



Homeland
Security

February 6, 2007

MEMORANDUM FOR: James W. Stark, Director
FEMA Louisiana Transitional Recovery Office
Tonda L. Hadley

FROM: Tonda L. Hadley, Director
Central Regional Office

SUBJECT: *Interim Review of Contract Costs, Clearbrook, LLC*
FEMA Disaster Number DR-1603-LA
Report Number DD-07-06

We performed an interim review of costs incurred under a contract with Clearbrook, LLC, for base camp services associated with Hurricane Katrina activities in Louisiana.¹ Our objectives were to determine whether the FEMA properly administered the contract and whether Clearbrook's billings are reimbursable under the agreements and federal regulations. As of August 1, 2006, the cut-off date of our review, FEMA had authorized an amount not-to-exceed \$109.2 million for the two work orders placed under the contract. Clearbrook had billed \$85.5 million, and FEMA had paid Clearbrook \$76.8 million.

We performed this review under the authority of the Inspector General Act of 1978, as amended, at Clearbrook's headquarters in Mobile, Alabama, and at FEMA's Joint Field Office in Baton Rouge, Louisiana. We evaluated FEMA's negotiation and award process and its oversight and monitoring of Clearbrook's services and related billings. We interviewed officials from the General Services Administration (GSA), FEMA, and Clearbrook and reviewed relevant documentation. Our review covered the period August 28, 2005, through August 1, 2006. The nature and brevity of this assignment precluded us using our normal audit protocols; therefore, we did not conduct this review according to generally accepted auditing standards. Had we followed such standards, other matters might have come to our attention.

Background

On August 29, 2005, Hurricane Katrina made landfall in the New Orleans area as a Category 4 hurricane. Strong winds and heavy rains led to subsequent failure of levees, resulting in widespread flooding in the Greater New Orleans area. These events created a need for first responders from nearby and across the country to rescue people, administer medical services, provide security, and perform other emergency services. The first responders, many of whom were without housing,

¹ Order for Services Numbers HSFE06-05-F-6232 and HSFE06-06-C-2018.

could not obtain transient housing in the local area because most of the available housing was already occupied by evacuees or could not be occupied because of storm damages.

Soon after the hurricane made landfall, FEMA recognized the transient housing shortage and the need for providers of base camp services to set up fully self-sufficient base camps. Within days of the landfall and subsequent flooding, FEMA, with procurement assistance from GSA, began solicitations for base camp set-up and services. GSA assisted FEMA with this process because it is one of the primary federal agencies under the National Response Plan for the Emergency Support Function that includes contracting services.

On September 5, 2005, at FEMA's request, GSA placed a work order with Clearbrook for base camp services with funding not to exceed \$50 million from September 3 to 30, 2005. Subsequent amendments under the work order increased the not-to-exceed funding to \$80.6 million and extended the period of performance to November 10, 2005. A second work order, written by a FEMA contracting officer, required Clearbrook to continue operating two of the seven original base camps and covered the period November 11, 2005, through June 1, 2006. The second work order, including amendments, provided for funding not to exceed \$28.6 million.

Clearbrook initially operated seven base camps under the first work order, but not all were operational for the entire performance period. Camp capacity varied during the performance period, but at its highest point had a combined capacity of 6,900 people. The seven camps were located at Camp Beauregard (Pineville, LA), Sherwood Forest Travel Trailer Staging (Baton Rouge), Port Allen (Orleans Parish), Algiers/Behrman Field (Orleans Parish), State Emergency Operation Center/Camp Colorado (Baton Rouge), State Fairgrounds (Baton Rouge), and Camp Belle Terre (Jefferson Parish). Two of these camps, Port Allen and Algiers, continued operating under the second work order but only Algiers operated for the entire period. Combined maximum capacity for the Port Allen and Algiers camps totaled 1,250 persons at their highest points.

