

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

**George County, Mississippi, Successfully Managed
FEMA's Hazard Mitigation Grant Funds –
Hurricane Katrina**





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Department of Homeland Security

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

January 24, 2014

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: *George County, Mississippi, Successfully Managed FEMA's
Hazard Mitigation Grant Funds – Hurricane Katrina*
FEMA Disaster Number 1604-DR-MS
Audit Report Number OIG-14-26-D

We audited Hazard Mitigation Grant Program funds awarded to George County (County), Mississippi (FIPS Code 039-99039-00). 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.

This report is our second and final report on our audit of Hazard Mitigation Grant Program funds awarded to the County. In May 2013, we issued an interim report (Audit Report DA-13-15) recommending that FEMA work closely with the State, County, and contractor representatives to resolve contractor disputes that were contributing to a delay in completion of two safe rooms funded under the grant.

The County received a Hazard Mitigation Grant Program award of \$4.1 million from the Mississippi Emergency Management Agency (MEMA), a FEMA grantee, following Hurricane Katrina, which occurred in August 2005. The award provided \$713,100 for emergency generators at a 75 percent Federal cost share (\$534,825) and \$3.4 million for the construction of two safe rooms at a 100 percent Federal cost share.

We audited the three projects with awards totaling \$4.1 million. The audit covered the period of August 29, 2005, to February 7, 2013, during which the County claimed \$3.7 million of FEMA funds under the three projects (see Exhibit, Schedule of Projects Audited). At the time of our audit, the County had not completed work on all projects, and therefore had not submitted final claims to MEMA on all project expenditures.

We conducted this performance audit between February 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



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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 and reviewed project costs (generally based on dollar value); interviewed County, MEMA, and FEMA personnel; reviewed the County's procurement policies and procedures; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary under the 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 method of accounting for disaster-related costs and its 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 Hazard Mitigation Grant Program. The purpose of the Hazard Mitigation Grant Program is to reduce the loss of life and property from future disasters. 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 Hazard Mitigation Grant Program according to a FEMA-State agreement, comprehensive Standard or Enhanced State Mitigation Plan, and State Hazard Mitigation Grant Program Administrative Plan. FEMA must approve these plans before it awards funds to the State. FEMA is responsible for assisting the State, approving or denying project applications, and reviewing the State's quarterly and final reports.

RESULTS OF AUDIT

George County successfully managed FEMA's Hazard Mitigation Grant funds. However, MEMA paid the County using incorrect Federal cost share rates, resulting in the County receiving a net Federal cost share overpayment of \$146,617. Also, the County did not adequately consider the past performance of a contractor it selected to construct two safe rooms, which contributed to delays in completing the safe rooms. Finally, MEMA did not adequately monitor the County's grant activities.



Finding A: Federal Cost Share Overpayment

MEMA paid the County using incorrect Federal cost share reimbursement rates under three projects, which resulted in the County receiving a net Federal cost share overpayment of \$146,617. Federal regulation 44 CFR 206.432(c) requires all approved mitigation measures to be subject to the cost sharing provisions the FEMA-State Agreement establishes. The overpayment occurred because MEMA did not properly adjust Federal cost share payments to the County when Federal share rates changed. This issue involves multiple projects as described below:

- Generators (Project 0010-255). As of February 2013, the County claimed \$700,276 of costs under this project. The Hazard Mitigation Grant Program agreement adjusted the generator project's Federal cost-share from 100 percent to 75 percent on April 21, 2010. Under these terms, MEMA should have paid the County a total of \$525,207 of Federal funds, or 75 percent of the \$700,276 of costs the County claimed. However, MEMA paid the County at a Federal cost share of 100 percent. Therefore, MEMA needs to correct the Federal cost share overpayment of \$175,069 (\$700,276 less \$525,207).
- East Safe Room (Project 0343). As of February 2013, the County claimed \$1,468,048 of costs under this project. On November 2, 2010, FEMA retroactively increased the project's Federal cost share from 75 percent to 100 percent. However, on July 22, 2010—prior to that change—MEMA made an initial partial payment of \$42,678 to the County that reflected a 25 percent State cost share of \$14,226. MEMA did not adjust subsequent payments to reflect the 100 percent Federal cost share for this project. Therefore, MEMA needs to correct the Federal cost share underpayment of \$14,226 made on July 22, 2010.
- West Safe Room (Project 0344). As of February 2013, the County claimed \$1,694,606 of costs under this project. The Federal cost share for this project is 100 percent. However, MEMA's initial payment of \$42,678 on May 6, 2011, shows a 25 percent State cost share of \$14,226. At the time of our audit, MEMA had made 10 additional payments to the County at the correct 100 percent Federal share, but had not corrected the \$14,226 Federal share underpayment.

