

Department of Homeland Security Office of Inspector General

FEMA Public Assistance Funds Awarded to
Henderson Point Water and Sewer District,
Pass Christian, Mississippi





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Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

May 11, 2012

MEMORANDUM FOR:

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

FROM:

D. Michael Beard
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT:

*FEMA Public Assistance Grant Funds Awarded to
Henderson Point Water and Sewer District, Pass Christian,
Mississippi*
FEMA Disaster Number 1604-DR-MS
Audit Report Number DA-12-18

We audited public assistance grant funds awarded to Henderson Point Water and Sewer District (District) in Pass Christian, Mississippi (FIPS Code 047-U7IZ1-00). Our audit objective was to determine whether the District accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

As of September 29, 2011, the District had received a public assistance award of \$4.3 million from the Mississippi Emergency Management Agency (State), a FEMA grantee, for damages resulting from Hurricane Katrina, which occurred in August 2005. The award provided 100 percent FEMA funding for emergency protective measures and replacement of utilities, equipment, and buildings damaged as a result of the disaster. The award included three large and four small projects.¹

We audited two large projects with awards totaling \$4.1 million and two small projects totaling \$52,450. The audit covered the period August 29, 2005, to September 29, 2011, during which the District received \$2.9 million for projects included in our scope (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 the State for project expenditures.

We conducted this performance audit between September 2011 and March 2012 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

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



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perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We judgmentally selected project costs (generally based on dollar value); interviewed District, State, 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.

BACKGROUND

Henderson Point Water and Sewer District was created in 1965, by resolution of the Harrison County Board of Supervisors, to plan and provide sewer service to the residents of the District. The District served a community of 540 residences when Hurricane Katrina struck. The storm destroyed houses and buildings in the area and the existing grinder pump, pressure sewer system. In grinder pump systems, sewage flows to a wet well where a grinder pump grinds the solids and discharges the sewage into a pressurized pipe system (see figure 1).

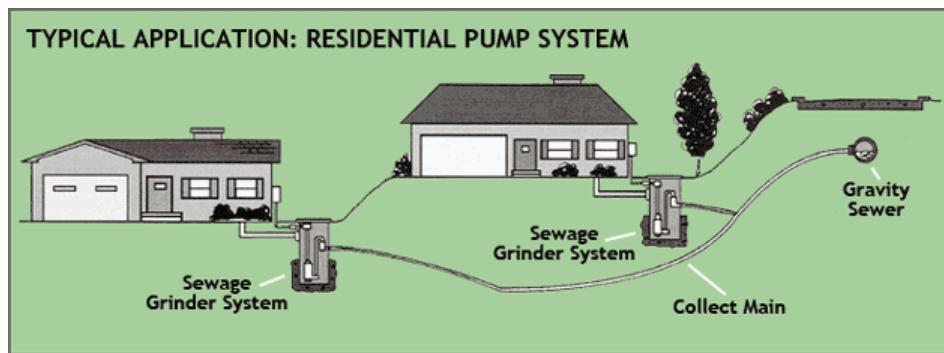


Figure 1: A typical residential pump system.

The diagram is representative of the District's current system. Each residence has a grinder pump station with a connection to the main service line. The District's system also has electrical conduit and wiring for individual residences' electrical connection to grinder pump stations.

Source: www.tripledpump.com.



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RESULTS OF AUDIT

The District accounted for FEMA projects on a project-by-project basis as required by Federal regulations and FEMA guidelines. However, the District did not comply with Federal procurement requirements when awarding contracts valued at \$4,055,155. In addition, we identified \$141,065 of ineligible costs, \$443,440 of unsupported costs, \$87,907 of funds that can be put to better use, and \$1,555,313 of unnecessary costs.

Finding A: Procurement Procedures

The District did not follow Federal procurement standards in awarding \$4,055,155 of contracts for replacement and repair work. Federal regulations at 2 CFR 215 require the following:

- All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. (2 CFR 215.43)
- Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. (2 CFR 215.45)
- Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises whenever possible. (2 CFR 215.44(b))

Under Project 3380, the District did not openly compete a contract totaling \$3,594,051 for the replacement of grinder pump stations and electrical components. Also, under Project 5385, the District did not openly compete a contract totaling \$461,104, for the repair of the sewage system collection lines. Instead, the District used a contractor with which it had an existing business relationship to complete the work authorized under the FEMA projects. District officials said that they made that decision because they were operating under a state of emergency at the time the replacement and repair work began on the sewer system. However, both projects were for permanent repair work (Category F) and should have been openly competed.