On November 10, 2005, we issued a Management Advisory Report (GC-LA-06-07) to FEMA's Deputy Federal Coordinating Officer of the Baton Rouge, Louisiana Joint Field Office, advising him of our concerns regarding the initial work order with Clearbrook. Concerns included (1) work performed before the contract's effective date, (2) mathematical billing errors, (3) inconsistent billing methodology, and (4) contractual deficiencies. We recommended that FEMA suspend payments until its contracting officials resolved these issues. Consequently, FEMA suspended payments on the remaining billings of about \$10 million under the first work order. The Comptroller of the FEMA Joint Field Office performed a subsequent review and questioned net charges of about \$1.4 million, for which Clearbrook issued credit memos. Soon thereafter, we initiated this review of Clearbrook's billings under both orders.

RESULTS OF REVIEW

As a result of FEMA's haste to establish base camps, and the shortage of trained and experienced contracting officials, the Clearbrook contract was not effectively awarded and administered, leading to contractual deficiencies, excessive billings, and questionable costs of \$16.4 million. FEMA's contract administration of Clearbrook's second work order improved significantly and included a reduction in the fixed unit price and a well-defined scope of work.

Contractual Issues

The first work order did not adequately define the scope of work or pricing. It required the contractor to provide "Temporary Housing, which includes technical support and preparation to purchase and deploy medical housing, responder billeting, base camp for responders and disaster victims. The dollar amount for the performance period from 9-3-05 to 9-30-05 is not to exceed \$50,000,000." Details were not documented, and the parties relied on verbal agreements and assumptions. This led to misunderstandings and disagreements regarding the contract terms and conditions. In addition, FEMA's contract oversight staff and the GSA contracting officer did not coordinate to ensure that they understood the verbal agreements reached with Clearbrook.

Although emergency conditions allow for waiver of some contracting rules, such as sealed competitive bidding, contracting officers and contract oversight staff are responsible for ensuring compliance with contract terms, including verbal agreements. Because of the verbal agreements, we were not able to ascertain specific contract requirements and deliverables. Therefore, we relied on testimonial evidence during our review. Consequently, we are including the most relevant statements by the GSA contracting officer and the FEMA contract oversight staff.

According to the GSA contracting officer:

- After FEMA management asked her to begin the procurement process for the base camp services, she contacted six sources to determine their prices and whether they could meet the requirements. Only Clearbrook could meet the time requirements.
- She was inexperienced in writing base camp contracts and FEMA did not provide her with specific information she needed to write a detailed statement of work, such as how many camps were needed and where they should be located.
- Clearbrook verbally agreed to fixed unit prices at per-person-per-day rates ranging from \$170 to \$190, depending on the base camp.
- Clearbrook agreed to provide cost information for operating base camps so she could assess the reasonableness of its proposed rates, but did not do so.
- Verbal quotes from other base camp providers were used to evaluate the reasonableness of Clearbrook's proposed rates.

According to FEMA contracting staff:

- They approved invoices for payment with little scrutiny because they were inexperienced with base camp operations, very busy, and the contract language did not include pricing information.
- They did not perform tests, such as equipment counts, cot counts, or meals served to verify billing accuracy because they did not have sufficient staff to perform these tests. They were responsible for overseeing more than 40 other base camps in Louisiana.

Billings for Camp Capacity Instead of Camp Occupancy

The initial work order did not specify whether Clearbrook would bill based on occupancy or capacity. For five of the seven base camps, Clearbrook billed FEMA \$42.9 million based on camp

capacity instead of actual occupancy, resulting in about \$32.1 million in charges for unoccupied capacity. Clearbrook billed \$2.1 million in direct operating costs for the other two base camps (Beauregard and Sherwood Forest), but did not bill at per-person rates. The direct operating costs included items such as food, beds, portable sinks and showers, rental restrooms, mobile laundry facilities, fuel, tents, water tankers, and trucking costs.

Clearbrook's invoices for the five base camps included the number of persons billed for each base camp, but did not indicate whether the number of persons represented camp capacity or occupancy. Occupancy logs maintained for each base camp indicated an occupancy rate of 22 percent to 50 percent of the number of persons billed for on the invoices.

