



Homeland Security

May 28, 2009

MEMORANDUM FOR: Robert Ives, Director
FEMA Florida Recovery Office

FROM: C. David Kimble, Director 
Eastern Regional Office

SUBJECT: *Review of Hurricane Katrina and Wilma Activities for
Broward County, Florida*
Public Assistance Identification Number: 011-99011-00
FEMA Disaster Nos. 1602 and 1609-DR-FL
Report Number DA-09-18

We performed an audit of disaster costs associated with Hurricanes Katrina and Wilma for Broward County, Florida. The objective of the audit was to determine whether the county accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

As of October 26, 2007, the cut-off date of our review, the county had received public assistance grant awards of \$1.3 million and \$22.2 million, respectively, under Hurricanes Katrina and Wilma, from the Florida Department of Community Affairs (DCA), a FEMA grantee. The awards provided 100% FEMA funding for emergency protective measures, debris removal, and other disaster-related activities for the hurricanes that occurred in 2005. The awards consisted of 4 large projects and 2 small projects under Hurricane Katrina and 38 large projects and 28 small projects under Hurricane Wilma.¹ At the time of our audit, the county had not submitted final claims to DCA.

We reviewed costs totaling \$15.7 million under the awards, consisting of \$1.1 million under Hurricane Katrina and \$14.6 million under Hurricane Wilma (see Exhibit). The audit covered the period August 24, 2005, to October 26, 2007, during which the county received \$13.3 million of FEMA funds under the projects included in our audit scope.

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, 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.

¹ Federal regulations in effect at the time of Hurricanes Katrina and Wilma set the large project threshold at \$55,500 and \$57,500, respectively.

We judgmentally selected samples of project cost documentation (generally based on dollar value); interviewed county, DCA, and FEMA personnel; reviewed the county's grant accounting and procurement policies and procedures; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances. We did not assess the adequacy of the county's internal controls applicable to its grant activities because it was not necessary to accomplish our objectives. We did, however, gain an understanding of the county's grant accounting system and its policies and procedures for administering the activities provided for under the FEMA award.

RESULTS OF AUDIT

The county accounted for FEMA funds on a project-by-project basis according to federal regulations for large projects, but did not always comply with federal procurement standards when contracting for emergency activities. We also identified questioned costs totaling \$3,537,713 under the two disasters that resulted from costs that were (1) unsupported, excessive, and ineligible, (2) previously disallowed by FEMA, and (3) the responsibility of another federal agency. Moreover, the county received excess FEMA funding of \$936,102 under a debris removal project.

A. Contracting Procedures. The county did not always comply with federal procurement standards when contracting for emergency work. As a result, we determined that \$436,531 of contract costs for Hurricane Wilma activities were excessive.

1. *Non-Competitive Proposal*. Federal regulation 44 CFR 13.36(d)(4) allows procurements by non-competitive proposals under certain conditions, one of which is during times of public exigency or emergency. Under such procurements, the regulation requires a cost analysis to determine the reasonableness of the proposed contract price. In addition, federal regulation 44 CFR 13.36(b)(9) requires grantees and subgrantees to maintain records sufficient to detail the significant history of a procurement. Those records should include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection, and basis for the contract price.

Under FEMA Projects 6287 and 6298, the county awarded a non-competitive contract for water extraction and dehumidification services as a result of water intrusion sustained to the Broward County Convention Center. The county used emergency contracting procedures to award the contract and paid the contractor \$126,021 for its services. However, the county did not perform a cost analysis, or document its rationale for selection of the contractor and its basis for the contract price, as required. As a result, FEMA has no assurances that the work was completed at a fair and reasonable price.

2. *Time-and-Material Contracts*. Federal regulation 44 CFR 13.36(b)(10)(i) allows subgrantees to use time-and-material contracts, but only after a determination has been made that no other form of contracting is suitable. In addition, FEMA's *Public Assistance Debris Management Guide* (FEMA 325, April 1999) states that time-and-material contracts for debris removal activities should (1) generally not exceed 70 hours of actual emergency debris clearance, (2) have cost ceilings or a "not to exceed" provision, and (3) be terminated once the not-to-exceed hours is reached. The use of time-and-material contracting is restricted because it does not encourage effective cost controls.

Under Hurricane Wilma Project 5975, the county claimed \$596,606 of contract costs associated with debris removal (stumps, leaning trees, and hanging branches), and clean-up activities. The contract work, however, was procured with time-and-material purchase orders that continued for several months beyond 70-hours of actual work. Work under the contracts began October 29, 2005, and continued until February 4, 2006.

