

Department of Homeland Security **Office of Inspector General**

FEMA Public Assistance Grant Funds Awarded to
South Florida Water Management District Under
Hurricane Frances






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AUG 27 2012

MEMORANDUM FOR: Major P. (Phil) May
Regional Administrator, Region IV
Federal Emergency Management Agency

FROM: 
D. Michael Beard
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *FEMA Public Assistance Grant Funds Awarded to
South Florida Water Management District Under
Hurricane Frances*
FEMA Disaster Number 1545-DR-FL
Audit Report Number DA-12-26

We audited Public Assistance (PA) grant funds awarded to the South Florida Water Management District (District) (FIPS Code 000-U03C1-00). Our audit objective was to determine whether the District accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

As of November 10, 2011, the District had received a PA award of \$13.4 million from the Florida Division of Emergency Management (State), a FEMA grantee, for damages resulting from Hurricane Frances, which occurred in September 2004. The award provided 100 percent FEMA funding for the first 72 hours of emergency protective measures and debris removal activities, and 90 percent funding thereafter for these activities. The award also provided 90 percent FEMA funding for permanent repairs to buildings, roads, and flood control facilities. The award included 17 large and 34 small projects.¹

We audited 16 large projects and 18 small projects with awards totaling \$13.2 million (see Exhibit A, Schedule of Projects Audited). The audit covered the period September 4, 2004, to November 10, 2011, during which the District submitted claims totaling \$13.4 million. At the time of our audit, the District had completed work on all large projects and had submitted final claims to the State for large project expenditures.

¹ Federal regulations in effect at the time of Hurricane Frances set the large project threshold at \$54,100.



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We conducted this performance audit between October 2011 and June 2012 pursuant to 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 upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We judgmentally selected project costs (generally based on dollar value); interviewed District, State, and FEMA personnel; reviewed the District's procurement policies and procedures; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances to accomplish our audit objective. We did not assess the adequacy of the District's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective. However, we gained an understanding of the District's method of accounting for disaster-related costs and its policies and procedures for administering activities provided for under the FEMA award.

RESULTS OF AUDIT

The District did not account for project expenditures on a project-by-project basis as required by Federal regulations. We also determined that the District was awarded \$10,002,344 for repairs to flood control facilities that were ineligible for FEMA assistance, which should be deobligated and put to better use. In addition, the District's claim included \$185,359 of questioned costs that should be disallowed. This consisted of \$88,351 of ineligible small project costs, \$61,462 of excess equipment costs, \$20,086 of ineligible repair costs, and \$15,460 of unreasonable labor costs.

Finding A: Project Accounting

The District did not account for large projects on a project-by-project basis. According to 44 CFR 13.20(a)(2), fiscal control and accounting procedures of a state and its subgrantees must be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Further, 44 CFR 206.205(b) requires that large project expenditures be accounted for on a project-by-project basis.

The District commingled disaster-related receipt and expenditure transactions with nondisaster transactions in its general account, with no separate accounting establishing project balances, receipts, or expenditures. As a result, total costs claimed for individual



projects could not be readily identified and traced to supporting documentation without direct assistance from District officials.

District Response. District officials generally disagreed with this finding, saying that they had purchase orders, invoices, and the like for the costs claimed. They also said that they now have a system in place to capture grant costs as required by Federal regulations and FEMA guidelines.

OIG Response. Although the District may have had accounting records for project costs, it did not establish a separate accounting of costs for each project. As described in the finding, we could not trace specific project costs to supporting documentation without direct assistance from District officials.

Finding B: Ineligible Project Funding

The District received \$10,002,344 of project funding for permanent repairs to flood control facilities (canals, levees, locks and dams, etc.) that were not eligible for FEMA public assistance. The facilities are under the U.S. Army Corps of Engineers' (Corps) Rehabilitation Inspection Program (RIP). The Corps requires that the District maintain the facilities and determines when funding is necessary for repairs to facilities damaged by floods, hurricanes, or storms. Federal regulations prohibit FEMA funding for facilities that are covered under this program. Therefore, we question the \$10,002,344, as shown in table 1.

Federal regulation 44 CFR 206.226(a) states that generally disaster assistance will not be made available under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, when another Federal agency has specific authority to restore facilities damaged or destroyed by an event that is declared a major disaster. In addition, FEMA's *Public Assistance Guide* (FEMA 322, October 1999, pages 55–56) states that federally funded flood control works are not eligible for FEMA funding. Finally, FEMA Policy 9524.3 (Rehabilitation Assistance for Levees and Other Flood Control Works, September 1996) prohibits emergency and permanent repairs to flood control facilities under the RIP.

