<ul style="list-style-type: none"> ● Application ● Declarations Page ● Payment Information ● Policy File (Log) Notes ● Elevation Certificate (if used for FFH) ● Building Photographs if using an EC ● Condominium Ownership Validation ● Newly Mapped Zone Documentation ● Building Replacement Cost Documentation ● Transfer Documentation

Underwriting Check List	
Category	Sub-Categories
	<ul style="list-style-type: none"> • Reduction in Coverage Documentation • Prior Term Refund Documentation • Cancellation Documentation • Floodproofing Documentation • Primary Residence Documentation
Additional Items	<ul style="list-style-type: none"> • Service Guidelines • Other Errors

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 Underwriting Operation Review Satisfactory.

Unsatisfactory

If FEMA determines a WYO company's Error Score is above 10 percent, FEMA will consider the Underwriting Operation Review Unsatisfactory. All WYO companies with Unsatisfactory ratings will provide FEMA with a Corrective Action Plan that defines the scope of the issue, the root cause of the issue, and outlines corrective actions and 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 WYO companies to determine the scope of the re-underwriting, based on the types of errors found. See Section 11. Potential Consequences for Unsatisfactory Performance for more information on scoring consequences.

6.2 Operation Reviews for Claims

At least twice per year, FEMA will conduct a Claims Operation Review of WYO companies with closed claims with a date of loss within the 6 months prior to 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

The operation review process may include, but is not limited to, the following steps:

- FEMA will select a random group of claims with a date of loss within the past six months prior to a review.
- FEMA will determine random sample selection size, as shown in Section 6.2.1.
- FEMA will notify the WYO companies of the requested documents necessary to review the claims.
- WYO companies must provide requested 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 will require corrective action(s) based on findings identified during the Operation Review.
- WYO companies must address the findings, 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).

Sample Size Determination Number of WYO Company Claims (Date of Loss Six Months Prior to Review)	
Total Closed Claims* (number)	Claims Selected for Review (minimum)
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. If a WYO company processed less than three closed claims with a date of loss in the six months prior to a review, FEMA will review those closed claims.

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.

Documentation

All claim files must include the following supporting documentation as applicable:

- Case Loss Reserves
- Photographs
- Examiner log notes
- Transaction records
- All correspondence and communications related to the claim
- Proof of loss
- Adjuster reports, estimates and inventories
- Check copies of claim payments
- Denial letters
- Underwriting referrals
- Expert (engineer, CPA, salvor, etc.) reports and invoices
- POL Waiver and FEMA's approval
- ICC Documentation
- Inventory and invoices for stock losses and other documentation
- SALAE expense authorization
- Retention of supporting documentation for all transactions

Operations

FEMA will review claim documentation to verify that WYO companies:

- Validate a file is set up for each Notice of Loss;
- 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 accurate information and 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 rating corrections needed on policies and other errors;

Operations *continued*

- Report the occurrence of fraud to FEMA in a timely manner and cooperate with the DHS OIG, per 44 C.F.R § 62.23(j)(7);
- 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;
- Ensure that the building and contents loss payments equal the amount of covered loss;
- Ensure, for purposes of cancellation, the WYO company claims department notifies the underwriting department when a property is totally destroyed; and
- Confirm that the claims file contains evidence identifying subrogation and salvage when appropriate.

Policyholder Experience

FEMA will review the policyholder's experience to verify that:

- The claim is assigned to an Adjusting Firm within one business day of Notice of Loss;
- The policyholder is contacted within two business days of the claim assignment;
- The Adjuster inspects claim within two days of the claim assignment;
- Claims Handbook and ICC Brochure are provided to policyholders;
- Preliminary report submission is received within 15 days of assignment to adjuster;
- An interim report from the adjuster is received within 30 days of Preliminary report and every 30 days thereafter until the claim is complete;
- A closing report (Final Report) is submitted within 45 days from date of loss;
- An examiner completes the claim file examination within seven business days upon receipt of the closing report;

Policyholder Experience *continued*

- Payments are issued within seven business days from completion of claim file examination;
- The Proof of Loss is accepted or rejected in whole or in part within 10 business days of receipt;
- The policyholder receives regular and clear communications for the duration of the claim;
 - Return telephone or electronic messages within two business days of receipt;
 - Reply to written communications within 10 business days of receipt.
- In the case of a denial, a partial or full denial letter is sent within 10 business days of claim closure.
 - Denials letters must be compliant and include:
 - Date of the denial letter;
 - Name(s) of the policyholder(s);
 - Mailing address;
 - Loss location;
 - Date of loss;
 - Date(s) policyholder submitted a request for payment;
 - Item(s) denied with corresponding dollar amount when known;
 - A plain-language explanation for the non-payment or non-coverage;
 - Citations to the relevant sections of the Standard Flood Insurance Policy (SFIP);
 - Web link to the SFIP; and
 - Attach the policyholder’s rights;
- Apply the Flood Insurance Reform Act (FIRA) requirements, 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 Claims Departmental Review

FEMA may request a separate review of a WYO company claims department’s responsibilities, examiner authorities, and structural composition (managerial, technical, and clerical).

