



# Homeland Security

July 1, 2009

MEMORANDUM FOR: Benjamin A. (Alec) Watson, Acting Director  
FEMA Mississippi Transitional Recovery Office

FROM: C. David Kimble, Director *C. David Kimble*  
Eastern Regional Office

SUBJECT: *Hurricane Katrina Activities for Pass Christian Public School District*  
Public Assistance Identification Number: 047-00FAD-00  
FEMA Disaster No. 1604-DR-MS  
Report No. DA-09-19

We performed an audit of disaster costs associated with Hurricane Katrina activities for Pass Christian Public School District (District) located in Pass Christian, Mississippi. The objective of the audit was to determine whether the District accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

As of February 6, 2008, the cut-off date of our review, the District had received an award of \$42.6 million from the Mississippi Emergency Management Agency (MEMA), a FEMA grantee, for debris removal, emergency protective measures, repairs to buildings and equipment, and other disaster-related activities. The award provided 100% FEMA funding for 48 large projects and 48 small projects.<sup>1</sup> Our audit focused primarily on \$8.6 million awarded under 5 large projects identified in the table below.

Project Number	Amount Awarded	Amount Claimed
1613	\$ 328,186	\$ 328,186
3395	3,965,484	2,769,816
8151	231,600	205,487
8167	2,969,757	2,969,757
8202	1,057,270	1,057,270
Total	\$8,552,297	\$7,330,516

We also reviewed other projects for potential duplication of benefits from other sources. Those projects and related duplication of benefits identified during our review can be found in Finding B. The audit covered the period August 29, 2005, to February 6, 2008. During this period, the District received \$7.3 million of FEMA funds under the 5 large projects.

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

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 samples of project cost documentation (generally based on dollar value); interviewed District, MEMA, and FEMA personnel; reviewed the District'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 District'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 District's grant accounting system and its policies and procedures for administering activities provided for under the FEMA award.

## RESULTS OF AUDIT

The District's accounting system did not provide a means to readily trace project expenditures to source documents, as required by federal regulation. In addition, the District did not always comply with federal procurement procedures. We also identified \$333,432 of questioned costs resulting from duplicate funding, an unapplied credit, and excessive contract costs.

- A. Project Accounting. According to 44 CFR 13.20(a)(2), grantees and sub-grantees must maintain accounting procedures that 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. The District maintained an Excel spreadsheet that provided a listing of project expenditures on a project-by-project basis. However, the spreadsheet was comprised of summary data only and did not provide a means to trace project expenditures to applicable source documents.

During our fieldwork, District officials began to establish a detailed system that referenced summary project cost data to applicable source documents. However, the system had not been finalized at the time of our exit conference.

- B. Duplication of Benefits. The District received \$16.7 million of Immediate Aid to Restart School Operations (Restart) funds from the U.S. Department of Education, which were authorized under the *Hurricane Education Recovery Act* (HERA). The HERA authorized programs to assist school districts and schools in meeting the educational needs of students displaced by Hurricanes Katrina and Rita, and to help schools closed as a result of the hurricanes to re-open as quickly and effectively as possible. Under the Restart program, funds were provided for recovery of electronic information, replacement of information systems, financial operations, replacement of instructional materials and equipment, and other school needs.

The District's claim under several projects included expenditures totaling \$112,759 for various items such as computer servers, athletic supplies, fiber voice/data installation, and port-a-lets. These expenditures were initially charged to the Restart funds provided under the HERA, but were reclassified and charged to FEMA projects after District officials became aware that FEMA funding was available for such items. We believe this violates Section 312 of the Stafford Act, which states "no such person, business concern, or other entity will receive FEMA assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source." Therefore, we question the \$112,759, as shown in the table below.

Project	Amount Questioned
5757	\$ 289
6327	65,165
7924	2,121
8016	8,644
8167	18,324
8269	8,175
8468	6,520
9526	3,521
Total	\$112,759

District officials did not concur with our position that the charges represented a duplication of benefits. They believed that Restart funding was made available to school districts as supplemental disaster funding to fill in the gaps that might not be eligible under FEMA's disaster assistance programs. While we agree that Restart funding is supplemental it should not be a duplicate of disaster funding. In addition to the duplicate benefits provision of the Stafford Act, FEMA *Public Assistance Guide* (FEMA 322, dated October 1999, page 18), states that FEMA assistance generally is not available if another agency's program can reimburse an applicant for work done by that applicant. Moreover, the guideline published by the U.S. Department of Education for the Restart program (*Uses of Funds under the Restart Program*) contains a non-supplanting provision, which calls for schools to "repay all duplicative Federal assistance received to carry out the purposes of the Restart Program."

- C. Procurement Procedures. The District did not comply with applicable federal procurement procedures when awarding contracts valued at \$4.8 million for emergency services and permanent repair work under 4 projects. We concluded that this non-compliance resulted in excess costs of \$198,946. The specifics of the contracts and related projects are shown in the following table, and the non-compliance issues and questioned costs are discussed in the ensuing paragraphs.