According to the GSA contracting officer, the contract did not specify the basis for billings. The intention was that rates would be applied to occupants, not capacity and that Clearbrook was not entitled to charge for capacity. Clearbrook officials disagreed and contend they were entitled to bill for capacity since the camps were ready for full occupancy.

The FEMA contracting staff said that they were aware of the difference between the number of persons billed and actual occupancy. They said they approved payments based on capacity because the contract did not provide for an unoccupied rate, and they thought Clearbrook should be compensated for the unoccupied space.

The first work order stated that funding would not exceed \$50 million, but did not specify compensation terms. Clearbrook billed per-person rates based on camp capacity, and FEMA contracting personnel approved payments. However, the GSA contracting officer who placed the work order contends that rates should have been based on occupancy, not capacity. If Clearbrook had billed based on occupancy, the charges would have been \$10.8 million, or \$32.1 million less than the \$42.9 million billed for capacity. FEMA and Clearbrook should seek a reasonable resolution to this issue.

Direct Costs

In addition to the \$42.9 million billed at fixed per-person rates, Clearbrook billed \$18.2 million for direct operating costs for specific items.² About \$16.4 million of these costs were for staging (set-up to prepare for base camp operation) or other costs related to base camp operations. The remaining \$1.8 million was for items outside the contract's scope that appeared to be FEMA-authorized.³ We concluded that the \$16.4 million in costs related to base camp operations should have been included in the fixed rate.

The staging costs consisted primarily of items billed by Clearbrook's subcontractor for various base camp equipment on standby for up to two weeks before base camps were operational. Clearbrook used the subcontractor to manage the day-to-day operations of the base camps. Neither Clearbrook nor its subcontractor submitted documentation explaining the cost of these items. We could not

² The \$18.2 million does not include the \$2.1 million in direct operating costs billed for Beauregard and Sherwood Forest, the two camps not billed at per-person rates.

³ Of the \$1.8 million, \$1.7 million was for bag lunches that Clearbrook provided to the National Guard for distribution to Superdome evacuees.

categorize many of the costs because Clearbrook's invoices contained vague descriptions and did not include dates or names of camps.

We concluded that the \$16.4 million billed for items related to base camp operations was not allowable because evidence indicated that the only agreed-to costs were the fixed per-person rates. There was no evidence that direct costs could be billed separately. The GSA contracting officer said she did not authorize, either verbally or in writing, any direct costs. She said that the per-person rates included all costs and profit and that all contractors' verbal price quotes included higher per-person rates for the first 30 days to cover staging costs. Contractual and supplementary documentation that we reviewed did not provide evidence that direct costs could be charged. In addition, some of Clearbrook's invoices said that the per-person rates included mobilization and set-up charges. Clearbrook officials, however, said that the agreement did not prohibit charging direct costs in addition to the per-person rates.

Improvements in the Contract

FEMA made significant improvements in administering the second work order placed with Clearbrook in November 2006. The second work order contained a clear scope of work, reduced per-person occupancy rates by as much as 43 percent (\$190 to \$108), and established a non-occupancy rate of \$102 for most of the period. Also, FEMA staff ensured that camp capacity was monitored and reduced periodically. FEMA officials said they had learned many lessons in administering the Clearbrook contract.

RECOMMENDATIONS

We recommend that the Director, FEMA Louisiana Transitional Recovery Office:

1. Negotiate with Clearbrook to resolve the \$32.1 million billed for unoccupied capacity.
2. Disallow the \$16.4 million billed for direct charges and recover any payments already made for these charges.

DISCUSSION WITH MANAGEMENT AND FOLLOW-UP

We discussed the results of our review with FEMA and GSA officials on September 13, 2006. They withheld comment pending issuance of our report. As issues arose during our review, we discussed them with Clearbrook officials. They did not agree with our conclusions. They said that the contract did not preclude Clearbrook from billing for non-occupancy or billing for direct charges in addition to the per-person charges.

Please advise this office within 30 days of the actions taken or planned to implement our recommendations, including target completion dates for any planned actions. Should you have questions, please call me at (940) 891-8900.

cc: DHS Audit Liaison
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