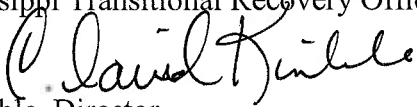




Homeland  
Security

August 6, 2008

MEMORANDUM FOR: Alec Watson, Acting Director  
FEMA Mississippi Transitional Recovery Office

FROM:   
C. David Kimble, Director  
Eastern Regional Office

SUBJECT: *Hurricane Katrina Disaster Costs for Hancock County  
Port and Harbor Commission*  
Public Assistance Identification Number: 045-03123-00  
FEMA Disaster No. 1604-DR-MS  
Audit Report No. DA-08-09

We performed an audit of disaster costs associated with Hurricane Katrina activities for the Hancock County Port and Harbor Commission (Commission), Bay St. Louis, Mississippi. The objectives of the audit were to determine whether the Commission was properly accounting for disaster-related costs and whether such costs were eligible for funding under the Federal Emergency Management Agency's (FEMA) disaster assistance programs.

As of January 8, 2007, the cut-off date of our review, the Commission had received an award of \$19.9 million from the Mississippi Emergency Management Agency (MEMA), a FEMA grantee, for emergency protective measures, debris removal, and other disaster-related activities. The award provided funding for 26 large<sup>1</sup> projects and 60 small projects. Our review focused on the \$10.2 million of costs incurred under 5 large projects<sup>2</sup> (see Exhibit). The audit covered the period August 29, 2005, to January 8, 2007, during which the Commission received \$8.5 million of FEMA funds under the 5 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.

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

<sup>2</sup> For insurance matters, we reviewed all projects to which insurance proceeds applied.

We judgmentally selected samples of project cost documentation (generally based on dollar value); interviewed Commission, MEMA, and FEMA personnel; reviewed the Commission’s disaster-grant accounting and procurement policies and procedures; and performed other procedures considered necessary under the circumstances to accomplish our objective. We did not assess the adequacy of the Commission’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 Commission’s method of grant accounting and its policies and procedures for administering the activities provided for under the FEMA award.

### RESULTS OF AUDIT

The Commission properly accounted for project expenditures on a project-by-project basis as required by federal regulations. However, we identified \$5.0 million of questioned costs resulting from insurance proceeds that had not been deducted from eligible project costs and excessive contract costs.

- A. Insurance Proceeds. According to federal regulations (44 CFR 206.250(c)), actual and anticipated insurance recoveries shall be deducted from otherwise eligible costs. FEMA awarded the Commission \$8.5 million under several projects for damages sustained to insured buildings, equipment, and vehicles. The projects’ eligible costs included a reduction of \$3.9 million for anticipated wind and flood insurance proceeds. During our review, we noted that actual insurance proceeds under the projects totaled \$7.4 million, or \$3.5 million more than what had been anticipated. The Commission, however, had not reported the additional proceeds to FEMA. Accordingly, we question the \$3.5 million that was not used to reduce eligible project costs, as follows:

<b>Anticipated and Actual Insurance Proceeds</b>					
<b>Location</b>	<b>Total Award Amount</b>	<b>Anticipated Insurance Proceeds</b>	<b>Actual Insurance Proceeds</b>	<b>Difference</b>	<b>Amount Questioned</b>
Administration Buildings	\$ 225,128	\$ 34,659	\$ 243,832	\$ 209,173	\$ 209,173
Stennis Airport Structures	889,012	2,342,952	2,936,405	593,453	593,453
Stennis Portable Equipment	552,506	0	0	0	0
Port Bienville Industrial Park	6,512,458	1,176,179	3,825,647	2,649,468	2,649,468
Port Bienville Industrial Park; stock, equipment, & vehicles	328,366	351,859	355,400	3,541	3,541
<b>Totals</b>	<b>\$8,507,470</b>	<b>\$3,905,649</b>	<b>\$7,361,284</b>	<b>\$3,455,635</b>	<b>\$3,455,635</b>

Subsequent to our fieldwork, Commission officials reported the actual insurance proceeds of \$7.4 million to FEMA, and FEMA deobligated the \$3.5 million questioned under this finding.

B. Procurement Procedures. The Commission did not comply with applicable federal procurement regulations or FEMA guidelines when awarding contracts for emergency protective measures and permanent repair work. According to federal procurement standards and FEMA guidelines:

- Procurement by noncompetitive proposal requires a cost analysis. (44 CFR 13.36 (d)(4)(ii)).
- Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition. (44 CFR 13.36 (f)(2))
- Contracts awarded contingent on FEMA reimbursement are not allowed. (*Public Assistance Guide FEMA 322*, October 1999, p. 40)
- Grantees and subgrantees will use a time-and-material type contract only after a determination that no other contract is suitable. (44 CFR 13.36(b)(10)(i))
- Grantees and subgrantees may use a time-and-material type contract only if the contract includes a ceiling price that the contractor exceeds at its own risk. (44 CFR 13.36 (b)(10)(ii))
- Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. (44 CFR 13.36 (b)(9))

1. *Time-and-Material Contracts*. The Commission entered into five time-and-material contracts totaling \$5 million for clearing rail car derailments and repairing its wastewater treatment plant and buildings without, in some or all cases, (1) considering whether other contracting methods were more suitable, (2) performing a cost analysis, (3) negotiating profit as a separate element of the contract price, or (4) establishing cost ceilings. Moreover, two of the contracts for repairs to its wastewater treatment plant and buildings were contingent on FEMA reimbursement. We were unable to determine whether any cost savings could have been realized had the Commission complied with applicable procurement regulations when awarding the contracts. However, because of the Commission’s procurement shortcomings, FEMA has no assurance that the contract work was obtained at a fair price. The affected projects and contract costs are shown in the table below.

