

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

## **FEMA's Application of Rules and Federal Regulations in Determining Debris Removal Eligibility for Livingston Parish, Louisiana**





**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

October 24, 2013

MEMORANDUM FOR: Joseph Nimmich  
Associate Administrator, Response and Recovery  
Federal Emergency Management Agency

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

SUBJECT: *FEMA's Application of Rules and Federal  
Regulations in Determining Debris Removal  
Eligibility for Livingston Parish, Louisiana*  
FEMA Disaster Number 1786-DR-LA (Hurricane Gustav)  
Audit Report Number OIG-14-01-D

We audited the Federal Emergency Management Agency (FEMA) to determine whether it correctly applied its rules and regulations to determine the eligibility of debris removal costs that Livingston Parish, Louisiana (Parish), claimed for recovery from Hurricane Gustav, which occurred in September 2008. We conducted this audit at the request of the Parish and Congress pursuant to the requirements of Section 565 of Public Law 113-6.

We conducted this performance audit between April 2013 and August 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. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA officials at the Louisiana Recovery Office in New Orleans and Baton Rouge, Louisiana; FEMA Region VI Office in Denton, Texas; and FEMA Headquarters in Washington, DC. We also interviewed officials at the Parish and the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), a FEMA grantee; reviewed available documentation; researched and reviewed FEMA rules and regulations applicable to reviewing claims for Category A work (debris removal) under the Public Assistance grant program; and performed other procedures considered



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

---

necessary to accomplish our objective. We did not assess the adequacy of FEMA's internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of FEMA's processes for determining debris removal eligibility.

### BACKGROUND

High winds and rain from Hurricane Gustav damaged trees throughout the Parish. FEMA developed debris removal grant projects for the Parish to remove leaners and hangers, clear waterways, and monitor debris removal.<sup>1</sup> FEMA subsequently reduced project funding because FEMA deemed some of the costs ineligible. The Parish filed its first appeal of FEMA's unfavorable funding decision for debris removal monitoring and FEMA partially granted the appeal. The Parish then filed first and second appeals for the leaners and hangers; however, FEMA denied both appeals. The Parish later filed first and second appeals for clearing waterways; FEMA denied the first appeal, and, for the second appeal, did not make a decision. Instead, FEMA responded to the Parish saying that FEMA was no longer reviewing the Parish's claims because of the Parish's request for this audit by our office.

We received a letter from the Parish, dated April 3, 2013, and a letter from Senator Mary Landrieu, dated April 11, 2013, both requesting an audit pursuant to Section 565 of the *Consolidated and Further Continuing Appropriations Act, 2013*, Public Law 113-6.

SEC. 565. The Inspector General shall review the applications for public assistance provided through the Disaster Relief Fund with a project cost that exceeds \$10,000,000 and the resulting decisions issued by the Federal Emergency Management Agency for category A debris removal for DR-1786 upon receipt of a request from an applicant made no earlier than 90 days after filing an appeal with the Federal Emergency Management Agency without regard to whether the Administrator of the Federal Emergency Management Agency has issued a final agency determination on the application for assistance: *Provided*, That not later than 180 days after the date of such request, the Inspector General shall determine whether the Federal Emergency Management Agency correctly applied its rules and regulations to determine eligibility of the applicant's claim: *Provided further*, That if the Inspector General finds that the Federal Emergency Management Agency determinations related to eligibility and cost involved a misapplication of its rules and regulations, the applicant may submit the dispute to

---

<sup>1</sup>"Leaners" are typically storm-damaged trees that pose an immediate threat to lives, public health and safety, or improved property. "Hangers" are typically hanging limbs (still attached to trees) that threaten public areas. *Public Assistance Debris Management Guide* (FEMA 325, July 2007, pp. 24-25) sets forth the eligibility criteria for leaners and hangers.



## OFFICE OF INSPECTOR GENERAL

### Department of Homeland Security

---

the arbitration process established under the authority granted under section 601 of Public Law 111–5 not later than 15 days after the date of issuance of the Inspector General’s finding in the previous proviso: *Provided further*, That if the Inspector General finds that the Federal Emergency Management Agency provided unauthorized funding, that the Federal Emergency Management Agency shall take corrective action.

