

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

**FEMA Should Recover \$4.9 Million of Public  
Assistance Grant Funds Awarded to  
Palm Beach County, Florida – Hurricane Wilma**





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Department of Homeland Security

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

JUL 10 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: *FEMA Should Recover \$4.9 Million of Public Assistance  
Grant Funds Awarded to Palm Beach County, Florida –  
Hurricane Wilma*  
FEMA Disaster Number 1609-DR-FL  
Audit Report Number DA-13-23

We audited Public Assistance funds awarded to Palm Beach County, Florida (County) (FIPS Code 099-99099-00). Our audit objective was to determine whether the County accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

The County received a Public Assistance grant award totaling \$31.7 million from the Florida Division of Emergency Management (State), a FEMA grantee, for damages resulting from Hurricane Wilma, which occurred in October 2005. The award provided 100 percent FEMA funding for debris removal, emergency protective measures, and permanent repairs to buildings and recreational facilities. The award consisted of 85 large projects and 223 small projects.<sup>1</sup>

We audited 18 large projects and 2 small projects with awards totaling \$18.2 million (see Exhibit, Schedule of Projects Audited) for debris removal, emergency protective measures, and permanent repairs to building and recreational facilities. We limited our review of small projects to determining whether the County (1) completed the projects and (2) received duplicate benefits for the projects. The audit covered the period from October 23, 2005, to March 7, 2013, during which the County claimed \$18.2 million of costs under the projects reviewed. At the time of our audit, the County had completed work on all large projects included in our scope and had submitted a final claim to the State for all project expenditures.

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<sup>1</sup> Federal regulations in effect at the time of the disaster set the large project threshold at \$57,500.



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We conducted this performance audit between July 2012 and April 2013 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. To conduct this audit, we applied the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We judgmentally selected project costs (generally based on dollar value); interviewed County, State, and FEMA personnel; reviewed the County's 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 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 method of accounting for disaster-related costs and its policies and procedures for administering activities provided for under the FEMA award.

### RESULTS OF AUDIT

FEMA should recover \$4.9 million of Public Assistance grant funds awarded to the County. Although the County generally accounted for FEMA funds according to Federal regulations and FEMA guidelines, the County's claim included \$3,002,817 of questionable costs, as follows:

- \$2,180,752 of unsupported force account labor and equipment costs;
- \$272,518 of ineligible contract costs;
- \$331,865 of ineligible improved project costs;
- \$28,044 of unauthorized work; and
- \$189,638 of costs covered by insurance.

Finally, FEMA should deobligate \$1,872,416 of project funding because work under the project is complete and the funding is no longer needed.

#### **Finding A: Supporting Documentation**

The County did not have adequate documentation to support \$2,180,752 of force account labor and equipment charges claimed under Project 2622. Cost principles at 2 Code of Federal Regulations (CFR) 225, *Cost Principles for State, Local, and Indian Tribal*



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*Governments*, Appendix A, Section (C)(1)(j), state that a cost must be adequately documented to be allowable under Federal awards.

The County claimed \$2,180,752 of force account labor and equipment costs for County personnel who performed emergency protective measures before and after the storm. However, the County could not provide payroll records, time and attendance records, and equipment activity logs to support the amount claimed because it had destroyed the records. According to County officials, the records were destroyed in October 2010 based on guidelines contained in the County's record retention policy. However, Federal regulations (44 CFR 13.42) required the County to maintain such records at least 3 years from the date the grantee (State) submits its final expenditure report to FEMA. Further, the Disaster Relief Funding Agreement between the State and the County required the County to maintain all project documentation at least 5 years from the date of disaster closeout. At the time of our audit, the County had submitted a final expenditure report to the State and therefore was required to have expenditure documentation on hand to support its claim. Without the required documentation, we were unable to validate the eligibility of the costs claimed by the County. Therefore, we question the \$2,180,752 of charges that were not supported by source documentation.

County officials agreed that they destroyed the documentation. However, they said that we should not question the costs because FEMA approved the project costs during project closeout. We disagree with the County's assertion. Federal regulations required the County to maintain documentation to support costs claimed under the FEMA award for a specific period of time after final payment so that it is available for audit purposes.