Further, for both contracts, the District accepted the contractor's proposed prices without performing an independent analysis of the prices to ensure reasonableness. In addition, no positive steps were taken to identify and use small businesses, minority-owned firms, women's business enterprises, and labor surplus area firms. District officials said that they did not have a policy in place for using such businesses, and therefore did not take the necessary steps to comply with the regulation.

Because the District did not follow Federal procurement requirements, we question \$4,055,155 awarded for the contract work. This amount includes \$2,175,275 of costs



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we question under findings C, D, and E. Therefore, the net amount questioned for this finding is \$1,879,880, which consists of \$1,427,604 under Project 3380 and \$452,276 under Project 5385.

Finding B: Small Project Work Not Performed

The District received \$52,450 of FEMA funds for emergency protective measures (Category B) under two small projects that it did not complete. Federal regulation 2 CFR 215.62(a)(2) states that if a recipient materially fails to comply with the terms and conditions of an award, the Federal awarding agency may disallow all or part of the costs of the activity or action not in compliance. Further, 44 CFR 206.205(a) states that failure to complete a small project may require that the Federal payment be refunded.

The District received \$32,850 of FEMA funds under Project 2049 to plug the existing sewer system to prevent raw sewage from leaking. However, the District did not perform any work under the project because it decided to replace damaged grinder pump stations (Project 3380) within the system. According to District officials, the replacement of such devices negated the need to plug the system. Additionally, the District received \$19,600 under Project 6041 for monthly rental of a temporary trailer and purchase of temporary office furnishings and supplies. However, the District did not complete any work under the project because it decided to meet at various locations to conduct business meetings rather than rent temporary office space. We question the \$52,450 (\$32,850 and \$19,600) paid to the District under the two small projects because the authorized work was not performed.

Finding C: Unsupported Costs

The District did not have adequate source documentation to support \$443,440 of contract charges under Project 3380 for the replacement of grinder pumps. Source documentation, such as material invoices and subcontractor invoices, did not support costs billed to the District by the prime contractor. This occurred because the invoices were based upon estimated costs instead of actual costs incurred. Federal regulation 2 CFR 230(A)(2)(g) states that, to be allowable under an award, costs must be adequately documented. Therefore, we question \$443,440 as unsupported costs.

In addition, a preliminary review of Project 5385 indicates that \$255,000 of funds advanced under the project may not be fully supported by contractor invoices. Because the District has not yet claimed actual contract costs for the project work, we are not questioning any amount at this time. However, we recommend that FEMA closely review the District's claim under the project to ensure that all costs are adequately documented and are eligible.



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Finding D: Sales Tax

The District claimed \$1,265,934 of contract work under Project 3380 that included a 7 percent sales tax totaling \$88,615 that the District was exempt from paying because of its nonprofit and utility tax status. According to *Mississippi Code Annotated*, Section 27-65-107(c), sales to nonprofit water associations of property or services ordinary and necessary to the operation of the water association are exempt from sales tax.

The contractor said that it charged the District the sales tax because the contractor had to incur the expense during the contract work to replace grinder pump stations. However, we noted that the contractor does not charge a sales tax for services provided under an operation and maintenance contract it has with the District. Under Mississippi law, there should be no tax to replace grinder pump stations and collection lines because such services are necessary to make residences habitable. Therefore, we are questioning \$88,615 as ineligible costs under Project 3380.

The 7 percent sales tax was also included in estimated costs used to write Projects 3380 and 5385. Since the District is a tax-exempt entity, this estimate should not have been included in the obligated amount. Therefore, \$87,907 should be deobligated and put to better use. This amount includes \$79,079 under Project 3380 and \$8,828 under Project 5385.

