

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

Regional Transit Authority Needs To Insure Equipment
or Forgo \$62 Million in FEMA Public Assistance Funds,
New Orleans, Louisiana





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

November 14, 2012

MEMORANDUM FOR: George A. Robinson
Acting Regional Administrator, Region VI
Federal Emergency Management Agency

FROM: 
D. Michael Beard
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Regional Transit Authority Needs To Insure Equipment or Forgo
\$62 Million in FEMA Public Assistance Funds, New Orleans, Louisiana*
FEMA Disaster Number 1603-DR-LA
Audit Report Number DD-13-01

We audited Public Assistance grant funds awarded to New Orleans Regional Transit Authority (Authority) in New Orleans, Louisiana (Public Assistance Identification Number 071-UXQ34-00). Our audit objective was to determine whether the Authority accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

The Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), a FEMA grantee, awarded the Authority \$122.39 million for damages resulting from Hurricane Katrina, which occurred on August 29, 2005. The award provided 100 percent funding for 71 large and 44 small projects.¹ The audit covered the period August 29, 2005, through January 27, 2011, the cutoff date of our audit, and included a review of 28 large and 17 small projects totaling \$86.25 million, or 70.5 percent of the total award (see Exhibit A, Schedule of Projects Audited and Questioned Cost). As of our cutoff date, the Authority had claimed \$55.22 million, but had not completed all projects.

We conducted this performance audit between June 2011 and March 2012 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 conducted this audit

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$55,500.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

according to the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA, GOHSEP, and Authority officials; reviewed judgmentally selected project costs (generally based on dollar value); and performed other procedures considered necessary to accomplish our objective. We did not assess the adequacy of the Authority's internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the Authority's method of accounting for disaster-related costs and its procurement policies and procedures.

BACKGROUND

The *Regional Transit Authority Act of 1979* amended Title 48 of the Louisiana Revised Statutes of 1950 by creating the Regional Transit Authority as a political subdivision. The Authority operates a fleet of buses and three streetcar lines. According to Authority officials, before Hurricane Katrina, the Authority provided transportation using 175 leased buses, 246 owned buses, and 70 streetcars. The bus fleet was composed of city buses for intracity service and commuter coaches that connected the city and outlying suburbs. The streetcar lines included the St. Charles Line, Riverfront Line, and Canal Street Line, and serviced areas in Orleans Parish and the City of Kenner.

Hurricane Katrina and the resulting flooding severely damaged the Authority's assets and significantly decreased its fare revenues. Before Hurricane Katrina, the population of the City of New Orleans was about 454,000. Immediately after the hurricane, the majority of the population of New Orleans and its surrounding areas, including most of the Authority's employees, were displaced. Although the post-Katrina acquisition of new buses and streetcars, improved scheduling, and population growth improved fare revenues, the Authority continues to experience the effects of Hurricane Katrina.

RESULTS OF AUDIT

The Authority accounted for FEMA grant funds on a project-by-project basis as required, followed Federal procurement regulations in its contracting, and adequately documented costs claimed for reimbursement. However, the Authority did not obtain and maintain sufficient flood insurance required as a condition for receiving Federal disaster assistance and had not completely allocated its insurance proceeds to reduce estimated project amounts. As a result, we question approximately \$64.11 million. Also, FEMA should deobligate and put to better use \$7.35 million in unused Federal funds that exceed the actual amounts claimed. Generally,



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

these findings occurred because GOHSEP, as the grantee, did not effectively execute its responsibilities under its grant with FEMA

Finding A: Insufficient Insurance Coverage

The Authority did not obtain and maintain sufficient flood insurance required as a condition for receiving Federal disaster assistance. As a result, the Authority may not have adequate insurance coverage the next time disaster strikes. Section 311 of the *Robert T. Stafford Disaster Relief and Emergency Act*, Public Law 93-288, 42 U.S.C. §5154, as amended, requires recipients of disaster assistance to obtain and maintain such types and extent of insurance “as may be reasonably available, adequate, and necessary, to protect against future loss” to “any property to be replaced, restored, repaired, or constructed with such assistance.” Further, the FEMA Public Assistance Guide (FEMA 322, October 1999, p. 97) states that (1) as a condition for receiving public assistance for a facility, an applicant must obtain and maintain insurance to cover that facility for the hazard that caused the damage; and (2) such coverage must, at minimum, be in the amount of the estimated eligible project costs for that structure before any reduction.

