



Homeland Security

September 21, 2010

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

FROM: C. David Kimble, Director
 Eastern Regional Office

SUBJECT: *City of Fort Lauderdale, Florida*
 Public Assistance Identification Number: 011-24000-00
 FEMA Disaster Nos. 1602 and 1609-DR-FL
 Report Number DA-10-19

We audited public assistance funds awarded to the City of Fort Lauderdale, Florida (City). 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.

As of July 2, 2010, the City had received public assistance awards totaling \$50.9 million from the Florida Department of Community Affairs (DCA), a FEMA grantee, for damages related to Hurricanes Katrina and Wilma. The awards provided 100% FEMA funding for emergency protective measures, debris removal activities, and repairs to recreation facilities and other public buildings. The specifics for each disaster are presented in the table below.

Disaster	Disaster No.	Date of Disaster (Month/Year)	Amount Awarded (Millions)	Large Projects ¹ Awarded	Small Projects Awarded	Federal Funds Received (Million)
Hurricane Katrina	1602	August 2005	\$ 4.4	4	5	\$ 4.2
Hurricane Wilma	1609	October 2005	46.5	28	23	43.9
Total			\$50.9	32	28	\$48.1

We reviewed costs totaling \$46.4 million under the two disasters, which consisted of \$9.2 million under Hurricane Katrina and \$37.2 under Hurricane Wilma (see Exhibit). The audit covered the period August 24, 2005 to July 2, 2010, during which the City received \$41.4 million of FEMA

¹ Federal regulations in effect at the time of Hurricanes Katrina and Wilma set the large project thresholds at \$55,500 and \$57,500, respectively.

funds under the projects included in our audit scope. At the time of our audit, the projects were in various stages of completion and the City had not submitted final claims for project expenditures to DCA.

This audit is a follow-up to an interim review we conducted in 2006 on Hurricane Wilma activities (OIG-Report No. GC-FL-06-50). In that review, we reported that the City did not follow proper contracting procedures when awarding debris removal contracts, which we concluded resulted in unreasonable contract charges of \$1.1 million. Prior to this audit, FEMA took action to resolve the reported finding and de-obligated the \$1.1 million. During our fieldwork, we noted the FEMA closeout team responsible for reviewing and closing out the City's awards had re-obligated the \$1.1 million of previously disallowed costs. However, our position on the finding has not changed. Therefore, the same condition is reported in Finding B of this report.

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 and 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; judgmentally selected project cost documentation (generally based on dollar value); interviewed City, DCA, and FEMA personnel; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our audit objective. We did not assess the adequacy of the City's internal controls applicable to its grant activities because it was not necessary to accomplish our 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 awards.

RESULTS OF AUDIT

The City accounted for FEMA funds on a project-by-project basis according to federal regulations for large projects. However, we question \$15.1 million of costs claimed under the two disasters, which we concluded resulted from excess funding for debris removal activities that had not been identified as eligible activities under the projects' approved scope of work; unreasonable contract charges; unsupported costs; small projects not implemented; excessive contract costs; and duplicate charges. The City also did not comply with federal procurement regulations and FEMA guidelines when awarding time-and-material contracts for debris removal activities.

- A. **Project Funding.** According to 44 CFR 206.202(d)(1)(i), a project worksheet must identify the eligible scope of work and a quantitative estimate of such work. Additionally, 44 CFR 206.205(b) requires that payments under large projects be based on actual costs incurred for eligible work. The City's debris removal contractor billed, and the City was reimbursed by FEMA, \$17.5 million for the operation and management of Temporary Debris Reduction Storage (TDRS) sites established for processing debris generated by Hurricanes Katrina (Project 695) and Wilma (Project 2932). In our review of the contractor's invoices and other project

documentation, we concluded that \$11.7 million of the charges was for activities unrelated to the operation of the TDRS sites. These activities consisted of tree, waterway, and beach debris removal, and sand screening, which had not been identified as eligible activities under the project worksheets. Therefore, we question the \$11.7 million of FEMA funding received for such activities, as shown in the following table.