Table 1 identifies the net Federal overpayments of \$146,617 and the related projects.



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Table 1. Net Federal Share Overpayment

Project	Title	Amount Claimed (As of February 2013)	Approved Federal Cost Share Rate	Correct Federal Payment Amount as of Audit Scope Date	Actual Federal Amount Paid as of Audit Scope Date	Federal Over/ (Under) Payment
0010-255	Phase II Generator	\$ 700,276	75	\$ 525,207	\$ 700,276	\$175,069
0343	East Safe Room	1,468,048	100	1,389,947	1,375,721	(14,226)
0344	West Safe Room	1,489,807	100	1,429,780	1,415,554	(14,226)
Total		\$3,658,131		\$3,344,934	\$3,491,551	\$146,617

MEMA Response. MEMA officials disagreed that it overpaid the County its Federal cost share on the Phase II Generator project (Project 0010-255). They said that the County’s generator project was part of one statewide initiative project involving nine subprojects with varying cost shares and that the final Federal cost share for the Phase II generator project would be 100 percent. They said that they would request a new approval letter from FEMA to reflect the Federal cost share of 100 percent. Finally, MEMA officials said that they would reconcile the cost share payments on the two safe room projects (Projects 0343 and 0344) at project closeout.

Office of Inspector General (OIG) Response. We disagree with MEMA’s position. Project file documentation reviewed during our audit indicated that FEMA funded the Phase II Generator project at a 75 percent Federal cost share. Therefore, MEMA should have reimbursed the County at a 75 percent Federal cost share instead of 100 percent. MEMA should correct its accounting system to reflect the FEMA-approved Federal cost share on all projects as soon as possible rather than wait until project closeout so that it can use those funds to reimburse the Federal cost share of other hazard mitigation projects.

Finding B: Procurement – Contractor Selection Process

The County did not adequately consider the past performance of a contractor it selected to construct two safe rooms within the County (Projects 0343 and Project 0344). As a result, the County experienced several contractor performance issues that contributed to delays in completing the safe rooms. Federal regulation 44 CFR 13.36(b)(8) requires grantees and subgrantees to make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed agreement. Grantees and subgrantees must consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources, when awarding contracts.



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FEMA approved the safe rooms to provide County residents protection from extreme weather events such as hurricanes and tornadoes. The County solicited competitive bids for construction of the two safe rooms and selected the lowest bidder from eight sealed bid proposals. At the onset of this audit, we noted that the County was involved in an ongoing dispute with the contractor over 43 punch list items, as well as whether the contractor had substantially completed the safe rooms. The dispute contributed to delays in opening the safe rooms for the 2013 hurricane season, which began June 1, 2013. In May 2013, we issued an interim report recommending that FEMA work closely with State, County, and contractor representatives to resolve the issues so that the safe rooms would be ready for the 2013 hurricane season.¹

The County could not provide evidence that it considered the contractor's past performance history to determine whether the contractor could successfully perform under the contract terms and conditions. Had it considered the contractor's past performance, the County may have avoided the contractor performance issues. For instance, we identified three separate contract disputes that occurred before April 2011 involving the contractor in question and other Mississippi cities and counties. If the County had researched those disputes, it might have selected a different contractor for the Federally-funded work. We discuss those disputes below.

- January 13, 2010, and March 8, 2011. The State of Mississippi mitigation website (mitigationms.org) documents issues the City of Gulfport, Mississippi, had with the contractor regarding wall installation and possible litigation on the construction of the city's Charles Walker Community Center, a FEMA-funded grant project.
- May through July 2010. The State of Mississippi mitigation website (mitigationms.org) documents issues that Hancock County, Mississippi, had with the contractor in meeting project completion dates and exceeding budgeted amounts on five safe room projects that FEMA funded. The architectural and engineering (A/E) firm George County hired for the two safe room projects also served in the same capacity for Hancock County's safe rooms.
- July 19, 2010. Local media reported a dispute between the City of Gulfport, Mississippi, and the contractor over deficient work on Grasslawn, a FEMA-funded post-Katrina project involving a City-owned beachfront home.

¹OIG Audit Report DA-13-15, *Contract Dispute Delaying Hurricane Shelters at George County, Mississippi: Interim Report on FEMA Hazard Mitigation Grant Program Funds Awarded to George County, Mississippi*; May 21, 2013.



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County officials said that neither FEMA nor MEMA informed them of the Federal procurement requirement to consider a contractor's past performance record during the award process. They further added that, while there was "hearsay" regarding its contractor, there was no substantive reason not to select the low bid, which State procurement laws require.

