



Homeland Security

April 12, 2011

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

FROM: C. David Kimble, Director
Eastern Regional Office

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

SUBJECT: *City of Deerfield Beach, Florida*
Public Assistance Identification Number 011-16725-00
FEMA Disaster Number 1609-DR-FL
Report Number DA-11-13

We performed an audit of public assistance funds awarded to the City of Deerfield Beach, 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.

The City received a public assistance grant award totaling \$13.9 million from the Florida Division of Emergency Management¹ (FDEM), a FEMA grantee, for damages related to Hurricane Wilma that occurred in October 2005. The award provided 100% FEMA funding for emergency protective measures, debris removal activities, and repairs to roads and facilities.

We reviewed costs totaling \$13.5 million claimed under 11 large projects (see Exhibit).² The audit covered the period October 24, 2005, to May 11, 2010.³ During this period, the City received \$13.5 million of FEMA funds under the projects reviewed. At the time of our audit, all large projects were completed and the City had submitted final expenditures on those projects to FDEM.

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

¹ The Florida Division of Emergency Management is administratively housed within the Florida Department of Community Affairs.

² Federal regulations in effect at the time of the disaster set the large project threshold at \$57,500.

³ Date of last financial transaction included in our audit scope.

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; reviewed judgmentally selected project cost documentation (generally based on dollar value); interviewed City, FDEM, 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 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 accounted for FEMA funds on a project-by-project basis according to federal regulations for large projects. However, the City's claim included \$3,928,753 (federal share \$3,928,753) of costs that were ineligible.

Finding A: Contract Charges

The City's claim for debris removal activities contained \$463,875 of excessive contract charges. The City claimed \$883,200 of contract charges under Projects 2906 and 2927 for debris removal activities, which consisted of \$513,195 based on time-and-material charges and \$370,005 based on unit price charges. However, \$463,875 of the time-and-material charges were duplicated by the unit-price costs the contractor charged for removing and hauling debris from public rights-of-way. The contract stated that such activity should be billed at the unit price rate only. According to 2 CFR 225, Appendix A, subsection C.1, a cost must be necessary and reasonable to be allowable under a federal award. Therefore, we question the \$463,875 (\$24,895 under Project 2906 and \$438,980 under Project 2927) of ineligible time-and-material charges.

City officials withheld comments pending further review of the finding.

Finding B: Debris Removal from Private Property

FEMA's *Public Assistance Guide* (FEMA 322, October 1999, p. 46) states that debris removal from private property is the responsibility of the individual property owner aided by insurance settlements and assistance from volunteer agencies. However, if debris on private business and residential property is so widespread that public health, safety, or the economic recovery of the community is threatened, the actual removal of debris from private property may be eligible.

FEMA authorized debris removal from roads and rights-of-way from a private gated community within the City. The City claimed \$2.9 million of contract costs for such activity, which consisted of \$2.5 million for pick up and hauling of debris (unit price and time-and-material rates) and \$399,200 for stump removal. However, removal of the debris extended beyond the approved areas within the community and into the private property. In addition, stumps were removed from the private property and along the fenced boundaries of the community. The

City’s documentation was not in a format that would allow us to determine the amount of ineligible debris and stumps removed from the private property. Therefore, we question the entire \$2,857,732 claimed for the debris removal work performed in the gated community. The questioned costs by project are shown in the table below.

Project	Time & Material Contract Costs	Unit Cost per CY Contract Costs	Stump Removal Costs	Questioned Costs
2927	\$1,001,310	\$1,385,542		\$2,386,852
2906	70,000	1,680		71,680
7588			\$399,200	399,200
Total	\$1,071,310	\$1,387,222	\$399,200	\$2,857,732

City officials withheld comments pending further review of the finding.

Finding C: Beach Re-Nourishment

FEMA’s *Public Assistance Guide* (FEMA 322, October 1999, p.59) states that permanent restoration of sand on natural beaches is not eligible for FEMA funding unless it is an “improved beach” that has been routinely maintained before the disaster. A beach is considered an improved beach if the following criteria apply:

- the beach was constructed by the placement of sand to a designed elevation, width, grain size, and slope; and
- the beach has been maintained in accordance with a maintenance program involving the periodic re-nourishment of sand at least every 5 years.

The City claimed \$416,700 under Project 7607 for beach re-nourishment to North Beach. However, the project should not have been awarded because North Beach was a natural, unimproved beach. We question the \$416,700 of ineligible charges.

FEMA officials at the Florida Recovery Office said they are in the process of reviewing the circumstances that allowed the project to be approved and are determining eligibility.

Finding D: Charges Under Project 7607

The City’s claim under Project 7607 contained \$119,974 of ineligible charges. We question the charges, as follows:

- \$109,510 in contract charges related to the re-nourishment of the City’s South Beach, which was not authorized under the project or disaster.
- \$8,464 for engineering services for major improvements to a street intersection, which were not authorized under the project’s scope of work.

- \$2,000 of contract charges that were claimed twice (Invoice #5639).

City officials concurred with this finding.

