



Homeland Security

January 12, 2011

MEMORANDUM FOR: Lynn Gilmore Canton, Regional Administrator
 FEMA Region II

FROM: C. David Kimble, Director
 Eastern Regional Office

SUBJECT: *Puerto Rico Department of Transportation and Public Works*
 Public Assistance Identification Number: 000-UK2GJ-00
 FEMA Disasters Nos. 1501, 1552, and 1798
 Report Number: DA-11-07

We audited public assistance funds awarded to the Puerto Rico Department of Transportation and Public Works (Department). The audit objective was to determine whether the Department accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

The Department received an award of \$8.9 million from the Puerto Rico Office of Management and Budget, a FEMA grantee, for damages related to floods and mudslides, and Tropical Storm Jeanne. The awards provided 75% FEMA funding for 19 large projects and 168 small projects for debris removal, emergency protective measures, and repairs to roads and public facilities.¹ The specifics of each disaster are presented in the table below.

Disaster	Disaster No.	Date of Disaster (Month/Year)	Amount Awarded	Large Projects Awarded	Small Projects Awarded
Floods & Mudslides	1501	Nov. 2003	\$ 956,055	2	57
Tropical Storm Jeanne	1552	Sept. 2004	1,150,119	4	15
Floods & Mudslides	1798	Sept. 2008	6,816,998	13	96
Total			\$8,923,172	19	168

We reviewed costs totaling \$3.9 million claimed under the three disasters, which consisted of 11 large projects and 18 small projects (see Exhibit A). The audit covered the period of November 10, 2003, to February 9, 2010, during which the Department had received \$699,371 of FEMA funds. At the time of our audit, the Department had not submitted final claims on project expenditures to the grantee.

¹ Federal regulations in effect at the time of the disasters set the large project threshold at \$54,100 for the floods of 2003 and Hurricane Jeanne, and \$64,200 for the floods of 2008.

We conducted this performance audit under the authority of the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We judgmentally selected project cost documentation (generally based on dollar value); interviewed Department, grantee, and FEMA personnel; reviewed the Department's grant accounting and procurement policies and procedures; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our audit objective. We did not assess the adequacy of the Department's internal controls applicable to its grant activities because it was not necessary to accomplish our objective. We did, however, gain an understanding of the Department's grant accounting system and its policies and procedures for administering the activities provided for under the FEMA awards.

RESULTS OF AUDIT

The Department did not account for FEMA project expenditures according to federal regulations and did not always comply with federal procurement standards when contracting for disaster activities. In addition, we question costs totaling \$2,408,337 (FEMA share \$1,806,253) under the three disasters that resulted from duplicate funding, unauthorized work, small projects not implemented, and previously disallowed costs. We also concluded that \$366,331 of unneeded project funding should be de-obligated.

- A. Grant Accounting. Federal regulation 44 CFR 13.20(a) requires a State and its subgrantees to provide accounting records that permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of restrictions and prohibitions of applicable statutes. The Department maintained separate project files, which generally contained expenditures documentation to support the costs claimed under each project. However, this information could not be readily traced to the Department's accounting system because the system did not capture expenditure data by project. As a result, we could not readily determine the accuracy of the expenditure data contained in the project files, which were used to support costs claimed under the projects.
- B. Duplicate Funding. According to Section 312 of the Stafford Act, FEMA funds cannot be used for expenditures recoverable from another federal program, insurance, or any other source. However, the Department's claim included \$801,964 of costs under Disaster 1798 that were funded by FEMA under another project or funded by another source, as follows:
 - FEMA inadvertently awarded \$469,529 under Project 1061 and \$739,050 under Project 1130 to repair the same three retaining walls along Road PR-950 (Kilometer 5.3, Municipality of Naguabo). The Department completed the repair work under Project 1130 and claimed \$739,050 of costs. Therefore we question the \$469,529 of duplicate funding under Project 1061. Department officials agreed with this finding.