The review may include:

- Statement of Primary Function(s);
- Interview management examining staff and key clerical personnel, as needed; or
- WYO company structure and staffing composition:
 - Responsibilities and authorities;
 - Company procedures and processing activities, including Standard Operating Procedures;
 - 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 a Claims Operation Review, FEMA will provide WYO companies with a close-out meeting to discuss the results of the review. FEMA will distribute result reports digitally by means of the SOR. The report will include the number of claims FEMA reviewed, listing violations, findings, observations, communications, and any under- or overpayments. The SOR allows WYO companies to upload their corrective action artifacts required for all findings noted in the report. The report will either provide a Satisfactory or Unsatisfactory rating.

6.2.5 Claims Operation Review Scoring

Claims 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.

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

Claims Check List	
Reviews	Error Categories
Documentation	<ul style="list-style-type: none"> • Improper Denial Letters • Not Obtaining Waivers when Required • Lack of Claim File Documentation

Claims Check List	
Reviews	Error Categories
Operations	<ul style="list-style-type: none"> • Case Loss Reserves • No Signed Proof of Loss (POL) • SALAE • Unauthorized Adjusters • Adjuster Issues • Claims Closed without Payments (CWOP)
Policyholder Experience	<ul style="list-style-type: none"> • Time Standards • Communications
Payments	<ul style="list-style-type: none"> • Overpayments • Underpayments

Examples of Violations and Other Findings include but are not limited to:

- An overpayment or underpayment resulting from a misapplication of building or personal property coverage under the SFIP;
- Use of an incorrect deductible;
- Duplicate payments;
- Time standard infractions that result in a delay in payment to policyholders;
- Any underwriting error that results in a reduction or reformation of coverage affecting the premium and subsequent claim payment;
- Incorrect SALAE payment;
- Payments issued without proof of loss waiver when required by FEMA;
- Insufficient exceptions documentation (for example: adjuster’s judgment, SALAE exceptions, etc.);
- Insufficient documentation validating an expert’s state licensing credential;
- Incorrect denial letters;
- Missing mortgagee or loss payee information;
- Incorrect adjuster expense payment that falls outside of the FEMA guidelines without proper documentation noted in the file;
- Deficient or redundant case loss reserves; and
- Improper adjuster authorization.

Satisfactory

If FEMA determines an Error score is below 10 percent, FEMA will consider the outcome of a Claims Operation Review as Satisfactory. When FEMA determines an Operation Review is Satisfactory, WYO companies do not need to take additional steps.

Unsatisfactory

If FEMA determines an Error score is 10 percent or above, FEMA will consider the outcome of a Claims Operation Review as Unsatisfactory. FEMA will provide the

Unsatisfactory rating in a report format. The report will describe each Unsatisfactory condition and provide an explanation for each error. The WYO company will provide a Corrective Action Plan to address all deficiencies in response to the review.

The Corrective Action Plan artifacts will be maintained in the SOR for verification and validation. See Section 11. Potential Consequences for Unsatisfactory Performance for more information on scoring consequences.

6.3 Operation Reviews for Customer Service

Once every three years FEMA will conduct Customer Service Operation Reviews for each WYO company, consisting of an analysis of operational activities and customer service practices. WYO companies will submit a customer service report as described in 6.3.2 Customer Service Report Review. Operation Reviews for Customer Service will provide a representation of the policyholder's overall customer service experience.

Operation Review Process for Customer Service

The operation review process may include, but is not limited to, the following steps:

- FEMA will request a customer service report that includes customer service elements, handled during the audit period as described in Section 6.3.1 Random Selection Determination.
- FEMA will notify WYO companies of the selected information to review the customer service operational activities.
- A Departmental Review as described in Section 6.3.3 Customer Service Departmental Review.
- WYO companies must provide the selected information to FEMA within 30 calendar days from the notification date using the submission process provided by FEMA at the time of the request.
- FEMA will provide WYO companies with the Operation Review results and observations.
- WYO companies will have 14 calendar days to respond to observations identified during the review.
- FEMA may require corrective action(s) based on trends from observations identified during the Operation Review for Customer Service.
- WYO companies will address the observations and provide a plan for any required corrective action(s) within 60 calendar days.
- FEMA may also establish additional follow-ups and, if necessary, additional oversight activities.