Finding E: Force Account Labor Costs

The City’s claim included \$39,839 of unreasonable overtime costs for force account labor. Under emergency protective measures Projects 8122 and 8125, the City claimed a number of employees as having worked 23.5 to 24 hours each day for several consecutive days. It is not reasonable for a person to work such number of hours for several consecutive days without an extended rest period. According to 2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A⁴, costs under federal awards must be both reasonable and necessary. Further, FEMA policy recognizes the need for a standard, reasonable amount of force account labor hours. The year after this disaster, FEMA issued a revision to section VII.H of its Recovery Policy 9525.7, *Labor Costs - Emergency Work*.⁵ The revision states:

Reimbursement of labor costs for employees performing emergency work is limited to actual time worked, even when the applicant is contractually obligated to pay for 24 hour shifts. It is not reasonable for a person to work more than 48 hours continuously without an extended rest period. Therefore, FEMA will reimburse up to 24 hours for each of the first two days, and up to 16 hours for each of the following days for emergency work. All requested hours must be for actual time worked. . . .

Therefore, after the first 2 days of emergency work, we adjusted all of the employees’ eligible work hours to 16 hours per day (8 regular hours and 8 overtime hours), which resulted in \$39,839 of questioned costs (overtime and related fringe benefits) as shown in the table below.

8122	\$25,365	\$3,859	\$29,224
8125	9,210	1,405	10,615

City officials believed the costs should be allowed because their union contract, which references the Fair Labor Standards Act, as amended, authorized the City to pay overtime pay to employees who are mobilized and work 24-hour shifts during emergency operations. However, we maintain that these costs were unreasonable, and FEMA’s policy supports our conclusion.

Finding F: Administrative Charges

FEMA’s *Public Assistance Guide* (FEMA 322, October 1999, p. 41) states that the statutory administrative allowance for applicants covers direct and indirect costs incurred in requesting,

⁴ OMB Circular A-87, in effect at the time of the disaster, was relocated to 2 CFR, Part 225, on August 31, 2005.

⁵ Although the revised FEMA Policy 9525.7 was not in effect at the time of the disaster, we referred to this policy to establish a reasonable number of daily work hours.

obtaining, and administering public assistance. No other administrative or indirect costs incurred by an applicant are eligible.

The City claimed \$20,633 of overtime labor costs under Projects 8122 and 8125 for employees serving as “FEMA liaisons.” We question these charges, as identified in the table below, because the employees’ activities were for the purpose of assessing the need for and requesting financial assistance and, as such, are covered by the statutory administrative allowance.

Project	Overtime	Fringe Benefits	Total
8122	\$13,642	\$3,595	\$17,237
8125	2,688	708	3,396
Total	\$16,330	\$4,303	\$20,633

City officials withheld comments pending further review of the finding.

Finding G: Equipment Charges

The City overstated its claim for generator usage under Projects 8122 and 8125 by \$10,000 because of an error made in recording the type of generator actually used. The City applied the FEMA Schedule of Equipment rate of \$40.50 per hour for a 125 kilowatt (kw) generator when the rate should have been for a 25 kw generator (a difference of \$32.05 per hour). Using the equipment rate difference, we question the \$10,000 of excessive costs as shown in the table below.

Project	Hours Claimed	Excess Hourly Charge	Questioned Costs
8122	240	\$32.05	\$7,692
8125	72	\$32.05	\$2,308
Total	312		\$10,000

City officials withheld comments pending further review of the finding.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Disallow \$463,875 (federal share \$463,875) of ineligible time-and-material debris removal charges (Finding A).

Recommendation #2: Disallow \$2,857,732 (federal share \$2,857,732) of ineligible charges claimed for debris removed from private property; or review documentation and determine eligible charges for such activity (Finding B).

Recommendation #3: Disallow \$416,700 (federal share \$416,700) of ineligible costs claimed for beach re-nourishment activities (Finding C).

Recommendation #4: Disallow \$119,974 (federal share \$119,974) of ineligible project costs (Finding D).

Recommendation #5: Disallow \$39,839 (federal share \$39,839) of ineligible force account labor costs (Finding E).

Recommendation #6: Disallow \$20,633 (federal share \$20,633) of ineligible project charges for activities covered under the statutory administrative allowance (Finding F).

Recommendation #7: Disallow \$10,000 (federal share \$10,000) of ineligible equipment charges (Finding G).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the audit results with City, FEMA, and FDEM officials during our audit. We also provided written summaries of our findings and recommendations in advance to these officials and discussed them at an exit conference on January 20, 2011. At the exit conference, City officials requested additional time to review and respond to our findings. On January 28, 2011, they provided additional information and documentation for our consideration. However, none of the information provided caused us to revise our findings. The comments of City officials, where appropriate, are incorporated in the body of the report.

Please advise me by Jul 12, 2011, of the actions taken or planned to implement the recommendations contained in this report, including target completion dates for any planned actions. To promote transparency, this final report and your response to this report, including your corrective actions planned, will be posted to our website, with exception of sensitive information identified by your office. Should you have any questions concerning this report, please contact me at (404) 832-6702. Key contributors to this report were Modupe Akinsika, Helen White, and Amos Dienye.

cc: Mary Lynne Miller, Deputy Regional Administrator
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EXHIBIT

City of Deerfield Beach, Florida
FEMA Disaster No. 1609-DR-FL
Schedule of Amount Awarded, Claimed, and Questioned
October 24, 2005 to May 11, 2010

Project Number	Amount Awarded	Amount Claimed	Amount Questioned
2906	\$ 654,727	\$ 654,727	\$ 96,575
2927	10,229,014	10,229,014	2,825,832
6713	113,321	113,321	0
7065	69,772	69,772	0
7475	81,008	81,008	0
7493	89,746	89,746	0
7564	66,200	66,200	0
7588	663,500	663,500	399,200
7607	536,674	536,674	536,674
8122	764,911	764,911	54,153
8125	190,941	190,941	16,319
	\$13,459,814	\$13,459,814	\$3,928,753