

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

FEMA Public Assistance Grant Funds Awarded
to the Kentucky National Guard

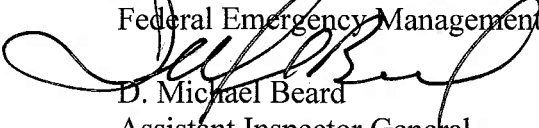




Homeland Security

FEB 17 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 the Kentucky National Guard*
FEMA Disaster Number 1818-DR-KY
Audit Report Number DA-12-08

We audited public assistance funds awarded to the Kentucky National Guard (Guard), FIPS Code 000-U99EW-00. Our audit objective was to determine whether the Guard accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to federal regulations and FEMA guidelines.

As of April 26, 2010, the Guard had received a public assistance award of \$8.8 million from the Kentucky Department of Emergency Management (State), a FEMA grantee, for damages resulting from severe ice storms that occurred in February 2009. The award provided 75% FEMA public assistance funding for emergency protective measures and permanent repairs to buildings and facilities for one large project for \$8,749,425 (Project 2036) and one small project for \$27,100 (Project 1238).¹

We reviewed the \$8.8 million awarded to the Guard under the two projects. The audit covered the period January 26, 2009, to April 26, 2010, during which the Guard claimed \$8.8 million and received \$5.9 million of FEMA funds under the projects. At the time of our audit, the Guard had completed the work under the projects, but had not submitted final claims on project expenditures to the State.

We conducted this performance audit 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

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$64,200.

upon our audit objective. We conducted this audit 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 FEMA, State, Kentucky Department of Military Affairs², and Guard officials; reviewed the Guard’s procurement policies and procedures; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our audit objective. We did not assess the adequacy of the Guard’s internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective. However, we did gain an understanding of the Guard’s methods of accounting for disaster-related costs and its policies and procedures for administering activities provided for under the FEMA award.

RESULTS OF AUDIT

The Guard accounted for project expenditures on a project-by-project basis as required by federal regulations and FEMA guidelines. However, the Guard’s claim included \$468,518 of questionable costs under emergency protective measures Project 2036 consisting of unsupported, excessive, and ineligible charges.

Finding A: Supporting Documentation

The Guard’s claim included \$424,134 of unsupported contract costs. Invoices for these costs did not include supporting documentation, such as equipment logs, vehicle trip tickets, flight records, fuel receipts, time and attendance records, and so on. Federal cost principles, 2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, Section C.1.j, states that a cost must be adequately documented to be allowable under federal awards. Therefore, we question the \$424,134 of charges that were not supported by adequate documentation, as identified in table 1.

Table 1: Questioned Costs – Supporting Documentation

Description of Activities/Charges	Amount Claimed and Questioned
Missing equipment logs and vehicle trip tickets	\$388,465
Missing flight records and fuel receipts	16,081
Missing backup documentation	11,438
Missing time and attendance records	7,376
Charge belonged to another agency	774
Total	\$ 424,134

² The Kentucky Department of Military Affairs (Department of Military Affairs) is responsible for the Guard’s administrative and financial oversight.

Finding B: Contract Equipment Costs

The Guard's claim for equipment rental included \$33,507 of excessive costs. The Guard rented generators from two vendors to perform project work and was billed \$69,062 for the rental costs. According to a memorandum specifying the rental terms, the vendors were to charge the generators at FEMA equipment rates. The vendors billed the generators at \$45 per hour, but the invoices did not identify the wattage of the generators. After further review and interviews, we determined the actual wattage of the generators was 40 kilowatts, which should have been billed at the FEMA equipment rate of \$22 an hour. Using this information, we applied the correct FEMA rate for 40 kilowatt generators and allowed charges for fuel and a small trailer for the generators to rest on while in operation. This methodology resulted in \$33,507 of excessive costs billed and claimed for use of the generators. Therefore, we question the \$33,507.

Finding C: Maintenance Flight Test Charges

The Guard's claim included \$5,719 of ineligible flight test charges. The Guard leased aviation equipment to assist in performing emergency protective measures. However, the vendor billed for maintenance test flight time for aviation equipment totaling \$5,719. According to a memorandum of agreement for State Active Duty reimbursement, costs would be charged on "flying hour costs." As a result, we question the \$5,719 claimed for maintenance test flight charges.