6.3.1 Random Selection Determination

FEMA will request a customer service report based on information from a selected week from the month prior to the request. For example, if the operation review customer service report is requested in June 2022, the report should be based on information for the selected week in May 2022.

6.3.2 Customer Service Report Review

FEMA will measure the quality of customer service based on the following:

- **Summary of customer service interactions** – WYO companies will provide a report including the volume of interactions they have conducted from the selected time-period;
- **Summary of customer service communication mediums** – (e.g., chats, emails, and phone calls); and
- **Summary report of customer service issue resolution** – customer complaint trends or a list of complaints and customer escalations and its responses.

6.3.3 Customer Service Departmental Review

FEMA may request a review of WYO companies' responsibilities, authorities, and structure (managerial, technical, and clerical).

The review may include:

- Review of WYO companies' customer service responsibilities, authorities, and staffing composition;
- Interviews with management and key personnel to understand current customer service trends, customer feedback observations, and common themes; and
- An administrative review to verify compliance with NFIP procedures:
 - Ask to see summary report of responses to complaints filed with the state insurance departments.

6.3.4 Customer Service Operation Review Results

At the end of a Customer Service Operation Review, FEMA will provide WYO companies with a final report. The report may include observations and recommendations on improving service. The reports will provide either a Satisfactory or Unsatisfactory rating.

6.3.5 Customer Service Operation Review Scoring

Satisfactory

A Satisfactory rating means WYO companies have submitted their customer service report including requested information, as well as a complete Customer Service Departmental Review upon request.

Unsatisfactory

An Unsatisfactory rating means WYO companies have not submitted their customer service report or submitted their customer service report and have not provided the requested information in the report or have an incomplete Customer Service Departmental Review when requested.

6.4 Operation Reviews for Marketing

Once every three years, FEMA will conduct Marketing Operation Reviews for each WYO company, consisting of an analysis of marketing procedures. Marketing Operation Reviews will provide FEMA with an awareness of WYO companies' operational marketing activities and ensure compliance with marketing guidelines established by FEMA.

WYO companies must submit a written comprehensive Operations Plan within 90 days of the commencement of the WYO Arrangement every fiscal year. Included in the Operations Plan is a Marketing Plan consistent with the WYO Arrangement's NFIP Marketing Guidelines for WYO Companies. FEMA will perform the Marketing Operation Review using components of the WYO companies' Marketing Plan that is included in their Operations Plan submission.

The NFIP Marketing Guidelines for WYO Companies requires that the Marketing Plan include 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.

Operation Review Process for Marketing

The operation review process may include, but is not limited to, the following steps:

- FEMA will review WYO companies' Marketing Plan submission.
- FEMA will notify WYO companies if information is missing from the Marketing Plan.
- WYO companies must provide requested documents to FEMA within 30 calendar days from the notification date using the submission process provided by FEMA at the time of the request.
- FEMA will provide WYO companies with the Marketing Operation Review results that include observations.
- FEMA will provide WYO companies with 14 calendar days to respond to the observations identified during the review and resolve outstanding questions.
- FEMA may require corrective action(s) based on trends from observations identified during the Marketing Operation Review.

6.4.1 Marketing Operation Review

FEMA will review the Marketing Plan to assess the following components included in the requirement by the WYO Arrangement's NFIP Marketing Guidelines for WYO Companies:

- **Marketing Goal** – WYO companies will describe its forecasted three-year policy growth and retention goals and how the marketing goal will align with FEMA's goal of closing the insurance gap. WYO companies may provide any open-source data, like census, or consumer research applied to forecast growth and retention.
- **Marketing Organization** – WYO companies will identify roles and responsibilities for overseeing and updating marketing efforts, including the WYO business units engaged in marketing, and the vendor, if a vendor has a role.

- **Marketing Strategy** – WYO companies will identify and describe its marketing strategy. The strategy must specify a geographic location, target audience, and timeframe.
- **Marketing Activities** – WYO companies will describe three to five key marketing activities it plans to execute to support the strategy to achieve forecasted policy growth and retention. Activities include direct mail, print ads, television or radio ads, digital ads, social media, newsletters, television or radio interviews, client cold calls, or other marketing activities.

6.4.2 Marketing Operation Review Results

At the end of a Marketing Operation Review, FEMA will provide WYO companies with a final report. FEMA will distribute reports and include observations from the review. The report will provide either a Satisfactory or Unsatisfactory rating.

