Office of Inspector General
U.S. Department of Homeland Security
Central Regional Office
Office of Emergency Management Oversight
3900 Karina Street, Room 224
Denton, Texas 76208

Homeland Security

November 21, 2008

MEMORANDUM FOR: James W. Stark, Director
FEMA Louisiana Transitional Recovery Office

Tonda L. Hadley

FROM: Tonda L. Hadley, Director
Central Regional Office

SUBJECT: *Louisiana Department of Agriculture and Forestry*
FEMA Disasters Numbers 1603 and 1607-DR-LA
Public Assistance Identification Number 000-UUXXI-00
Audit Report Number DD-09-01

At the request of the Louisiana State Inspector General, we audited public assistance funds awarded to the Louisiana Department of Agriculture and Forestry (LDAF). Our objective was to determine whether LDAF expended and accounted for Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

LDAF received an award of $10.98 million from the Louisiana Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), a FEMA grantee, for emergency fuel and fuel-related purchases following Hurricanes Katrina and Rita. The $10.98 million award consisted of $6.28 million under Project Worksheet (PW) 150 for Hurricane Katrina and $4.70 million under PW 109 for Hurricane Rita. Of the $10.98 million LDAF received, $7.87 million was for fuel provided to various users including federal, state, and local governmental agencies; $2.45 million was for costs associated with providing the fuel, including delivery charges and equipment rentals; and $0.66 million was unspent. During our audit fieldwork, LDAF returned the unspent funds plus accrued interest to GOHSEP. As of our report date, LDAF had not filed its final claims on these two projects.

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. We reviewed invoices from vendors whose total charges exceeded $100,000. Those invoices totaled $9.70 million, or 94% of direct costs expended (see Exhibit A). We interviewed selected vendor representatives and GOHSEP, LDAF, and FEMA officials; reviewed disaster cost documentation; and performed other procedures considered necessary under the circumstances. We did not assess the adequacy of LDAF'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 LDAF's grant accounting system used to account for disaster-related costs and its procurement policies and procedures.

BACKGROUND

After Hurricane Katrina, a critical need arose in the State of Louisiana for emergency fuel for lifesaving and emergency support operations such as hospitals, nursing homes, shelters, and base camps for disaster personnel. The enormity of the disaster taxed all available fuel capabilities. According to LDAF officials, FEMA requested LDAF to provide fuel for lifesaving and emergency support operations. While the emergency fuel operations were ongoing in the areas affected by Hurricane Katrina, Hurricane Rita hit and impacted other geographic areas in the state. The need for fuel evolved and expanded as dictated by the impact of these hurricanes. LDAF provided emergency fuel for the period August 29, 2005, through February 23, 2006.

FEMA used its Public Assistance (PA) Grant Program to fund the state's emergency fuel needs. The PA Program is administered through a coordinated effort between FEMA, the state (grantee), and the subgrantees. In this case, GOHSEP was the grantee and LDAF, another state agency, was the subgrantee. While all three entities must work together to meet the overall objective of quick, effective program delivery, each has a different role.

FEMA and the grantee share responsibility for making PA funds available to the subgrantee. FEMA uses a PW for each project to record the scope of eligible work, estimated or actual costs necessary to complete the work, and special considerations associated with the project. The PW serves as the basis for federal funding. Once FEMA approves a PW, it makes the federal share of the approved amount available to the grantee via electronic transfer. These obligated funds reside in a federal account until the grantee is ready to draw down the funds for disbursement to the appropriate subgrantees.

The grantee is responsible for the use of FEMA PA funds, for notifying the subgrantee that funds are available, and for disbursing those funds to the subgrantee. The grantee is also responsible for providing technical advice and assistance to eligible subgrantees, ensuring that all potential subgrantees are aware of the available assistance programs, providing support for damage assessment operations, and submitting the necessary paperwork for grant awards.

Federal Regulation 44 CFR 13.37(a)(2) requires the grantee to ensure that subgrantees are aware of requirements imposed upon them by federal regulations. Further, 44 CFR 13.40(a) requires the grantee to manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable federal requirements. Exhibit B contains a list of other federal requirements applicable to LDAF in this case.

RESULTS OF AUDIT

LDAF had the ability to provide fuel from its own tanks located in Baton Rouge, and Hammond, Louisiana. To accommodate the tremendous fuel demands, LDAF entered into agreements with local vendors for the purchase and delivery of gasoline and for the use of vehicles and tanks at over 200 locations in the state. LDAF spent $10.32 million to provide fuel, of which $7.87 million was for fuel and $2.45 million was for costs associated with delivering the fuel. However, LDAF did not maintain records to identify the entities that received fuel in most locations and did not document for what purpose recipients used the fuel.

As a result, we could not determine the eligibility of most of the $10.32 million LDAF spent on fuel and associated costs. We question the entire amount and recommend that FEMA disallow $858,338 as ineligible and disallow the remaining $9,462,763 as unsupported. During our audit, LDAF returned the $0.66 million in unspent funds plus accrued interest to GOHSEP.