As of January 2011, the Authority had claimed \$46.26 million of the \$69.67 million that FEMA estimated and obligated under two projects for the replacement of buses and the repair and refurbishment of street cars. However, the Authority was preparing to purchase additional buses, and FEMA had not reduced the amount estimated for this purpose. Therefore, the Authority was required to obtain and maintain insurance sufficient to cover, at minimum, the \$69.67 million of estimated eligible project costs.

At the time of the disaster, the Authority carried an insurance policy for vehicles with a \$3 million per-occurrence limit. In December 2010, we requested that the Authority provide us with information and documentation for all of its insurance policies. In response, the Authority provided us with an insurance policy for vehicles that increased the per-occurrence limit to \$15 million, which was still \$54.67 million less than the minimum required amount of \$69.67 million. However, in February 2012, Authority officials advised us that the \$15 million per-occurrence policy ended in June 2010, and they provided us with a new insurance policy from a different insurance company. The Authority believes this new policy is sufficient to cover FEMA-funded buses and other vehicles. However, the only amount listed in the new policy itself is \$10 million for liability coverage. A schedule attached to the policy lists all the vehicles covered and their estimated value, but the policy does not state how much insurance is provided for comprehensive coverage on a per-occurrence basis or otherwise. Therefore, FEMA should disallow \$62.39 million estimated for the projects, unless the Authority can prove that its new policy provides the minimum amount of insurance required (\$69.67 million in estimated costs, less \$7.28 million from Project 10464 that was unused and recommended for deobligation in finding B).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Finding B: Unused Federal Funds

GOHSEP did not report to FEMA that the Authority would not need a significant amount of funding estimated for one project, and did not provide closeout information to FEMA in a timely manner for two other projects that the Authority had completed. As a result, \$7,353,744 of Federal funds remained obligated that could have been put to better use.

Project 10464

FEMA estimated and obligated \$25,481,330 for Project 10464. As of June 2011, the Authority had submitted actual expenses for reimbursement totaling \$17,530,177, but planned to submit expenses for an additional \$672,163 to complete the project. Therefore, the total amount claimed for the project will be \$18,202,340, or \$7,278,990 less than FEMA estimated.² Authority officials told us that they are waiting for the City of New Orleans to complete a related project before they can complete Project 10464. Grantees are required to submit quarterly progress reports to FEMA for each open large project (44 CFR 206.204(f)). FEMA's Public Assistance Guide (FEMA 322, October 1999) states that progress reports "are critical to ensuring that FEMA and the State have up-to-date information on PA Program grants." The latest progress report that GOHSEP submitted for Project 10464 (December 31, 2011) did not inform FEMA that more than \$7 million in obligated funds would not be needed and could be deobligated.

Projects 770 and 2004

FEMA estimated and obligated \$73,990 for Project 770 and \$67,600 for Project 2004. As of May 2006, the Authority had completed Project 770 with total claimed costs of \$32,155, or \$41,835 less than FEMA estimated. As of May 2007, the Authority had completed Project 2004 with total claimed costs of \$34,681, or \$32,919 less than FEMA estimated. The Authority completed these two projects more than 5 years ago. Federal regulation 44 CFR 206.205(b)(1) requires grantees to make an accounting to the FEMA Regional Administrator of eligible costs for each approved large project "as soon as practicable after the subgrantee has completed the approved work and requested payment." Therefore, GOHSEP should have submitted closeout information for these two projects to FEMA long ago.

We consider 6 months after the subgrantee has completed the approved work and requested payment a reasonable amount of time for the grantee to complete its reviews of costs claimed

² If the Authority does not claim the additional \$672,163 for Project 10464 as planned, FEMA should add this amount, or a portion thereof depending on the amount not claimed, to the amount we recommended for deobligation in recommendation 2.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

and submit an accounting of eligible costs to FEMA. Further, grantees should inform FEMA when a significant amount of obligated funding will not be used. Without timely closeouts and accurate progress reports, Federal funds remain obligated as a liability against FEMA's appropriated funds and can limit FEMA's ability to authorize other disaster assistance projects. Accordingly, FEMA should deobligate \$7,353,744 of Federal funds and put them to better use (\$41,835 from Project 770, \$32,919 from Project 2004, and \$7,278,990 from Project 10464).

