



Homeland Security

May 3, 2011

MEMORANDUM FOR: Major P. (Phil) May, Regional Administrator
FEMA Region IV

FROM: C. David Kimble, Director
Eastern Regional Office

SUBJECT: *Florida International University*
Public Assistance Identification Number 086-UI2NW-00
FEMA Disaster Numbers 1602 and 1609-DR-FL
Report Number DA-11-17

We audited public assistance funds awarded to Florida International University (University). The audit objective was to determine whether the University accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

As of September 30, 2010, the cut-off date of our review, the University had received public assistance awards totaling \$10.8 million from the Florida Division of Emergency Management¹ (FDEM), a FEMA grantee, for damages related to Hurricanes Katrina and Wilma. The awards provided 100% FEMA funding for emergency protective measures, debris removal activities, and repairs to roads and facilities. The specifics for each disaster are presented in the table below.

| Disaster | Disaster No. | Date of Disaster (Month/Year) | Amount Awarded (Millions) | Large Projects ² Awarded | Small Projects Awarded | Federal Funds Received (Million) |
|-------------------|--------------|-------------------------------|---------------------------|-------------------------------------|------------------------|----------------------------------|
| Hurricane Katrina | 1602 | August 2005 | \$ 0.9 | 2 | 30 | \$1.0 |
| Hurricane Wilma | 1609 | October 2005 | 9.9 | 12 | 3 | 8.9 |
| Total | | | \$10.8 | | | \$9.9 |

We reviewed costs totaling \$9.4 million under the two disasters, which consisted of \$689,987 under Hurricane Katrina and \$8.7 million under Hurricane Wilma (see Exhibit). The audit covered the period August 24, 2005, to September 30, 2010, during which the University received \$7.4 million of

¹ The Florida Division of Emergency Management is administratively housed within the Florida Department of Community Affairs.

² Federal regulations in effect at the time of the disasters set the large project threshold at \$55,500 for Hurricane Katrina and \$57,500 for Hurricane Wilma.

FEMA funds under the projects included in our audit scope. At the time of our audit, the projects were in various stages of completion and the University had not submitted final claims to FDEM for project expenditures.

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

BACKGROUND

Florida International University, with a student body of more than 44,000, is a public university in the state of Florida located in Miami-Dade County. It has two major campuses: Modesto A. Maidique Campus in western Miami-Dade County and Biscayne Bay Campus in North Miami.

RESULTS OF AUDIT

The University accounted for FEMA funds on a project-by-project basis according to federal regulations for large projects. However, the University did not always comply with FEMA guidelines when awarding contracts for debris removal activities. Also, we question \$927,446 (federal share \$927,446) of costs covered by insurance.

Finding A: Contracting Procedures

According to 2 CFR Part 215, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, the type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) to acquire goods and services shall be determined by the grant recipient, but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved (2 CFR 215.44(c)). For debris removal activities, FEMA has determined that time-and-material contracting is an appropriate method for emergency debris clearance, but that unit price or lump sum contracts should be used after 70 hours of actual emergency debris clearance has been reached (FEMA 325, April 1999, p.28). On occasion, time-and-material contracts may be extended for a short period when absolutely necessary; for example, until appropriate unit price contracts have

been prepared and executed. The use of time-and-material contracting is restricted because it does not encourage effective cost controls by the contractor.

The University claimed \$1.2 million of time-and-material contract costs for debris removal activities (\$609,765 under Project 265 and \$570,436 under Project 6142). The time-and-material work, which was performed under a competitively bid pre-disaster grounds maintenance contract, continued beyond the 70-hour limit determined to be acceptable by FEMA (52 days for Hurricane Katrina and 57 days for Hurricane Wilma). During its review of project costs, FEMA concluded the contract costs were reasonable by first applying a cubic yard conversion factor to estimated debris quantities mulched by the contractors and then calculating a per cubic yard price for each disaster. FEMA then compared the cubic yard rates to those paid by neighboring communities for similar work to arrive at its conclusion. However, the costs may have been lower had the University negotiated a unit price rate after 70-hours of actual emergency debris clearance had passed.