Finding D: Force Account Labor Costs

The Guard's claim included \$3,329 of ineligible force account overtime costs resulting from excessive fringe benefits and overtime labor charges.

Fringe Benefits. The Guard's claim included \$1,831 of ineligible overtime fringe benefits costs for permanently employed personnel. The Guard calculated the overtime fringe benefits claim using the rate for regular-time fringe benefits. However, fringe benefit rates for regular time and overtime are different. Overtime fringe benefit costs are usually significantly less because certain benefits such as vacation, holiday, and insurance are not dependent on overtime hours worked. FEMA Policy 9525.7 (*Labor Costs-Emergency Work*, November 16, 2006) considers the cost of straight-time salaries and benefits of an applicant's permanently employed personnel not eligible in calculating the cost of eligible emergency work. Using the correct overtime fringe benefit rate, we determined that the Guard's claim was overstated by \$1,831. Therefore, we question the \$1,831.

Overtime Labor. The Guard's claim included \$1,498 in unreasonable overtime costs for force account labor. The Guard claimed labor costs for one employee based on a 24-hour shift for 8 consecutive days. It is not reasonable for a person to work such a number of hours for several consecutive days without a rest period.

According to 2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, Section C.1.a, allowable costs must be necessary and reasonable. Further, FEMA policy recognizes the need for a standard, reasonable amount of force account labor hours.

FEMA Policy 9525.7 (*Labor Costs-Emergency Work*, November 16, 2006) requires reimbursement of labor costs for employees performing emergency work to be limited to actual time worked, even when an applicant is contractually obligated to pay for 24-hour shifts. According to the policy, FEMA will reimburse up to 24 hours for each of the first 2 days, and up to 16 hours for each of the following days for emergency work. Therefore, we allowed costs claimed for the first two 24-hour days (48 hours) worked and allowed charges up to 16 hours of work for the remaining 6 days. Using this methodology, we question \$1,498 of costs claimed for overtime labor.

Finding E: Ineligible Project Charges

The Guard's claim included \$1,829 of charges that were not related to performing emergency protective measures. The Guard contracted services such as aviation equipment and vehicles to assist in performing emergency protective measure work. However, after our review of documentation, we noted billings totaling \$1,829 that were unrelated to performing authorized work under the project. This amount included a \$1,409 flight charge to transport senior federal and state officials and a \$420 rental car charge for a senior military official. FEMA 321 (*Public Assistance Guide*, January 2008, page 46) specifically states that emergency protective measures are actions taken by a community before, during, and after a disaster to save lives, protect public health and safety, and prevent damages to improved public and private property. In addition, 2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, Section C.1.a, requires that a cost be necessary and reasonable to be allowable under a federal award. Therefore, we question the \$1,829 of ineligible project charges.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Disallow \$424,134 (\$318,100 federal share) of unsupported costs (finding A).

Recommendation #2: Disallow \$33,507 (\$25,130 federal share) of excessive contract equipment costs (finding B).

Recommendation #3: Disallow \$5,719 (\$4,289 federal share) of ineligible maintenance flight test charges (finding C).

Recommendation #4: Disallow \$3,329 (\$2,497 federal share) of ineligible force account labor costs (finding D).

Recommendation #5: Disallow \$1,829 (\$1,372 federal share) of ineligible project charges (finding E).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with FEMA, State, Guard, and Department of Military Affairs officials during our audit. We also provided written summaries of our findings and recommendations in advance to these officials and discussed them at the exit conference held on October 19, 2011. Department of Military Affairs officials agreed with all audit findings and said that they have since developed corrective action plans designed to restore and ensure future compliance.

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 pursuant to 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. To promote transparency, this report will be posted to our website, with the exception of sensitive information identified by your office. Significant contributors to this report were David Kimble, William H. Johnson, and Nadine F. Ramjohn.

Should you have questions concerning this report, please contact me at (202) 254-4100 or David Kimble at (404) 832-6702.

cc: Administrator, FEMA
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA HQ (Job Code G-11-035)
Audit Liaison, DHS

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