

Department of Homeland Security **Office of Inspector General**

Contract Dispute Delaying Hurricane Shelters at
George County, Mississippi: Interim Report on FEMA
Hazard Mitigation Grant Program Funds Awarded to
George County, Mississippi





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

May 21, 2013

MEMORANDUM FOR: Major P. (Phil) May
Regional Administrator, Region IV
Federal Emergency Management Agency

FROM: John V. Kelly 
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Contract Dispute Delaying Hurricane Shelters at George County, Mississippi: Interim Report on FEMA Hazard Mitigation Grant Program Funds Awarded to George County, Mississippi*
FEMA Disaster Number 1604-DR-MS
Audit Report Number DA-13-15

We are currently auditing \$3.4 million of a \$4.1 million hazard mitigation grant awarded to George County, Mississippi (County) (FIPS Code 039-99039-00) by the Mississippi Emergency Management Agency (State). The \$3.4 million we are auditing provided 100 percent funding for the construction of two emergency shelters in the County. The State provided the Federal Emergency Management Agency (FEMA) grant monies from Hazard Mitigation Grant Program (HMGP) funds made available to the State following Hurricane Katrina. Our overall audit objective is to determine whether the County accounted for and expended the hazard mitigation grant funds according to Federal regulations and FEMA guidelines. The purpose of this memorandum is to advise you of an issue that requires your immediate attention.

We are conducting this performance audit pursuant to 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, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We are conducting this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster. At the conclusion of our audit, we plan to issue our final audit report (notwithstanding the issuance of any additional interim reports), including any other findings and recommendations.

This interim report focuses on construction completion of Projects 343 and 344, which FEMA is funding for construction of emergency community shelters. As part of this audit, we reviewed applicable Federal regulations and FEMA guidelines; interviewed County, State, FEMA, and contractor personnel; and performed other procedures considered necessary under the



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circumstances to accomplish our audit objective. We did not assess the adequacy of the County's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective. However, we gained an understanding of the County's policies and procedures for administering activities provided for under the FEMA award.

BACKGROUND

Section 404 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, authorizes the HMGP. The purpose of the HMGP is to reduce the loss of life and property from natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster. FEMA awards grants to States, which in turn may award subgrants to other State agencies, local governments, Indian tribal organizations, and other eligible entities. Each State administers the HMGP according to a FEMA-State agreement, a comprehensive Standard or Enhanced State Mitigation Plan, and a State HMGP Administrative Plan. FEMA must approve these plans before funds are awarded to the State. FEMA is responsible for assisting the State, approving or denying project applications, and reviewing the State's quarterly and final reports.

As part of its HMGP Administrative Plan, the State awarded the County \$3,369,740 in HMGP funding to construct two stand-alone community shelters. The shelters will provide the County residents with protection during hurricane evacuations. The State awarded the funds under two projects: Project 343 for east-side County residents (\$1,675,134) and Project 344 for west-side County residents (\$1,694,606). The approved plan required the County to build two 3,600-square-foot shelters in accordance with FEMA P-361 guidelines to accommodate approximately 316 people each for a period of up to 36 hours during a storm event.¹ FEMA P-361 sheltering guidelines require, among other things, backup water/sewage, backup power generator, restroom facilities, and other sheltering necessities. The HMGP application specifies that the County's emergency operations center and County officials operate and maintain the shelters. At the beginning of our fieldwork, the County had received \$2.8 million of FEMA funds for construction of the shelters.

ISSUE REQUIRING IMMEDIATE ATTENTION

During our fieldwork, we noted that disputes between the County and its contractor delayed the opening of the relatively complete storm shelters. FEMA should immediately work closely with all stakeholders and mediate an agreement that makes the shelters available to County residents during the upcoming hurricane season that begins on June 1, 2013.

¹ FEMA P-361, *Design and Construction Guidance for Community Safe Rooms*, August 2008.



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In May 2011, after soliciting competitive bids for the projects, the County issued a notice to proceed to the contractor selected to perform the work. The initial substantial completion date for the shelters was May 23, 2012.² However, in October 2012, the State requested FEMA to grant an extension that ultimately moved the anticipated completion date to November 9, 2013 (nearly 18 months after the initial estimated completion date). State officials said that the County needed the time extension because of rain, contractor schedules, and issues that the County had with the contractor's workmanship. In February 2013, we conducted a limited physical inspection of the two shelters and noted that the structures appeared to be relatively complete (see figures 1 and 2), but the contractor was not working on the shelters.

Figure 1. Project 343 East Shelter



Figure 2. Project 344 West Shelter



Source: OIG site visit (February 27, 2013)

Upon further investigation and discussion with County officials, we learned that the County and its contractor disagreed on 43 items on a "punch list," as well as whether the facilities were substantially completed. Without agreement on substantial completion, the County cannot use the shelters. County officials told us that the dispute could end in litigation and possibly delay occupancy further. We reviewed the punch list and did not think that any of the items on it were significant enough to prevent agreement on substantial completion. Thus, while we believe that the parties can reach an agreement, the county should have a qualified engineer make a decision concerning the structural integrity of the facilities as part of any mitigation process. Finally, the County's engineer told us that disputes like this are not uncommon and when they occur, the parties normally reach a general agreement on the substantial completion of a structure before the contractor completes all open items on the punch list.

The delay in opening the shelters jeopardizes the overall purpose of HMGP, which is to mitigate the vulnerability of life and property from future disasters. Since the shelters' substantial completion target in May 2012, Hurricane Isaac passed through the County in August 2012, and tornados that caused extensive damage and warranted a Federal disaster declaration occurred approximately 60 miles away in February 2013. Because the County has no other FEMA-

² Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.



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approved P-361 shelters, the longer it takes the county to open the shelters, the greater the risk that County residents will be adversely affected by a hurricane or tornado. Therefore, the county must take the necessary steps to make the shelters ready for occupancy as soon as possible so that they are available for the current hurricane season.

RECOMMENDATION

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Work closely with the State, County, and contractor representatives to resolve issues that are delaying the two shelter projects from being available to help protect County residents against hurricanes and other extreme weather events.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed our concerns with County, State, and FEMA officials on February 21, 2013. We also contacted the County's contractor on February 22, 2013, to discuss construction issues. We provided a draft report in advance to the County, State, and FEMA officials on March 26, 2013. County officials agreed with our finding and recommendation. State officials agreed that the State should work with the County to develop a corrective action plan to remedy further delays. However, they disagreed that there is an issue at this time because the County's FEMA-approved period of performance date has not passed and they are currently monitoring the status of the projects from a programmatic viewpoint.

FEMA officials generally agreed with our finding and recommendation, but cautioned that a qualified engineer would need to make an assessment on the open punch list items because the structural integrity of a FEMA P-361 shelter is paramount to life and safety.

Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until we receive and evaluate your response, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.



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Major contributors to this report are David Kimble, Eastern Region Audit Director; Larry Arnold, Audit Manager; and John Skrmetti, Auditor-in-charge.

Please call me with any questions at (202) 254-4100, or your staff may contact David Kimble, Eastern Region Audit Director, at (404) 832-6702.



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