Finding E: Unnecessary Costs

The District claimed \$1,555,313 in unnecessary costs under Project 3380 for the replacement of grinder pump stations. The District replaced 388 grinder pump stations from April 2006 to May 2007 at a cost of \$1,889,794. However, only 72 of the pumps were attached to inhabited residences. The remaining 316 pumps, totaling \$1,555,313, were on vacant lots and not attached to residences (see figures 2 and 3). The lots had been vacant since the 2005 disaster, and there was no indication that the homeowners planned to rebuild. Also, since installation of the grinder pumps, the District has had an issue with grinder pumps and control panels being damaged and stolen. *Cost Principles for Nonprofit Organizations* (2 CFR 230, Appendix A, A.4.a(3)) states that a cost is allocable to a particular cost objective if it is necessary to the overall operation of the organization.



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Figure 2: Grinder pump and control panel located at 300 Audubon Lane in Henderson Point. The grinder pump is not currently attached to a residence.

Source: OIG site visit (December 8, 2011).



Figure 3: Grinder pump and control panel located at 150 Lady Mary in Henderson Point. The grinder pump is not currently attached to a residence.

Source: OIG site visit (December 28, 2011).

Henderson Point-Pass Christian Isles Water and Sewer District NR. 1, Inc. ordinance, amended as of December 28, 2007, states, “property owners shall notify the District a minimum of 30 days prior to needing the installation.” The District did not determine whether residents were moving back to the area before giving the contractor



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permission to replace grinder pumps. District officials said that they were operating in a state of emergency and were trying to get the area back to its pre-Katrina status. District officials also said that it was necessary to replace the grinder pumps because the sewer system was wide open and would have caused raw sewage to come above ground. However, the District was awarded \$32,850 under emergency measures Project 2049 to plug the existing sewer system to prevent raw sewage from leaking above ground (see finding B).

We noted that the District has since changed its procedure for replacing damaged grinder pumps. Its current process is to wait until they are contacted by the resident to replace a grinder pump. However, the 316 pumps installed on the vacant lots under its previous procedures are not being used for their intended purpose. Therefore, we question \$1,555,313 in unnecessary costs. Furthermore, the District was granted an extension until December 31, 2013, to complete the work. Therefore, FEMA will need to ensure that additional costs claimed to the project are eligible and allocable to the project.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Disallow \$1,879,880 of ineligible contract costs unless FEMA grants the District an exception, with proper justification, to the applicable Federal procurement requirements (finding A).

Recommendation #2: Disallow \$52,450 in ineligible costs paid to the District for small projects that were not completed (finding B).

Recommendation #3: Disallow \$443,440 of unsupported costs for Project 3380 (finding C).

Recommendation #4: Validate costs claim for Project 5385 to supporting documentation to ensure that all costs are eligible (finding C).

Recommendation #5: Disallow \$88,615 of ineligible sales tax costs claimed (finding D).

Recommendation #6: Deobligate and put to better use \$87,907 of estimated sales tax costs included in obligated amounts under Projects 3380 and 5385 (finding D).



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Recommendation #7: Disallow \$1,555,313 of unnecessary costs claimed for inactive grinder pump stations (finding E).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with District, State, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at the exit conference held on March 22, 2012. District officials withheld comments pending the receipt of the final report, saying that they needed more time to research the findings.

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. We will post the report on our website for public dissemination.

Major contributors to this report were David Kimble, Eastern Region Audit Director; Larry Arnold, Audit Manager; Sharonda Toney, Auditor-in-charge; and Melissa Powe-Williams, Auditor.

Please call me with any questions, or your staff may contact David Kimble, Eastern Region Audit Director, at (404) 832-6702.

cc: Administrator, FEMA
 Audit Liaison, FEMA Mississippi Recovery Office
 Audit Liaison, FEMA Region IV
 Audit Liaison, FEMA (Job Code G-11-071)
 Audit Liaison, DHS



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**Schedule of Projects Audited
August 29, 2005, to September 29, 2011
Henderson Point Water and Sewer District
FEMA Disaster Number 1604-DR-MS**

Project Number	Project Scope	Amount Awarded	Amount Claimed	Amount Questioned	Funds Put to Better Use	Findings
2049	Service Line Plugs	\$32,850	\$32,850	\$32,850	\$0	B
3380	Grinder Pump Stations and Electrical Components	3,594,051	2,595,283	3,514,972	79,079	A, C, D, E
5385	Collection Lines for the Pressure Sewage System	461,104	255,000	452,276	8,828	A, D
6041	Temporary Administration Office Space (Trailer)	19,600	19,600	19,600	0	B
Totals		\$4,107,605	\$2,902,733	\$4,019,698	\$87,907	

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