**Finding B: Contracting Procedures**

The County did not comply with Federal procurement requirements when awarding a contract valued at \$272,518 for emergency repairs to an airport hangar. According to Federal regulations at 44 CFR 13.36, the County is required to, among other things—

- Conduct all procurement transactions in a manner providing full and open competition. Noncompetitive procurement may be used under certain circumstances, one of which is when public exigency or emergency will not permit a delay resulting from competitive solicitation. (44 CFR 13.36(c)(1) and 44 CFR 13.36(d)(4)(i)(B).
- Perform a cost or price analysis in connection with every procurement action, including contract modifications, to determine the reasonableness of the contractor's proposed price. (44 CFR 13.36(f)(1))



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- Use an appropriate method of contracting other than cost plus a percentage of cost, which is not eligible. (44 CFR 13.36(f)(4))

In addition, FEMA's *Public Assistance Guide* (FEMA 322, October 1999, pp. 39–40) specifies that—

- Contracts must be of reasonable cost, generally must be competed, and must comply with Federal, State, and local procurement standards.
- Noncompetitive proposals should be used only when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals, and one of the following circumstances applies: (1) the item is available only from a single source, (2) there is an emergency requirement that will not permit a delay for competition, (3) FEMA authorizes noncompetitive proposals, or (4) solicitation from a number of sources has been attempted and competition is determined to be inadequate.

FEMA may grant exceptions to Federal procurement requirements to subgrantees on a case-by-case basis (44 CFR 13.6(c)).

Using the County's emergency contracting procedures, the County hired a contractor under a noncompetitive proposal to make emergency repairs to a hangar at North County Airport damaged by the storm. Although exigent circumstances warranted the use of a noncompetitive proposal, the County did not perform a cost or price analysis on the contractor's proposed price and awarded the contract as a cost plus percentage of cost contract, which is strictly prohibited by Federal regulation. As a result of the County's procurement actions, FEMA has no assurance that the contract costs claimed for the work are reasonable. Therefore, we question the \$272,518.

County officials disagreed with this finding. They said that they would provide the State and FEMA additional supporting documentation to show that the contract costs are eligible.

#### **Finding C: Ineligible Project Costs**

The County did not use \$331,865 of FEMA funds awarded under improved project Project 8209 as intended. An improved project is a project where an applicant decides to make improvements to a damaged facility while still restoring its predisaster function and at least predisaster capacity. FEMA awarded the County \$331,865 (net of insurance proceeds of \$447,015) under the project for damages sustained to a 7,200-square-foot building located on Evernia Street that was occupied by Florida Department of Health



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employees at the time of the disaster. Under improved project criteria, the County could use the FEMA funds to either repair and make improvements to the damaged building or replace the damaged building with a new structure as long as the improved facility has the same function or at least the equivalent capacity as that of the predisaster facility. FEMA funding for such projects is limited to the Federal share of the costs that would be associated with repairing or replacing the damaged facility to its predisaster design, or to the actual costs of completing the improved project, whichever is less.

The County demolished the Evernia Street building instead of repairing it after the disaster. In addition, it used the FEMA funding along with other County funds to contribute as a donor toward the cost of a new 92,000-square-foot building constructed in the County by the State of Florida to house Department of Health employees. According to project records, the County agreed in 2001, and amended in 2007, to provide the State a cash contribution not to exceed \$12.9 million toward the costs of a new State building in exchange for vacating Florida Department of Health employees from the Evernia Street building. County officials told us that the new State building does not house any County employees. We question the \$331,865 because this use of funds does not appear to meet FEMA's requirements under improved project funding criteria. However, the funding may be eligible under FEMA's alternate project criteria. The County, in conjunction with the State, should request that FEMA review the project's funding and make a determination on whether the project is eligible as an alternate project.

County officials disagreed with this finding. They believe the costs should be allowed. They said that FEMA originally told them that the project was approved as an alternate project, but FEMA later informed them it was changed to an improved project. The County said they would communicate with State and FEMA officials to determine the eligibility of the project costs.

#### **Finding D: Unauthorized Work**

The County's claim under Project 8587 included \$28,044 for work that was not authorized under the project's approved scope of work. Project 8587 authorized repairs to the doors, windows, banquet and meeting rooms, restaurant, and locker rooms at the Southwinds Golf Course Clubhouse pro shop, which contained office space for County administrative personnel. The County's claim under the project included \$28,044 of costs for renovations to the existing cart storage area of the building to provide additional office space for the staff. However, these renovations were not required as a result of the disaster and were not included in the project's approved scope of work. Therefore, we question the \$28,044.