Finding C: Unapplied Insurance Proceeds

The Authority had not completed allocation of its insurance proceeds. As a result, the amounts FEMA estimated and approved for certain projects were too high. The Authority received \$3 million in insurance proceeds from its 2005 insurance policy for vehicles. In FEMA's November 8, 2011, response to our interim report, FEMA stated that it had reduced Project 12673 by \$3 million in insurance proceeds for vehicle loss. However, we determined that FEMA had not reduced Project 12673 for insurance proceeds, but had reduced Projects 12099 and 12757 for insurance proceeds by \$384,910 and \$900,245, respectively, leaving \$1,714,845 in insurance proceeds to be applied to vehicle projects to reduce the amounts eligible. Actual and anticipated insurance recoveries shall be deducted from otherwise eligible costs (44 CFR 206.250(c)). Authority personnel agreed with this finding. Therefore, FEMA should apply \$1,714,845 of remaining insurance proceeds to the appropriate project(s) and determine whether its application of insurance proceeds to Projects 12099 and 12757 was appropriate.

Finding D: Project Extensions

At the time of our audit, the Authority had not submitted required requests for time extensions because GOHSEP had not enforced this requirement. As a result, the subgrantee could lose funding. Federal regulations at 44 CFR 206.204(c) and (d) place time restrictions on project completion and set forth requirements for subgrantees to request extensions for project completion. Authority officials agreed with this finding and assured us that they would submit appropriate extension requests and would keep them current before project deadlines expired. Toward the end of our fieldwork, we verified that the Authority had submitted the required extension requests. However, FEMA should require GOHSEP to implement procedures to monitor subgrantees' compliance with Federal regulations regarding time restrictions and extensions on project completion.

Finding E: Grant Management

The majority of findings in this report occurred because GOHSEP, as the grantee, should have managed its grant responsibilities better. According to 44 CFR 13.37(a)(2), the grantee is required to ensure that subgrantees are aware of requirements imposed on them by Federal regulations. Further, 44 CFR 13.40(a) requires the grantee to manage the day-to-day



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable Federal requirements.

GOHSEP did not fulfill the following responsibilities under its grant:

- Ensure that the Authority obtained and maintained sufficient insurance (finding A);
- Report to FEMA that the Authority would not need a significant amount of funding estimated for one project, and provide closeout information to FEMA in a timely manner for two other projects that the Authority had completed (finding B);
- Ensure that the Authority completed allocation of its insurance proceeds (finding C); and
- Ensure that the Authority submitted required requests for time extensions (finding D).

In addition to advising subgrantees of Federal regulations; consistent with the Code of Federal Regulations, GOHSEP must “manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable federal requirements.”

As of March 9, 2012, FEMA had approved \$262.8 million in management and administrative costs that GOHSEP had requested since August 2005 for managing the \$10.4 billion in approved grant funds to the State of Louisiana for Hurricane Katrina. Although we are not commenting on the overall reasonableness of these costs, we want to point out that FEMA is paying GOHSEP to manage this disaster, and therefore FEMA should require GOHSEP, as the grantee, to develop and implement procedures to better manage its responsibilities under this grant.

Other Matters

Interim Report

On August 9, 2011, we issued OIG Audit Report DD-11-16, *Interim Report on FEMA Public Assistance Funds Awarded to Regional Transit Authority, New Orleans, Louisiana*. In that report, we recommended that FEMA (1) disallow \$31.74 million as unsupported funding anticipated for the repair or replacement of 151 leased buses under Project 12673, or provide proof that the Authority was legally responsible for the 151 buses at the time of the disaster, and (2) require the Authority to provide any and all insurance policies, schedules of properties (including year, make, model, and vehicle identification number (VIN)), and related supporting documentation for all Authority-owned and -leased buses damaged in the disaster.

On November 8, 2011, FEMA responded to our interim report. Based on information that FEMA provided in its response, along with additional information we obtained from the Authority and other entities after we issued the report, we resolved and closed our two recommendations. Therefore, we do not require FEMA to take any further actions regarding our interim report.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Projects With No Claims

At the start of our audit, there were no claims for reimbursement for 11 of the 71 large projects awarded. Funds obligated for these 11 projects totaled \$3.16 million. We asked Authority officials for a status update on these projects; they replied that 6 of the 11 projects related to building contents are awaiting applicant support to combine those into one project and 5 were in various stages of completion.

