

U.S. Department of Homeland Security  
Eastern Region  
Office of Emergency Management Oversight  
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Atlanta, Georgia 30309



Homeland  
Security

May 14, 2009

MEMORANDUM FOR: Robert Ives, Director  
FEMA Florida Recovery Office

FROM: C. David Kimble, Director  
Eastern Regional Office

A handwritten signature in black ink that reads "C. David Kimble".

SUBJECT: *Hurricane Wilma Activities for Town of Davie, Florida*  
Public Assistance Identification No. 011-16475-00  
FEMA Disaster Number 1609-DR-FL  
Report Number: DA-09-17

We performed an audit of disaster costs associated with Hurricane Wilma activities for the Town of Davie, Florida. The objective of the audit was to determine whether the town accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

As of November 6, 2008, the cut-off date of our review, the town received a public assistance grant award of \$15.9 million from the Florida Department of Community Affairs, a FEMA grantee, for emergency protective measures and debris removal activities. The award provided for five large projects and two small projects<sup>1</sup>. We reviewed costs totaling \$17.9 million incurred under the five large projects (see Exhibit). The audit covered the period of October 24, 2005 to November 6, 2008, during which the town received \$14 million of FEMA funds under the 5 large projects. At the time of our review, the town had not submitted final claims for expenditures.

We conducted this performance audit under the authority of the *Inspector General Act of 1978*, as amended, and according to the 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 reviewed the town's disaster grant accounting system and contracting policies and procedures; selected judgmental samples of project expenditures (generally based on dollar value); interviewed town, grantee, and FEMA personnel; and performed other procedures considered necessary under the circumstances. We did not assess the adequacy of the town's internal controls applicable to its

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<sup>1</sup> Federal regulations in effect at the time of Hurricane Wilma set the large project threshold at \$57,500.

grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the town's method of grant accounting and its policies and procedures for administering the activities provided for under the FEMA award.

## RESULTS OF AUDIT

The town accounted for FEMA funds on a project-by-project basis consistent with federal regulations for large projects. However, we identified \$752,142 of questioned costs resulting from ineligible and excessive labor charges, costs covered by insurance, ineligible equipment charges, and duplicate charges. Moreover, the town did not comply with federal procurement regulations and FEMA guidelines when contracting for debris removal work totaling \$968,526.

A. Labor Charges. The Town's claim under emergency measures Projects 6227 and 7355 included \$674,076 of ineligible and excessive force account labor charges, as follows:

- Federal regulation 44 CFR 206.228(a)(4) states that the straight-or regular-time salaries and benefits of a subgrantee's permanently employed personnel are not eligible in calculating costs of eligible emergency work. In addition, FEMA Policy 9525.7 (*Labor Costs- Emergency Work*) states that eligible overtime costs for emergency work (debris removal and emergency protective measures) will be determined in accordance with the applicant's pre-disaster policies, which should be applied consistently in both disaster and non-disaster situations. However, the town claimed \$626,893 of overtime paid to employees performing emergency work that was contrary to its pre-disaster pay policies and federal regulation.

During October 24, 2005, to October 31, 2005, the town shut down its normal operations as a result of Hurricane Wilma. During this period, the town's police and fire personnel and other town personnel, who were deemed as essential for disaster relief activities, were required to work. All other personnel were given "administrative leave" and paid their regular pay for each business day the town was closed. Those employees who were required to work were compensated for 8-hours of administrative leave at their regular-time pay, and also paid overtime "emergency pay" for actual hours worked. The emergency pay was paid at either one-and one-half or double time overtime rates, which was based on the provisions of the employee's respective pay agreement. The Town considered the emergency pay to be overtime costs and claimed such costs to Projects 6227 and 7355. However, the town's written pre-disaster pay policies state that during a State declared or threatened emergency situation, an employee shall only receive overtime compensation for hours worked in excess of 40-hours per week, or their regularly scheduled work hours.

As explained above, the town's overtime emergency pay claimed to FEMA was based on all hours worked by an employee irrespective of their regularly scheduled work hours for that day. For example, a town employee, whose regular schedule was an 8-hour day, was required to work a 24-hour shift during the emergency period. The town compensated the employee for 8-hours of administrative pay at \$312 (\$39 regular pay x 8 hrs), and also paid the employee overtime pay at an hourly rate of \$59 (1½ times of regular pay rate) for the 24 hours actually worked. The town claimed the overtime pay of \$1,416 (\$59 x 24 hrs) to the FEMA project. However, the overtime pay for the first 8-hours of the employee's workday

represents compensation for regular time hours worked. Therefore, we question the \$626,893 of overtime costs claimed that were contrary to the town's pre-disaster pay policies and federal regulation 44 CFR 206.228(a)(4).

Town officials did not concur with our interpretation of their overtime pay policies. They said that it was the town's policy to count administrative leave granted to employees during an emergency period as hours worked when calculating overtime compensation for employees. Therefore, they believe the costs are appropriate and should be allowed. However, this provision was not addressed in their written policies. Instead, town officials directed the town's payroll department, through email, to compensate the employees in this manner. Moreover, federal regulation prohibits labor costs associated with straight- or regular-time work of a subgrantee's permanently employed personnel when calculating eligible costs of emergency services work.

- Under Project 7355, the town claimed \$721,001 of overtime salary and related fringe benefits for its police department. However, the town's payroll records reflected labor costs of \$673,818, or \$47,183 less than the amount claimed. The excess costs occurred because the town inadvertently claimed both one and one-half time and double-time overtime for the same hours on the same day, when only the double-time pay should have been claimed. Therefore, we question \$47,183 of excess labor charges.