Project Number	Scope of Work	Type of Contract	Contract Value
1613	School Clean/Disinfect	Unit Price	\$ 328,186
8167	Temporary Classrooms/Main Contract	Cost Plus % Of Cost	2,897,729
8202	School Clean/Disinfect	Fixed Price	1,556,000
8151	Athletic Field Repairs	Time & Material	41,191
Total			\$4,823,106

1. *Monitoring.* Federal regulation 44 CFR 13.36(b)(2) states that “subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders”. However, the District did not maintain logs or reports that documented contractor activities under the four projects. For instance, Project 8167 included contract charges of \$1.1 million for dirt hauled in and graded to support an area used for temporary classrooms. However, the District maintained no monitoring documentation such as daily logs or activity reports, which were necessary for validating the contractor’s billings for work performed.
2. *Competitive Procurement Process.* Federal regulation 44 CFR 13.36(c)(1) requires that all procurement transactions be conducted in a manner providing full and open competition. However, procurements by non-competitive proposals are allowable under certain conditions, one of which is during times of public exigency or emergency (44 CFR 13.36(d)(4)(i)(b)). Under Project 8151, the District entered into a non-competitive contract for \$41,191<sup>2</sup> for repairs to a football field. District officials said that the urgency to reopen schools in a timely manner took precedence over a competitive procurement process. However, we believe the District had adequate time to use a competitive procurement process as the disaster occurred on August 29, 2005, and work did not begin until February 19, 2006, approximately six months later.
3. *Cost Analysis and Profit Negotiation.* The District awarded a non-competitive contract valued at \$328,186 under Project 1613 for school cleaning and disinfecting. The use of a non-competitive contract was justified under the circumstances. However, the District did not perform a cost analysis or negotiate profit as a separate element of the contract price, as required (44 CFR 13.36(d)(4)(ii) and 44 CFR 13.36(f)(2)).
4. *Contract Type.* Under Project 8167, the District awarded a contract valued at \$2,897,729 for temporary classrooms using the cost plus percentage of cost method of contracting, which is prohibited under 44 CFR 13.36(f)(4). Although federal regulation does not allow the use of such contracting method, we are not questioning any contract costs because our analysis showed that the costs were reasonable.
5. *Economical Approach.* The District did not choose the most economical approach when awarding a contract to clean and disinfect a high school under Project 8202. On September 14, 2005, the District received a proposal from a cleaning company with a not to exceed amount of \$1.3 million for the cleaning services. The cleaning company was already performing similar services at another one of the District’s schools. On September 19, 2005,

<sup>2</sup> While the project reviewed was for a relatively small amount, the contract under which this project was performed included multiple projects not in our sample, under a not to exceed amount of \$150,000.

the District chose to award the cleaning work to a construction company under a work order that was attached to a blanket contract.

Following these events, we noted that the construction company and the cleaning company entered into a contractual agreement on September 29, 2005. The agreement made the cleaning company a sub-contractor to the construction company for the purposes of cleaning and disinfecting the high school. Under the agreement, the cleaning company would perform the services for a not to exceed price of \$1.3 million, which was the same price the cleaning company had proposed to the District on September 14, 2005.

On October 5, 2005, the work order between the District and the construction company was amended to include a lump sum price of \$1,556,000 for the high school cleaning services. As a result of this contracting option, the District incurred \$277,946 of additional costs for the cleaning work — the difference between the construction company's lump sum price of \$1,556,000 and the cleaning company's billings to the construction company of \$1,278,054. The actions by the District violate 44 CFR 13.36(b)(4), which states that there should be appropriate analysis to determine the most economical approach when procuring goods and services.

District officials said they chose this method to allow proper monitoring of the work by the construction company. Although monitoring cost is a valid cost, the \$277,946 of markup of costs by the construction company represents 22% of the actual cost of \$1,278,054, which we believe is unreasonable for monitoring activities related to cleaning and disinfecting work. To determine reasonable monitoring costs, we reviewed costs allowed by FEMA for engineering and design services and special services under contracts. According to FEMA guidance, fees for such services under projects of average complexity amount to about 6.2% of construction costs (*Public Assistance Guide*, FEMA 322, October 1999, page 78). Therefore, we question \$198,946 of additional costs incurred under the project, which is the cost difference of \$277,946 less an estimated monitoring allowance of \$79,000 (6.2% of contract costs).

- D. Unapplied Credit. The District received a contractor refund of \$21,727 under Project 8167 as a result of calculation errors in contractual mark-up items and a small labor cost adjustment, but did not credit project costs for such refund. Federal cost principles for State, Local, and Indian Tribal Governments (U.S. Office of Management and Budget, Circular A-87, Attachment A, Section C) states that costs claimed under a federal award must be net of applicable credits. Such credits, whether accruing to or received by the governmental unit, shall be credited to the federal award either as a cost reduction or cash refund, as appropriate. Therefore, we question the \$21,727.

## RECOMMENDATIONS

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

**Recommendation #1.** Instruct the District to develop an accounting system that allows for project expenditures to be readily traced to source documents.

**Recommendation #2.** Disallow the questioned costs of \$333,432.

**Recommendation #3.** Instruct the District to comply with federal procurement regulations when acquiring goods and services under the FEMA award.

## DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

The audit results were discussed with FEMA officials on February 25, 2009, and with District officials on March 5, 2009. Comments provided by District officials, where appropriate, are included in the body of this report.

Please advise me by August 31, 2009, 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 at (228) 385-1717. Key contributors to this assignment were Larry Arnold, John Skrmetti, and Mary James.

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

Pass Christian Public School District  
Pass Christian, Mississippi  
FEMA Disaster No. 1604-DR-MS  
Schedule of Questioned Costs

<b>Project Number</b>	<b>Amount Questioned</b>
1613	\$ 0
3395	0
8151	0
8167	21,727
8202	198,946
5757	289
6327	65,165
7924	2,121
8016	8,644
8167	18,324
8269	8,175
8468	6,520
9526	3,521
Total	\$333,432