### RESULTS OF AUDIT

Although nothing came to our attention to indicate that FEMA’s decisions on the eligibility of the Parish’s debris removal costs were not appropriate, FEMA did not always follow Federal rules and regulations in making those decisions. Specifically, for two appeals (one granted and one denied), FEMA did not respond within the 90-day time limit that Federal regulation requires. Finally, in a third instance related to the Parish’s second appeal for reimbursement of costs it incurred for clearing waterways, FEMA held the appeal for 655 days—more than 21 months—before it responded. However, in its response, FEMA did not notify the Parish of its final appeal determination, but rather stated that it was no longer reviewing the Parish’s claims because of this audit. We did not ask FEMA to stop making eligibility determinations because of our audit. However, by not making a decision on this second-level appeal, FEMA has, in effect, denied the Parish’s appeal for reimbursement without following Federal regulation.

#### **Criteria for Assessing the Eligibility of Debris**

FEMA’s authorities governing debris removal are supplied by statute, regulation, and FEMA policies (see exhibit A). Much of the criteria apply to the applicant, providing specific guidance on what debris is eligible and how the *applicant* must document costs for eligible debris removal. However, there are few regulations that instruct *FEMA* on how to apply the criteria, which affords FEMA the flexibility to carry out its mission according to the circumstances of each unique disaster.

Federal regulation 44 CFR 206.206(c)(3) establishes deadlines for FEMA to respond to appeals, which generally relate to eligibility decisions or cost reasonableness:

Within 90 days following receipt of an appeal, the Regional Director (for first appeals) or Associate Director/Executive Associate Director (for second appeals) will notify the grantee in writing of the disposition of the appeal or of the need for additional information. A request by the Regional Director or Associate Director/Executive Associate Director for additional information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information or following expiration of the period for



**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

providing the information, the Regional Director or Associate Director/Executive Associate Director will notify the grantee in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director will take appropriate implementing action.

**FEMA Did Not Always Respond Timely to Appeals**

As table 1 shows, FEMA did not respond timely to the Parish’s appeals in three instances.

**Table 1. Untimely Responses to Appeals**

Project Numbers	Project Descriptions	Appeal Type	Date FEMA Received Appeal	Date of Parish Oral Presentation	Date FEMA Responded to Grantee	Days FEMA Took to Respond
166	Debris Monitoring	First	06/01/2010	N/A	11/19/2010	171
54	Leaners & Hangers	Second	01/18/2011	05/10/2011	01/06/2012	241
5590, 5591, 5593, 5594	Waterways	Second	09/15/2011	N/A	07/01/2013	655

- FEMA Region VI received a first-level appeal from the Parish, through GOHSEP, on June 1, 2010, for debris monitoring under Project 166. FEMA Region VI partially granted this appeal, but its November 19, 2010, response was more than 2 months beyond the 90-day deadline of August 30, 2010.
- FEMA Headquarters received a second-level appeal from the Parish, through GOHSEP, on January 18, 2011, for leaners and hangers under Project 54. The Parish also made an oral presentation to FEMA on this appeal on May 10, 2011. FEMA Headquarters denied this appeal on January 6, 2012, which was almost a year from the date FEMA received the appeal and almost 8 months after the Parish’s oral presentation.

FEMA Region VI initially denied the Parish’s first appeal on leaners and hangers, saying that FEMA field staff had performed a thorough assessment to validate eligible work, and that a second sampling that GOHSEP performed resulted in less eligible work, confirming the reasonableness of FEMA’s determination.

In its denial of this second-level appeal on leaners and hangers, FEMA Headquarters said that FEMA Region VI used the appropriate methodology and applied the appropriate regulations and policy to deny the Parish’s claim. FEMA



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

---

Headquarters added that the Parish's contractor completed ineligible debris removal work.

- FEMA Headquarters received the Parish's second appeal, through GOHSEP, on September 15, 2011, for clearing waterways under Projects 5590, 5591, 5593, and 5594. Federal regulation 44 CFR 206.206(c)(3) required FEMA to respond by December 14, 2011. However, FEMA did not respond until July 1, 2013, more than a year after the 90-day deadline.

FEMA Region VI had previously denied the first-level appeal for waterways because the Parish failed to (1) prove immediate threat; (2) comply with environmental laws and regulations; and (3) obtain required permits.<sup>2</sup>

FEMA Headquarters July 1, 2013, letter to the Parish said that it was no longer reviewing the Parish's claims related to this second appeal because of this Office of Inspector General audit.<sup>3</sup> Thus, although FEMA Headquarters did respond, it did not notify the Parish of its second appeal disposition. This effectively denied the appeal.

