

Federal Emergency Management Agency (FEMA) 50 Percent Rule Calculation vs. Substantial Damage

City of Cape Coral FEMA Public Assistance Program

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FEMA's Public Assistance 50 Percent Rule

- **FEMA's 50 Percent Rule** is also known by FEMA as **Repair vs. Replacement**.
- **Replacement:** A facility may be eligible for replacement when a comparison of the repair cost to the replacement cost is 50 percent or more.
 - The replacement cost is the cost of replacing the facility based on its pre-disaster design and function in accordance with applicable building codes.
 - The cost of replacing the facility is based on new construction costs.
- **Repair:** If a facility does not meet the 50 Percent Rule, only the repair costs will be eligible. The City may be able to apply the obligated capped repair Grant costs towards a new facility.

Substantial Damage

- **Substantial Damage** is met when the cost to repair a facility is 50 percent or more of its market value before the disaster, not including land value.
- The jurisdiction's Floodplain Manager holds the authority to determine if a facility is substantially damaged.
- The City and the Floodplain Manager have the option to prepare documentation to support the substantial damage claim and submit to FEMA for review.
- After FEMA accepts the substantial damage claim, further documentation is required to indicate how the replacement facility will comply with the National Flood Insurance Program (NFIP).
 - FEMA will review for NFIP compliance and for the most reasonable cost-effective and technically feasible measure.

FEMA PA Process for 50 Percent Rule Calculation and Substantial Damage

1

Site Inspection

FEMA conducts an inspection to document hurricane-related damages to a facility.

**This step has been completed for the Yacht Club buildings.*

2

Damage Review

FEMA will prepare a list of damaged elements for each structure inspected. The City will be asked to approve the list of damages.

This list is named by FEMA as the Damage Description and Dimensions (DDD).

3

Scope of Work Review

FEMA prepares a list of work items describing how the damages will be repaired and provides an estimate for the work. The City will need to approve the Scope of Work and estimate.

**The City has requested that FEMA produce the 50 Percent Rule estimate for facilities at the Yacht Club.*

4

Substantial Damage

If a facility does not meet the 50 Percent Rule, FEMA may then process the City's Substantial Damage claim at the City's request.

It is recommended that the City request the Floodplain Manager provide a Substantial Damage Determination **prior to demolishing a facility.*

How long this process takes? Estimated Timeline

Damage Approval

- **1 month:** It is anticipated that FEMA will provide the City with the DDD to review within a month. It is not recommended to make changes to any structures to which this process may be applicable to until all damages have been reviewed for errors and omissions. Potential risks may include:
 - Possible damages may not have been captured at the time of inspection (e.g., electrical damage).
 - FEMA may ask to revisit a facility if there are a numerous corrections to a damage list. A reinspection will send the project back a step.

Scope of Work

Once the damage is approved by the City and Essential Elements of Information have been uploaded to the FEMA's Grants Portal System, FEMA will forward the project to the Central Resource Center (CRC).

- **3 to 6 months:** At the CRC the project's scope of work and estimated cost will be prepared. As the Applicant, the City will review and approve the scope of work and estimate.
- **+1 to 2 months after approval:** FEMA and FDEM will take a few more steps before the funding is obligated to the City. *Projects over \$1 million will go to a Congressional Review.*

**At any time, a project may be sent back one or more steps which will add more time to process the project.*

Questions?