



# DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General  
Atlanta Field Office-Audit Division  
3003 Chamblee Tucker Rd  
Atlanta, GA 30341

November 18, 2003

## MEMORANDUM

TO: Kenneth O. Burris, Jr.  
Regional Director, FEMA Region IV

FROM:   
Gary J. Barard  
Field Office Director

SUBJECT: City of Barnesville, Georgia  
FEMA Disaster No. 1033-DR-GA and 1209 -DR-GA  
Audit Report No. DA-03-04

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The Office of Inspector General (OIG) audited public assistance funds awarded to the City of Barnesville, Georgia. The objective of the audit was to determine whether the City accounted for and expended FEMA funds according to federal regulations and FEMA guidelines.

The City received two separate awards from the Georgia Emergency Management Agency, a FEMA grantee, to perform emergency work and repair facilities associated with the City's Eddie Creek Dam and Reservoir. Under Disaster No.1033, the City received an award of \$3.8 million as a result of Tropical Storm Alberto in July 1994. This award provided 90 percent funding for four small projects and five large projects<sup>1</sup>. Under Disaster No.1209, the City received an award of \$625,712 as a result of severe flooding in March 1998. This award provided 75 percent FEMA funding for two large projects. The audit was limited to the amount awarded and claimed under the large projects (see Exhibit).

The audit covered the period July 1994 to June 2000. During this period, the City received \$3,888,078 of FEMA funds for large projects (\$3,418,794 under Disaster No. 1033, and \$469,284 under Disaster No. 1209).

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<sup>1</sup> FEMA annually adjusts the threshold for a large project. Under Disaster No. 1033, a large project was \$42,400 or more and, under Disaster No. 1209, a large project was \$47,100 or more. A small project was less than these thresholds.

The contractor provided the City with a "Certification of Liability Insurance" showing the required amount of builder's risk insurance on the project. However, contrary to Article 4M, the insurance policy did not cover flood damages.

Thus, the OIG concluded that the contractor, not the City, was legally responsible for the cost of emergency protective measures and repairs to the Eddie Creek Dam and Reservoir. Federal regulation [44 CFR 206.223(a)(3)] states that, to be eligible for assistance, an item of work must be the legal responsibility of an eligible applicant. Accordingly, the OIG questions the \$625,712 (FEMA share \$469,284) awarded and claimed.

City officials acknowledged that the contract required the contractor to maintain flood insurance on the project. They also stated that, prior to making the award, FEMA determined that the project was not covered by flood insurance. As a result of this determination, City officials stated that they did not pursue legal action against the contractor. However, at the time of this determination, responsible FEMA program officials were not aware of the contractor's responsibility to maintain insurance to cover damages during construction of the dam and reservoir.

#### RECOMMENDATION

The OIG recommends that the Regional Director, in coordination with the grantee, disallow the \$1,035,749 of questioned cost.

#### DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW UP

The results of the audit were discussed with FEMA, grantee, and City officials on October 17, 2003. City officials' comments, where appropriate, are included in the body of the report. However, city officials indicated that they would have to conduct additional research before indicating whether they concur with the findings.

Please advise the Atlanta Field Office-Audit Division by January 18, 2003, of the actions taken to implement the recommendation. Should you have any questions concerning this report, please contact George Peoples or me at (770) 220-5242.

City of Barnesville, Georgia  
FEMA Disaster Nos. 1033 & 1209 – DR-GA  
Schedule of Claimed and Questioned Costs

Disaster No.1033

<u>Project Number</u>	<u>Amount Awarded</u>	<u>Amount Claimed</u>	<u>Amount Questioned</u>
79626	\$ 410,037	\$ 410,037	\$410,037
70267	65,743	65,743	
70308	109,960	109,960	
90439	239,102	239,102	
92333	<u>2,958,809</u>	<u>2,958,809</u>	
	<u>\$3,783,651</u>	<u>\$3,783,651</u>	<u>\$410,037</u>

Disaster No.1209

80231	\$ 542,046	\$ 542,046	\$542,046
93036	<u>83,666</u>	<u>83,666</u>	<u>83,666</u>
	<u>\$ 625,712</u>	<u>\$ 625,712</u>	<u>\$625,712</u>

The OIG performed the audits under the authority of the Inspector General Act of 1978, as amended, and according to generally accepted government auditing standards. The audit included tests of the City's accounting records, a judgmental sample of expenditures, and other procedures considered necessary under the circumstances.

## RESULTS OF AUDIT

The City's claim included \$1,035,749 of questioned cost. This consists of \$410,037 of excessive charges for engineering services under Disaster No. 1033, and \$625,712 of ineligible repair costs under Disaster No. 1209 that was not the legal responsibility of the City.

- A. Excessive Engineering Charges. Under Disaster No.1033, FEMA awarded \$2,958,809 under "Improved Project 92333" to repair the Eddie Creek Dam and Reservoir. According to FEMA regulation in 44 CFR 206.203(d), an improved project exists when an applicant, with FEMA approval, makes improvements to a damaged facility, but still restores the pre-disaster functions of the facility. Under such projects, FEMA funding is limited to the estimated costs to restore the facility to its pre-disaster condition.

In making the award, FEMA provided funds for construction and engineering services. Moreover, consistent with 44 CFR 206.203 (d), FEMA informed the City, in July 1997, that no additional funding would be provided to construct the dam and reservoir. However, on May 11, 2001, FEMA mistakenly awarded, under Project 79626, additional engineering fees of \$410,037 for the construction project. FEMA Region IV officials agreed that the project was awarded in error. Accordingly, the OIG questions the \$410,037 (FEMA share-\$369,033) awarded and claimed under the project.

- B. Ineligible Repair Cost. Under Disaster No.1209, the City again received funding to repair the Eddie Creek Dam and Reservoir--\$625,712 for emergency and permanent restoration work. This consisted of \$83,666 to build a temporary "cofferdam" around the reservoir and \$542,046 to replace the soil and "riprap" swept from the dam as a result of the March 1998 floods. At the time of these floods, the facility was still being constructed under the FEMA "improved project" funded under Disaster No. 1033.

The OIG determined that the City's dam construction contract, under Disaster No. 1033, required the contractor to obtain and maintain insurance during construction to cover the costs of damages caused by nature disasters, including floods. Specifically, Article 4M of the contract states:

The contractor shall obtain and maintain in force builder's risk insurance covering damages to the project, during construction, as a result of rains, floods, earthquakes, and other "acts of god" on one hundred percent (100%) of the completed value basis of the project with a minimum excess (umbrella) coverage of \$5,000,000.