- FEMA awarded \$211,518 under Project 1005 to repair damages along Road PR-927 (Kilometer 8-9, Municipality of Naguabo). However, the Municipality of Humacao performed the repairs with its own funds under an agreement with the Department and did not bill the Department for the costs incurred for the repairs. Therefore, we question the \$211,518 of duplicate funding.
- FEMA awarded \$120,917 under Project 1060 to repair damages along Road PR-503 (Kilometer 0.5, Municipality of Ponce). However, we determined that the repairs were funded by the Federal Highway Administration. Therefore, we question the \$120,917 of duplicate funding.

C. Contract Charges. The Department entered into a Memorandum of Understanding (MOU) with the Puerto Rico's Infrastructure Financing Authority (AFI) to implement the FEMA approved scope of work related to the repairs of damaged roads under Disaster 1798 (floods and mudslides) that occurred in September 2008. AFI awarded 8 contracts under the MOU for such repairs. We reviewed four of the contracts related and determined that AFI accepted \$1,670,659 of contractor billings related to five damaged roads without a determination that the activities performed by the contractors were authorized by FEMA. At our request, FEMA performed field inspections on the road repairs and determined that \$750,424 of the costs billed by the contractors was for unauthorized activities. Therefore, we question the \$750,424 of unauthorized contract charges (see Exhibit B).

D. Road Repairs. According to 44 CFR 206.202(d)(1)(i), a project worksheet must identify the eligible scope of work and a quantitative estimate of such work. Additionally, 44 CFR 206.205(b) requires that payments under large projects be based on actual costs incurred for eligible work. However, under Disaster 1501, the Department performed additional work that resulted in \$508,158 of unauthorized repairs, as follows:

- FEMA awarded \$401,604, under Project 532 for the repair of Road PR-612 (Kilometer 2.7, Municipality of Utuado). However, the Department performed road repairs totaling \$821,638, which resulted in unauthorized repairs of \$420,034. We question the \$420,034 as shown in the following table.

Description	Approved Quantity	Actual Quantity	Unauthorized Quantity	Unit Cost	Questioned Costs
Structural Concrete Class A	615.09 CY	1,120.50 CY	505.41 CY	\$400	\$202,164
Dewatering	30 days	90 days	60 Days	\$115	6,900
Backfill Granular	139.69 CY	3,070.00 CY	2,930.31 CY	\$ 18	52,746
Excavation & Backfill	637.17 CY	1,886.00 CY	1,248.83 CY	\$ 30	37,465
Concrete Class X	6.50 CY	45.50 CY	39.00	\$375	14,625
Bituminous Asphalt	0	200 Tons	200 Tons	\$90	18,000
Equipment Mobilization	0	3 Trips	3 Trips	\$1,500	4,500
Safety Signs	0	6 CM	6 CM	\$250	1,500
Insurance & Taxes	0	1 Lump Sum	1 Lump Sum		81,423
Miscellaneous	0				711
Total					\$420,034

- FEMA awarded \$91,886, under Project 609 for the repair of Road PR-920 (Kilometer 3.8, Municipality of Yabucoa). However, the Department performed road repairs totaling \$180,010, which resulted in \$88,124 of unauthorized repairs. We question the \$88,124 as shown in the table below.

Description	Quantity Approved	Quantity Actual	Quantity Unauthorized	Unit Cost	Questioned Costs
Backfill	1,400 CY	2,000 CY	600 CY	\$40	\$24,000
Asphalt	4 Tons	10 Tons	6 Tons	\$75	450
Bulldozer 450	000	35 Days	35 days	\$400	14,000
5 Trucks	000	7 days	7 days	\$2,000	14,000
Digger	000	50 Days	50 Days	\$300	15,000
Roller	000	1 Month	1 Month	\$3,500	3,500
Excavator	000	17 Days	17 Days	\$500	8,500
Asphalt Roller	000	2 days	2 Days	\$200	400
2 Trucks	000	2 Days	2 Days	\$800	1,600
1 Small Truck	000	1 Day	1 day	\$400	400
General Cleaning of Area	000	200 Meters	200 Meters	\$15	3,000
Final Cleaning of Area	000				2,900
Miscellaneous	000				374
Total					\$88,124

- E. Funding. FEMA awarded \$1,375,776 of funds under three projects for road repair activities. However, actual project costs totaled \$1,009,445, or \$366,331 less than the amount funded by FEMA. Federal regulations 44 CFR 206.205(b) requires that payments under large projects be based on actual costs incurred for eligible work. Therefore, the \$366,331 of unneeded funding should be de-obligated and put to better use.

