



Homeland Security

November 18, 2009

MEMORANDUM FOR: Major P. (Phil) May, Regional Administrator
FEMA Region IV

FROM: C. David Kimble, Director 
Eastern Regional Office

SUBJECT: *City of Memphis, Tennessee*
Public Assistance Identification Number: 157-48000-00
FEMA Disaster Number: 1482
Report Number: DA-10-02

We performed an audit of public assistance funds awarded to the City of Memphis, Tennessee. The audit objective was to determine whether the city accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

The city received a public assistance grant award of \$12.8 million from the Tennessee Emergency Management Agency (TEMA), a FEMA grantee, for damages resulting from a severe storm in July 2003. The award provided for 75% FEMA funding for 19 large projects and 17 small projects for emergency protective measures, debris removal activities, and repairs to city roads and facilities¹. We reviewed costs totaling \$12.6 million claimed under 19 large projects and 1 small project (see Exhibit). The audit covered the period of July 22, 2003, to March 20, 2007.² During this period, the city received \$9.4 million of FEMA funds under the projects reviewed.

We conducted this performance audit under the authority of the *Inspector General Act of 1978*, as amended, and according to the 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 reviewed the city's disaster grant accounting system and contracting policies and procedures; selected judgmental samples of project expenditures (generally based on dollar value); interviewed city, TEMA, and FEMA personnel; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances. We did not assess the

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$53,000.

² We used March 20, 2007 as our cut-off date since this was the date that all projects had been closed-out and paid by FEMA.

adequacy of the city'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 city's method of grant accounting and its policies and procedures for administering the activities provided for under the FEMA award.

RESULTS OF AUDIT

The city did not account for FEMA funds on a project-by-project basis consistent with federal regulations for large projects. We also identified questioned costs totaling \$1,999,503 that resulted from charges that were ineligible and non-disaster related, excessive, covered by insurance, unsupported, and duplicative.

- A. Project Accounting. Federal regulations 44 CFR 13.20 and 206.205 require subgrantees to maintain a system that accounts for FEMA funds on a project-by-project basis and provides accurate, current, and complete disclosure of financial results of FEMA-funded activities. The city commingled project expenditures with non-disaster expenditures in the general ledger accounts for various departments (i.e., public works, police, etc.). As a result, total costs claimed under individual projects could not be readily identified.
- B. Project Charges. The city's claim included ineligible and non-disaster charges of \$204,797, as follows:
1. *Regular-time Salaries*. Under Project 159, the city's claim for debris removal work included \$33,376 of regular-time salaries for permanent employees. According to FEMA policy 9525.7 (*Labor Costs – Emergency Work*), only overtime labor is eligible for debris removal and emergency protective measures work. Therefore, we question \$33,376 of regular-time salary costs claimed under the project.
 2. *Ineligible Labor Costs*. The city claimed \$77,684 of labor costs under Project 100 for fire department mechanics who delivered and serviced generators distributed to private individuals during the disaster period. Prior to our audit, FEMA reviewed and disallowed the cost claimed for the purchase and delivery of the generators. Therefore, any labor costs associated with such activity is also ineligible. Hence, we question the \$77,684.
 3. *Non-disaster Related Charges*. Federal regulation 44 CFR 206.223 states that an item of work must be required as a direct result of a major disaster event to be eligible for FEMA public assistance. The city's claim under several projects for emergency protective measures included \$93,737 of non-disaster related charges, as follows:
 - Under Projects 66, 69, 71, 72, and 74, the city's police department claimed \$82,470 of labor and fringe benefits for routine police activities such as issuing traffic citations, responding to traffic accidents, alarms, disturbances, automobile thefts and robberies, and administrative work. According to FEMA's *Public Assistance Guide* (FEMA 322, October 1999, pages 47-48), emergency protective measures include activities that are necessary to eliminate or reduce immediate threat to life, public health, or safety, and include such activities as search and rescue, security, barricading in disaster areas, removal of health and safety hazards, etc. Therefore, we question \$82,470.