6.4.3 Marketing Operation Review Scoring

FEMA will review certain components of the Marketing Plan to ensure compliance with the WYO Arrangement and marketing guidelines established by FEMA. FEMA will determine if the Operation Review for marketing is Satisfactory or Unsatisfactory.

Satisfactory

A Satisfactory rating means the WYO company submitted their Marketing Plan and provided information for certain components listed in the WYO Arrangement NFIP Marketing Guidelines for WYO Companies. The WYO company adhered to the WYO Arrangement, Article III. Undertakings of the Company. G. 2.

Unsatisfactory

An Unsatisfactory rating means the WYO company has not submitted their Marketing Plan.²

6.5 Operation Reviews for Litigation

Every two years, FEMA will conduct a Litigation Operation Review for each WYO company, which shall consist of an analysis of litigation activities and processing procedures. These reviews shall be conducted in accordance with the Financial Assistance/Subsidy Arrangement (WYO Arrangement), the NFIA, federal regulations implementing the NFIP, the terms and conditions of the SFIP, the NFIP Litigation Manual, FEMA's SALAE 3 Billing Requirements, and other applicable guidance, including, but not limited to, the NFIP Claims Manual (collectively "FEMA's guidance").

Operation Review Process for Litigation

The operation review process may include, but is not limited to, the following steps:

² Failure to comply with the WYO Arrangement will result in additional consequences. See Article II. Commencement and Termination. E. Cancellation by FEMA for more information.

- FEMA will select a random sample of litigation files from the WYO Litigation Spreadsheet and will select those files from one of the following categories of cases:
 - All cases dismissed;
 - All cases for which a dispositive judicial ruling has been made within the last two years prior to the review; or
 - Some narrower categories of cases (e.g., cases with claims over \$30,000 or cases settled prior to trial).
- FEMA will notify WYO companies of the documents necessary to review the litigation file.
- WYO companies will then be required to provide requested documents to FEMA within 30 calendar days from the notification date using the submission process provided by FEMA at the time of the request.
- FEMA will provide WYO companies with the Litigation Operation Review results that include observations.
- FEMA will provide WYO companies with 14 calendar days to respond to the observations identified during the review and resolve outstanding questions.
- FEMA may require corrective action(s) based on trends from observations identified during the Litigation Operation Review.

6.5.1 Random Selection Determination

The number of litigation files FEMA will randomly select for review will be determined based on the number of cases that WYO companies litigated in the preceding two years of the review. If WYO companies have not litigated at least 5 cases within the last two years prior to the review, their review may be deferred until the next operation review cycle.

Sample Size Determination (Accrued every two years)	
Number of Cases Litigated in the Preceding Two Year of the Review	Samples Reviewed (at a minimum)
0 – 4	0
5 – 9	2
10 – 14	5
15 – 19	8
20+	10

6.5.2 Litigation File Review

FEMA will review litigation files to identify and measure WYO companies’ compliance with litigation rules, the cost of litigation and the outcome of litigated cases.

Focus Areas

- WYO companies' case plans and budgets.
- WYO companies' reimbursement of litigation expenses.
- WYO companies' settlement offers.
- WYO companies' overall litigation strategy.

Litigation Review Criteria

- Whether WYO companies follow the requirements set forth in FEMA's NFIP Litigation Manual, the NFIP Claims Manual, and FEMA's SALAE 3 Billing Requirements.

Legal Expenses

- Whether WYO companies are utilizing FEMA's guidance to effectively manage the performance, effectiveness, and efficiency of legal counsel;
- Whether the WYO company properly determined that the reasons for litigation settlements were sufficient to justify the expenditure of federal funds to settle the case.
- Whether the WYO company reviewed all invoices for legal fees and expenses submitted for reimbursement and certified that they comply with FEMA's guidance and their own guidance, as applicable;
- Whether the WYO company reviewed all invoices for legal fees and expenses submitted for reimbursement and certified that they comply with FEMA's guidance and their own guidance, as applicable;
- Whether the WYO company submitted their invoices for reimbursement of legal fees and expenses to FEMA in a timely manner or by such time as stipulated by FEMA;
- Whether the WYO company's invoices for legal fees and expenses were properly submitted to FEMA with all the information required by the NFIP Litigation Manual and SALAE 3 Billing Requirements; and
- Whether the WYO company submitted invoices for properly reimbursable legal fees and expenses in compliance with the NFIP Litigation Manual and SALAE3 Billing Requirements.