Project Number	Disaster Number	Amount Awarded	Amount Claimed	Excess Funding
1061	1552	\$ 78,882	\$ 17,129	\$ 61,753
1130	1798	739,050	628,612	110,438
1140	1798	557,844	363,704	194,140
Total		\$1,375,776	\$1,009,445	\$366,331

F. Small Projects. According to 44 CFR 206.205(a), failure to complete work under a small project may require that the federal payment be refunded. The Department received an award of \$245,126 to complete disaster-related road repairs under 14 small projects. We determined based on FEMA field inspections that the scope of work under the 14 projects was either (1) not fully implemented, or (2) not implemented. This resulted in small project activities not implemented of \$206,387, as shown in the table below.

Project Number	Amount Awarded	Amount Received	Amount Questioned
<u>Road PR-7759</u>			
00438	\$ 37,708	\$ 30,410	\$ 3,630
00447	44,870	44,870	44,870
00456	25,308	25,308	21,013
00724	8,675	8,675	8,675
01124	57,069	0	57,069
Sub-Total	\$173,630	\$109,263	\$135,257
<u>Road PR-758</u>			
00629	\$ 9,717	\$ 9,717	\$ 9,717
00630	1,248	1,248	882
01009	2,101	0	2,101
Sub-Total	\$ 13,066	\$10,965	\$12,700
<u>Road PR-7758</u>			
00628	\$ 6,006	\$ 6,006	\$ 6,006
Sub-Total	\$ 6,006	\$ 6,006	\$ 6,006
<u>Road PR-927</u>			
00791	\$ 14,672	\$ 14,672	\$ 14,672
00820	2,117	2,117	2,117
00821	3,381	3,381	3,381
00838	28,206	28,206	28,206
00951	4,048	4,048	4,048
Sub-Total	\$ 52,424	\$ 52,424	\$ 52,424
Total	\$245,126	\$178,658	\$206,387

G. Project Charges. The Department's claim under Disaster 1501 included \$141,404 of charges for road repairs that had been questioned by the grantee in prior reviews because the repairs had not been implemented. However, at the conclusion of our fieldwork, the grantee had not taken action to disallow the costs. Therefore, we question the \$141,404 as follows:

Project Number	Road Repairs	Grantee Report Date	Amount Claimed	Amount Questioned By Grantee
532	PR-612, Municipality of Utuado	09/03/09	\$401,604	\$132,116
609	PR-920, Municipality of Yabucoa	11/29/06	91,886	9,288
Total			\$493,490	\$141,404

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region II, in coordination with the grantee:

Recommendation #1. Inform the Department, for future disasters, to separately account for project costs on a project-by-project basis and to maintain supporting documentation that facilitates the tracing of project expenditures in its accounting system, as required by federal regulation (Finding A).

Recommendation #2. Disallow the \$801,964 of duplicate funding (Finding B).

Recommendation #3. Disallow the \$750,424 of unauthorized contract charges (Finding C).

Recommendation #4. Disallow the \$508,158 of unauthorized repairs activities (Finding D).

Recommendation #5. De-obligate the \$366,331 of excess funding (Finding E).

Recommendation #6. Disallow the \$206,387 for small projects not fully implemented (Finding F).

Recommendation #7. Disallow the \$141,404 of previously questioned project charges (Finding G).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the audit results with Department, grantee, and FEMA officials during our audit. We provided written summaries of our findings and recommendations in advance to these officials and discussed them at an exit conference held with FEMA officials on August 5, 2010, and with Department and grantee officials on August 9, 2010. Department officials withheld comments pending receipt of the final report.

