



Homeland Security

December 17, 2010

MEMORANDUM FOR: Lynn Gilmore Canton, Regional Administrator
FEMA Region II

FROM: C. David Kimble, Director
Eastern Regional Office

A handwritten signature in black ink that reads "C. David Kimble".

SUBJECT: *New York City Department of Environmental Protection*
Public Assistance Identification Number: 000-U5Z71-00
FEMA Disaster Numbers: 1650-DR-NY
Report Number DA-11-05

We performed an audit of public assistance funds awarded to the New York City Department of Environmental Protection (Department). The audit objective was to determine whether the Department accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

The Department received a public assistance award totaling \$10.2 million from the New York State Emergency Management Office (SEMO), a FEMA grantee, for damages related to severe flooding that was declared on July 1, 2006. The award provided 75% FEMA funding for emergency protective measures, debris removal activities, and repairs to roads and facilities.

We limited our review to \$9.6 million of funds awarded under five large projects¹, as shown in the table below.

Project Number	Amount Awarded
3286	\$8,041,217
4012	\$558,300
4583	\$326,466
4806	\$155,945
4807	\$549,685
Total	\$9,631,613

¹Federal regulations in effect at the time of the disaster set the large project threshold at \$57,500.

The audit covered the period July 1, 2006 to June 11, 2010² during which the Department received \$1.3 million of FEMA funds under the projects reviewed. At the time of our audit, all projects were completed except for Project 3286, for which no project expenditures had been submitted to SEMO.

We conducted this 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 Department's disaster grant accounting system and contracting policies and procedures; judgmentally selected project cost documentation (generally based on dollar value); interviewed Department, 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 Department'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 Department's method of grant accounting and its policies and procedures for administering the activities provided for under the FEMA awards.

RESULTS OF AUDIT

The Department accounted for FEMA funds on a project-by-project basis according to federal regulations for large projects. However, we concluded that \$8,041,217 (FEMA Share \$6,030,913) of funding awarded under Project 3286 should be de-obligated and put to better use.

Federal regulation 44 CFR 206.204(c)(1) sets time limitations for completion of debris clearance work at 6 months from the date of the disaster declaration. The grantee has limited authority to extend project completion deadlines for an additional 6 months for debris clearance and emergency work for extenuating circumstances or unusual project requirements beyond the control of the sub-grantee. FEMA may grant extensions beyond the Grantee's authority appropriate to the situation. FEMA's *Public Assistance Guide 322*, (April 1999, page 114), states that an applicant will be reimbursed only for those costs incurred up to the latest approved completion date for a particular project. However, the project must still be completed for any funding to be eligible for that project.

The Department was awarded \$8 million under Project 3286 for the dredging (debris clearance) of Kensico Reservoir as result of the disaster, which was declared in July 2006. The Department was granted an initial time extension by SEMO to complete the work by July 7, 2007. However, in February 2007, the Department realized that it would not meet the July 7, 2007, deadline and requested, through SEMO, that FEMA extend the completion date to March 31, 2010. On March 26, 2007, FEMA Region II approved the Department's request. However, at the conclusion of our fieldwork in October 2010, approximately 7 months past the approved project completion date, work under the project had not been started and the Department had not requested another time extension from FEMA.

² Date of last transaction included in our audit scope.

Department officials said the requirement for the dredging of the reservoir sediment deposits that resulted from the 2006 disaster event required numerous detailed scientific investigations, environmental reviews, and program design and planning efforts. They said they were unable to meet the timelines agreed upon by SEMO and FEMA because of delays in obtaining permits from the New York Department of Environmental Conservation (DEC). According to the officials, the Department remains in negotiations with DEC to obtain the necessary permits to complete the project. The current project schedule indicates that the dredging work will commence in late 2012 or early 2013 and will likely take up to 2 years to complete.

Since the approved project completion date has passed and the Department has not yet begun the authorized work or been granted another extension by FEMA, we believe the \$8,041,217 of funds awarded for the emergency work should be de-obligated and put to better use.

RECOMMENDATION

We recommend that the Regional Administrator, FEMA Region II, in coordination with SEMO, de-obligate \$8,041,217 (FEMA Share \$6,030,913) of funds awarded under Project 3286.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the results of our audit with Department, SEMO, and FEMA officials during our audit. We provided a written summary of our finding and recommendation in advance to these officials and discussed them at an exit conference held on October 27, 2010. Department officials did not concur with the audit finding. Their comments have been incorporated into the body of this report.

Please advise me by February 18, 2011, of actions taken or planned to implement our recommendation, including target completion dates for any planned actions. 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, Adrienne Bryant, and John Schmidt.

cc: Michael Moriarty, Deputy Regional Administrator
Audit Liaison, FEMA Region II
Audit Liaison, FEMA