District officials said that, on the advice of FEMA officials, they sought funding from the Corps for damages to the flood control facilities after the disaster occurred in September 2004. According to District officials, the Corps denied the request because there was no evidence of debris or siltation that decreased the channel's hydraulic capacity to 75 percent or less of pre-flood capacity. For two of the canals (C-23 and C-24), District officials provided a denial letter from the Corps, dated February 2005. Further, District officials said that FEMA advised them to apply for PA funding after being denied



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funding from the Corps. However, neither the District nor the Corps could provide us with the denial notifications regarding any other flood control facilities.

Table 1. Ineligible Project Funding for Flood Control Facilities

Project Number	Work Location	Amount Awarded
Large Projects:		
1444	Structure S-193 Locks and Dams - Lump sum contract	\$90,907
3345	Canal C-18 erosion repairs	2,290,000
3347	Station 2, Cell 3 Levees - Lump sum contract	216,000
3350	Station 1W, Cell 4 & 5 Levees - Lump sum contract	226,000
3918	Canal C-51 - Lump sum contract	329,600
5947	Canal C-17 - Cut and repair banks	378,566
6836	Canal C-24 West End - Lump sum contract	728,000
6852	Canal C-23	3,690,510
6888	L-64 & L-65 - Lump sum contract	596,450
6957	Canal C-25 - Lump sum contract	649,542
7241	Canal L-62 - Lump sum contract	134,420
7243	Canal C-59	209,898
7258	S-50 Control Structure - Time and material contract	72,230
8438	Canals L-63S & L63N	279,102
Small Projects:		
7252	S-49 Control Structure Area repairs	54,080
9190	S-65D Locks and Dam Area erosion repairs	12,808
9191	S-65E Locks and Dam Area erosion repairs	32,664
9192	S-65C Locks and Dam Area erosion repairs	11,567
Total		\$10,002,344

On October 17, 2011 (the week before the start of our audit), FEMA Region IV officials notified the District that the permanent repair projects were ineligible for FEMA funding. However, instead of deobligating the funds at that time, FEMA requested that we perform an independent analysis on the eligibility of the projects.

District Response. The District disagreed with the finding, saying that the regulations do not specifically prohibit FEMA funding.

OIG Response. We disagree with the District. Both FEMA policy and Federal regulation describe specific costs for activities that are not eligible for FEMA funding. The types of costs we are questioning pertain to repairs that FEMA policy and guidelines clearly state are ineligible for FEMA assistance.



Finding C: Small Project Funding

The District received \$88,351 of ineligible FEMA funding for repairs to damaged facilities under small projects. The funding was ineligible because either (1) the scope of work had not been completed or (2) the damaged facilities were inactive at the time of the disaster. Federal regulation 44 CFR 206.205(a) states that work under small projects must be completed and that failure to complete the work may require that the Federal payment be refunded. In addition, FEMA *Public Assistance Guide* (FEMA 322, October 1999, page 20) states that a facility must be in active use at the time of the disaster and that inactive facilities (facilities not being used at the time of the disaster) typically are not eligible. Therefore, we question the \$88,351, as shown in table 2.

Table 2. Small Project Funding – Work Not Completed and Inactive Facilities

Project Number	Damaged Facility / Description	Amount Questioned
Active Facilities – Work Not Completed:		
6817	Dupuis Reserve - Shed #3 metal roofing	\$3,416
6819	Dupuis Reserve - Shed #1 metal roofing	6,457
Inactive Facilities – Work Completed:		
9123	Lockett Estate site - Pump house, boathouse, and front yard items (a portion of this project was not completed; see below)	395
9135	Lockett Estate site - Main house and garage	11,489
9143	Lockett Estate site - Barn and associated buildings repairs	1,568
Inactive Facilities – Work Not Completed:		
9122	Lockett Estate site - Picnic pavilion roof repairs	13,102
9123	Lockett Estate site - Gazebo	1,850
9136	Lockett Estate site - Servant’s house, outbuilding, and grass huts repairs	7,351
9166	Lockett Estate site – Caretaker’s Trailer repairs - Exterior and interior damages	19,723
6803	Allapattah Ranch - Pole barn	23,000
	Total	\$ 88,351

District officials said that the projects were not completed because of competing priorities. They also said that the inactive facilities were on land that is flooded periodically for flood control purposes. Further, they disagreed that the Allapattah Ranch (Project 6803) was an inactive facility. They said it was under lease and active at the time of the disaster, but could not provide us with documentation to validate either of their assertions.



