

PUBLICATION

Tips for Obtaining Reimbursement from FEMA for Your Disaster-Damaged Roof

Authors: Michelle Faye Zaltsberg, Wendy Huff Ellard
September 13, 2022

As we enter what is historically the most active part of hurricane season, we want to alert our clients and others who may be eligible for FEMA reimbursement of important steps to take before and right after a disaster with respect to damage to roofs. If an applicant does not have extensive documentation of the pre-disaster condition or the post-disaster damage of its roof (in some cases, more than FEMA's policy and program guidance requires), FEMA may deny eligibility of the costs of roof repair or replacement.

Documenting Pre-Disaster Condition and Proving the Absence of Neglect

Under the Public Assistance program, FEMA is authorized to reimburse the cost to restore a disaster-damaged facility to its pre-disaster design, capacity, and function. Accordingly, an applicant will be required to provide documentation of the pre-disaster condition of the facility. For buildings, FEMA acknowledges that "distinguishing between damage caused by the incident and pre-existing damage may be difficult." To make this distinction, FEMA will consider evidence of regular maintenance – e.g., facility maintenance records, work orders, inspection reports, and safety reports. FEMA will not reimburse costs to remedy what it believes is damage from deterioration, deferred maintenance, or neglect.

Applicants should do everything they can to document pre-disaster condition and regular maintenance before a disaster. We recommend:

- *Review manufacturer recommendations/warranty requirements and do them.* FEMA has used warranty requirements to argue that applicants have not properly maintained their facilities. Some warranties will require only that professional roofers traverse a roof or perform repairs. In such a case, FEMA could use work performed by an applicant's staff as evidence that the roofs were not maintained in accordance with the manufacturer's or installer's requirements.
- *Document your maintenance protocol and keep records of inspections, preventive maintenance, and repairs.* Often, applicants tell us that their budgets do not allow for robust annual inspections of all public buildings by a professional roof inspector or frequent preventive maintenance. Even in these cases, we recommend that you formalize whatever preventive maintenance you *can* do and keep good records of inspections and work performed to keep your roof in good order. For example, if your maintenance protocol is limited to annual pressure washing of your metal roofs, have your staff document a simultaneous inspection of the various elements of the roof and any abnormalities observed. All issues should be addressed promptly and documented by a corresponding work order.
- *Perform inspections annually and take photos and video.* If you do nothing else, take annual (or semi-annual) photographs of your facilities. FEMA frequently raises the lack of pre-disaster photographs as a reason it cannot validate pre-disaster condition. We recommend doing this right before hurricane seasons begins (i.e., *NOW*). If you have the resources to do so, invest in a drone. If your annual maintenance inspection reveals damage or other wear and tear issues that require routine maintenance to correct, thoroughly document the completion of the maintenance work. If maintenance is performed by your own staff (what FEMA calls "force account labor"), document the

hours worked and materials used, and include before and after photos. If maintenance is performed by contract labor, keep all invoices and include before and after photographs. If possible, include date and GPS coordinate location stamps on your photos. Consider using something like "Solocator," a \$0.99 app available in most app stores that will automatically apply time and GPS location stamps to your photos.

Documenting that Your Damage is Disaster-Related

Never rely on FEMA to document damage for you. After a disaster, FEMA will conduct a site inspection in person, remotely via video conferencing, or as a table-top exercise. The stated purpose of the site inspection is "to validate, quantify, and document the cause, location, and details of the reported damage and debris impacts." The site inspection report (SIR) is supposed to include the damage description and dimensions (DDD) that FEMA and the applicant have agreed upon. Time and again, however, FEMA has rejected the SIR as evidence of anything other than the applicant's claimed damage and has argued that the damage listed in the DDD is either not specific enough or not disaster-related. To avoid this fate, we recommend the following:

- *If you have disaster damage, document it BEFORE work begins.* Take photographs and video of the damage (use a drone if you can, and include date and GPS stamps as described above). Do this *before* anyone begins any work. Also keep in mind the scale of your photographs — a close-up of a patch of asphalt tiles will not have much impact out of context: Which building does it belong to? Where is it on the building? If you are photographing a tear, use a measuring tape or an object of known standard size (playing card, coin, dollar bill) to capture its relative size. If the damage can't be captured by photograph (e.g., loose metal panels or concrete tiles), take a video of the inspection and indicate the date and location in the video. It is advisable to hire a roof inspector certified in your state to create a damage assessment before any work begins.
- *Identify damage with specificity.* FEMA may not accept a boilerplate report by a roofing contract stating that observed damage requires replacement. FEMA may require every damaged tile, every damaged panel, and every dent/scrape/tear be photographed and connected to a corresponding location on the roof (e.g., by reference to a to-scale drawing). If a whole section of asphalt shingles or concrete tiles has to be replaced, measure the area and take photos of the measurement. If tiles are on the ground, take photos of the tiles on the ground and identify their location (and their source, if known). FEMA may also give little weight to a roof inspection by a commercial roofer who intends to win the work to repair or replace the damaged roof.
- *Assume nothing.* While you, your roof inspector, and your insurance adjuster may observe what all consider to be obvious damage requiring roof replacement, don't assume FEMA will agree. A claim that "there were no leaks before the storm and many leaks after the storm" may not be enough to meet FEMA's DDD requirement. No matter how improbable, FEMA will argue vents, HVAC, and plumbing could have caused the leaks. FEMA will argue significant water intrusion may be the result of one damaged tile or a damaged window, rather than widespread roof damage. Don't expect FEMA to accept an insurance adjuster's determination (unless the insurance adjuster denied coverage). After a disaster, we recommend inspections of all of possible sources of water be performed to rule them out.
- *Use your local building official.* Some jurisdictions have building codes that require full roof replacement if a certain portion (e.g., 25%) of the roof requires repair in any given period (e.g., 12 months). These codes are typically enforced by permit officials when a building owner wants to do a significant repair *without* a full replacement. If a building owner seeks a permit for full replacement, a permit official need not conduct an evaluation under the code to compel full replacement. This can leave an applicant for FEMA funding arguing with FEMA that the code would have required full replacement without a formal opinion from a local building official. FEMA will take the position that it

will only reimburse the cost to repair the disaster-related damage, not the cost to replace the whole roof, which includes non-damaged elements. To avoid this fight, we recommend requesting an evaluation by your local building official of the applicability of any codes or standards to your roof repair work.

To reiterate one last time: Never rely on FEMA to document your damage for you and expect FEMA to ask for more than what its policies and guidance require.

If you have questions or concerns related to Public Assistance procedures or eligibility, or would like to learn more about FEMA assistance, please contact [Michelle F. Zaltsberg](#) or any member of the [Baker Donelson Disaster Recovery Group](#).