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County officials disagreed with this finding. They said that they would provide the State and FEMA additional supporting documentation to show that the contract costs are eligible.

**Finding E: Costs Covered by Insurance**

The County’s claim included at least \$189,638 of costs that were covered by insurance. Section 312 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, states that no entity will receive assistance for any loss for which financial assistance has already been received from any other program, from insurance, or from any other source.

At the time of our audit, a FEMA insurance specialist had not conducted a full review of the County’s insurance proceeds and therefore had not applied the applicable proceeds to reduce eligible project costs. Nonetheless, in our limited analysis of the County’s insurance settlement, we noted that \$189,638 of costs claimed by the County under several projects were for work that was covered by insurance and, therefore, not eligible for FEMA funding.

FEMA awarded the County \$1,127,060 under several projects, which included a deduction of \$42,052 for estimated insurance proceeds. However, based on actual insurance proceeds, the projects’ eligible costs should have been reduced by an additional \$189,638. Therefore, we question the \$189,638 as shown in table 1.

**Table 1: Project Costs Covered by Insurance**

Project Number	Project Size	Project Description	Award	Estimated Insurance Proceeds	Actual Insurance Proceeds	Amount Questioned
6612	Large	Palm Beach International Airport	\$ 789,898	\$ 0	\$ 96,365	\$ 96,365
8464	Large	Kings Academy	232,977	42,052	67,871	25,819
8400	Small	Mid County Senior Center	46,873	0	48,781	46,873
8499	Small	Southwinds Golf Course – Misc Repairs	57,312	0	20,581	20,581
<b>Total</b>			<b>\$1,127,060</b>	<b>\$42,052</b>	<b>\$233,598</b>	<b>\$189,638</b>

County officials agreed that insurance covered the \$20,581 of miscellaneous repairs at Southwinds Golf Course (Project 8499). However, they disagreed that the remaining questioned costs were covered by insurance. They said that they would provide FEMA with additional supporting documentation showing the costs are eligible.



**Finding F: Unneeded Funds**

FEMA should deobligate \$1,872,416 awarded under Project 8587 and put it to better use because work under the project is complete and the County no longer needs the funding to cover project costs.

FEMA awarded the County \$2,389,240 to replace the Southwinds Golf Course Clubhouse that was damaged beyond repair as a result of the disaster. The County decided it was in the public's best interest to construct a smaller 8,000-square-foot clubhouse in place of the 17,500-square-foot structure that existed prior to the storm. The County completed all authorized work under the project in December 2010, made the last payment to its contractor in February 2011, and submitted its claim for reimbursement to the State in September 2012. The actual costs incurred to construct the new facility totaled \$2,116,138. After deducting insurance proceeds of \$1,599,314, the net eligible amount is \$516,824, or \$1,872,416 less than the award amount. The excess funding should be deobligated and put to better use.

According to 44 CFR 206.205(b)(1), the grantee shall make an accounting of eligible costs for each large project and certify to FEMA that the reported costs were for eligible disaster work as soon as practicable after the subgrantee has completed the approved work and requested payment. Further, FEMA will review the accounting and make a determination on the eligibility of the costs and determine whether funds should be obligated or deobligated for the project. However, as of March 2013, approximately 6 months after the County submitted final project expenditures to the State, nothing in the project management files indicated that State officials had notified FEMA that work under the project was complete and ready for closure.

According to FEMA *Standard Operating Procedure 9570.14, Program Management and Grant Closeout*, paragraph 9.2.1, the grantee should reconcile costs within 90 days of the date that the subgrantee completes the project. Further, Federal appropriations laws and the Statement of Federal Financial Accounting Standards (SFFAS) require Federal agencies to record obligations in the accounting records on a factual and consistent basis throughout the Government.<sup>2</sup> Reducing unneeded funding in a timely manner (1) releases funds to cover cost overruns on other projects associated with a disaster, (2) provides a more accurate status of Public Assistance program costs for a disaster, and (3) is consistent with appropriations law and SFFAS Number 5 that requires FEMA to record accurate, supportable obligations/liabilities in its accounting system. Therefore, FEMA should promptly deobligate the \$1,872,416 of unneeded funding under the project and put those funds to better use.

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<sup>2</sup>U.S. General Accounting Office, *Principles of Federal Appropriations Law*, 3rd edition, volume II, February 2006, chapter 7, section B: Criteria for Recording Obligations (31 U.S.C. § 1501).



County officials agreed with this finding.