Please advise me by March 14, 2011 of actions taken or planned to implement the recommendations contained in this report, including target completion dates for any planned actions. Should you have any questions concerning this report, please contact Felipe Pubillones, Audit Manager, at (404) 832-6705, or me at (404) 832-6702. Key contributors to this assignment were Felipe Pubillones and Salvador Maldonado-Avila.

cc: Michael Moriarty, Deputy Regional Administrator
Theo Joseph, Deputy Recovery Division Director
Audit Liaison, FEMA Region II
Audit Liaison, FEMA

Puerto Rico Department of Transportation and Public Works
FEMA Disasters 1501, 1552, and 1798
Schedule of Amount Awarded, Claimed, and Questioned Costs

Severe Floods - Disaster No. 1501

Project Number	Amount Awarded	Amount Claimed	Amount Questioned	Funds to Be De-obligated
Large Projects:				
532	\$ 401,604	\$ 821,638	\$ 552,150	
609	91,886	180,010	97,412	
Total	\$ 493,490	\$ 1,101,648	\$ 649,562	

Hurricane Jeanne – Disaster No. 1552

Large Projects:				
1061	\$ 78,882	\$ 17,129	0	\$61,753

Severe Floods – Disaster No. 1798

Large Projects:				
00494	63,761	116,188	52,427	
00651	380,242	697,130	316,888	
01001	102,345	192,268	\$89,923	
01005	211,518	35,710	211,518	
01060	120,917	120,917	120,917	
01061	469,529	0	469,529	
01094	129,944	242,939	112,995	
01124	57,069	100,267	100,267	
01130	739,050	628,612	0	\$110,438
01140	557,844	363,705	0	194,140
Sub-Total	\$2,775,150	\$2,397,469	\$1,374,197	\$304,578
Small Projects:				
00438	\$ 37,708	\$ 68,038	\$ 33,960	
00439	\$ 28,155	\$ 50,134	\$ 21,979	
00447	44,870	79,781	79,781	
00456	25,308	45,553	41,258	
00628	6,006	13,714	13,714	
00629	9,717	13,587	13,587	
00630	1,248	1,510	1,144	
00724	8,675	14,324	14,324	
00791	14,672	2,712	14,672	
00820	2,117	452	2,117	
00821	3,381	453	3,381	
00838	28,206	4,972	28,206	
00951	4,048	904	4,048	
01009	2,101	3,019	3,019	
01117	17,430	17,430	0	
01131	23,086	32,207	9,121	
Sub-Total	\$ 313,797	\$ 449,057	\$ 384,578	0
Total	\$3,088,947	\$2,846,526	\$1,758,775	\$304,578
Grand Total	\$3,661,319	\$3,965,303	\$2,408,337	\$366,331

Puerto Rico Department of Transportation and Public Works
FEMA Disaster 1798-DR-PR
Schedule of Unauthorized Contract Charges

Project Number	Amount Awarded	Amount Claimed	Amount Questioned
Road PR-7759			
00438	\$ 37,708	\$ 68,038	\$ 30,330
00439	28,155	50,134	21,979
00447	44,870	79,781	34,911
00456	25,308	45,553	20,245
00724	8,675	14,324	5,649
01124	57,069	100,267	43,198
Sub-Total	\$201,785	\$358,097	\$156,312
Road PR-758			
00629	\$ 9,717	\$ 13,587	\$ 3,870
00630	1,248	1,510	262
01009	2,101	3,019	918
01131	23,086	32,207	9,121
Sub-Total	\$ 36,152	\$ 50,323	\$ 14,171
Road PR-7758			
00628	\$ 6,006	\$ 13,714	\$ 7,708
Sub-Total	\$ 6,006	\$ 13,714	\$ 7,708
Road PR-900			
00494	\$ 63,761	\$ 116,188	\$ 52,427
00651	380,242	697,130	316,888
01094	129,944	242,939	112,995
Sub-Total	\$573,947	\$1,056,257	\$482,310
Road PR-753			
01001	\$102,345	\$ 192,268	\$ 89,923
Sub-Total	\$102,345	\$ 192,268	\$ 89,923
Total	\$920,235	\$1,670,659	\$750,424