Disaster	Project Number	Claim for TDRS Operation	Eligible TDRS Operation Cost	Excess Funding/Unauthorized Activities
Hurricane Katrina	695	\$ 3,379,622	\$ 525,500	\$ 2,854,122
Hurricane Wilma	2932	14,081,178	5,236,927	8,844,251
Totals		\$ 17,460,800	\$ 5,762,427	\$11,698,373

City officials said the charges were for debris removal activities associated with the disasters and, therefore, should be allowed. They asked for an extension until October 1, 2010, to provide us with additional documentation from their contractor to show the eligibility of the charges. FEMA, as the awarding agency, has the sole authority to approve changes affecting a project’s authorized scope of work. City officials should request, through DCA, that FEMA review the activities and make a determination on the eligibility of the costs questioned.

- B. Time-and-Material Contracts. Federal regulation 44 CFR 13.36 (b)(10)(i) allows a grant recipient to use time-and-material contracts but, only after a determination has been made that no other form of contracting is suitable and with a contract ceiling price that the contractor exceeds at its own risk. FEMA’s *Public Assistance Debris Management Guide* (FEMA 325, April 1999, page 28) states that time-and-material contracts for debris removal activities should (1) generally not exceed 70 hours of actual emergency debris clearance, (2) have costs ceilings or a “not to exceed” provision, and (3) be terminated once the not-to-exceed hours is reached. The use of time-and-material contracting is restricted because it does not encourage effective cost controls.

The City’s claim for debris removal activities included costs that were based on time-and-material contracts that continued beyond the 70-hour permissible limit for emergency debris clearance (14 days for Hurricane Katrina and 29 days for Hurricane Wilma). The City claimed a total of \$7,717,032 for such contract work — \$1,829,744 under Hurricane Katrina and \$5,887,288 under Hurricane Wilma. Work under Hurricane Katrina was completed by 11 contractors from August 27, 2005, to September 17, 2005. Hurricane Wilma work was completed by 14 contractors from October 25, 2005, to November 30, 2005.

According to Office of Management and Budget Circular A-87 (*Cost Principles for State, Local and Indian Tribal Governments*), Attachment A, Paragraph C.1.a, a cost under federal awards must be both necessary and reasonable. The Circular defines a reasonable cost as a cost that does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness, the Circular also requires grant recipients to consider sound business practices, Federal regulations and guidelines, and market price for comparable goods and services.

Upon review of the \$7.7 million of time-and-material charges, we concluded that \$2,084,198 was unreasonable. We reviewed the City’s unit price contract with its prime debris removal contractor and determined that the prime contractor billed the City at a rate of \$11.50 per cubic yard for similar work performed by the time-and-material contractors. Using the \$11.50 price and the total cubic yards of debris collected by the time-and-material contractors, we determined that the time-and-material work could have been completed for \$5,632,834, or \$2,084,198 less than the amount claimed by the City.

According to 44 CFR 13.43(a)(2), a grant recipient’s failure to comply with applicable statutes or regulations can result in the disallowance of all or part of the costs of the activity or action found not in compliance. Therefore, we question the \$2,084,198 of excessive costs incurred under the projects as shown in the following table.²

Project Number	Disaster	Amount Claimed for T & M Contract Work	Amount Determined Reasonable	Amount Questioned
695	Hurricane Katrina	\$1,829,744	\$880,598	\$949,146
2932	Hurricane Wilma	\$5,887,288	\$4,752,236	\$1,135,052
Totals		\$7,717,032	\$5,632,834	\$2,084,198

C. Supporting Documentation. Office of Management and Budget Circular A-87 (*Cost Principles for State, Local and Indian Tribal Governments*), Attachment A, Paragraph C.1, requires that costs be adequately documented to be allowable under a federal award. The City’s claim included \$1,000,083 of project charges that were not adequately supported by source documentation such as cancelled checks, paid bills, payroll, time and attendance records, etc.

1. *Force Account Labor Charges.* Under Projects 741 and 743 (Hurricane Katrina), the City claimed \$217,304 and \$447,863, respectively, for labor costs of City employees who performed emergency protective measures during the disaster. The City provided electronic files that contained summary data on the claimed amounts, but did not provide source documentation such as time and attendance records to support the amount claimed. Therefore, we question the unsupported costs of \$665,167.
2. *Contract Labor Charges.* Under Project 2932 (Hurricane Wilma), the City claimed contract labor costs of \$4,467,443 for debris removal monitoring activities. However, the City did not have time and attendance records to support \$247,573 of the labor charges billed by the contractor. Similarly, under Project 695 (Hurricane Katrina), the City claimed contract labor costs of \$777,754 for debris removal monitoring activities, but did not have time and attendance records to support \$9,540 of the charges. Therefore, we question \$257,113 of unsupported contract labor charges.