Correction Needed on Project Worksheet

The VIN for one bus listed in Project 12673 matched the VIN for a bus funded by the Federal Transit Administration, another Federal funding source for the Authority. FEMA inadvertently included the wrong bus number and VIN in Project 12673. Therefore, FEMA should correct the bus number and VIN in the project worksheet to avoid any further confusion. The Authority submitted a request to FEMA on March 18, 2011, to have this corrected.

RECOMMENDATIONS

We recommend that the Acting Regional Administrator, FEMA Region VI:

Recommendation #1: Disallow \$62,391,049 estimated for the repair or replacement of buses and streetcars as ineligible, unless the Authority can prove that its new policy provides the minimum amount of insurance required (finding A).

Recommendation #2: Deobligate \$7,353,744 million of unused Federal funds from Projects 770, 2004, and 10464 and put those funds to better use (finding B).

Recommendation #3: Require GOHSEP to submit an accounting to the Acting FEMA Regional Administrator as soon as possible for all large projects for which the Authority has completed the approved work and requested payment (finding B).

Recommendation #4: Allocate \$1,714,845 of insurance proceeds to the appropriate project(s) and disallow those amounts as ineligible, and determine whether its application of insurance proceeds to Projects 12099 and 12757 was appropriate (finding C).

Recommendation #5: Require GOHSEP to implement procedures to ensure that subgrantees comply with Federal regulations regarding time restrictions and extensions on project completion (finding D).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendation #6: Write a new version of project worksheet 12673 to correct the bus number and vehicle identification number for one bus (Other Matters).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with Authority officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, GOHSEP, and Authority officials, and discussed it at exit conferences held with FEMA officials on February 28, 2012; GOHSEP officials on February 29, 2012; and Authority officials on March 5, 2012. FEMA officials agreed with our findings; GOHSEP and Authority officials agreed with some but not all of our findings and recommendations.

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 your response is received and evaluated, the recommendations will be considered 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.

Significant contributors to this report were Tonda Hadley, Paige Hamrick, Judy Martinez, Jeffrey Campora, Dwight McClendon, and Mary Monachello.

Please call me with any questions at (202) 254-4100, or your staff may contact Tonda Hadley, Director, Central Regional Office, at (214) 436-5200.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

EXHIBIT A

**Schedule of Projects Audited and Questioned Costs
August 29, 2005, to January 27, 2011
New Orleans Regional Transit Authority
FEMA Disaster Number 1603-DR-LA**

Project Number	Project Amount	Claimed Amount	Questioned Cost	Unused Funds
770	\$ 73,990	\$ 32,155	\$ 0	\$ 41,835
2004	67,600	34,681	0	32,919
10464	25,481,330	18,202,340	18,202,340	7,278,990
12673	<u>44,188,709</u>	<u>28,065,299</u>	<u>44,188,709</u>	<u>0</u>
All Other Projects	16,438,720	8,881,325	<u>0</u>	<u>0</u>
Totals	<u>\$86,250,349</u>	<u>\$55,215,800</u>	<u>\$62,391,049</u>	<u>\$7,353,744</u>
Amount Questioned as Insufficient Insurance Coverage (finding A)			62,391,049	
Amount Questioned as Unapplied Insurance Proceeds (finding C)			<u>1,714,845</u>	
Unused Federal Funds Put to Better Use (finding B)				7,353,744
Total Questioned Costs			<u>\$64,105,894</u>	
Total Funds Put to Better Use				<u>\$7,353,744</u>



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

EXHIBIT B

Report Distribution List
New Orleans Regional Transit Authority
FEMA Disaster Number 1603-DR-LA

Department of Homeland Security

Secretary
Chief Financial Officer
Under Secretary for Management
Audit Liaison, DHS
Acting Chief Privacy Officer

Federal Emergency Management Agency

Administrator
Chief of Staff
Chief Financial Officer, Acting
Chief Counsel
Director, Risk Management and Compliance
Executive Director, FEMA Louisiana Recovery Office
Audit Liaison, FEMA Louisiana Recovery Office
Audit Liaison, FEMA Region VI
Audit Liaison, FEMA (Job Code G-11-044)

Grantee

Director, Louisiana Governor's Office of Homeland Security and Emergency Preparedness
Audit Liaison, Louisiana Governor's Office of Homeland Security and Emergency Preparedness

State

Louisiana Legislative Auditor

Subgrantee

Chief Executive Officer, New Orleans Regional Transit Authority

ADDITIONAL INFORMATION AND COPIES

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