Fuel Recipients and Fuel Use

LDAF identified 327 entities that received fuel from its tanks in Baton Rouge and Hammond, Louisiana, but did not identify entities that received fuel at other locations. The 327 entities received fuel costing $911,044, or less than 12% of the total $7.87 million spent on fuel. The list of entities included federal, state, and local government agencies and departments, medical service providers, and non-profit organizations. The list also included for-profit companies and entities identified only by numbers, acronyms, or a single word.

Many of these entities may have performed life saving, life sustaining, or other emergency-related functions at the direction of FEMA, the state, or local governments. If so, the associated fuel costs may be eligible for FEMA funding. However, LDAF did not document for what purpose recipients used the fuel. To determine funding eligibility, additional information is needed to verify that the fuel was used for activities required as a result of the disaster and that the entity is eligible for FEMA disaster assistance. Only state and local governments, certain private non-profit organizations, and Indian tribes are eligible to receive assistance under the PA program. For example, Louisiana dairy farmers received fuel costing $522,497 to operate generators for their dairy farms until power was restored after the hurricanes. The power outage was a result of the disasters, but dairy farmers are not eligible to receive assistance under the PA program.

PW 150 (Hurricane Katrina) states, "The applicant must provide documentation of all costs in accordance with 44 CFR 13." PW 109 (Hurricane Rita) states, "The applicant retains supporting documentation such as, receipts, invoices, bills, records of payments, fuel distribution logs, and record of task assignments, as required, to support the work completed."

According to LDAF officials, they were tasked to provide fuel for emergency operations but were not tasked with documenting who received fuel from various locations. Therefore, they felt no responsibility to document names of the end users of fuel.

Ineligible Costs

We question $858,338 in costs that were not eligible for FEMA funding. These costs consisted of $522,497 for fuel provided to dairy farmers (discussed above), $199,909 for fuel sold to a convenience store for resale, $71,400 for unreasonable fuel delivery charges, $53,658 for fuel that was never delivered, $6,000 for an overpayment to a vendor, and $4,874 for interest paid to a vendor on late payments. Based on our information, LDAF has collected refunds of improper payments totaling $204,783 ($199,909 and $4,874). Exhibit C provides details of all questioned costs and allocates them between PW 150 for Hurricane Katrina and PW 109 for Hurricane Rita.

Potential Duplication of Benefits

Some fuel recipients were eligible to receive PA funding under their own applications. We cannot determine the number because LDAF did not identify most of the fuel recipients. However, of the 327 fuel recipients identified, we verified that 29 were eligible under their own PA applications. Typically, fuel costs are not separately eligible for reimbursement because the cost of fuel is included in mileage rates for vehicles and hourly rates for equipment. Therefore, to avoid duplicate benefits, FEMA or the grantee should review the PA claims of eligible applicants who received fuel from LDAF to ensure that they did not receive reimbursement for the same fuel through mileage or hourly equipment rates.

RECOMMENDATIONS

We recommend that the Director, FEMA Louisiana Transitional Recovery Office:

1. Disallow $858,338 of ineligible costs.

2. Disallow $9,462,763 as unsupported unless additional documentation provides evidence that fuel recipients were eligible to receive disaster assistance, used the fuel for eligible disaster activities, and did not receive duplicate benefits.

DISCUSSION WITH MANAGEMENT AND FOLLOW-UP

We discussed the results of our audit with FEMA, GOHSEP, and LDAF officials several times during our fieldwork and provided them with copies of our draft report on August 8, 2008. We held exit conferences to discuss the draft report with FEMA officials on August 13, 2008, and with GOHSEP and LDAF officials on November 5, 2008. FEMA officials generally agreed with our findings, but GOHSEP and LDAF officials did not. LDAF officials stated that FEMA had approved all of their claimed expenditures.

To assist FEMA and GOHSEP in resolving our audit findings, we provided them (1) a list of the 327 fuel recipients identified and the amounts and cost of fuel dispersed to them, (2) a list of the 29 fuel recipients we identified as having filed their own PA applications, and (3) a list of invoices and other information relevant to the seven items of costs we question as ineligible (see Exhibit C).

Please advise this office by February 19, 2009, of the actions taken or planned to implement our recommendations, including target completion dates for any planned actions. Significant contributors to this report were Judy Martinez, Paul Begnaud, and Donna Williams. Should you have questions concerning this report, please call me at (940) 891-8900, or your staff may contact Judy Martinez, Audit Manager, at (504) 762-2055.

cc: Regional Director, FEMA Region VI
Audit Liaison, FEMA Region VI
Audit Liaison, FEMA Louisiana Transitional Recovery Office
Audit Liaison, FEMA (Job Code AD0704)
Audit Liaison, Gulf Coast Recovery Office

EXHIBIT A

Amounts Awarded, Expended, and Reviewed
Louisiana Department of Agriculture and Forestry
FEMA Disasters Numbers 1603 and 1607-DR-LA

	PW 150	**PW 109**	**Totals**
Total Awarded	$6,281,624	$4,702,941	$10,984,565
Less: Amount Unspent	650,591	12,873	663,464
Total Expended	$5,631,033	$4,690,068	$10,321,101
Amount Reviewed	$5,302,771	$4,400,562	$9,703,333
Percent Reviewed	94%	94%	94%