Office of Management and Budget Circular A-87 (*Cost Principles for State, Local, and Indian Tribal Governments*), Attachment A, Paragraph C.1.a, states that cost under federal awards must be both necessary and reasonable. The Circular defines a reasonable cost as cost that does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness, the Circular also requires grant recipients to consider sound business practices, federal regulations and guidelines, and market price for comparable goods and services.

Our review of the county's contract with its prime debris removal contractor showed that similar work was billed at \$11.85 per cubic yard. Using this price and the total cubic yards of debris collected by the time-and-material contractors, we estimated that the contract work could have been completed for total costs of \$160,075, or \$436,531 less than the amount incurred. The \$160,075 includes costs for the initial 70-hours of work on a time-and-material basis and costs for the remaining work at unit pricing. Federal regulation 44 CFR 13.43(a)(2) states that a grant recipient's failure to comply with applicable statutes or regulations can result in the disallowance of all or part of the costs of the activity or action found not in compliance. Therefore, we question \$436,531 of costs incurred under the project because the county did not comply with federal contracting procedures and FEMA guidelines regarding time-and-material contracts.

B. Project Charges. According to 44 CFR 13.20(b)(6), expenditures under a federal award must be supported by adequate source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contract award documents, etc. Office of Management and Budget Circular A-87 (*Cost Principles for State, Local, and Indian Tribal Governments*), Attachment A, Paragraph C.1, also requires that costs be adequately documented to be allowable under a federal award. However, the county's claim included \$2,365,346 of costs — \$43,407 under Hurricane Katrina and \$2,321,939 under Hurricane Wilma — that were not supported by adequate documentation, as follows:

- The county claimed \$3,333,736 of contract costs under Project 5438 (Hurricane Wilma) for the collection, processing, and hauling of 192,971 cubic yards of debris to a final disposal site. However, the county had load tickets and invoices from the landfill to support only \$2,151,243 of the charges, or 124,455 cubic yards. Therefore, we question the unsupported contract charges of \$1,182,493.
- The county claimed \$1,075,403 under Hurricane Wilma for generators used to provide emergency power to several county facilities. The claim consisted of \$534,291 under Project 4571 and \$541,112 under Project 4586. However, the county's equipment generator logs did not identify the equipment control number, location, or dates and times the generators were used under the disaster. As a result, the \$1,075,403 claimed for generator use could not be validated and, therefore, is questioned.

- The county claimed contract costs of \$81,595 under Project 6982 (Hurricane Wilma) for cleaning and removing debris from county canals, but had accounting records to support costs of only \$37,360. Therefore, we question the unsupported costs of \$44,235.
- The county claimed labor and fringe benefits totaling \$212,125 under Project 801 (Hurricane Katrina) for employees engaged in emergency protective measures work countywide, but had payroll records to support only \$168,718 of the costs. Therefore, we question the unsupported costs of \$43,407.
- The county claimed contract costs of \$126,021 under Project 6287 (Hurricane Wilma) for the dehumidification of the Broward County Convention Center. However, the county did not have invoices to support \$19,808 of expenses billed by the contractor for travel and equipment fuel purchases. Therefore, we question the unsupported costs of \$19,808.

C. Federal-Aid Roads. The county's claim included \$297,765 for debris removal activities on federal-aid roads that are the responsibility of the Federal Highway Administration. The expenditures consisted of \$261,156 for removing debris and \$36,609 for monitoring services. According to the Stafford Act (Section 312), FEMA funds cannot be used for activities covered by other federal sources. County officials said that the costs were claimed inadvertently. The table below identifies the affected projects and disaster.

Schedule of Federal-Aid Roads			
Project Number	Disaster	Activity	Amount Questioned
855	Hurricane Katrina	Debris Removal	\$22,106
3474	Hurricane Wilma	Debris Removal	235,415
3576	Hurricane Wilma	Debris Removal	3,635
Subtotal			\$261,156
512	Hurricane Katrina	Monitoring Services	9,133
3474	Hurricane Wilma	Monitoring Services	27,476
Subtotal			\$36,609
Total			\$297,765

D. Regular-Time Labor Costs. Federal regulation 44 CFR 206.228(a)(4) only allows for the overtime salaries and associated benefits of a subgrantee's permanently employed personnel who perform emergency services work; regular-time salaries are not eligible. However, the county's claims for emergency services work under several projects included \$183,351 of regular-time salaries for permanent county employees. We question the \$183,351 as identified in the following table.