Our audits of debris removal generally assess whether applicants followed Federal procurement standards in contracting for the debris-related work and maintained documentation to validate and support the costs for the amounts of debris the applicants claimed. However, unless the records indicate otherwise, we generally rely on FEMA's expertise to assess the eligibility of the debris itself.<sup>4</sup> FEMA typically determines eligibility, soon after the disaster. Such timeliness is essential because, while a review of paperwork years later can often prove that debris **was not eligible**, it can seldom prove that debris **was eligible**. For example, FEMA uses its expertise to decide whether (1) the debris resulted from a major disaster event;<sup>5</sup> (2) leaners and hangers met eligibility criteria; and (3) applicants removed debris from eligible areas, such as

---

<sup>2</sup>44 CFR 206.221(c) defines immediate threat as "the threat of additional damage or destruction from an event which can reasonably be expected to occur within 5 years."

<sup>3</sup>FEMA's letter of July 1, 2013, addressed both (1) the Parish's December 2012 request for reconsideration of the second appeal on Project 54 for leaners and hangers and (2) the Parish's second appeal on Projects 5590, 5591, 5593, and 5594 for clearing waterways.

<sup>4</sup>*Public Assistance Debris Management Guide* (FEMA 325, July 2007, p. 23) states, "Only FEMA has the authority to make eligibility determinations for Public Assistance grant funding; contractors cannot make eligibility determinations."

<sup>5</sup>44 CFR 206.223(a)(1) states that to be eligible for financial assistance an item of work must be required as a result of the major disaster event.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

---

publically-owned property, rather than from ineligible areas, such as private property or wooded areas that do not threaten the general public.<sup>6</sup>

By not issuing a decision on the Parish's second appeal for the waterways, FEMA failed to follow Federal regulation requiring a notice of disposition within 90 days. FEMA should assess the lessons learned from its interactions with Livingston Parish and consider (1) strengthening its policies, procedures, and internal controls regarding first- and second-level appeals to ensure that the agency responds in a timely manner as Federal regulation 44 CFR 206.206(c)(3) requires; and (2) documenting the reasons why a timely response was not feasible when FEMA cannot complete its determination in the specified time.

### **Conclusion**

FEMA has an abundance of policies, rules, and regulations regarding how applicants should conduct debris removal, but few instruct FEMA on how to apply those criteria in assessing the eligibility of debris. However, Federal regulation 44 CFR 206.206(c)(3) does impose specific deadlines on FEMA to respond to appeals from a grantee or grant applicant. FEMA did not meet these deadlines in three instances; and, in the third instance, FEMA did not make a decision on the appeal.

This audit did not identify any instances where FEMA misapplied any of its policies or procedures when it made a determination on the eligibility of the applicant's claim. However, by not making a decision on the eligibility of work in the Parish's waterways second appeal, FEMA, in effect, denied the Parish's reimbursement without following Federal regulation.

---

<sup>6</sup>*Public Assistance Debris Management Guide* (FEMA 325, July 2007, p. 22) cites an example of ineligible debris removal as any debris removal from an eligible applicant's unimproved property or undeveloped land. The guide also states (p. 33) that private property debris removal is generally not eligible for reimbursement because debris on private property does not typically present an immediate health and safety threat to the general public.



## **MANAGEMENT COMMENTS AND OIG ANALYSIS**

FEMA officials commented verbally and provided us copies of documentation during the discussion of our draft report with them at the exit conference on August 14, 2013. On August 29, 2013, FEMA provided a written response to the draft report, which we have included in its entirety as exhibit B. Below, we summarize FEMA's verbal and written comments and our analysis of those comments.

### **FEMA's Verbal Comments at the Exit Conference**

At the August 14, 2013, exit conference, FEMA officials agreed that they were sometimes late in responding to the Parish's appeals. However, they objected to our finding regarding the second appeal of the waterways, saying that the Parish requested FEMA suspend the Parish's appeal request so that it could submit additional documentation. FEMA also contended that, because the Parish continued to provide FEMA supplemental information, the Parish implied that it wanted FEMA to consider the supplemental information in its appeal determination. FEMA said it could, therefore, not make a determination within the 90-day requirement. FEMA presented documentation that it interpreted as supporting the Parish's request for FEMA to refrain from responding to the appeal until the Parish submitted all its supplemental information and oral presentations.

