



Homeland Security

December 15, 2009

MEMORANDUM FOR: Dennis Kizziah, Director
FEMA Mississippi Recovery Office

FROM: C. David Kimble, Director
Eastern Regional Office

SUBJECT: *City of Biloxi, Mississippi*
FIPS Code: 047-06220-00
FEMA Disaster No. 1604-DR-MS
Report No. DA-10-03

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

As of March 12, 2009, the cut-off date of our review, the City had received a public assistance award of \$489 million from the Mississippi Emergency Management Agency (MEMA), a FEMA grantee, for damages related to Hurricane Katrina. The award provided 100% FEMA funding for debris removal, emergency protective measures, repairs to buildings and equipment, and other disaster-related activities. The award included 125 large projects and 172 small projects.¹

Our audit focused primarily on \$55.2 million claimed under 6 large projects identified in the table below.

Project Number	Amount Awarded	Amount Claimed
16	\$42,751,105	\$ 42,751,105
1716	5,198,797	1,312,104
2885	7,511,516	3,395,902
7025	8,292,951	6,375,417
8312	1,226,101	1,226,101
10604	811,749	128,913
Total	\$65,792,219	\$55,189,543

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

We also reviewed other projects for potential ineligible force account labor costs claimed. Those projects are identified under Finding B.

The audit covered the period August 29, 2005, to March 12, 2009. During this period, the City received \$55.7 million of FEMA funds under the 6 large 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 judgmentally selected project cost documentation (generally based on dollar value); interviewed City, MEMA, and FEMA personnel; reviewed the City's disaster grant accounting system 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 City'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 the City's grant accounting system and its policies and procedures for administering activities provided for under the FEMA award.

RESULTS OF AUDIT

The City accounted for large project expenditures on a project-by-project basis as required by federal regulations. However, the City received a \$490,317 overpayment of FEMA funds from MEMA. In addition, the City's claim included \$224,466 of force account labor costs that were ineligible for FEMA reimbursement.

A. Project Funding. According to 44 CFR 206.203(c)(1), federal funding for large projects shall equal the federal share (100% in this particular case) of the actual eligible costs documented by a grantee. FEMA's *Public Assistance Guide* (FEMA 322, October 1999) also states that large projects are funded on documented actual eligible costs submitted by the subgrantee to the grantee. The City received \$43,241,422 in FEMA funds for Project 16 for debris removal and disposal. However, final project costs claimed by the City and approved by FEMA for closeout were \$42,751,105, or \$490,317 less than the funding received. As a result, the City received an overpayment of \$490,317.

We notified City officials of this overpayment during our fieldwork and they said they were not aware of the process for returning funds to MEMA. At the exit conference, the City and MEMA agreed to work together to start the process of repaying the \$490,317.

B. Labor Charges. On June 10, 2005, the City adopted Ordinance 2016, which implemented a compensation policy of an emergency work premium of one-half the normal base hourly rate for all hours worked by "essential" employees during a designated emergency period, whether classified as exempt or non-exempt. Due to Hurricane Katrina, the City passed a resolution declaring a state of emergency on August 25, 2005, enabling the mayor to do all things reasonable and necessary for the welfare of the citizens of Biloxi. From August 28, 2005, to September 1, 2005, the City shut down its normal operations and placed all City employees on

administrative leave. However, essential and some nonessential personnel were called back and required to work during this period. In accordance with its compensation policy (Ordinance 2016), the City paid the called back employees an emergency work premium for all hours worked and charged such costs to the FEMA award, which included \$224,466 related to regular-time hours.

According to 44 CFR 206.228(a)(4) and FEMA Policy 9525.7(7)(A), the cost of straight-time salaries and benefits of an applicant’s permanently employed personnel are not eligible in calculating the cost of eligible emergency work. Therefore, we question the \$224,466 of premium pay claimed for regular-time hours worked by City personnel. The affected projects and related questioned costs are identified in the following table.

Project	Department	Total Labor Costs Claimed	Premium Labor Costs Claimed (Regular-Time)
8312	Police	\$989,581	\$106,609
8328	Fire	487,609	92,869
8371	Administrative & Community Development	41,180	2,579
8518	Parks & Recreation / Port Commission	71,002	3,649
10641	Public Works	298,374	18,760
Total		\$1,887,745	\$224,466

City officials did not concur with our finding and said the premium pay should be considered an extraordinary cost, not part of regular or straight-time salary cost. However, we disagree. The premium pay represents compensation for regular-time hours worked by permanently employed city personnel, which is a cost that is prohibited by federal regulation in calculating eligible costs of emergency work.

RECOMMENDATIONS

We recommend that the Director, Mississippi Recovery Office, in coordination with MEMA:

Recommendation #1. Instruct the City to reimburse the overpayment of \$490,317 to the MEMA.

Recommendation #2. Disallow the questioned costs of \$224,466.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

The audit results were discussed with City, FEMA, and MEMA officials on September 29, 2009. Comments provided by City officials, where appropriate, are included in the body of this report.

Please advise me by February 12, 2010, of the actions planned or taken to implement the recommendations contained in this report. Should you have any questions concerning this report, please call me at (404) 832-6702, or Larry Arnold, Audit Manager, at (228) 385-1717. Key contributors to this assignment were Larry Arnold, J. Hugh Dixon, Sharonda Toney, and Mary James.

cc: Regional Administrator, FEMA Region IV
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA Mississippi Transitional Recovery Office
Audit Liaison, FEMA

City of Biloxi, Mississippi
FEMA Disaster No. 1604-DR-MS
Schedule of Funds Put to Better Use and Questioned Costs
August 29, 2005, through March 12, 2009

Project Number	Funds Put To Better Use	Amount Questioned
16	\$490,317	\$0
1716	0	0
2885	0	0
7025	0	0
8312	0	106,609
8328	0	92,869
8371	0	2,579
8518	0	3,649
10604	0	0
10641	0	18,760
Total	\$490,317	\$224,466