Finding D: Excess Equipment Costs

Under Projects 9338 and 9329, the District overstated its claim for generator use at two water control facilities by \$61,462. This occurred because of an error made when applying the FEMA Schedule of Equipment rate. The District inadvertently applied a rate of \$266 per hour for the generators. However, the actual hourly FEMA rate for the kilowatt capacity of the generators was \$226. Federal regulation 44 CFR 206.228 (a)(1) states that equipment rates used by the subgrantee for use of its own equipment must not exceed FEMA’s established guidelines on eligible equipment rates. Using the equipment rate hourly difference of \$40, we question the \$61,462 of excessive costs, as shown in table 3.

Table 3. Ineligible Equipment Costs

Project	Water Control Facility	Hours Claimed	Excess Hourly Charge	Questioned Costs
9338	G372	989.50	\$40.00	\$39,580
9338	S9	367.72	40.00	14,709
9329	G372	113.00	40.00	4,520
9329	S9	66.33	40.00	2,653
Total				\$61,462

Finding E: Ineligible Costs for Leased Property

The District’s claim included \$20,086 for repairs to the Sunrise Groves facility, for which it was not legally responsible. Federal regulation 44 CFR 206.223(a)(3) requires that an item of work be the legal responsibility of the applicant to be eligible for FEMA assistance.

At the time of the disaster, the Sunrise Groves facility was leased to a third party. As part of the lease agreement, the lessee was required to maintain casualty insurance on the property. The agreement also required the lessee to repair any damages to the property. Therefore, as shown in table 4, we question the \$20,086 of costs claimed for repairs that were not the legal responsibility of the District.

District officials said that the cost of the repairs was most likely claimed because the individual who wrote the project worksheets was not familiar with the insurance and repair provisions in the lease agreement for the facility.



Table 4: Ineligible Leased Property

Project Number	Sunrise Groves Description of Damages	Questioned Cost
9120	Pump Station roof repairs and two pump engines	\$ 6,120
9124	Fuel Tank roof repairs	1,781
9125	Equipment Shed roof repairs	1,761
9126	Main Steel Garage building repairs	8,819
9127	Back Garage shop and Caretaker's House repairs	1,605
Total		\$20,086

Finding F: Unreasonable Labor Costs

The District's claim under Project 9338 included \$15,460 of unreasonable force account labor and fringe benefits charges. The District claimed a number of employees as having worked 22.5 to 24 hours each day for several consecutive days. It is not reasonable for a person to work so many hours for several consecutive days without an extended rest period. Furthermore, the District claimed one employee as working 27.5 hours in 1 day. According to 2 CFR Part 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, *General Principles for Determining Allowable Costs*,² costs under Federal awards must be both reasonable and necessary. Further, FEMA policy recognizes the need for a standard, reasonable amount of force account labor hours. The year after this disaster, FEMA issued a revision to section VII.H of its Recovery Policy 9525.7, *Labor Costs - Emergency Work*.³ The revision states,

Reimbursement of labor costs for employees performing emergency work is limited to actual time worked, even when the applicant is contractually obligated to pay for 24 hour shifts. It is not reasonable for a person to work more than 48 hours continuously without an extended rest period. Therefore, FEMA will reimburse up to 24 hours for each of the first two days, and up to 16 hours for each of the following days for emergency work. All requested hours must be for actual time worked.

Therefore, after the first 2 days of emergency work, we adjusted all of the employees' eligible work hours to 16 hours per day (8 regular hours and 8 overtime hours), which resulted in questioned costs of \$15,460 (\$13,101 labor and \$2,359 fringe benefits).

² OMB Circular A-87, in effect at the time of the disaster, was relocated to 2 CFR Part 225, on August 31, 2005.

³ Although the revised FEMA Policy 9525.7 was not in effect at the time of the disaster, we referred to this policy to establish a reasonable number of daily work hours.