### **FEMA's Written Comments on the Draft Report**

On August 29, 2013, FEMA's Associate Administrator for Response and Recovery and FEMA's Chief Counsel responded to our draft report saying they did not believe that failure to respond timely to appeals constituted a determination related to eligibility (see exhibit B). Further, they said our report did not satisfy the OIG's statutory obligation under Section 565 of Public Law 113-6. FEMA asserted the law requires the OIG to assess FEMA's eligibility determinations regarding the eligibility of the Parish's debris removal activities. They also agreed to the need to strengthen FEMA's policies and procedures regarding first and second appeals to ensure timeliness.

### **OIG Analysis of FEMA's Comments**

While we understand FEMA's interpretation of the law regarding our responsibilities under Section 565, we do not agree that the legislation required us to assess FEMA's eligibility decisions. FEMA has few promulgated rules instructing its administration of Public Assistance grants; rather, nearly all its rules and regulations are directed towards applicants. FEMA stated in its comments that we should have assessed whether it made



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

---

correct eligibility determinations pursuant to 44 CFR 206.223 and 44 CFR 206.224. However, 206.223 concerns applicant eligibility not FEMA responsibilities. Section 206.224 provides merely the factors FEMA should consider in assessing whether removing debris is in the public interest. It does not explicitly say how FEMA must consider these factors. Therefore, given the nature of the regulations and the fact that we were not present in Livingston Parish after Hurricane Gustav, we believe that Section 565 required us to assess whether FEMA applied its rules in the determination of eligibility, not whether FEMA made the correct determination regarding the eligibility of the debris work. In that regard, the only instance we noticed as to whether FEMA correctly applied its rules and regulations concerned timeliness. Federal regulation 44 CFR 206.206(c)(3) requires a timely response to appeals, and FEMA did not always notify the Parish of its disposition within the required time frame. In one instance, FEMA did not make a final decision or issue a final disposition notice. Therefore, FEMA did not comply with this Federal regulation.

We reviewed the documentation FEMA provided at the exit conference to support its decision to not issue a final appeal disposition notice. However, the documentation did not include a request by the Parish for FEMA to suspend its appeal process. Even if it did, such a request would not have prevented FEMA from responding within the time frame allowed by Federal regulation. Further, the timeline FEMA provided in its written response shows that FEMA received the Parish's final documentation on February 27, 2013, and FEMA did not respond to the Parish until July 1, 2013, over a month beyond the 90-day response deadline.

### DISCUSSION WITH MANAGEMENT

We discussed the results of our audit with Parish officials on June 24, 2013, with FEMA Region VI officials on July 18, 2013, and with FEMA Headquarters officials on July 22, 2013. We also provided a draft report in advance to FEMA officials and discussed it at an exit conference with them on August 14, 2013. We have included FEMA's verbal and written comments in this report, as appropriate, and have included FEMA's written response, in its entirety, as exhibit B.

This report does not contain any recommendations; therefore, you do not need to provide our office with a written response.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate congressional committees with oversight and



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

---

appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report are Christopher Dodd, Acting Director; Judy Martinez, Audit Manager; and Susan Stipe, Auditor-in-Charge.

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



**List of Applicable Criteria**

**Robert T. Stafford Disaster Relief and Emergency Act, as amended, 42 U.S.C. §§ 5121-5207**

- Section 403 Essential Assistance
- Section 407 Debris Removal

**44 CFR**

- Section 206.206 Appeals
- Section 206.221(c) defines immediate threat
- Section 206.221(d) defines improved property
- Section 206.223(a)(1) Be required as a result of the major disaster event
- 206.224 Debris Removal