Under 44 C.F.R. 13.36(b)(1) subgrantees must use their own procurement procedures which reflect applicable State and local laws and regulations, as long as the procurements conform to applicable Federal law and standards. Also, Item 11 of the Hazard Mitigation Grant Program Agreement between the County and MEMA required compliance with Federal law in procurement matters. Therefore, although we were not made aware of a conflict between relevant State and Federal procurement laws and rules, the County, as a subgrantee, was prohibited from relying on any state procurement law that would conflict with Federal procurement laws and rules, when making the awards.

County Response. County officials said that they followed State purchasing laws in good faith and awarded the contract to the lowest and best bidder. They said that they had no just cause to question or reject the contractor's bid. The officials said that at the time the County received the bids for the construction work that the contractor in question was executing a contract to build five safe rooms for Hancock County, Mississippi. County officials said that those projects were on budget and within allotted contract time. Therefore, there was no documented reason to reject the contractor's bid. Further, County officials said that its A/E firm checked the references of the contractor and verified all bonds and insurances before the A/E firm recommended that the County award the work to the contractor in question. Finally, they said that the local media reported the contractor's issues with other entities after the County had awarded the contract for construction of the County's safe rooms.

OIG Response. We disagree with County's position. As we previously stated, there was no documentation in the County's procurement files to indicate that it had researched and considered the contractor's past performance. Further, the contractor issues associated with other FEMA safe room projects within Mississippi pre-date the County's safe room contract. Therefore, the County had access to the data through the State of Mississippi mitigation website and local media. Finally, the contractor's performance issues should have come into question before the contract award because the County's A/E firm assisted the County in the selection of the contractor and had performed the same duties on Hancock County's safe rooms, which had performance issues.



Finding C: Grant Management

MEMA did not properly monitor the County's subgrant activities, which contributed to delays in completing the safe rooms and other issues discussed in findings A and B. According to Federal regulations at 44 CFR Part 13, the State, as grantee, is required to, among other things—

- Ensure that subgrantees are aware of requirements that Federal law and regulations impose on them. (44 CFR 13.37(a)(2))
- Manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable Federal requirements. (44 CFR 13.40(a))

The initial completion date for the two safe rooms funded under the grant was May 23, 2012. However, MEMA requested an extension from FEMA that ultimately moved the completion date to November 9, 2013 (nearly 18 months after the initial completion date). County officials said they needed the time extension because of rain, contractor schedules, and issues the County had with the contractor's workmanship. However, there was no evidence in the project files to suggest MEMA was concerned about the timely completion of the projects. For example, the County notified MEMA on several occasions in quarterly status reports (September 2011, December 2012, and March 2013) of significant issues with its contractor. However, those notices prompted no action from MEMA until we discussed the issues with them in February 2013, shortly after we began our audit.

MEMA officials said that they were monitoring the safe-room projects from a programmatic standpoint and that completion was still within the period of performance. However, we believe MEMA should have also focused on project completion because of the critical need for the safe rooms. Since the safe rooms' initial 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-approved safe rooms, the longer the County takes to open the safe rooms, the greater the risk to County residents from an extreme wind event such as a hurricane or tornado.

Although MEMA passed along the quarterly status reports to FEMA, which indicated issues the County was having with the contractor in completing the safe rooms, FEMA did not require MEMA to remedy any project completion delays.



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MEMA Response. MEMA officials disagree that they did not properly oversee the County's projects. However, they agreed that MEMA and its subgrantees should work together to address contractor deficiencies early on and develop corrective action plans to remedy any project completion delays.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Require MEMA to correct the net \$146,617 Federal overpayment (finding A) by adjusting future Federal drawdowns for expenditures under the Hazard Mitigation Grant Program.

Recommendation #2: Require MEMA to instruct the County of its responsibility to comply with Federal procurement regulations when procuring goods and services under a FEMA award (finding B).

Recommendation #3: Reemphasize to MEMA and Region IV Hazard Mitigation personnel their responsibility to adequately monitor grant activities (finding C).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with County, MEMA, 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 August 15, 2013. County and MEMA officials' comments, where appropriate, are included in the body of the 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 the contact information for 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 will consider the recommendations 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, 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, Director, Eastern Regional Office, at (404) 832-6702.



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Exhibit

Schedule of Projects Audited

Project Number	Project Scope	Amount Awarded	Amount Claimed
0010-255	Phase II Generator	\$ 713,100	\$ 700,276
0343	361 Safe Room East	1,675,134	1,468,048
0344	361 Safe Room West	1,694,606	1,489,807
Total		\$4,082,840	\$3,658,131



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