



DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General
Atlanta Field Office - Audit Division
3003 Chamblee Tucker Rd
Atlanta, GA 30341

September 5, 2003

MEMORANDUM

TO: Kenneth O. Burris, Jr.
Regional Director, FEMA Region IV

FROM: Gary J. Barard
Field Office Director

SUBJECT: City of Key West, Florida
FEMA 1306-DR-FL
Audit Report No. DA-25-03

The Office of Inspector General (OIG) audited public assistance funds awarded to the City of Key West, Florida. The objective of the audit was to determine whether the City accounted for and expended FEMA funds according to federal regulations and FEMA guidelines.

The City received an award of \$9.1 million from the Florida Department of Community Affairs, a FEMA grantee, for debris removal, emergency protective measures, and restoration of its sewer system and other facilities damaged as a result of Hurricane Irene in October 1999. The award provided 75 percent FEMA funding for 8 large projects and 22 small projects.¹ Audit work was limited to the \$8,716,327 awarded and claimed under the 8 large projects (see Exhibit).

The audit covered the period of October 1999 to April 2002. During this period, the City received \$6,537,223 of FEMA funds under the 8 large projects.

The OIG performed the audit under the authority of the Inspector General Act of 1978, as amended, and according to generally accepted government auditing standards. The audit included tests of the City's accounting records, a judgmental sample of expenditures, and other auditing procedures considered necessary under the circumstances.

¹ According to FEMA regulations, a large project costs \$48,900 or more and a small project costs less than \$48,900.

RESULTS OF AUDIT

The City's claim included questioned costs of \$7,106,207 (FEMA share \$5,329,655) resulting from charges for pre-existing damage and excessive debris removal costs.

A. Pre-existing Damage. FEMA awarded the City \$7,027,292 under Projects 423 (\$3,188,070) and 529 (\$3,839,222) for restoration of its sewage collection system. The awards provided for replacement of existing clay and concrete pipes and manholes with PVC coated materials in the City's F and G Districts. The basis for the awards was that stormwater surcharging during the disaster damaged sewer lines and caused manholes to overflow, creating unsafe human fecal coliform count readings in near-shore waters.

However, at the time of the disaster, the City was under a Court order to rehabilitate its sewage collection system due to severe inflow and infiltration problems that plagued the system over the years. These problems, occurring as early as 1986, often caused fecal coliform count readings to reach unsafe levels after high tides and heavy rainfall events. The Court order², dated July 1997, almost 26 months prior to the disaster, required the City to bring its sewage collection system into compliance with State environmental regulations. Specifically, the Court order required the City to rehabilitate the sewer collection system within five years by:

1. Repairing or eliminating substandard cross connection points between stormwater and sanitary sewers to prevent sewage discharges to the stormwater system;
2. Repairing or replacing substandard gravity service connections, or lateral connections, to the municipal collection system; and
3. Repairing or replacing substandard manholes, which have been identified as significant sources of inflow.

The work required by this Court order is the same work approved under the FEMA projects to remedy the sewage collection system's inflow and infiltration problems. Moreover, in December 1996, almost three years prior to the disaster, the City issued a task order to an engineering firm for design, permits, bids, and award services for rehabilitation of the sewer collection system located in District F. This repair work was in process when the disaster occurred. Similarly, a City task order for rehabilitation of the sewer collection system located in District G was issued in July 1999, three months prior to the disaster. Therefore, the OIG concluded that damage to the City's sewage collection system existed prior to the disaster.

Federal regulation (44 CFR 206.223) requires that eligible work be the direct result of a major disaster. Accordingly, the OIG questions the \$7,027,292 awarded and claimed under the projects.

² Case No. 79-238-CA-17—State of Florida, Department of Environmental Protection, Plaintiff, vs. City of Key West, Florida, Defendant.

In addition to problems of pre-existing damage, the OIG found that \$2,567,587 of the \$3.8 million claimed under Project 529 was for sewer repairs in locations within District F that were not authorized under the project. Moreover, the City's claim under the project contained \$70,194 of the same charges twice.

City officials stated that the work performed under the FEMA projects was for sewer sections rehabilitated under the Court order but later damaged during the disaster. The OIG disagrees. The work orders issued to the engineering firm that performed services under the projects indicated such services were for "unrehabilitated" sections of Districts F and G. Also, a former City official informed the OIG that 99 percent of the sewer lines replaced under the FEMA projects were the original clay pipes installed in 1954.

B. Excess Debris Removal Charges. The City's claim included excessive debris removal costs of \$78,915, as follows:

- The City claimed \$100,299 under Project 322 for debris removal activities. However, accounting records reflected costs of only \$58,392. Accordingly, the OIG questions the difference of \$41,907.
- The City claimed \$45,570 under Project 322 for tipping fees based on the removal of 325.5 tons of debris at a rate of \$140 per ton. However, the \$140 rate was applicable for the year following the disaster. The City should have used a rate of \$128.77, the rate that was in effect at the time of the disaster. Accordingly, the OIG questions the excess tipping fee of \$3,655 (325.5 tons x \$11.23).
- The City's claim under Project 35 included a \$9,408 payment to a contractor for activities clearly marked "not storm related". To be eligible for FEMA financial assistance, an item of work must be required as a result of the disaster (44 CFR 206.223). Accordingly, the OIG questions the \$9,408.
- The City hired a contractor to remove silt and debris from the City's stormwater sewer system. The contract was awarded based on a bid price of \$957,783, submitted by the contractor, which reportedly included all necessary costs to complete the requested scope of work (i.e. materials, tools, labor, mobilization) and an allowance for overhead and profit. However, the contractor billed and the City claimed an additional \$23,945 for costs of securing a Performance and Payment Bond. The OIG questions the \$23,945 because, under the terms of the contract, the contractor agreed to accept the bid price of \$957,783 as full payment for project work completed under the contract.

RECOMMENDATION

The OIG recommends that the Regional Director, in coordination with the grantee, disallow the \$7,106,207 in questioned costs.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

The results of the audit were discussed with City and FEMA officials on June 12, 2003. Grantee officials were notified of the audit results on June 10, 2003. City officials disagreed with Finding A and indicated that they would have to research the questioned costs in Finding B. Their comments, where appropriate, are included in the body of the report.

Please advise the Atlanta Field Office—Audit Division by October 6, 2003, of the actions taken to implement the OIG's recommendation. Should you have any questions concerning this report, please contact David Kimble or me at (770) 220-5242.

City of Key West, Florida
FBMA Disaster No. 1306-DR-FL
Schedule of Claimed and Questioned Costs
Large Projects

<u>Project Number</u>	<u>Amount Awarded</u>	<u>Amount Claimed</u>	<u>Amount Questioned</u>
322	\$ 100,299	\$ 100,299	\$ 45,562
35	98,484	98,484	9,408
65	30,286	30,286	
323	1,144,134	1,144,134	23,945
423	3,188,070	3,188,070	3,188,070
529	3,839,222	3,839,222	3,839,222
41	56,736	56,736	
42	259,096	259,096	
	<u>\$8,716,327</u>	<u>\$8,716,327</u>	<u>\$7,106,207</u>