

**FEMA Held Augusta-Richmond
County, Georgia, Accountable
for Not Complying with
Federal Contracting
Requirements when Managing
a 2014 Public Assistance
Disaster Grant**





DHS OIG HIGHLIGHTS

FEMA Held Augusta-Richmond County, Georgia, Accountable for Not Complying with Federal Contracting Requirements when Managing a 2014 Public Assistance Disaster Grant

May 27, 2016

Why We Did This Audit

Augusta-Richmond County, Georgia (County), received a \$12.93 million grant award from the Georgia Department of Emergency Management (Georgia), a Federal Emergency Management Agency (FEMA) grantee, for damages resulting from a February 2014 severe winter storm. Our audit objective was to determine whether the County accounted for and expended FEMA funds according to Federal requirements.

What We Recommend

FEMA should inform us of the agency's final determination on the County's appeal of the \$4.1 million of disallowed debris removal contract costs.

For Further Information:

Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

What We Found

The County initially claimed \$14.5 million in debris removal costs under two contracts it awarded without full and open competition. However, in late June 2014, FEMA reviewed the contract costs and determined that \$4.4 million, or 30 percent of the \$14.5 million, was ineligible or excessive. FEMA disallowed the \$4.4 million, thus lowering the authorized amount for debris removal contract costs to \$10.1 million.

Full and open competition—

- increases the number of bids received, and thereby increases the opportunity for obtaining reasonable pricing from the most qualified contractors;
- allows opportunities for small businesses, minority firms, and women's business enterprises to compete for federally funded work; and
- helps discourage and prevent favoritism, collusion, fraud, waste, and abuse.

Therefore, we commend FEMA for taking prompt action to review the eligibility and reasonableness of costs the County incurred under the two noncompetitive contracts. In December 2014, the County appealed \$4.1 million of the \$4.4 million of debris removal costs that FEMA disallowed. FEMA subsequently requested additional information from the County, but had not rendered a final determination on the eligibility of the costs at the time of our audit.

FEMA Response

FEMA officials agreed with our findings and recommendation. Appendix B includes FEMA's written response in its entirety.




OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

May 27, 2016

MEMORANDUM FOR: Gracia Szczech
Regional Administrator, Region IV
Federal Emergency Management Agency



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

SUBJECT: *FEMA Held Augusta-Richmond County, Georgia,
Accountable for Not Complying with Federal Contracting
Requirements when Managing a 2014 Public Assistance
Disaster Grant*
Audit Report Number OIG-16-94-D

We audited Public Assistance funds awarded to Augusta-Richmond County, Georgia (County). The County received a Public Assistance grant award of \$12.93 million from the Georgia Emergency Management Agency (Georgia), a Federal Emergency Management Agency (FEMA) grantee, for damages resulting from a February 2014 severe winter storm. The award provided up to 85 percent FEMA funding for debris removal activities under FEMA's debris removal pilot program,¹ and 75 percent FEMA funding for emergency protective measures and permanent repairs to roads and other facilities. The award consisted of three large projects and three small projects.² We audited the three large projects with awards totaling \$12.88 million (see appendix B). At the time of our audit, the County had completed work on all projects in our audit scope, but had not submitted final expenditure claims to Georgia for all projects.

¹ The County elected to participate in FEMA's Alternative Procedures for Debris Removal pilot program authorized under the *Sandy Recovery Improvement Act of 2013* (P.L. 113-2). Under this program, FEMA funded 85 percent of eligible debris removal costs incurred within 30 days of the incident period date, 80 percent for 31-90 days, and 75 percent for 91 or more days.

² Federal regulations in effect at the time of disaster set the large project threshold at \$120,000. [Notice of Adjustment of Disaster Grant Amounts, 79 Fed. Reg. 10685 (Feb. 26, 2014)].



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Results of Audit

The County generally accounted for FEMA funds properly but did not always comply with Federal procurement standards. The County initially claimed \$14.5 million in debris removal costs under two contracts it awarded without full and open competition. However, in late June 2014, FEMA reviewed the contract costs and determined that \$4.4 million, or 30 percent of the \$14.5 million, was ineligible or excessive. FEMA disallowed the \$4.4 million, thus lowering the authorized amount for debris removal contract costs to \$10.1 million.

