COM-16-004: AIP Dispute Request Requirements

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Date

May 31, 2016

To

All Approved Insurance Providers
All Risk Management Agency Field Offices
All Other Interested Parties

From

Heather Manzano, Deputy Administrator for Compliance /s/ Heather Manzano
5/31/2016

Subject

AIP Dispute Request Requirements

Background

7 C.F.R. § 400.169(b) outlines the appeals process for compliance matters. If the approved insurance provider (AIP) believes that the Risk Management Agency (RMA) Regional Compliance Office rendered a final finding not in accordance with applicable laws, regulations, or FCIC approved policy and procedure, the AIP may request the Deputy Administrator for Compliance to make a final administrative determination.

Currently, there is no structure to the appeals process except for the deadline for filing a request for a final administrative determination. This has led to an inefficient and ineffective system of review. Some AIPs detail why they believe the final findings are in error and provide evidence to support their position. Other AIPs simply state that the final findings are in error with no detail regarding why they are in error, and do not provide any evidence to support their position. This has caused final administrative determinations that are based on an inadequate administrative record, and result in a waste of time and resources completing the administrative

record during the appeals process before the Civilian Board of Contract Appeals. To streamline and improve the process, this memorandum provides the requirements for submitting a final administrative determination request.

This Informational Memorandum does not change existing policy or procedure, or existing AIP responsibilities for filing a request for a final administrative determination in accordance with 7 C.F.R § 400.169.

Action

1. Under § 400.169(b), all requests for a final administrative determination must be submitted in writing to the RMA Deputy Administrator for Compliance within 45 days after receipt of the final finding. Previously final findings were mailed to the AIP.

Now the final findings are uploaded to the Compliance Activities and Results System (CARS). As a result of this change, RMA will consider receipt of the final findings to be the date it was uploaded to CARS.

2. Statements that an error has occurred, without evidence to support that FCIC erred, will not suffice. To create a more effective and efficient process, all requests for final administrative determination must contain:

a) The specific provisions of the final findings that the AIP disputes;
b) A detailed statement of why the AIP believes the final findings were in error; and
c) All evidence the AIP relies upon to demonstrate that the final findings are in error. Such evidence must include photos, records, affidavits, sworn statements, maps, data, etc., which specifically rebut the final finding.

DISPOSAL DATE:
Until Rescinded