Time and Material Contracts		
Project Number	Scope of Work	Contract Value
2919	Rail Rehabilitation Monitoring	\$ 167,169
6485	Rail Car Derailments	3,070,239
6485	Rail Car Derailments Monitoring	98,842
6756	Wastewater Treatment Plant	917,444
10053	Wastewater Treatment Buildings	722,817
<b>Total</b>		<b>\$4,976,511</b>

2. *Procurement History.* The Commission did not maintain sufficient documentation to justify its basis for awarding \$10.1 million in contracts under Projects 2919 and 6485.

- Under Project 2919, the Commission sought competitive bids for the repair of the Port Bienville railway. The solicitation distributed the work into three separate phases — Phase I for non-disaster related work planned prior to the disaster and Phases II and III for disaster-related work. As shown in the table below, the Commission received bids from three contractors, which included proposed costs for each phase.

<b>Bids for Repair of Port Bienville Railway (Project 2919)</b>					
<b>Contractor</b>	<b>Phase I Costs</b>	<b>Phase II Costs</b>	<b>Phase III Costs</b>	<b>Total Costs</b>	
				<b>Phases I, II, III</b>	<b>FEMA Approved Phases II &amp; III</b>
<b>A</b>	\$2,939,778	\$4,660,970	\$2,381,650	\$ 9,982,398	\$7,042,620
<b>B</b>	\$4,908,460	\$4,127,511	\$1,403,543	\$10,439,514	\$5,531,054
<b>C</b>	\$2,445,343	\$3,564,391	\$ 740,500	\$ 6,750,234	\$4,304,891

The lowest bid of \$6.7 million received from Contractor C was deemed non-responsive by Commission officials because it did not include the cost of materials. As a result, the Commission awarded the contract to Contractor A, whose overall bid of \$10 million was the next lowest. However, the costs proposed by Contractor A to complete work under Phases II and III was \$1.5 million higher than the costs proposed by Contractor B. The Commission did not maintain documentation to show its rationale for including non-disaster work in the bid solicitations. Accordingly, we question \$1.5 million, which is the difference between the two cost proposals submitted by Contractor A and Contractor B for work under Phases II and III.

After the cut-off date of this audit, FEMA de-obligated \$2.5 million of costs under Project 2919, which included \$2.3 million for the contract in question. The de-obligation occurred because the actual contract costs to complete work under Phases II and III were \$2.3 million less than the accepted bid price.

- Under Project 6485, the Commission verbally sought bids for clearing railcar derailments from two contractors. The two contractor bids were comprised of hourly labor and equipment rate factors, which Commission officials stated were nearly identical. According to Commission officials, they selected the contractor whose bid was higher because the contractor was able to provide its workers with food and lodging within the immediate affected disaster, which enabled the work to be completed faster. The winning bidder performed project work at a cost of \$3.1 million.

Documentation, however, was not available to support the Commission’s assertion that food and lodging arrangements were the reason why the lower bidder was not chosen which, based upon identifiable comparable factors, would have resulted in \$52,416 in lower project costs. Accordingly, we question the excess contract costs of \$52,416.

## RECOMMENDATIONS

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

**Recommendation #1.** Inform the Commission that actual insurance proceeds must be reported to MEMA so that eligible project costs can be adjusted accordingly.

**Recommendation #2.** Instruct the Commission to comply with all federal procurement regulations and FEMA guidelines when awarding contracts for FEMA-funded activities.

**Recommendation #3.** Disallow the \$52,416 of excessive contract costs applicable to Project 6485.

## DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

The audit results were discussed with Commission, MEMA, and FEMA officials on October 25, 2007. Commission officials concurred with the findings.

Please advise me by October 5, 2008 of the actions 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: DHS Audit Liaison  
FEMA Audit Liaison  
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Chief Financial Director, Gulf Coast Recovery Office  
Regional Director, FEMA Region IV  
Public Assistance Office, FEMA Mississippi Transitional  
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Chief of Staff, FEMA Mississippi TRO  
Mississippi State Coordinating Officer  
Mississippi Legislative Auditor  
Director of Finance, Gulf Coast Recovery Office

Hancock County Port and Harbor Commission  
FEMA Disaster No. 1604-DR-MS  
Schedule of Funds Awarded, Costs Incurred, and Questioned Costs  
August 29, 2005 through January 8, 2007

Project Number	Amount Awarded	Project Costs Incurred	Amount Questioned
2919	\$7,405,315	\$4,889,412	\$1,511,566
6485	3,206,960	3,169,081	52,416
6756	917,444	917,444	0
8301	612,723	457,424	0
10053	722,817	759,119	0
Subtotals	\$12,865,259	\$10,192,480	\$1,563,982
Various (Insurance)	—	—	3,455,635
<b>Totals</b>	<b>\$12,865,259</b>	<b>\$10,192,480</b>	<b>\$5,019,617</b>