Full and open competition—

- increases the number of bids received, and thereby increases the opportunity for obtaining reasonable pricing from the most qualified contractors;
- allows opportunities for small businesses, minority firms, and women's business enterprises to compete for federally funded work; and
- helps discourage and prevent favoritism, collusion, fraud, waste, and abuse.

Therefore, we commend FEMA for taking prompt action to review the eligibility and reasonableness of costs the County incurred under the two noncompetitive contracts. We also defer to FEMA's decision to allow reasonable costs because Federal regulations allow agencies latitude in remedies for noncompliance. In December 2014, the County appealed \$4.1 million of the \$4.4 million of debris removal costs that FEMA disallowed. FEMA subsequently requested additional information from the County, but had not rendered a final determination at the time of our audit.

Finding A: Contracting Practices

The County did not always comply with Federal procurement standards for debris removal contract work under Projects 62 and 299. As a result, full and open competition did not occur, and FEMA had no assurance that the County procured the services at the best possible price. In addition, the lack of competition increased the likelihood of fraud, waste, and abuse. It also denied opportunities for other qualified firms—including disadvantaged firms such as small, minority, and women-owned businesses—to bid on federally funded work as Congress intended.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Federal regulations at 44 Code of Federal Regulations (CFR) 13.36, in part, required the County, among other actions, to—

- perform procurement transactions in a manner providing full and open competition except under certain circumstances. One allowable circumstance is when there is a public exigency or emergency for the requirement that will not permit a delay resulting from competitive solicitation (44 CFR 13.36(c) (1) and (d)(4)(i)); and
- take all necessary affirmative steps to assure the use of minority firms, women’s business enterprises, and labor surplus area firms when possible (44 CFR 13.36(e)(1)).

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

During the period February 10–14, 2014, a severe winter storm system deposited ice on trees causing downed trees and limbs, and leaning trees and hanging branches (leaners and hangers) on public properties and rights-of-way throughout the County. FEMA estimated that the vegetative debris from the storm totaled 753,695 cubic yards.

Figure 1: Downed Tree Limb Blocking Road Access in Augusta-Richmond County, Georgia



Source: *Augusta Chronicle* (www.chronicle.augusta.com)

To remove storm-related debris, the County initially used its own personnel and several on-call time-and-material contractors that it hired from a competitive procurement process before the disaster. However, on February 24,



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

2014, the County hired a debris removal contractor on a unit-price basis to aid in the storm cleanup, and a debris monitoring firm under a time-and-material contract to monitor debris removal activities. The County hired the two contractors on a noncompetitive basis using the County's emergency contracting procedures.

On April 4, 2014, FEMA notified Georgia that it had concerns whether the County's contracts for debris removal activities met Federal contracting requirements. FEMA requested that Georgia provide the agency with additional information to enable FEMA to determine whether the County met the necessary conditions for noncompetitive procurements. On June 17, 2014, FEMA notified the County that it had determined that exigent circumstances warranted the County's use of the noncompetitive contracts through April 7, 2014. However, FEMA specified that the County should have solicited competitive bids for work beginning April 8, 2014, because exigent circumstances no longer existed to justify the use of noncompetitive contracts. FEMA also informed the County that it would reimburse the County for eligible work under the projects at a rate that FEMA concluded to be reasonable costs, but that the agency had not made any determinations on the County's eligibility for reimbursement at that time.

Upon completion of the debris removal work, the County claimed \$14.5 million in debris removal costs to Georgia under Projects 62 and 299 for work performed under the two noncompetitive contracts. In late June 2014, FEMA divided the total contract costs the County claimed by the adjusted eligible cubic yards and concluded that the total claimed contract costs were reasonable. However, FEMA disallowed \$4.4 million of the \$14.5 million of costs the County claimed for the two contractors' services. The disallowance included \$1,160,570 of costs that the debris removal contractor charged the County for removing leaners and hangers. FEMA concluded that the contract rates for the leaners and hangers, which were a separate line item in the contract, appeared unreasonable when compared to rates that other contractors had charged neighboring communities under the disaster. FEMA's disallowance also included \$2,821,454 for debris removal costs and quantities the County claimed that FEMA could not validate when comparing gross volumes of claimed debris to the reduced volumes. The remaining \$433,339 that FEMA disallowed was for site management work that FEMA concluded the contractor did not perform and other miscellaneous adjustments for ineligible debris and associated tipping fees. As a result, FEMA's final award to the