² The questioned amount of \$1,135,052 under Hurricane Wilma also includes \$1,104,070 previously questioned under OIG Report GC-FL-6-50 issued in August 2006.

3. *Debris Removal Charges.* The City's claim included \$77,803 of unsupported debris removal charges, as follows:

- Under Project 2932 and Project 2939 (Hurricane Wilma), the City claimed \$1,703,726 to haul 396,215 cubic yards of debris to the Broward County landfill. However, the City had load tickets and invoices from the landfill to support only \$1,656,292 of the charges (385,184 cubic yards), or \$47,434 less than the amount claimed. Similarly, under Project 695 (Hurricane Katrina), the City claimed \$402,152 to haul 93,524 cubic yards of debris to the landfill, but had load tickets to support only \$375,866 of the charges (87,411 cubic yards), or \$26,286 less than the amount claimed. We question the total unsupported charges of \$73,720.
- Under Project 2932 and Project 2939 (Hurricane Wilma), the City claimed \$2,562,477 for tipping fees paid to the Broward County landfill by its debris removal contractor. However, the City had load tickets to support only \$2,470,526 of costs, or \$91,951 less than the amount claimed. A FEMA inspector previously disallowed \$87,868 of the tipping fees. Therefore, we question the remaining balance of \$4,083.

D. Small Projects. According to 44 CFR 206.205(a), failure to complete work under a small project may require that the Federal payment be refunded. In addition, FEMA's *Public Assistance Guide 322*, (April 1999, page 114), states a grant recipient has 18 months from the disaster declaration date to complete work under permanent repair projects. The State may grant extensions for an additional 30 months under extenuating circumstance, and FEMA may grant extensions beyond the State's authority appropriate to the situation.

The City received \$211,383 of FEMA funding to complete disaster-related work under 13 permanent repair small projects. Hurricanes Katrina and Wilma were declared as disasters in August 2005 and October 2005, respectively. However, as of July 2010, the scope of work under the 13 projects was either: (1) started but not completed; (2) charged to another project; or (3) pending a work order verification to support and validate scope of work completion. FEMA has not granted time extensions beyond the State's authority (48 months) for the completion of work under the projects in question. Therefore, we question \$194,389 of the \$211,383 received for the projects that have not been fully completed as shown in the following table.

Disaster and Project Number	Category of Work ³	Amount Awarded/Received	Amount Questioned
Katrina:			
742	Category G	\$46,243	\$46,243
752	Category E	\$23,239	\$22,646
Subtotal			\$68,889
Wilma:			
303	Category E	\$11,337	\$11,337
992	Category E	\$2,074	\$838
1258	Category E	\$33,450	\$33,450
1288	Category E	\$16,995	\$16,995
1481	Category E	\$13,355	\$13,355
1636	Category G	\$2,480	\$2,480
1639	Category E	\$8,900	\$8,900
1784	Category E	\$11,668	\$8,068
2140	Category E	\$5,600	\$2,400
6580	Category G	\$19,492	\$11,127
7431	Category E	\$16,550	\$16,550
Subtotal			125,500
Total		\$211,383	\$194,389

- E. Contract Labor Charges. Under Project 2932 (Hurricane Wilma) and Project 695 (Hurricane Katrina), the City's debris monitoring contractor billed \$4,467,443 and \$777,755, respectively, for labor costs of individuals who performed disaster work for the City. Upon review of the contractor's time and attendance records, we determined the contractor billed, in several cases, rates based upon an employees' normal rate of compensation rather than based on the actual nature of work performed. For example, an individual's normal title and rate of compensation was indicated on the payroll records as a Field Supervisor. However, the same employee was listed on the contractor's time and attendance records as performing work under the disaster as a crew monitor, which is paid at a significantly lower hourly rate. According to OMB Circular A-87, Attachment B, Paragraph 8, compensation for services should be commensurate with the nature of work performed. Therefore, we question excess contract labor charges totaling \$54,416 (\$47,556 under Project 2932 and \$6,860 under Project 695).
- F. Duplicate Charges. The City claimed \$542,174 for tipping fees under Project 695 (Hurricane Katrina) for vegetative debris transported to the landfill. In comparing haul-out tickets with tipping fee tickets, we determined that \$16,234 of tipping fee tickets was duplicated. Therefore, we question the duplicate charges of \$16,234.

