

Secretary Napolitano Announces Public Assistance Arbitration Process for Hurricanes Katrina and Rita



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Office of the Press Secretary
Contact: 202-282-8010

Department of Homeland Security (DHS) Secretary Janet Napolitano today joined with U.S. Senator Mary Landrieu of Louisiana and Federal Emergency Management Agency (FEMA) Administrator Craig Fugate to announce a new arbitration process to expedite resolution of outstanding FEMA public assistance projects stemming from hurricanes Katrina and Rita. The new arbitration system is designed to further recovery efforts by providing final adjudication of disputes arising from public assistance projects by an independent, neutral panel of arbitrators.

“Six months into the new administration, we have made great strides with Gulf Coast recovery efforts, cutting through red tape, expediting assistance and forging new partnerships across the region,” said Secretary Napolitano. “The new arbitration process will enable FEMA and its state and local partners to continue to make progress on critical infrastructure projects, rebuilding the Gulf Coast stronger than ever.”

The new arbitration process, authorized by the American Recovery and Reinvestment Act, provides an alternative to the current FEMA appeals process by allowing public assistance applicants disputing a FEMA eligibility decision for projects in excess of \$500,000 to elect for an arbitration panel to review their claim.

The announcement reflects Secretary Napolitano’s ongoing commitment to close coordination between FEMA and all levels of government and represents the latest in a series of actions taken to help Gulf Coast residents rebuild their communities as quickly and efficiently as possible.

Since January, Secretary Napolitano has visited New Orleans to meet with local officials on the ground, created a new Louisiana Decision Team to expedite the approval of projects, resulting in the award of hundreds of millions of dollars in additional funding for the rebuilding of critical education, public works and public safety needs in local communities.

Applicants requesting arbitration under the new process will agree to forgo the current FEMA appeals process—and applicants with pending appeals may elect to have the matter reviewed by an arbitration panel instead. The panels will consider eligible pending disputes involving public assistance projects in all states with disaster declarations from hurricanes Katrina and Rita.

Each arbitration panel will consist of three judges—independent from DHS—drawn from the federal pool of administrative law judges and other similar officials serving on boards, commissions and agencies. The number of panels will be dictated by caseload, with the Federal Civilian Board of Contract Appeals providing the primary pool of judges.

Panels will consider all written statements and supporting documentation from the applicant, the state and FEMA. This process will also allow the applicant and FEMA to request an oral hearing, while the panel may seek expertise and advice of independent scientific or technical subject matter experts.

Panels will strive to make a majority determination within 60 days of reviewing the written material and hearing oral testimony. The panel’s decision will be final, binding and generally not subject to further administrative or judicial review.

FEMA expects to publish administrative rules to govern this new process by August 31. For more information, visit www.fema.gov.

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