Case Plans and Budget (CP&B)

- Whether the WYO company provided FEMA with timely notice of all new litigation as stipulated in the NFIP Litigation Manual;
- Whether the WYO company complied with all other applicable notice requirements in the NFIP Litigation Manual;
- Whether the WYO company timely submitted CP&Bs and also timely submitted any required updates to these CP&Bs;
- Whether the WYO company's CP&Bs meet the requirements in the NFIP Litigation Manual;
- Whether the WYO company ensured the WYOT was consulted about any settlement or potential settlements in a timely manner;

- Whether the WYO company ensured that FEMA was notified of all negative rulings in a timely manner as stipulated in the NFIP Litigation Manual;
- Whether the WYO company ensured that the WYOT was consulted with prior to the filing of any substantive motions and court papers and any appeals;
- Whether the WYO company timely notified FEMA of case closures.

In the process of reviewing, FEMA reserves the right to request any information or documentation that will assist FEMA in fulfilling our obligations to conduct the Litigation Operation Review.

6.5.3 Litigation Operation Review Results

At the end of a Litigation Operation Review, FEMA will provide WYO companies with a final report. FEMA will distribute reports and include observations from the review. The report may also include recommendations on steps for improvement. The report will provide either a Satisfactory or Unsatisfactory rating.

6.5.4 Litigation Operation Review Scoring

FEMA will base WYO company scores on an Error Score calculated during the review of litigation files. FEMA will classify issues into either Non-Critical Errors or Critical Errors. FEMA will calculate the Error Score by adding Critical Errors. FEMA will include Non-Critical Errors in the report; however, they will not impact the Error Score. FEMA will use the Error Score to determine if the Litigation Operation Review is Satisfactory or Unsatisfactory.

Critical Errors

The table below provides a list of litigation errors that would count as one critical error if the conditions noted beside it are met.

Litigation Critical Errors	
Litigation Errors	Error Will Count as One Critical Error if the Following Conditions are Met:
Unauthorized depositions.	Four or more instances.
More than one counsel billing for same activity.	Four bills or more; or Seven entries in two or more bills.
Failure to file a notice of removal, missing deadlines, not moving to dismiss claims in state court (when missed removal deadline or case cannot be removed) for lack of subject matter jurisdiction.	Two or more instances.
Failure to move to notify WYOT of a case that is not ripe and, if instructed by the WYOT, to move to dismiss the claim.	Two or more instances.

Litigation Critical Errors	
Litigation Errors	Error Will Count as One Critical Error if the Following Conditions are Met:
Appealing or moving to reconsider a ruling without notifying FEMA and allowing FEMA to review the brief at least 72 hours in advance.	One instance.
Failure to notify FEMA of a lawsuit or submitting a Case Plan & Budget in a timely manner.	Four or more instances.
Failure to notify FEMA of potential settlement opportunities until after discovery is completed.	Four or more instances.
Failure to timely respond to WYOT requests for information.	Five or more instances.
Violations of the any other NFIP Litigation Manual or Billing Requirements not covered above.	Six or more instances.

Satisfactory

If FEMA determines less than three critical errors, FEMA will consider the outcome of the Litigation Operation Review as Satisfactory. When FEMA determines an Operation Review is Satisfactory, WYO companies do not need to take additional steps pursuant to the audit process. However, FEMA may choose to provide WYO companies with a set of recommendations for corrective action if the WYO company's performance does not rise to the level of Unsatisfactory but nevertheless warrants attention.

Unsatisfactory

If FEMA determines three or more critical errors, FEMA will consider the outcome of a Litigation Operation Review as Unsatisfactory. FEMA will provide the Unsatisfactory rating in a report format. The report will describe each Unsatisfactory condition and provide an explanation for each error. WYO companies will provide a Corrective Action Plan to address all deficiencies in response to the review. See Section 11. Potential Consequences for Unsatisfactory Performance for more information on scoring consequences.

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 Payment Management

To ensure WYO companies have the funds needed to pay claims and allowable expenses as authorized under the WYO Arrangement's Article V. A. Undertakings of the Government, WYO companies can request a Letter of Credit (LOC) account.

WYO companies must register and maintain an active registration in the Government's System for Award Management (SAM) at www.sam.gov to obtain a Letter of Credit account. This system verifies, identifies, and ensures that payment is sent to the right party.

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 in the request. 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 participation in the NFIP.

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; and
 - Implementation Timeline.
 - Informal ad hoc reports on the area of defined non-compliance; or
 - Formalized periodic reports on the area of defined non-compliance.
- Requiring WYO company personnel to receive additional technical assistance, which may include training.
- 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; or
 - Conveying the results to the Standards Committee.