- Under Projects 66, 69, 71, 72, and 74, the city’s police department claimed \$81,822 of vehicle usage, which included costs for non-disaster activities. A differentiation of costs could not be readily made from the records maintained by the city that would tie the equipment usage to disaster-specific activities. For these same projects, we questioned labor costs associated with non-disaster activities, which ranged from 8% to 30% of total labor cost claimed. Using these same percentages, we calculated that the city’s claim under the projects contained \$11,267 of vehicle costs related to non-disaster activities. Therefore, we question the \$11,267.

C. Equipment Charges. FEMA’s *Public Assistance Guide* (FEMA 322, October 1999, page 37) states that stand-by time for applicant-owned equipment is not eligible and, if an applicant uses equipment intermittently for the majority of the day, use for the entire day may be claimed if adequate documentation is submitted.

The city claimed equipment costs totaling \$1,103,391 under several projects. A majority of the costs claimed was for pickup trucks used by certain employees to travel to specific work sites. The city did not record the mileage for each piece of equipment but instead accounted for its use on an hourly basis based on the total labor hours worked by each equipment operator each day. The city could not provide supporting documentation, such as equipment activity logs or comparable records that would have enabled us to determine the actual hours the equipment was in use. Therefore, we question the \$1,103,391 of equipment costs claimed under the projects as shown in the table below.

Project Number	Department	Equipment Costs
141	Public Works	\$873,833
159	Parks & Recreation	\$122,876
107	Public Works (Sewer)	\$61,572
142	Engineering	\$45,110
Total		\$1,103,391

We recognize that the city incurred eligible equipment costs for work performed under the projects. Therefore, the questioned costs may be reduced if FEMA and TEMA can determine reasonable costs for eligible work.

D. Insurance Proceeds. According to federal regulation 44 CFR 206.250(c), anticipated and actual insurance recoveries shall be deducted from otherwise eligible project costs. The city’s claim under Project 159 included \$262,829 for debris removal by force account labor for the city’s parks. In addition, the city’s claim under Project 155 included \$30,522 for debris removal by a contractor for the city’s zoo. The city received insurance proceeds to cover the losses. Therefore, we question the \$293,351.

E. Supporting Documentation. According to 44 CFR 13.20(b)(6), expenditures under a federal award must be supported by adequate source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contract award documents, etc. Office of Management and Budget Circular A-87 (*Cost Principles for State, Local, and Indian Tribal Governments*), Attachment A, Paragraph C.1, also requires that costs be adequately documented to be allowable under a federal award. The city's claim included \$299,725 of costs that were not supported by adequate documentation, as follows:

- The city claimed \$100,478 of labor and fringe benefits and \$9,615 of equipment costs under Project 73 for work performed by the police department's south precinct. The city did not have any documentation such as detailed time and attendance records, police activity logs, etc., to support that the claimed costs were for disaster activities. City officials said that they had documentation when the project was closed, but had discarded the information. According to 44 CFR 13.42(b)(c), FEMA applicants must retain financial and programmatic records for three years from the starting date that their last expenditure report is filed with the grantee. In this particular case, the city submitted its last expenditure report to the grantee on February 26, 2007 and should have maintained all records until at least February 26, 2010. Therefore, we question the unsupported equipment costs of \$110,093.
- The city's claim under Projects 66, 69, 71, 72, and 74 for emergency protective measures performed by the city's police department included labor costs of \$64,537 for lieutenants and captains. The city did not maintain activity logs to support disaster-related activities performed by such individuals. City officials said that the lieutenants and captains supervised the police officers and that they did not record the activities in the department logs as it did for the police units. However, without such documentation the eligibility of the costs could not be determined. Therefore, we question the \$64,537.
- The city claimed \$358,781 of labor and equipment costs under Project 100 for emergency protective measures undertaken by its fire department during the period July 22, 2003 through August 6, 2003. The fire department lacked documentation to show that the individuals and equipment were used in performing disaster-related activities. During our review of the fire department's logs, also known as "run records", we noted that the descriptions of activities claimed for such individuals were identical to activities performed by the individuals prior to the disaster. As a result, a differentiation could not be made to determine whether the fire department was responding to disaster-related events.