**Public Assistance Applicant Handbook, FEMA-323**, September 1999

**Public Assistance Debris Management Guide FEMA 325**, July 2007

**Public Assistance Guide FEMA 322**, June 2007

**Public Assistance Pilot Program—Program Guidance—Guidance for FEMA, State, and Local Officials FEMA 598**, June 2007

**Public Assistance Policy Digest FEMA 321**, January 2008

**Disaster Assistance Policies (DAP), Standard Operating Procedures (SOP), Recovery Policies, and Fact Sheets**

- 9523.11 Hazardous Stump Extraction and Removal Eligibility, May 2007
- 9523.12 Debris Operations—Hand-Loaded Trucks and Trailers, May 2006
- 9523.13 Debris Removal from Private Property, July 2007
- 9570.14 Program Management and Grant Closeout, August 2012
- 9580.4 Debris Operations—Clarification Emergency Contracting vs. Emergency Work, January 2001
- 9580.201 Debris Removal Applicant’s Contracting Checklist, Prepared August 2006
- 9580.202 Debris Removal Authorities of Federal Agencies, January 2007
- 9580.203 Debris Monitoring, May 2007



OFFICE OF INSPECTOR GENERAL  
Department of Homeland Security

Exhibit B

FEMA Response

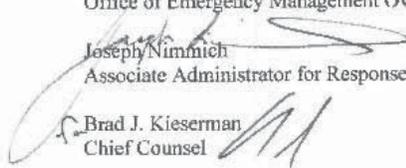
U.S. Department of Homeland Security  
500 C Street, SW  
Washington, DC 20472

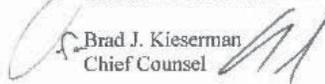
AUG 29 2013



FEMA

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

FROM:  Joseph Nimmich  
Associate Administrator for Response and Recovery

 Brad J. Kieserman  
Chief Counsel

SUBJECT: *FEMA's Application of Rules and Federal Regulations in Determining Debris Removal Eligibility for Livingston Parish, Louisiana, FEMA Disaster Number 1786-DR-LA (Hurricane Gustav) Audit Report Number DD 13-##*

The purpose of this memorandum is to provide FEMA comment to the Office of Inspector General (OIG) audit "to determine whether [FEMA] correctly applied its rules and Federal regulations to determine the eligibility of debris removal costs that Livingston Parish, Louisiana (Parish) claimed for recovery from Hurricane Gustav." FEMA disagrees that a failure to timely decide a second level appeal constitutes a "determination[]" related to eligibility." More importantly, FEMA does not agree that the OIG's audit of this matter satisfies its statutory obligation to review FEMA decisions for Category A debris removal resulting from Livingston Parish's application for public assistance.

We respect that it is for the OIG to interpret the scope of its charge under section 565 of the Consolidated and Further Continuing Appropriations Act, 2013, Public Law 113-6. How the OIG interprets this statutory requirement, however, directly affects whether there will be a subsequent arbitration and therefore impacts FEMA's resources and program execution. It is FEMA's view that section 565 unequivocally requires the OIG to review "the applications for public assistance," received from Livingston Parish, and "the resulting decisions issued by" FEMA, and determine whether those decisions or "determinations" resulted from FEMA "correctly appl[ying] its rules and regulations to determine eligibility of the applicant's claim." In short, we believe the law requires the OIG to examine FEMA's eligibility decisions with respect to Livingston Parish debris removal (of which there are many) and issue findings with respect to whether or not those decisions appropriately comported with FEMA rules and regulations or whether they involved a "misapplication" of those rules and regulations.

Instead, the OIG has explicitly stated, "This audit . . . does not opine on the merits or lack thereof concerning Livingston Parish's application for disaster assistance." This is exactly, however, what FEMA believes the law required of the OIG when it charged the OIG with reviewing applications for disaster assistance and the resulting FEMA decisions. The OIG's failure to

[www.fema.gov](http://www.fema.gov)



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

perform such an audit and its reliance instead on the procedural issue of the timing of FEMA's decisions, punts the substantive eligibility issues to the Civilian Board of Contract Appeals (CBCA), denying the CBCA the benefit of any findings from the OIG. FEMA believes such an outcome is contrary to the explicit language of section 565. Instead, section 565 requires the OIG to assess FEMA's eligibility determinations with respect to Livingston Parish's application for assistance for debris removal from its waterways and for leaners and hangers. Such review should include an assessment of whether FEMA made correct eligibility determinations in applying its rules and regulations, including 44 CFR 206.223 and 206.224, as well as its published policies on debris removal in the 9500 Series and FEMA 325, *Debris Management Guide*.