³ Category G represents permanent work for recreational and other buildings, and Category E represents permanent work for public buildings and facilities.

RECOMMENDATIONS

We recommend the Regional Administrator, FEMA Region IV, in conjunction with DCA:

Recommendation #1. De-obligate \$11,698,373 of excess funding received under Projects 695 and 2932 for debris removal activities that were not identified in the projects' approved scope of work; or review such activities and related costs and make a determination on their eligibility for FEMA funding (Finding A).

Recommendation #2. Disallow \$2,084,198 of unreasonable contract charges (Finding B).

Recommendation #3. Instruct the City, for future declarations, to comply with federal regulations and FEMA guidelines governing contracting practices (Finding B).

Recommendation #4. Disallow \$1,000,083 of unsupported project charges (Finding C).

Recommendation #5. Disallow \$194,389 for work not completed under small projects within established timelines (Finding D).

Recommendation #6. Disallow \$54,416 of excess contract labor charges (Finding E).

Recommendation #7. Disallow \$16,234 of duplicate charges (Finding F).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the audit results with FEMA, City, and DCA officials during the course of our audit. We provided written summaries of our findings in advance to these officials and discussed them at an exit conference held on June 22, 2010. City officials requested until October 1, 2010, to respond to the findings and to submit additional documentation from the debris removal contractor for costs questioned under Finding A. Audit fieldwork began in December 2009 and was extended a few months beyond our anticipated completion date of May 2010 to allow the City to gather documentation for the conditions identified in this report. Due to time constraints, we were unable to honor the City's request. Comments by City officials have been incorporated into this report, as appropriate.

Please advise me by November 19, 2010, of the actions taken or planned to implement the recommendations contained in this report, including target completion dates for any planned actions. Should you have any questions concerning this report, please call me at (404) 832-6702, or Felipe Pubillones, Audit Manager, at (404) 832-6705. Key contributors to this assignment were Felipe Pubillones, Nadine Ramjohn, and Vilmarie Serrano.

cc: Mary Lynne Miller, Deputy Regional Administrator
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City of Fort Lauderdale, Florida
FEMA Disasters 1602 and 1609 DR-FL
Schedule of Amount Awarded, Claimed, and Questioned

Project Number	Amount Awarded	Amount Claimed	Amount Questioned
<u>Hurricane Katrina</u>			
Large Projects:			
695	\$ 3,934,205	\$ 8,273,334	\$ 3,902,884
741	55,500	217,304	217,304
743	55,500	447,863	447,863
934	242,668	160,203	0
Sub-Total	\$ 4,287,873	\$ 9,098,704	\$ 4,568,051
Small Projects:			
566	\$ 24,258	\$ 24,258	\$ 0
742	46,243	46,243	46,243
752	23,239	23,239	22,646
Other Small Projects (2)	36,296	36,296	0
Sub-Total	\$ 130,036	\$ 130,036	\$ 68,889
Total	\$ 4,417,909	\$ 9,228,740	\$ 4,636,940
<u>Hurricane Wilma</u>			
Large Projects:			
2932	\$ 34,868,299	\$ 34,868,299	\$ 10,285,253
2939	1,867,196	1,867,196	0
Other Large Projects (26)	9,304,469	0	0
Sub-Total	\$ 46,039,964	\$ 36,735,495	\$ 10,285,253
Small Projects:			
303	\$ 11,337	\$ 11,337	\$ 11,337
992	2,074	2,074	838
1258	33,450	33,450	33,450
1288	16,995	16,995	16,995
1481	13,355	13,355	13,355
1636	2,480	2,480	2,480
1639	8,900	8,900	8,900
1784	11,668	11,668	8,068
2140	5,600	5,600	2,400
6580	19,492	19,492	11,127
7431	16,550	16,550	16,550
Other Small Projects (12)	281,323	281,323	0
Sub-Total	\$ 423,224	\$ 423,224	\$ 125,500
Total	\$ 46,463,188	\$ 37,158,719	\$ 10,410,753
Grand Total	\$ 50,881,097	\$ 46,387,459	\$ 15,047,693