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

County for work under the two noncompetitive contracts totaled \$10.1 million as table 1 shows.³

Table 1: Noncompetitive Contracts for Debris Removal Activities

| Project Number | Description of Work | Gross Contract Amounts Claimed | FEMA Adjustments for Ineligible Contract Costs | Net Contract Amounts That FEMA Allowed |
|-----------------------|---|---------------------------------------|---|---|
| 299 | Debris Removal and Monitoring (days 31 to 90) | \$ 8,327,534 | \$2,477,374 | \$ 5,850,160 |
| 62 | Debris Removal and Monitoring (days 0 to 30) | 6,177,848 | 1,937,989 | 4,239,859 |
| Total | | \$14,505,382 | \$4,415,363 | \$10,090,019 |

Source: FEMA project worksheets, County records, and Office of Inspector General (OIG) analysis

We reviewed the contract costs the County claimed for work performed under the two noncompetitive contracts and determined that the County’s initial claim, before disallowances that FEMA made, included \$1,346,459 of costs for debris removal work performed after April 7, 2014. Under these circumstances, our usual practice would be to question the \$1.35 million of contract costs because circumstances did not justify the County’s continued use of noncompetitive contracts after April 7, based on FEMA’s determination of the exigent period. However, in this case, we are not questioning the costs because FEMA approved the contract costs as reasonable during final inspection of the projects in June 2014 despite the contracting violations. Therefore, we defer to FEMA’s decision to allow reasonable costs because Federal regulations allow agencies latitude in remedies for noncompliance (44 CFR 13.43(a)).

We commend FEMA for taking prompt action to review the eligibility and reasonableness of costs the County incurred under the two noncompetitive contracts. In December 2014, the County appealed \$4.1 million of the \$4.4 million of debris removal costs that FEMA disallowed. FEMA subsequently requested additional information from the County but had not rendered a final determination as of April 2016.

The procurement problems we identified occurred primarily because the County did not heed the advice and technical assistance that Georgia provided to the County. According to Georgia officials, Georgia met with the County 4 days after the storm on February 17, 2014, to discuss the importance of thorough documentation and adhering to Federal procurement regulations. Georgia also met again with County officials on March 10, 2014, where it

³ Table 1 summarizes adjustments FEMA made to contract costs the County claimed. FEMA also made adjustments to non-contract costs (see table 2 in appendix A).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

discussed the importance of adhering to Federal procurement regulations. Finally, Georgia sent County officials a formal letter on March 25, 2014, raising concerns with the County's procurement procedures under the FEMA award and informed them of potential financial consequences for not complying with Federal procurement regulations. Despite these forewarnings from Georgia, the County continued to use the noncompetitive contracts for nonexigent work, which Federal procurement regulations prohibit. County officials withheld comments pending issuance of the final audit report.

Recommendation

We recommend the Regional Administrator, FEMA Region IV:

Recommendation 1: Inform us of FEMA's final determination on the County's appeal of the \$4.1 million that FEMA disallowed during final inspection of the County's debris removal costs under the noncompetitive contracts.

Discussion with Management and Audit Follow-up

We discussed the results of our audit with County, Georgia, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at the exit conference on March 18, 2016. County officials withheld comments pending issuance of the final audit report. We included Georgia's comments in the body of this report, as appropriate.

FEMA Region IV officials provided a written response on April 8, 2016, agreeing with our findings and recommendation (see appendix B). Therefore, we consider the one recommendation contained in this report to be resolved, but open. We will evaluate for closure upon documentation that FEMA has implemented the report recommendation. Please email closeout documentation and request to Carl.Kimble@oig.dhs.gov.

The Office of Emergency Management Oversight contributors to this report are David Kimble, Director; Felipe Pubillones, Audit Manager; Helen White, Auditor-in-Charge; and Calbert Flowers, Auditor.

