

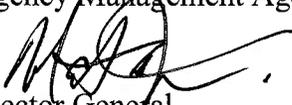




Homeland Security

December 1, 2011

MEMORANDUM FOR: Major P. (Phil) May
Regional Administrator, Region IV
Federal Emergency Management Agency

FROM: Matt Jadacki 
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *FEMA Public Assistance Grant Funds Awarded to
Long Beach School District, Long Beach, Mississippi*
FEMA Disaster Number 1604-DR-MS
Audit Report Number DA-12-02

We audited public assistance funds awarded to the Long Beach School District (District) in Long Beach, Mississippi (FIPS Code 047-030EA-00). Our audit objective was to determine whether the District accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

As of February 15, 2011, the District had received a public assistance award of \$20.2 million from the Mississippi Emergency Management Agency (MEMA), a FEMA grantee, for damages resulting from Hurricane Katrina in August 2005. The award provided 100% FEMA funding for debris removal, emergency protective measures, and repair of buildings, equipment, and recreational facilities damaged as a result of the disaster. The award included 19 large projects and 45¹ small projects.

We focused our audit on \$14.2 million awarded under eight large projects. We also performed a limited review of one other project for potential duplicate funding as a result of an insurance settlement identified during the audit. The audit covered the period August 29, 2005, to February 15, 2011, during which the District claimed \$13.1 million under the eight large projects (see Exhibit, Schedule of Projects Audited). At the time of our audit, the District had not completed work on all projects and, therefore, had not submitted a final claim to MEMA for project expenditures.

We conducted this performance audit pursuant to 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

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

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 conducted this audit according to the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We reviewed judgmentally selected samples of project costs (generally based on dollar value); interviewed District, MEMA, and FEMA personnel; reviewed the District's procurement policies and procedures; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances to accomplish our audit objective. 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. However, we gained an understanding of the District's method of accounting for disaster-related costs and its policies and procedures for administering activities provided for under the FEMA award.

RESULTS OF AUDIT

The District accounted for expenditures on a project-by-project basis, as required by federal regulations and FEMA guidelines. However, the District did not reduce eligible project costs for insurance recoveries totaling \$439,950. In addition, it did not always comply with federal grant procurement procedures and cost documentation requirements, resulting in \$632,457 of ineligible and unsupported costs.

Finding A: Duplication of Benefits

The District did not reduce eligible project costs for \$439,950 of insurance recoveries. According to Section 312(a) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, FEMA funds cannot be used for expenditures recoverable from another federal program, insurance, or any other source. Also, according to 44 CFR 206.250(c), actual and anticipated insurance recoveries shall be deducted from otherwise eligible costs.

The District received \$1,848,813 in proceeds from its commercial property insurance policy, of which \$593,060 was deducted from otherwise eligible project costs. However, the District also received \$1 million from its wind policy, but failed to deduct \$439,950 of the proceeds applicable to work authorized under Project 6598 (\$354,345) and Project 7507 (\$85,605). During our fieldwork, FEMA officials concurred with this finding and deobligated the insurance proceeds in question from the appropriate projects.

Finding B: Contracting Procedures

The District did not always comply with federal grant procurement procedures and cost documentation requirements. Under Project 8794, the District entered into a cost-plus-percentage-of-cost contract to establish a temporary campus using trailers for Harper McCaughan Elementary School. The District claimed \$997,557 in costs related to this contract. However, 44 CFR 13.36(f)(4) prohibits the use of a cost-plus-percentage-of-cost method of contracting under federal awards. Also, according to item 19 of the State-Local Disaster

Assistance Agreement, “The applicant will not enter into cost-plus-percentage-of-cost contracts for completion of disaster restoration or repair work.” In addition to the prohibited contracting method, we noted the following issues in our review of costs claimed under the contract:

- *Supporting Documentation.* The District did not have adequate documentation to support \$575,369 of contract charges. The District and contractor provided a summary of costs to support the charges, but did not have detailed invoices. Without such invoices, we were unable to verify the accuracy and validity of the contractor’s charges. Cost principles at 2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, Section C.1.j, state that a cost must be adequately documented to be allowable under federal awards.
- *Price Analysis.* According to 44 CFR 13.36(f)(1), a cost or price analysis is required in connection with every procurement action, including contract modifications, to determine the reasonableness of the contractor’s proposed price. The District awarded a noncompetitive contract to support authorized work under Project 8794. The noncompetitive contract was justified because of the urgent need to reopen the schools following the disaster. However, the District failed to perform a price analysis to determine if the contractor’s proposed price was fair and reasonable.
- *Contract Monitoring.* According to 44 CFR 13.36(b)(2), grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts. However, the District did not provide sufficient evidence that it monitored the contractor’s activities.

