

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

FEMA Should Recover \$3.5 Million of Public
Assistance Grant Funds Awarded to the
City of Gautier, Mississippi - Hurricane Katrina





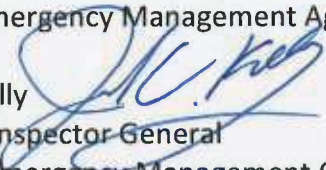
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Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

JUN 7 2013

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

FROM: John V. Kelly 
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *FEMA Should Recover \$3.5 Million of Public Assistance
Grant Funds Awarded to the City of Gautier, Mississippi –
Hurricane Katrina*
FEMA Disaster Number 1604-DR-MS
Audit Report Number DA-13-17

We audited Public Assistance funds awarded to the City of Gautier, Mississippi (City) (FIPS Code 059-26860-00). Our audit objective was to determine whether the City accounted for and expended Federal Emergency Management Agency (FEMA) funds according to Federal regulations and FEMA guidelines.

The City received a Public Assistance grant award of \$5.3 million from the Mississippi Emergency Management Agency (State), a FEMA grantee, for damages resulting from Hurricane Katrina, which occurred in August 2005. The award provided 100 percent FEMA funding for debris removal activities, emergency protective measures, and permanent repairs to buildings and facilities. The award consisted of 9 large projects and 22 small projects.¹

We audited four large projects with awards totaling \$4.6 million (see Exhibit, Schedule of Projects Audited). The audit covered the period from August 29, 2005, to September 26, 2012, during which the City claimed \$3.8 million in FEMA funds for the four projects. At the time of our audit, the City had not completed work on all projects and, therefore, had not submitted a final claim to the State for all project expenditures.

We conducted this performance audit between September 2012 and April 2013 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally

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



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. To conduct this audit, we applied 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 City, State, and FEMA personnel; reviewed the City'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 City'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 City'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

FEMA should recover \$3.5 million of grant funds awarded to the City. The City accounted for FEMA projects on a project-by-project basis as required by Federal regulations and FEMA guidelines. However, the City did not comply with Federal procurement requirements when awarding contracts totaling \$3,089,557 for nonemergency and permanent repair work. In addition, the City did not adequately support and ensure eligibility of claimed costs totaling \$372,858.

Finding A: Contracting Procedures

The City did not comply with Federal procurement requirements when awarding contracts valued at \$3,089,557 for nonemergency and permanent repair work. Federal procurement regulations at 44 CFR 13.36 required the City to, among other things—

- Take all necessary affirmative steps to ensure that minority firms, women's business enterprises, and labor surplus area firms are used, when possible, during the procurement process. (44 CFR 13.36(e)(1))
- Conduct all procurement transactions in a manner providing full and open competition. Noncompetitive procurement may be used under certain circumstances, one of which is when the public exigency or emergency will not permit a delay resulting from competitive solicitation. (44 CFR 13.36(c) and 44 CFR 13.36(d)(4)(i)(B))



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- Perform a cost or price analysis in connection with every procurement action, including contract modifications, to determine the reasonableness of the proposed contract price. A cost analysis is required when adequate price competition is lacking. (44 CFR 13.36(f)(1))

In addition, FEMA's *Public Assistance Guide* (FEMA 322, October 1999, p. 39) specifies that—

- Contracts must be of reasonable cost, generally must be competed, and must comply with Federal, State, and local procurement standards.

FEMA may grant exceptions to Federal procurement requirements to subgrantees on a case-by-case basis (44 CFR 13.6(c)).

We question the \$3,089,557 claimed for contract work that the City did not procure according to Federal procurement regulations and FEMA guidelines. The questioned costs are described in the following bullets:

- The City could not provide evidence that it took affirmative steps to include minority firms, women's business enterprises, and labor surplus area firms in its bid process for the permanent repair of sewer lift stations valued at \$2,390,700 (Project 1809). The City hired an engineering firm to oversee the repair of the sewer lift stations. According to City officials, the engineering firm advertised the work using the City's procurement policy. However, there was no evidence in the procurement files that minority firms, women's business enterprises, and labor surplus area firms were considered in the bid process. Therefore, we question the \$2,390,700 awarded for the contract work.
- The City did not openly compete contracts valued at \$362,772 for nonemergency debris removal work and permanent repair work. Full and open competition increases the probability of reasonable pricing from the most qualified contractors and helps discourage and prevent favoritism, collusion, fraud, waste, and abuse.