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



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix A

Objective, Scope, and Methodology

We audited Public Assistance funds awarded to the County, FIPS Code 245-04200-00. Our audit objective was to determine whether the County accounted for and expended FEMA grant funds according to Federal regulations and FEMA guidelines for FEMA Disaster 4165-DR-GA. The County received a Public Assistance award of \$12.93 million from Georgia, a FEMA grantee, for damages resulting from a February 2014 severe winter storm.

We audited three large projects with final awards totaling \$12.88 million (see table 2). The audit covered the period from February 10, 2014, to December 22, 2014, during which the County claimed \$18.1 million for the three projects in our scope.

We interviewed County, Georgia, and FEMA personnel; gained an understanding of the County’s method of accounting for disaster-related costs and its procurement policies and procedures; judgmentally selected (generally based on dollar amounts) and reviewed project costs and procurement transactions for the projects in our audit scope; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our audit objective. We did not perform a detailed assessment of the County’s internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective.

Table 2: Projects Audited and Costs FEMA Disallowed

| Project Number | FEMA Category of Work⁴ | Initial Amounts Claimed | Ineligible Amounts FEMA Disallowed | Final Amounts Awarded |
|-----------------------|--|--------------------------------|---|------------------------------|
| 62 | A | \$ 9,277,502 | \$ 2,769,596 | \$ 6,507,906 |
| 299 | A | 8,337,134 | 2,477,374 | 5,859,760 |
| 61 | B | 511,202 | 0 | 511,202 |
| Totals | | \$18,125,838 | \$5,246,970 | \$12,878,868 |

Source: FEMA project worksheets, County records, and OIG analysis

⁴ FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix A (Continued)

We conducted this performance audit between August 2015 and March 2016 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 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.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix B

FEMA Region IV Audit Response


U.S. Department of Homeland Security
Region IV
3003 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

APR 08 2016

MEMORANDUM FOR: C. David Kimble
Director
Eastern Regional Office
Office of Disaster Assistance Oversight

FROM: Gracia B. Szczech 
Regional Administrator
FEMA Region IV

SUBJECT: Comments on Draft Audit Report
Augusta-Richmond County, Georgia
FEMA Disaster Number 4165-DR-GA
Audit Report Number OIG-16-xx-D

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

The Department is pleased to note OIG's positive recognition that Augusta- Richmond County (County) generally accounted for FEMA funds. The OIG did however, identify a finding related to the County's procurement of its debris contracts. The draft report contains 1 recommendation with which the Department concurs. Specifically:

Recommendation 1: Inform us of FEMA's final determination on the County's appeal of the \$4.3 million that FEMA disallowed during final inspection of the County's debris removal costs under the noncompetitive contracts.

Response: Concur. FEMA will provide the OIG a copy of the first appeal response. Estimated Completion Date (ECD): 05/20/2016.

Again, thank you for the opportunity to review and comment on this draft report. We look forward to working with you in the future.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix C

Report Distribution

Department of Homeland Security

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

Federal Emergency Management Agency

Administrator
Chief of Staff
Chief Financial Officer
Chief Counsel
Director, Risk Management and Compliance
Associate Administrator for Policy, Program Analysis, and
International Affairs
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA (Job Code G-15-040)
Audit Liaison, FEMA HQ

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Congress

Congressional Oversight and Appropriations Committees

External

EMA Director/Fire Chief, Augusta-Richmond County, Georgia
Director, Georgia Emergency Management Agency
State Auditor, Georgia

ADDITIONAL INFORMATION AND COPIES

To view this and any of our other reports, please visit our website at: www.oig.dhs.gov.

For further information or questions, please contact Office of Inspector General Public Affairs at: DHS-OIG.OfficePublicAffairs@oig.dhs.gov. Follow us on Twitter at: @dhsoig.



OIG HOTLINE

To report fraud, waste, or abuse, visit our website at www.oig.dhs.gov and click on the red "Hotline" tab. If you cannot access our website, call our hotline at (800) 323-8603, fax our hotline at (202) 254-4297, or write to us at:

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