**Finding G: Grant Management**

Given the nature and extent of the findings identified in our review, we believe that the State could have done a better job of reviewing the County's project costs submitted for reimbursement. Federal regulation 44 CFR 13.37(a)(2) requires the grantee (State) to ensure that subgrantees are aware of requirements imposed on them by Federal statute and regulations. Further, 44 CFR 13.40(a) requires the grantee to manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable Federal requirements. Therefore, we recommend that FEMA remind the State of its grant management responsibilities for monitoring and reviewing costs claimed by subgrantees.

State officials said that there were five declared events in the State of Florida within a 2-year period and that, unfortunately, they did not have enough resources to effectively monitor the day-to-day grant activities of every subgrantee.

**RECOMMENDATIONS**

We recommend that the Regional Administrator, FEMA Region IV:

**Recommendation #1:** Disallow \$2,180,752 of unsupported force account labor and equipment costs claimed unless the County provides additional documentation to support those costs (finding A).

**Recommendation #2:** Disallow \$272,518 of improper contract costs unless FEMA grants an exception for all or part of the costs as provided for in 44 CFR 13.6(c) and Section 705(c) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, and determines the costs are reasonable (finding B).

**Recommendation #3:** Instruct the State to remind the County that it is required to comply with Federal procurement standards when acquiring goods and services under FEMA awards (finding B).

**Recommendation #4:** Disallow \$331,865 of ineligible improved project costs unless FEMA determines the costs are eligible (finding C).

**Recommendation #5:** Disallow \$28,044 claimed for unauthorized work under Project 8587 (finding D).



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**Recommendation #6:** Disallow \$189,638 of project costs covered by insurance proceeds unless the County provides additional evidence that the costs are not covered by insurance (finding E).

**Recommendation #7:** Conduct a full review of the County's statement of insurance losses and proceeds and reduce project costs accordingly (finding E).

**Recommendation #8:** Deobligate \$1,872,416 of unneeded funds and put them to better use (finding F).

**Recommendation #9:** Reemphasize to the State its responsibility to adequately review costs claimed by subgrantees for adherence to Federal regulations and FEMA guidelines (finding G).

**DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP**

We discussed the results of our audit with County, State, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at the exit conference held on April 29, 2013. County officials' comments, where appropriate, are incorporated into the body of this report.

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, we consider the recommendations as open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing 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.

Major contributions to this report are David Kimble, Eastern Region Audit Director; Adrienne Bryant, Audit Manager; Helen White, Auditor-in-charge; Vilmarie Serrano, Senior Auditor; and Jerry Aubin, Program Analyst.



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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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Exhibit

**Schedule of Projects Audited**

Project Number	Project Scope	FEMA Category of Work	Amount Awarded	Questioned Costs	Funds Put to Better Use	Finding
6451	Debris Removal Revenue-Generating Parks	A	\$318,533	\$0	\$0	
6495	Debris Removal Non-Revenue-Generating Parks	A	807,680	0	0	
2622	Emergency Protective Measures	B	2,611,494	2,180,752	0	A
6129	Emergency Protective Measures	B	1,193,856	0	0	
7117	Emergency Protective Measures	B	1,628,383	0	0	
7132	Emergency Protective Measures	B	3,138,465	0	0	
8674	Roadway Signage & Lighting (Airport)	C	186,669	0	0	
5763	Central Justice Center Roof Repair	E	824,494	0	0	
6612	PBIA Terminal & Concourse Roof Repair	E	789,898	96,365	0	F
7825	North County Airport Hangar Damage	E	603,001	272,518	0	B
8159	Judicial Center Courthouse	E	341,420	0	0	
8186	Government Center (Bldg. 20)	E	1,518,273	0	0	
8209	County Building Damage	E	331,865	331,865	0	C
8587	South Winds Clubhouse	E	2,389,240	28,044	1,872,416	D, E
9303	South County Courthouse Skylights	E	363,241	0	0	
8291	PBC Info Systems Fiber Optics Lines	F	240,245	0	0	
9217	Restoration of Beaches at Dubois Inlet	G	556,206	0	0	
8464	Kings Academy	E	232,977	25,819	0	F
8400	Mid County Senior Center	E	46,873	46,873	0	F
8499	Southwinds Golf Course Misc Repairs	G	57,312	20,581	0	F
<b>Total</b>			<b>\$18,180,125</b>	<b>\$3,002,817</b>	<b>\$1,872,416</b>	



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