



Homeland Security

December 04, 2008

MEMORANDUM FOR: Benjamin A. (Alec) Watson, Acting Director
FEMA Mississippi Transitional Recovery Office

FROM: FOR C. David Kimble, Director Eastern Regional Office *Larry J. Arnold*

SUBJECT: *Hurricane Katrina Activities for Harrison County
Wastewater and Solid Waste Management District, Mississippi
Public Assistance Identification Number: 047-02773-00
FEMA Disaster Number 1604-DR-MS
Report Number DA-09-04*

We performed an audit of disaster costs associated with Hurricane Katrina activities for Harrison County Wastewater and Solid Waste Management District (District) located in Gulfport, Mississippi. The objectives of the audit were to determine whether the District was properly accounting for disaster-related costs and whether such costs were eligible for funding under the Federal Emergency Management Agency's (FEMA) disaster assistance programs.

As of August 8, 2007, the cut-off date of our review, the District had received an award of \$22.6 million from the Mississippi Emergency Management Agency (MEMA), a FEMA grantee, for emergency protective measures, debris removal, and repair of buildings, equipment and utilities damaged as a result of the disaster. The award provided 100% FEMA funding for 31 large projects¹ and 171 small projects. We limited our review to \$5.7 million of costs incurred under 8 large projects (see Exhibit). The audit covered the period August 29, 2005, to July 31, 2007, during which the District received \$4.5 million of FEMA funds under the 8 large projects.

We conducted this performance audit under the authority of 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 on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We selected judgmental samples of project cost documentation (generally based on dollar value); interviewed District, MEMA, and FEMA personnel; reviewed the District's disaster grant accounting

¹ FEMA regulations in effect at the time of Hurricane Katrina set the large project threshold at \$55,500.

system and its procurement policies and procedures; and performed other procedures considered necessary under the circumstances. We did not assess the adequacy of the District's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the District's grant accounting system and its policies and procedures for administering the activities provided for under the FEMA award.

RESULTS OF AUDIT

The District accounted for FEMA funds on a project-by-project basis according to federal regulations for large projects. However, we identified \$53,635 of questioned costs resulting from excessive contract charges, unreasonable labor costs, and unreported salvage proceeds. In addition, the District did not follow proper contracting procedures when contracting for bypass pumping services.

A. Contract Charges. The District's claim under Project 8785 included \$8,116 of excessive contract charges for activities associated with transporting and disposing of wastewater sludge. We question those charges, as follows:

- The District paid a contractor \$33,754 for excavator use based on a unit price of \$337.50 per hour and an operator rate of \$48.42 per hour. However, according to the contract terms, the excavator and operator should have been billed at hourly rates of \$281.25 and \$28.00, respectively. Accordingly, we question the \$5,885 overcharge as shown in the chart below.

Description	Rate Billed Per Hour	Unit Price/Hr Per Contract	Unit Price/Hr Over Charge	Hours Billed	Excess Contract Charge
Excavator	\$337.50	\$281.25	\$56.25	97	\$5,456.25
Labor Rate	\$48.42	\$28.00	\$20.42	21	\$428.82
Total					\$5,885.07

- The District paid a contractor \$2,231 for dump truck use whose charges were included in the agreed upon contract unit price and should not have been billed separately. As a result, the District was billed excess charges for the equipment.
- B. Salvaged Proceeds. Under Project 6361, the District received proceeds of \$16,899 from the sale of salvaged material at the Keegan Bayou Wastewater Treatment Plant. However, at the time of our review the District had not reduced project costs by the proceeds. According to FEMA policy (FEMA 9525.12, *Disposition of Equipment, Supplies and Salvaged Materials*, dated August 29, 2000), the revenue from the disposition of salvaged materials must be shared with FEMA based on FEMA's share of the original cost, which under this award was 100%. Accordingly, we question the \$16,899.

- C. Labor Charges. The District's claims under Projects 2155 and 10439 included \$28,620 of excessive overtime labor charges paid to contractors to supply and maintain by-pass pumps at the South Gulfport Wastewater Treatment Plant. The excessive charges occurred because the contractors billed for maintenance technicians on days when (1) fuel was not added to the pumps, (2) no maintenance was performed, and (3) the pumps were not in operation. According to federal cost principles (OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, Attachment A, C.1a.), costs must be necessary and reasonable to be allowable under federal awards. The Circular states that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances at the time of the decision. Accordingly, we question the \$28,620 billed for periods where no maintenance activities were performed.
- D. Contracting Procedures. According to federal regulations (44 CFR 13.36(b)(10)), a subgrantee may use time-and-material contracts only after a determination that no other contract is suitable, and if the contract includes a ceiling price that the contractor exceeds at its own risk. Federal regulations place restrictions on this method of procurement because it does not provide an incentive for contractors to control costs. In addition, federal regulations required procurement transactions to be conducted in a manner providing full and open competition except under certain circumstances, one of which is when the public exigency for the requirement will not permit a delay resulting from competitive solicitation (44 CFR 13.36(c) and (d)(4)).

Following Hurricane Katrina, the U.S. Environmental Protection Agency (EPA), under a mission assignment, procured a contractor to provide emergency by-pass pumping services at the South Gulfport Wastewater Treatment Plant until February 10, 2006. The agreement was a noncompetitive time-and-materials contract with no ceiling price. The District continued the agreement under Projects 2155 and 10439 when the EPA contract period ended without establishing a ceiling price or determining whether more suitable contract terms existed. As of July 31, 2007, the District had incurred \$265,502 under the FEMA projects for the contracted services.

District officials said that the continued public health and safety problems presented by the continued inoperability of the plant was the reason why they departed from their normal procurement process. While we agree that exigent circumstances justified the use of non-competitive time-and-material contracts immediately after the disaster, the District should have sought competitive bids with more suitable contracting arrangements for the long-term work under the FEMA projects.

RECOMMENDATIONS

We recommend that the Acting Director, Mississippi Transitional Recovery Office, in coordination with MEMA:

Recommendation #1. Disallow the \$53,635 of questioned costs.

Recommendation #2. Instruct the District to comply with federal procurement regulations when acquiring goods and services under the FEMA award.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the results of our audit with District, FEMA, and MEMA officials on June 13, 2008. District officials concurred with all findings and recommendations.

Please advise me by February 02, 2009, of actions taken to implement the recommendations contained in this report. Should you have any questions concerning this report, please call me at (404) 832-6702 or Larry Arnold at (228) 385-1717. Key contributors to this assignment were Larry Arnold, Barbara Arbuckle, and James Miller.

cc: DHS Audit Liaison
FEMA Audit Liaison
Deputy Director, GCRO
Chief Financial Director, Gulf Coast Recovery Office
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Public Assistance Office, FEMA TROI
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Chief of Staff, FEMA Mississippi TRO
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Mississippi Legislative Auditor
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Harrison County Wastewater and Solid Waste Management District
FEMA Disaster No. 1604-DR-MS
Schedule of Amount Awarded, Incurred, and Questioned
August 29, 2005 through July 31, 2007

Project Number	Amount Awarded	Amount Incurred	Amount Questioned
8785	\$ 213,936	\$ 213,936	\$ 8,116
2155	117,984	117,743	9,420
10439	233,952	147,759	19,200
8370	808,635	808,635	0
8786	683,891	683,891	0
9030	295,823	264,458	0
6361	3,271,646	3,271,646	16,899
9320	387,190	163,895	0
Totals	\$6,013,057	\$5,671,963	\$53,635