University officials said that the costs claimed for the contract work, albeit through a time-and-material type contract, were based on bona-fide paid invoices for actual work performed. They also said they believed the costs were fair and reasonable considering the emergency situation they faced in the aftermath of the disaster.

Finding B: Costs Covered by Insurance

The University's claims under Hurricane Katrina and Wilma included \$927,446 of charges for repairs to buildings such as roofing, light fixtures, doors, air conditioning equipment, etc. that were covered by insurance. Section 312 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, prohibits the receipt of public assistance funds with respect to any part of such loss as to which it received assistance from insurance. As such, grant recipients are responsible for pursuing full insurance recoveries and crediting FEMA projects with insurance proceeds that apply to such projects.

In February 2007, the University received \$927,446 of insurance proceeds from the Florida Department of Financial Services, Division of Risk Management, to cover damages resulting from Hurricanes Katrina (14 projects) and Wilma (25 projects). The payment included this statement:

“As specified in the Addendum to the Proof of Loss issued with this payment, when the first FEMA funds associated with this loss are received, please reimburse the Division of Risk Management for this payment”.

On November 12, 2008, as instructed, the University reimbursed the Florida Department of Financial Services \$997,898 of FEMA funds received under several projects. We question the \$927,446 of costs under the projects that were covered by insurance proceeds. At the conclusion of our fieldwork, we did not have sufficient information to quantify the amount of repair costs to be credited to each FEMA project. Therefore, FEMA, along with the Florida Department of Community Affairs, should carefully review the University's insurance policies and records and credit the FEMA projects for the appropriate amount.

University officials said that they followed the directions provided by the Florida Division of Risk Management and that this finding represents an administrative issue that needs to be addressed by the Florida Division of Emergency Management and FEMA.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Instruct the University to comply with FEMA debris removal guidance, which reflect the best interest of the Public Assistance program, when contracting for debris removal work under FEMA awards (Finding A).

Recommendation #2: Disallow \$927,446 (federal share \$927,446) of costs covered by insurance, which are ineligible for FEMA funding (Finding B).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the audit results with University, FDEM, and FEMA officials during our audit. We also provided written summaries of our findings and recommendations in advance to these officials and discussed them at an exit conference held on December 10, 2010. Their comments, where appropriate, have been incorporated into the body of this report.

Please advise me by August 2, 2011, of actions taken or planned to implement our recommendations, including target completion dates for any planned actions. To promote transparency, this final report and your response to this report, including your corrective actions planned, will be posted to our website, with exception of sensitive information identified by your office. Should you have questions concerning this report, please contact me at (404) 832-6702. Key contributors to this report were Modupe Akinsika, Salvador Maldonado-Avila, and Jerry Aubin.

cc: Mary Lynne Miller, Deputy Regional Administrator
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EXHIBIT

Florida International University
FEMA Disasters 1602 and 1609 DR-FL
Schedule of Amount Awarded, Claimed, and Questioned
August 24, 2010, through September 30, 2010

| Project Number | Amount Awarded | Amount Claimed | Amount Questioned |
|------------------------------|--------------------|--------------------|-------------------|
| <i>Hurricane Katrina</i> | | | |
| 265 | \$609,765 | \$609,765 | |
| 917 | 80,222 | 80,222 | |
| Insurance (various projects) | | | \$86,114 |
| <i>Hurricane Wilma</i> | | | |
| 6142 | \$ 570,436 | \$570,436 | |
| 7702 | 536,319 | 536,319 | 0 |
| 7703 | 118,101 | 118,101 | 0 |
| 2081 | 732,629 | 732,629 | 0 |
| 2134 | 258,504 | 258,504 | 0 |
| 5744 | 5,627,277 | 5,627,277 | 0 |
| 7589 | 917,513 | 917,513 | 0 |
| Insurance (various projects) | | | \$841,032 |
| Total | \$9,450,766 | \$9,450,766 | \$927,446 |