EXHIBIT B

Federal Requirements Used as Audit Criteria
Louisiana Department of Agriculture and Forestry
FEMA Disaster Numbers 1603 and 1607-DR-LA

Federal requirements applicable to LDAF in this audit include the following:

- Entities shall not receive financial assistance as a result of major disasters from more than one source (Stafford Act, §312).
- To be eligible for financial assistance, an item of work must be required as a result of the disaster (44 CFR 206.223(a)).
- Only state and local governments, certain private non-profit organizations, and Indian tribes (or authorized tribal organizations and Alaska Native villages or organizations) are eligible to receive public assistance funds (44 CFR 206.222).
- Grantees and sub grantees must maintain records that properly identify the source and application of funds provided for financially assisted activities (44 CFR 13.20(b)(2)).
- The payment of claims requires an accounting of eligible costs for each approved large project (44 CFR 206.205(b)(1)).
- Accounting records must be supported by source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, and contract documents (44 CFR 13.20(b)(6)).
- Reimbursement for ownership and operation costs of applicant-owned equipment used to perform eligible work shall be provided according to rates established under state or local guidelines or the FEMA Schedule of Equipment Rates [certain restrictions apply to determine which rate to use] (44 CFR 206.228(a)(1)).
- Costs for use of automobiles and pick-up trucks may be reimbursed on the basis of mileage. For all other types of equipment, costs are reimbursed using an hourly rate. Equipment rates typically include operation [includes fuel], insurance, depreciation, and maintenance; however, they do not include the labor of the operator. Standby time for equipment is not eligible (FEMA's *Public Assistance Guide* (FEMA 322, October 1999, p.37)).

EXHIBIT C

Amounts Expended and Questioned
Louisiana Department of Agriculture and Forestry
FEMA Disaster Numbers 1603 and 1607-DR-LA

Amounts Expended	Amounts Questioned			Notes
	Ineligible	Unsupported	Totals	1
PW 150				
$ 522,497	$522,497			2
53,658	53,658			3
24,000	24,000			4
4,874	4,874			5
5,026,004	0	$5,026,004		6
$5,631,033	$605,029	$5,026,004	$ 5,631,033	
PW 109				
$ 199,909	$199,909			7
47,400	47,400			4
6,000	6,000			8
4,436,759	0	$4,436,759		9
$4,690,068	$253,309	$4,436,759	$ 4,690,068	
PWs 150 & 109				
$10,321,101	$858,338	$9,462,763	$10,321,101	

Notes:

1. Costs questioned as ineligible include those for fuel (or costs associated with that fuel) dispensed to ineligible recipients; fuel or associated costs used for ineligible items of work; and duplicated costs (costs claimed more than once or funded through more than one source). Costs questioned as unsupported are those without sufficient documentation to determine eligibility. If LDAF provides additional documentation, FEMA or the grantee (GOHSEP) may determine that unsupported costs are eligible or ineligible.
2. These costs are for fuel dispensed to dairy farmers, who were not eligible to receive FEMA assistance, to operate generators for their dairy operations.

Amounts Expended and Questioned
Louisiana Department of Agriculture and Forestry
FEMA Disaster Numbers 1603 and 1607-DR-LA

3. A vendor charged $53,658 for 22,652 gallons of fuel that was not delivered. The vendor told us he could not make the deliveries on the date the fuel was requested so he retained it for future deliveries; however, he never delivered the fuel.
4. A vendor made two to three deliveries per day using the same equipment, but billed 24 hours for each delivery, which resulted in charges of 48, and sometimes 72, hours per day. Because LDAF could not provide documentation showing actual delivery times or contractual arrangements, we question $24,000 for Katrina and $47,400 for Rita as unreasonable (and, therefore, ineligible) for hourly equipment charges that exceeded 24 hours per day.
5. LDAF paid $4,874 for interest charged by a vendor for late payments. The vendor has since refunded the amount to LDAF.
6. This amount is the balance of costs expended under PW 150. These fuel costs and other expenses are unsupported because LDAF's records did not provide evidence that the recipients used the fuel for eligible, disaster-related work; and, in most cases, did not identify the recipient of the fuel. If LDAF subsequently provides evidence that a recipient who was eligible used fuel for eligible work, the grantee (GOHSEP) should ensure that the applicant was not reimbursed for the same fuel through its claim for vehicles or equipment.
7. LDAF delivered 87,739 gallons of fuel costing $199,909 to a convenience store designated as a refueling point for evacuation vehicles. LDAF was supposed to bill the store for all fuel delivered so the store could also sell fuel for non-emergency vehicles. After we informed LDAF that it had not invoiced the vendor, LDAF billed the vendor and collected the funds.
8. LDAF overpaid a vendor approximately $6,000 when the vendor billed for delivery services using incorrect hourly rates.
9. This amount is the balance of costs expended under PW 109. These fuel costs and other expenses are unsupported for the same reasons cited in note 6 above for PW 150.