- B. Insurance Proceeds. According to federal regulation 44 CFR 206.250(c), insurance recoveries shall be deducted from otherwise eligible project costs. The town's claim under Project 7355 included \$27,496 for clean up and repairs to the town's arena. However, the town received insurance proceeds to cover the losses. Therefore, we question the \$27,496.

Town officials agreed that the costs were not eligible for FEMA funding and that they had planned to notify FEMA of the insurance proceeds at project closeout.

- C. Equipment Charges. The town's claim included \$35,879 of ineligible equipment charges, as follows:

- FEMA Policy 9525.8 (*Damage to Applicant Owned Equipment*, August 1999) states that applicant-owned equipment that is damaged or requires maintenance due to routine use under normal working conditions for which it was designed is not eligible for any costs other than those designated in the FEMA Schedule of Equipment Rates or other FEMA-approved rates. However, extraordinary expenses for the repair and maintenance of equipment operating under severe conditions such as high water or very rough terrain may be eligible for reimbursement. When equipment is not repairable, FEMA may approve the cost of replacement equipment with used items that are approximately the same age, capacity, and condition. Replacement of a used item with a new item may be approved if a used item is not available within a reasonable time and distance.

The town claimed \$28,595, under Project 7355, for the purchase of a new forklift (\$23,325) and a trailer (\$5,270). According to town officials, the equipment was damaged while being used to lift and transport water for distribution to town citizens. However, the town did not provide us with supporting documentation to indicate that the equipment was damaged as a

result of being operated under extraordinary conditions, or that similar used items were not available for purchase. Therefore, we question the \$28,595.

- The town used the FEMA Schedule of Equipment Rates to claim costs for town-owned equipment, which includes costs such as depreciation, maintenance, field repairs, fuel, lubricants, tires, oil, insurance, and other operational costs. However, the town also claimed \$7,284 for purchases of oil and gas, chainsaws, and pull chains. We question the \$7,284 as duplicative because (1) all operational costs for equipment use are included in the FEMA equipment rates, and (2) the town also claimed equipment usage charges on the chainsaws and other equipment that were purchased.
- D. Duplicate Material Charges. The town received FEMA reimbursement of \$14,691 under Project 7355 for the same materials twice. The duplicate charge occurred because the materials were inadvertently listed on two separate reimbursement schedules. We question the duplicate charge of \$14,691.
- E. Contracting. Federal regulation 44 CFR 13.36(b)(10) allows subgrantees to use time-and-material contracts after a determination has been made that no other form of contracting is suitable, and if the contract contains a ceiling price that the contractor exceeds at its own risk. In addition, FEMA's *Public Assistance Debris Management Guide* (FEMA 325, April 1999) states that time-and-material contracts for debris removal activities should (1) generally not exceed 70 hours of actual emergency debris clearance, and (2) be terminated once the not-to-exceed hours is reached.

The town's claim under Project 2860 included \$968,526 paid to a contractor that pushed debris to the town's rights-of-way for later pick-up. However, the contract was on a time-and-material basis that continued for several months and did not contain cost ceilings. Federal regulation 44 CFR 13.43(a)(2) states that failure to comply with applicable statutes or regulations can result in the disallowance of all or part of the cost of the activity or action not in compliance. We could not readily determine whether a cost savings would have been realized had the town complied with federal contracting procedures and FEMA guidelines. Therefore, we are not questioning any costs. However, FEMA should evaluate the town's claim to determine whether the contract work was accomplished at a fair and reasonable price.

## RECOMMENDATIONS

We recommend that the Director of the FEMA Florida Recovery Office, in coordination with the grantee:

**Recommendation #1.** Disallow the \$752,142 of questioned costs.

**Recommendation #2.** Evaluate the reasonableness of the \$968,526 of time-and-material contract costs claimed under Project 2860.

**Recommendation #3.** Inform the town that it must comply with federal regulations and FEMA guidelines when procuring goods and services under a FEMA award.

## MANAGEMENT DISCUSSION AND AUDIT FOLLOW-UP

We discussed the audit results with Town, grantee, and FEMA officials on November 6, 2008. Town officials did not concur with several of our findings. Their comments, where appropriate, have been incorporated into the body of this report.

Please advise me by July 13, 2009, of actions taken or planned to implement our recommendations. Should you have any questions concerning this report, please contact me at (404) 832-6702, or Modupe Akinsika, Audit Manager, at (404) 832-6704. Key contributors to this assignment were Modupe Akinsika, Helen White, and Adrienne Bryant.

cc: Regional Administrator, FEMA Region IV  
Audit Liaison, FEMA Region IV  
Audit Liaison, FEMA

Town of Davie  
FEMA Disaster No. 1609-DR-FL  
Schedule of Amount Awarded, Incurred, and Questioned  
October 24, 2005 to November 6, 2008

Project Number	Amount Awarded	Amount Incurred	Amount Questioned
2860	\$ 12,503,736	\$15,645,201	\$ 0
6210	1,926,716	120,674	0
6227	247,273	247,273	95,925
7355/7359 <sup>2</sup>	1,151,531	1,919,218	656,217
Total	\$15,829,256	\$17,932,366	\$752,142

<sup>2</sup> The Town combined costs incurred under Projects 7359 with those of Project 7355. The costs of the two projects will be separated at final closeout. Therefore, we audited both projects as one combined project.