Schedule of Regular-Time Labor Costs			
Project Number	Disaster	Amount Claimed	Amount Ineligible
801	Hurricane Katrina	\$212,125	\$137,060
5735	Hurricane Wilma	24,539	15,508
5759	Hurricane Wilma	7,580	4,464
7351	Hurricane Wilma	52,311	11,773
7369	Hurricane Wilma	35,690	14,546
Total		\$332,245	\$183,351

E. Previously Disallowed Costs. The county's claim under Hurricane Wilma included \$251,277 of costs that were previously disallowed by a FEMA inspector, as follows:

- Under Project 3443, the county claimed \$75,933 for stump collection and removal, and monitoring services. However, the claim included \$69,906 of previously disallowed costs, which consisted of (1) \$57,580 for 105 stumps that did not meet FEMA eligibility requirements, (2) \$3,569 for ineligible collection costs of stumps, and (3) \$8,757 for management, reduction, and final disposal fees.
- Under Project 3446, the county's claim included \$140,415 for 1,221 "hanger" trees and \$6,975 for 23 "leaner" trees removed from public rights-of-way. However, \$15,723 of these costs were previously disallowed — \$14,605 for 127 hanger trees and \$1,118 for 2 leaner trees.
- Under Project 5438, the county claimed \$3,333,736 to collect, process, and haul debris to a final disposition site. However, the claim included \$165,648 for 9,744 cubic yards of mulch that was previously disallowed.

F. Charges Outside Authorized Period. The scope of work under Project 4586 (Hurricane Wilma) provided for reimbursement of force account generator costs during the period of October 24, 2005 to March 24, 2006. The county, however, claimed \$3,443 for generator use during the period May 16, 2006 to August 13, 2006. We question the unauthorized charges of \$3,443.

G. Excess Funding. The county received \$6,543,382 of FEMA funds under Project 3474 (Hurricane Wilma) for countywide debris removal activities. However, actual project costs totaled \$5,607,280, or \$936,102 less than the amount funded by FEMA. Federal regulation 44 CFR 206.205(b) requires that payments under large projects be based on actual costs incurred for eligible work. Therefore, we question the \$936,102 of excess funding.

RECOMMENDATIONS

We recommend that the Director of the Florida Recovery Office, in conjunction with DCA:

Recommendation #1. Disallow the \$3,537,713 of questioned costs.

Recommendation #2. Deobligate the \$936,102 of excess funding received under Project 3474.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the audit results with county, FEMA, and DCA officials on September 18, 2008. County officials requested additional time to review and respond to our findings. On October 17, 2008, county officials provided written comments for our consideration. However, the response did not include any additional supporting documentation that caused us to reduce the questioned costs.

Please advise me by July 27, 2009, of the actions taken or planned to implement the recommendations contained in this report, including target completion dates for any planned actions. Should you have any questions concerning this report, please contact me at (404) 832-6702 or Felipe Pubillones, Audit Manager, at (404) 832-6705. Key contributors to this assignment were Oscar Andino, Nadine Ramjohn, Ronald Cummings, Sharon Mitchell, and Amos Dienne.

cc: Regional Administrator, FEMA Region IV
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA

Broward County, Florida
FEMA Disaster No. 1602 and 1609-DR-FL
Schedule of Amount Awarded, Claimed, and Questioned
August 24, 2005 to October 26, 2007

Hurricane Katrina – Disaster No. 1602

Project Number	Amount Awarded	Amount Claimed	Amount Questioned	Funds Put to Better Use
512	\$254,100	\$252,348	\$9,133	
801	267,460	267,460	180,467	
855	570,757	606,944	22,106	
Sub-Total	\$1,092,317	\$1,126,752	\$211,706	

Hurricane Wilma – Disaster No. 1609

3443	\$ 4,750	\$ 75,933	\$ 69,906	
3446	92,447	147,390	15,723	
3474	6,543,382	5,607,280	262,891	\$936,102
3576	137,766	115,680	3,635	
4571	534,291	534,291	534,291	
4586	550,225	577,132	544,555	
5438	1,250,908	3,333,736	1,348,141	
5735	17,563	24,539	15,508	
5759	7,400	7,580	4,464	
5975	1,324,915	776,224	436,531	
6287	153,314	158,880	19,808	
6298	56,447	62,425	0	
6982	81,595	81,595	44,235	
6986	1,768,019	2,897,290	0	
7193	143,226	133,865	0	
7351	53,122	27,989	11,773	
7369	109,921	35,690	14,546	
Sub-Total	\$12,829,291	\$14,597,519	\$3,326,007	\$936,102
Total	\$13,921,608	\$15,724,271	\$3,537,713	\$936,102