Under Project 10004, the City hired a debris removal contractor from a list of contractors it had contacted for price quotes approximately 1 month prior to the disaster instead of openly competing the work, paying the contractor \$163,253 for the contract work. Although the work was categorized as emergency work (category A), the City began work under the project in July 2006, approximately 10 months after the disaster, giving the City sufficient time to seek competitive bids for the work.



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Additionally, under Project 1809, the City obtained architectural and engineering (A/E) services valued at \$199,519 for the permanent repair of sewer lift stations from an engineering firm without competing the work. The firm had provided engineering services to the City, on occasion, prior to the disaster. We question \$362,772—\$163,253 under Project 10004 and \$199,519 under Project 1809—for contracts awarded without full and open competition.

- The City did not openly compete or perform a cost/price analysis for debris monitoring services under Project 10894 valued at \$512,665. Project 10894 authorized the removal of hazardous dead trees from the City's rights-of-way and private property. City officials hired an A/E firm to monitor the work of the debris removal contractor without openly competing the work and without performing a cost/price analysis. The City began work under the project in November 2006, approximately 14 months after the disaster, giving the City sufficient time to seek competitive bids for the debris monitoring services. Therefore, we question \$512,665 claimed for this contract work. Of the \$512,665 questioned under this finding, \$176,580 is also questioned as unsupported costs under finding B. Therefore, the net amount questioned in this finding is \$336,085.

City officials said they did not bid out the debris monitoring services because State purchasing laws, of which they abide by, do not require that professional services be competed. They also said that they believed that a cost or price analysis was not required because the contracted services were with an engineering firm. However, Federal regulations require competition for all procurement except under certain circumstances, one of which is when the public exigency or emergency will not permit a delay resulting from competitive solicitation. As discussed above, a public exigency or emergency did not exist to warrant the use of noncompetitive contracts for the contracts in question. Further, although the City hired an A/E firm for the monitoring services, this type of work is not professional A/E services. In addition, Federal regulations require that a cost or price analysis be performed for all procurement transactions, irrespective of the type of goods or services being procured.

In conclusion, City officials said that they followed the State's purchasing laws for all procurement actions. However, a subgrantee's procurement procedures must also conform to applicable Federal law and the standards. 44 CFR 13.36(b). We believe that the State should have done a better job of informing the City of Federal procurement requirements, and that the State and FEMA should have identified these improper procurement activities during their monitoring and review process. Accordingly, we question a total of \$3,089,557 for contract work that did not meet Federal procurement requirements. Table 1 identifies the questioned costs by project and scope of work.



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Table 1. Questioned Costs for Noncompliance with Federal Contracting Procedures

Project Number	Project Scope	Amount Awarded	Full and Open Competition	Full and Open Competition and Cost or Price Analysis	Minority/Women/Labor Surplus Firms	Total Amount Questioned
1809	Sewer Lift Stations Citywide	\$2,815,979	\$199,519	\$0	\$2,390,700	\$2,590,219
10894	Remove Stand Dead Trees Along with Right-of-Way and on Private Property	\$804,818	\$0	\$336,085	\$0	\$336,085
10004	Debris Removal	\$331,337	\$163,253	\$0	\$0	\$163,253
Total		\$3,952,134	\$362,772	\$336,085	\$2,390,700	\$3,089,557

Finding B: Supporting Documentation

The City did not have adequate documentation to support \$292,736 of costs claimed under Projects 796 and 10894. Cost principles at Office of Management and Budget Circular A-87, Attachment A, Section C.1.j, state that a cost must be adequately documented to be allowed under a Federal award. We question the \$292,736, as described in the following bullets.

- **Force Account Labor.** Under Project 796, the City’s claim included \$116,156 of unsupported overtime pay for finance, public works, and police department personnel. The City’s emergency policy states that essential personnel such as police, fire, finance, and public works employees who are recalled to work during emergency operations would be paid at their normal straight time pay during regular workdays. According to the policy, overtime pay for finance and public works personnel would be based on the number of hours worked outside of a regular workday in accordance with the City’s normal overtime pay policy. The policy also states that uniformed police officers are paid overtime for hours worked in excess of 168 regular hours in a 28-day work period.