We deemed it reasonable to accept all equipment and labor costs for the period of July 22 to July 27, 2003. During this period, overtime for the firefighters was significant. However, after the period, overtime for the firemen declined considerably. Thus, we concluded that overtime costs claimed after July 27 were not disaster-related. Therefore, we question \$125,095 (\$7,683 for labor and \$117,412 for equipment). City officials stated that the fire engines were also being used to deliver and service the generators distributed to private individuals. However, as explained in Finding B, FEMA determined that such activity was ineligible for public assistance funding.

F. Building Repair Costs. The city's claim under Project 167 included \$98,239 of duplicate building repair costs. The duplicate charge occurred because the FEMA inspector inadvertently included \$98,239, which was the project's initial estimated cost, along with the city's final claim cost when conducting a final inspection of the project. As a result, the city received FEMA reimbursement for both its final claim cost and the \$98,239. Federal regulation 44 CFR 206.205(b) requires that payments under large projects be based on actual costs incurred for eligible work. Therefore, we question the duplicate charge of \$98,239.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV, in coordination with TEMA:

Recommendation #1. Inform the city that it must comply with federal regulations and FEMA guidelines when accounting for federal funds. (Finding A)

Recommendation #2. Disallow \$204,797 in ineligible and non-disaster charges. (Finding B)

Recommendation #3. Disallow the \$1,103,391 for unsupported equipment usage. The questioned costs may be reduced if FEMA and TEMA can determine reasonable costs to be reimbursed for eligible work. (Finding C)

Recommendation #4. Disallow \$293,351 of costs covered by insurance proceeds. (Finding D)

Recommendation #5. Disallow \$299,725 of unsupported costs. (Finding E)

Recommendation #6. Disallow \$98,239 of duplicate charges. (Finding F)

MANAGEMENT DISCUSSION AND AUDIT FOLLOW-UP

We discussed the audit results with city officials on August 13, 2009, and with FEMA officials on September 11, 2009. City officials agreed with some of our findings. Their comments, where appropriate, have been incorporated into the body of this report.

Please advise me by Jan 18, 2010 of actions taken or planned to implement our recommendations, including target completion dates. Should you have any questions concerning this report, please contact me at (404) 832-6702, or Modupe Akinsika, Audit Manager, at (404) 832-6704. Key contributors to this assignment were Modupe Akinsika, Helen White, Harold Simpson, and Jerry Aubin.

cc: Audit Liaison, FEMA Region IV
Audit Liaison, FEMA

City of Memphis, Tennessee
FEMA Disaster No. 1482-DR-TN
Schedule of Amount Awarded, Claimed and Questioned
July 22, 2003 to March 20, 2007

Project Number	Amount Awarded	Amount Claimed	Amount Questioned
53	54,102	54,102	
66	142,094	142,094	25,140
67	72,332	72,332	
68	80,166	80,166	
69	109,424	109,424	27,488
70	86,454	86,454	
71	115,727	115,727	45,493
72	124,871	124,871	18,501
73	110,093	110,093	110,093
74	129,718	129,718	41,652
75	\$ 5,285,938	\$ 5,285,938	
100	365,808	365,808	202,779
107	302,052	302,052	\$ 61,572
141	4,122,968	4,122,968	873,833
142	588,061	588,061	45,110
151	69,291	69,291	
155	36,393	36,393	30,522
159	612,300	612,300	419,081
167	121,547	121,547	98,239
168	60,219	60,219	
Total	\$12,589,558	\$12,589,558	\$1,999,503