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District officials said that they were not aware of any limitations on claims for labor hours. The District's policy is to pay for overtime hours worked during an emergency, and it does not limit the amount of overtime. The policy states that an employee's hours of work include all meals, breaks, and sleep time if the employee is required to remain on duty during the emergency. Although the District pays its employees based on District policies, FEMA policies limit reimbursement for eligible labor costs.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Instruct the State to reemphasize to the District its need to account for FEMA project expenditures on a project-by-project basis as required by Federal regulations (44 CFR 206.205(b) and 44 CFR 13.20(a)(2)) (finding A).

Recommendation #2: Deobligate and put to better use \$10,002,344 (Federal share \$9,002,110) of ineligible project funding awarded under the flood control projects (finding B).

Recommendation #3: Disallow \$88,351 (Federal share \$79,516) of costs claimed under the small projects for work not completed and for inactive facilities (finding C).

Recommendation #4: Disallow \$54,289 (Federal share \$48,860) of excess equipment costs claimed under Project 9338 and \$7,173 (Federal Share \$7,173) under Project 9329 (finding D).

Recommendation #5: Disallow \$20,086 (Federal share \$18,077) of ineligible costs claimed for damages that were not the legal responsibility of the District (finding E).

Recommendation #6: Disallow \$15,460 (Federal share \$13,914) of unreasonable labor costs claimed under Project 9338 (finding F).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with District, State, and FEMA officials during our fieldwork. We also provided a draft report in advance to these officials and discussed it at the exit conference held on June 27, 2012. District officials agreed with findings D, E,



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and F, and partially agreed with finding C. However, District officials did not agree with findings A and B. Their comments, where appropriate, are included in the body of the report. FEMA and State officials withheld comments pending the receipt of the final report.

Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report were David Kimble, Eastern Region Audit Director; Felipe Pubillones, Audit Manager; Helen White, Auditor-in-charge, Angelica Esquerdo, Program Analyst; and Larry Jones, Auditor.

Please call me with any questions, or your staff may contact David Kimble, Eastern Region Audit Director, at (404) 832-6702.



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EXHIBIT A

Schedule of Projects Audited
September 4, 2004, to November 10, 2011
South Florida Water Management District, FL
FEMA Disaster Number 1545-DR-FL

Project Number	Amount Awarded	Amount Questioned	Funds Put to Better Use	Federal Share	Finding
1444	\$ 90,907		\$ 90,907	\$81,816	B
3345	2,290,000		2,290,000	2,061,000	B
3347	216,000		216,000	194,400	B
3350	226,000		226,000	203,400	B
3918	329,600		329,600	296,640	B
5947	378,566		378,566	340,710	B
6803	23,000	\$ 23,000		20,700	C
6817	3,416	3,416		3,074	C
6819	6,457	6,457		\$5,811	C
6836	728,000		728,000	655,200	B
6852	3,690,510		3,690,510	3,321,459	B
6888	596,450		596,450	536,805	B
6957	649,542		649,542	584,588	B
7241	134,420		134,420	120,978	B
7243	209,898		209,898	188,908	B
7252	54,080		54,080	48,672	B
7258	72,230		72,230	65,007	B
8438	279,102		279,102	251,192	B
9120	6,120	6,120		\$5,508	E
9122	13,102	13,102		11,792	C
9123	2,245	2,245		2,021	C
9124	1,781	1,781		1,603	E
9125	1,761	1,761		1,585	E
9126	8,819	8,819		7,937	E
9127	1,605	1,605		1,444	E
9135	11,489	11,489		10,340	C
9136	7,351	7,351		6,616	C
9143	1,568	1,568		1,411	C
9166	19,723	19,723		17,751	C
9190	12,808		12,808	11,527	B
9191	32,664		32,664	29,398	B
9192	11,567		11,567	10,410	B
9329	333,332	7,173		7,173	D
9338	2,753,924	69,749		62,774	D, F
Total	\$13,198,038	\$185,359	\$10,002,344	\$9,169,650	



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EXHIBIT B

Report Distribution List
South Florida Water Management District, FL
FEMA Disaster Number 1545-DR-FL

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Secretary
Chief Financial Officer
Under Secretary for Management
Audit Liaison, DHS
Acting Chief Privacy Officer

Federal Emergency Management Agency

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Director, Risk Management and Compliance
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA (Job Code G-12-002)

Grantee

Executive Director, Florida Division of Emergency Management

State

Deputy Inspector General, Florida Division of Emergency Management

Subgrantee

Finance Bureau Chief, South Florida Water Management District

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