The City did not maintain adequate documentation to support \$71,828 of overtime pay claimed for finance and public works personnel. Specifically, the City’s records did not indicate (1) employees who were recalled, (2) employees who worked outside of their regular hours, and (3) the types of disaster-related activities that employees performed. Therefore, we question the \$71,828 because we could not validate that the charges were eligible. According to City officials, they were unaware of the requirement to maintain documentation to support the activities performed by workers during disaster operations.



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Also, the City's claim of \$59,490 for overtime pay of uniformed police officers who performed disaster-related work was overstated by \$44,328 because the City did not comply with its emergency overtime policy when calculating the officers' pay. The City's emergency overtime policy states that police officers would be paid overtime for hours worked in excess of 168 regular hours during a 28 consecutive day work period. However, the City paid the officers overtime after working 84 hours during a 14-day work period. Therefore, we question the \$44,328.

- *Debris Removal Monitoring*. Under Project 10894, the City's claim included \$176,580 of contract labor charges for debris removal monitors that were not adequately supported by load tickets. The contractor billed the City \$331,205 for debris monitor labor hours. However, \$176,580 of the costs included labor hours billed for days in which the monitors did not issue load tickets and days in which labor hours were charged for monitors whose names did not appear on load tickets. Therefore, we question the \$176,580.

Finding C: Ineligible Project Costs

The City's claim under Project 796 included \$80,122 of costs that were ineligible and outside the project's authorized scope of work. Project 796 authorized the reimbursement of costs associated with the City's police, fire, administrative, and public works employees engaged in disaster-related emergency protective measures. However, the City's claim under the project included \$80,122 of charges for items such as computer network contract charges; equipment rental and repair costs incurred prior to the disaster; office supplies; Red Cross supplies; and gas purchases for vehicles whose costs had already been reimbursed under the FEMA Schedule of Equipment Rates, which contains a fuel allowance. Cost principles at Office of Management and Budget Circular A-87, Attachment A, Section C.1.a, state that a cost must be necessary and reasonable for proper and efficient performance and administration of Federal awards. Therefore, we question the \$80,122.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Disallow \$3,089,557 of ineligible costs claimed for contracts that were not procured in accordance with Federal requirements, unless FEMA decides to grant an exception for all or part of the costs as provided for in 44 CFR 13.6(c) and Section 705(c) of the *Robert T Stafford Disaster Relief and Emergency Assistance Act*, as amended (finding A).



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Recommendation #2: Instruct the State to remind subgrantees of their requirement to comply with Federal procurement regulations and FEMA guidelines when acquiring goods and services under the FEMA award (finding A).

Recommendation #3: Disallow \$292,736 of unsupported contract costs under Projects 796 (\$116,156) and 10894 (\$176,580), unless the City provides additional evidence to show that the costs are supported (finding B).

Recommendation #4: Disallow \$80,122 of ineligible project costs for unauthorized work under Project 796 unless the City provides additional evidence to show the costs are eligible (finding C).

Recommendation #5: Reemphasize to State and FEMA Region IV Public Assistance personnel the need to adequately review costs claimed by subgrantees for adherence to Federal regulations and FEMA guidelines (findings B and C).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with the City, State, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at the exit conference held on April 3, 2013. City officials said that they would withhold their comments on the findings and recommendations until the final report is issued.

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 will provide 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 are David Kimble, Eastern Region Audit Director; Larry Arnold, Audit Manager; Alicia Lewis, Auditor-in-charge; and Sean Forney and Katrina Griffin, Auditors.



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Please call me with any questions at (202) 254-4100, or your staff may contact David Kimble, Eastern Region Audit Director, at (404) 832-6702.



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Exhibit

Schedule of Projects Audited
August 29, 2005, to September 26, 2012
City of Gautier, Mississippi
FEMA Disaster Number 1604-DR-MS

Project Number	Category	Project Scope	Amount Awarded	Amount Claimed	Amount Questioned	Finding
796	B	Emergency Protective Measures Citywide	\$662,743	\$409,786	\$116,156	B
					\$80,122	C
1809	F	Sewage Lift Stations Citywide	\$2,815,979	\$2,273,388	\$2,590,219	A
10894	A	Remove Stand Dead Trees Along with Right-of-Way and on Private Property	\$804,818	\$804,818	\$336,085	A
					\$176,580	B
10004	A	Debris Removal	\$331,337	\$331,337	\$163,253	A
Totals			\$4,614,877	\$3,819,329	\$3,462,415	



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