With respect to timeliness of decision making on second appeals, we disagree that FEMA's failure to meet an appeal response deadline is a "determination related to eligibility."<sup>1</sup> In addition, the draft audit response states "[b]y not making a decision on this second-level appeal, FEMA has, in effect, denied the Parish's appeal for reimbursement without following due process under Federal regulation." We disagree that a failure by FEMA to provide a timely response to a first or second level appeal is "in effect," a denial of the appeal. First, the OIG's analysis requires only a determination that FEMA failed to adhere to a regulatory requirement; any additional "effect" of such a failure is of no import to this analysis. Second, neither the Stafford Act nor its implementing regulations require an exhaustion of administrative remedies and, in any event, the Stafford Act at 42 U.S.C. 5148 "precludes judicial review" of discretionary agency action. FEMA's decisions regarding whether to grant public assistance are "inherently a discretionary responsibility," and "eligibility determinations . . . regarding the funding of eligible projects are steps in this discretionary process." *City of San Bruno v. FEMA*, 181 F. Supp. 2d 1010, 1014-15 (N.D. Cal. 2001); see *St. Tammany Parish, ex rel. Davis v. Fed. Emergency Mgmt. Agency*, 556 F.3d 307, 325-26 (5th Cir. 2009). A failure by FEMA to meet a statutory or regulatory deadline for an appeal response, therefore, does not have the "effect" of providing a Public Assistance applicant with an avenue to seek, for example, court review.

Finally, FEMA agrees on the need to strengthen its policies and procedures regarding first and second-level appeals to ensure timeliness, and FEMA has just recently published its *Public Assistance Program Appeals* directive and *Public Assistance Program Appeal Procedures* manual to be executed by a newly established Public Assistance Appeals Branch. This Branch is charged with improving FEMA's appeal process to provide timely decisions that provide specific and reasoned decisions and also a critical feedback loop to advise the Public Assistance Program on how and where to improve policies and the project worksheet formulation process. Significant training and outreach to FEMA regional and state personnel has already occurred and will be on-going.

Thank you for the opportunity to comment. If you have any additional questions concerning this matter, please contact William Roche, Director of the Public Assistance Division, at (202) 646-3834.

<sup>1</sup> In fact, with respect to the Parish's second appeal on waterway debris removal, FEMA does not agree that it was untimely. Subsequent to its second appeal request, the Parish made a FOIA request, an oral presentation request, and a request to submit supplemental information. The Parish did not confirm its second appeal submission as final until February, 2013. Less than one month later, P.L. 113-6 was signed into law and the OIG informed FEMA in April 2013 that the Parish had requested a review pursuant to section 565. FEMA then stopped its second appeal review – less than 90 days from when the Parish submitted its final second appeal information. FEMA, therefore, does not agree that it violated any rule or regulation with respect to this second appeal. See Timeline, attached.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

### Livingston Parish – Debris Appeals in Hurricane Gustav Second Appeals Timeline

- Debris Removal (waterways) (PWs 5590, 5591, 5593, 5594) – The Parish requested \$46M for the cost of removing debris from waterways (drainage canals/ditches):
  - July 16, 2011 – The Parish submitted the second appeal to the State.
  - August 9, 2011 – The Parish submitted to the State a request for additional information from FEMA on the projects in question.
  - August 17, 2011 – The State forwarded the request for information to FEMA (reference FOIA 11-716).
  - September 12, 2011 – The State submitted the Parish's second appeal to FEMA.
  - September 23, 2011 – The Parish sent a letter to the State requesting an oral presentation on the second appeal and stated that they planned to submit additional information in support of the appeal.
  - September 29, 2011 – The State forwarded to FEMA the Parish's request for an oral presentation.
  - November 28, 2011 – The State confirmed to FEMA in an e-mail that the Parish intended to submit additional information in support of their second appeal.
  - October 2, 2012 – The FEMA Records Management Division sent to the Parish a final response to its request for additional information. The search for records produced 12,311 pages, provision of which included six interim releases to the Parish. Of the 12,311 pages, 10,727 were released in their entirety and 1,572 were determined to be partially releasable.
  - October 3, 2012 – FEMA met with representatives of the Parish on the second appeal. In addition to the oral presentation, the Parish's representative acknowledged receipt of the additional information from FEMA and stated they would review the information to determine if the Parish would submit any further information on the second appeal.
  - January 23, 2013 – The Parish stated to FEMA in an e-mail that they intend to submit additional information on the second appeal.
  - February 22, 2013 – The Parish stated to FEMA in an e-mail that they would submit its final supplemental information on the second appeal the following week.
  - February 27, 2013 – The Parish submits its final (4<sup>th</sup>) supplement to FEMA for the second appeal.
  - March 26, 2013 – The Consolidated and Further Continuing Appropriations Act was signed into law (PL 113-6), including a provision allowing applicants to ask the OIG to review debris removal projects over \$10M in Hurricane Gustav.
  - April 22, 2013 – DHS OIG informs FEMA that it is reviewing debris removal projects of Livingston Parish.
  - July 1, 2013 – FEMA sent a letter to the State indicating that the appeal was under review by the OIG as of April 22, 2013, and as of that date it was no longer under review by FEMA.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

