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When FEMA Says No: Strategic Considerations After an Adverse FEMA Public Assistance First Appeal Decision - Baker Donelson

Summary

After the Federal Emergency Management Agency (FEMA) issues an unfavorable first appeal decision on a Public Assistance claim, many applicants must decide whether to submit a second appeal to FEMA headquarters or request binding arbitration before the Civilian Board of Contract Appeals (CBCA).

That decision is strategic, time-sensitive, and usually irreversible. Arbitration can provide an independent forum and a more litigation-like process, but it requires a complete, well-organized record and is available only when statutory and regulatory eligibility requirements are met. The second appeal option usually entails lower costs but lacks the same level of collaborative opportunity and independence.

Applicants should evaluate forum selection prior to or immediately upon receiving a FEMA first appeal decision and should not assume the better path is the same for every project.

Continue reading.

Baker Donelson

by Charles F. Schexnaildre

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