According to 44 CFR 13.43(a)(2), a grant recipient’s material failure to comply with applicable statutes or regulations can result in the disallowance of all or part of the cost of the activity or action not in compliance. Although the District used a prohibited method of contracting to complete authorized work, we are not questioning the total contract costs of \$997,557 because (1) there was an urgent need to get the schools re-opened, and (2) \$365,100 of the costs that were supported were reasonable based on our analysis of average costs for similar work in the area. Therefore, we question \$632,457 of costs claimed under the contract: \$575,369 for unsupported contract charges, \$34,522 for contractor mark-ups on the unsupported charges, and \$22,566 for contractor taxes on these amounts.

District Response. District officials did not agree with our finding, saying that the costs should be allowed because the contract was awarded prior to their state-applicant agreement and that other school districts were using similar types of contracts. They also believed that their documentation and monitoring was adequate because both the state and FEMA approved reimbursement of the project. They provided a packet of written comments and documentation regarding the finding for our consideration after the exit conference on September 8, 2011.

OIG Response. Although the contract was entered into prior to the state-applicant agreement and the costs were accepted by the state and FEMA during the reimbursement process, cost-plus-percentage-of-cost contracts are prohibited under federal regulations. Further, the review or acceptance of costs by a federal agency does not affect its right to disallow costs and recover

funds on the basis of a later audit (44 CFR 13.51(a)). Finally, the comments and documentation given to us subsequent to the exit conference provided no new information to cause us to change our finding.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Disallow \$439,950 of project costs that are ineligible for FEMA funding because they are covered by insurance (finding A).²

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

Recommendation #3: Disallow \$632,457 of unsupported contract costs under Project 8794 (finding B).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the audit results with the District, MEMA, and FEMA officials during our audit. We also provided a written summary of our findings and recommendations in advance to these officials and discussed them at the exit conference held on September 8, 2011. District officials agreed with finding A, but disagreed with finding B. Their comments, where appropriate, are included in the body of the report.

Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. To promote transparency, this report will be posted to our website, with the exception of sensitive information identified by your office. Significant contributors to this report were David Kimble, Larry Arnold, John Skrmetti, and Rickey Smith.

Should you have questions concerning this report, please contact me at (202) 254-4100 or David Kimble at (404) 832-6702.

² FEMA officials concurred with this recommendation and deducted the insurance proceeds in question from the appropriate projects prior to issuance of this report. Therefore, we consider this finding resolved and closed.

cc: Administrator, FEMA
Audit Liaison, FEMA Mississippi Recovery Office
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA (Job Code G-11-022)
Audit Liaison, DHS

EXHIBIT

**Schedule of Projects Audited
August 29, 2005 through February 15, 2011
Long Beach School District
FEMA Disaster No. 1604-DR-MS**

Project Number	Amount Awarded	Amount Claimed	Amount Questioned	Finding
6314	\$1,677,716	\$1,662,419	\$0	
6319	193,570	192,867	0	
6322	5,291,990	5,290,220	0	
6324	3,797,719	3,772,379	0	
6586	216,751	214,911	0	
6598	1,495,771	422,716	354,345	A
8794	1,065,474	1,066,001	632,457	B
11054	443,149	443,149	0	
Insurance Review Only:				
7507	102,187	102,187	85,605	A
Total	\$14,284,327	\$13,166,849	\$1,072,407	

Note: Projects 6314, 6319, 6322, 6324, 6586, and 6598, plus four small projects, comprise Improved Project 11045.

ADDITIONAL INFORMATION AND COPIES

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