---

- Debris Removal (leaners and hangers) (PW54) – The Parish requested \$16M for the cost of removing hazardous trees and limbs. FEMA provided \$2.7M in funding based on a sample validation that showed 16% of hazardous limbs and 34% of hazardous trees to be eligible:
  - January 12, 2011 – The State forwarded the Parish's second appeal to FEMA.
  - May 10, 2011 – FEMA met with the Parish on the second appeal at the request of the Parish.
  - January 6, 2012 – FEMA denied the second appeal.
  - December 3, 2012 – The State forwarded the Parish's request for re-consideration of the second appeal.
  - July 1, 2013 – FEMA sent a letter to the State indicating that the appeal was under review by the OIG as of April 22, 2013, and as of that date the request for reconsideration was no longer under review by FEMA.



**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

---

**Appendix C**

**Report Distribution**

**Department of Homeland Security**

Acting Secretary  
Chief of Staff  
General Counsel  
Executive Secretary  
Director, GAO/OIG Liaison Office  
Assistant Secretary for Office of Policy  
Assistant Secretary for Office of Public Affairs  
Assistant Secretary for Office of Legislative Affairs  
Acting Chief Privacy Officer  
Under Secretary for Management

**Federal Emergency Management Agency**

Administrator  
Regional Administrator, FEMA Region VI  
Chief of Staff  
Chief Financial Officer  
Chief Counsel  
Director, Risk Management and Compliance  
Director, FEMA Louisiana Recovery Office  
Audit Liaison, FEMA Region VI  
Audit Liaison, FEMA (Job Code G-13-037)  
Audit Liaison, FEMA Louisiana Recovery Office

**Office of Management and Budget**

Chief, Homeland Security Branch  
DHS OIG Budget Examiner

**Recovery Accountability and Transparency Board**

Director, Investigations, Recovery Accountability and Transparency Board

**Congress**

Senate Committee on Appropriations, Subcommittee on Homeland Security  
Senate Committee on Homeland Security and Governmental Affairs  
House Committee on Appropriations, Subcommittee on Homeland Security  
House Committee on Homeland Security  
House Committee on Oversight and Government Reform

## ADDITIONAL INFORMATION AND COPIES

To obtain additional copies of this document, please call us at (202) 254-4100, fax your request to (202) 254-4305, or e-mail your request to our Office of Inspector General (OIG) Office of Public Affairs at: [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov).

For additional information, visit our website at: [www.oig.dhs.gov](http://www.oig.dhs.gov), or follow us on Twitter at: [@dhsoig](https://twitter.com/dhsoig).

## OIG HOTLINE

To expedite the reporting of alleged fraud, waste, abuse or mismanagement, or any other kinds of criminal or noncriminal misconduct relative to Department of Homeland Security (DHS) programs and operations, please visit our website at [www.oig.dhs.gov](http://www.oig.dhs.gov) and click on the red tab titled "Hotline" to report. You will be directed to complete and submit an automated DHS OIG Investigative Referral Submission Form. Submission through our website ensures that your complaint will be promptly received and reviewed by DHS OIG.

Should you be unable to access our website, you may submit your complaint in writing to:

Department of Homeland Security  
Office of Inspector General, Mail Stop 0305  
Attention: Office of Investigations Hotline  
245 Murray Drive, SW  
Washington, DC 20528-0305

You may also call 1(800) 323-8603 or fax the complaint directly to us at (202) 254-4297.

The OIG seeks to protect the identity of each writer and caller.