



Homeland Security

December 30, 2010

MEMORANDUM FOR: Nancy Ward
Regional Administrator
FEMA Region IX

FROM: 
Robert J. Lasticco
Western Regional Director

SUBJECT: *City of Malibu, California*
Public Assistance ID. No. 037-45240-00
FEMA Disaster No. 1577-DR-CA
Audit Report Number DS-11-02

We audited public assistance funds awarded to the City of Malibu, California (city). The objective of the audit was to determine whether the city accounted for and expended Federal Emergency Management Agency (FEMA) funds according to applicable federal regulations and FEMA guidelines.

The city received a public assistance subgrant award of \$5.2 million from the California Office of Emergency Services (OES),¹ a FEMA grantee, for emergency protective measures, debris removal, and permanent repairs to facilities damaged by severe storms beginning on December 27, 2004, and continuing through January 11, 2005. Of the \$5.2 million, FEMA provided 75% federal funding and non-federal sources funded the remaining 25% for eight projects (seven large and one small²). The audit covered the period of December 27, 2004, through October 21, 2010, and included a review of three large projects with a total award of \$4.0 million (See Exhibit). As of October 21, 2010, FEMA was in the process of reviewing the city's final claim for this subgrant award.

We conducted this performance audit under 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. The evidence obtained during the audit provides a reasonable basis for our findings and conclusions based on our audit objective. We interviewed FEMA, Cal EMA, and city officials; reviewed judgmentally selected samples of cost documentation to support project costs; and performed other procedures considered necessary to accomplish our objective. We did not assess the adequacy of the city's internal controls applicable to subgrant activities because it was not necessary to accomplish our

¹ OES became a part of the California Emergency Management Agency (Cal EMA) on January 1, 2009.

² At the time of the disaster, the large project threshold was \$55,500.

audit objective. We did, however, gain an understanding of the city's method of accounting for disaster-related costs.

RESULTS OF AUDIT

Of the \$4 million in disaster costs we reviewed, the city generally expended and accounted for costs according to federal regulations and FEMA guidelines. However, the city's claim for Project Worksheet (PW) 1509 included \$12,881 in disaster costs that were the funding responsibility of the Federal Highway Administration (FHWA), under the Federal-Aid Highways Program. According to Title 44, *Code of Federal Regulations*, Section 206.226(a)(1), disaster assistance is not available under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* when another federal agency has specific authority to restore facilities damaged or destroyed by an event which is declared a major disaster. Further, FEMA's *Public Assistance Guide* (FEMA 322, October 1999) says that funding of work under the authority of FHWA is specifically excluded from funding under FEMA's Public Assistance Program.

While FEMA funded PW 1509 for \$12,881 to remove debris (\$5,056) and perform emergency repairs (\$7,825), project records suggested that the work was eligible for FHWA. In addition, a letter dated January 20, 2005, from FHWA to the California Department of Transportation, provided notification that emergency repairs resulting from the disaster were eligible for reimbursement under the FHWA Federal-Aid Highways Program. We discussed the issue with city officials. Those officials understood the basis for our conclusion and noted that they would request reimbursement for the \$12,881 from FHWA. However, since the disaster costs claimed under PW 1509 are the responsibility of FHWA, the \$12,881 is questioned.

RECOMMENDATION

We recommend that the Regional Administrator, FEMA Region IX, in coordination with Cal EMA disallow \$12,881 in ineligible costs the city has claimed under PW 1509.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the audit finding with city officials on November 8, 2010. The city's comments are summarized in this report as appropriate. We also discussed the audit finding with Cal EMA on October 13, 2010, and FEMA on October 21, 2010. Both Cal EMA and FEMA withheld responses pending issuance of the final audit report.

Please advise this office by March 1, 2011, of actions planned or taken to implement our recommendation. Please note that your responses should include a target completion date for actions planned and actual completion date for action taken. Should you have questions concerning this report, please call me at (510) 637-1482, or your staff may contact Humberto Melara, Supervisory Auditor, at (510) 637-1463. Key contributors to this assignment were Humberto Melara, Willard Stark, Renee Gradin, and Greg Suko.

cc: Audit Liaison, FEMA Region IX
Audit Liaison, FEMA (Job Code: G-10-036-EMO-FEMA)

**Schedule of Audited Projects
City of Malibu, California
FEMA Disaster Number 1577-DR-CA**

Project Worksheet	Category of Work	Award Amount	Costs Questioned
1496	C	\$1,409,678	\$ 0
1500	C	\$1,202,117	\$0
1509	A	\$1,361,678	\$12,881
Totals		\$3,973,473	\$12,881

Category of Work: A - Debris Removal
C – Roads and Bridges