

U.S. Department of Homeland Security  
Central Regional Office  
Office of Emergency Management Oversight  
3900 Karina Street, Room 224  
Denton, Texas 76208



Homeland  
Security

June 23, 2009

MEMORANDUM FOR: Gary Jones, Acting Regional Administrator  
FEMA Region VI

*Tonda L. Hadley*

FROM: Tonda L. Hadley, Director  
Central Regional Office

SUBJECT: *Kiamichi Electric Cooperative, Inc.,  
Wilburton, Oklahoma*  
FEMA Disaster Number 1678- DR-OK  
Public Assistance Identification Number 000-006AE-00  
Audit Report Number DD-09-12

We audited public assistance funds awarded to Kiamichi Electric Cooperative, Inc. (KEC), located in Wilburton, Oklahoma. Our audit objective was to determine whether KEC accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to federal regulations and FEMA guidelines.

KEC received an award of \$11.7 million from the Oklahoma Department of Emergency Management (ODEM), a FEMA grantee, for damages resulting from severe winter storms that occurred during January 2007. The award provided 75% funding for 23 large and 3 small projects.<sup>1</sup> We audited all projects under the award (see Exhibit). The audit covered the period January 12, 2007, through August 25, 2008, during which KEC claimed \$10.2 million for direct program costs. At the time of the audit, FEMA was adjusting the project worksheets to reflect final project costs.

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.

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<sup>1</sup> Federal regulations in effect at the time of the disaster set the large project threshold at \$59,700.

We reviewed KEC's compliance with federal procurement standards for \$8.75 million of debris removal, emergency protective measures, and permanent electrical repair contracts; reviewed judgmentally selected samples (generally based on dollar value) of KEC's claimed costs; interviewed FEMA, ODEM, and KEC officials; and performed other procedures we considered necessary to accomplish the audit objective. We did not assess the adequacy of KEC's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of KEC's grant accounting system for disaster-related costs.

## **RESULTS OF AUDIT**

KEC generally accounted for FEMA funds on a project-by-project basis, expended costs according to federal regulations, and awarded contracts according to federal procurement standards. However, KEC claimed \$305,143 of costs that were ineligible, and ODEM disbursed a duplicate payment of \$4.5 million to KEC.

### **Finding A: Eligibility of Costs**

#### *Property Repairs*

KEC claimed \$303,253 for ineligible repair and related monitoring costs on private properties. FEMA Publication 321, *Public Assistance Policy Digest*, page 94, states that private property is not eligible for permanent repair restoration under the public assistance program, unless the repairs are for emergency protective measures. KEC did not provide adequate evidence to support that the repairs were for emergency protective measures. Therefore, we question the \$303,253 in ineligible costs.

### **Finding B: Contracting**

#### *Markups*

KEC claimed \$1,890 of mark-ups on a cost-plus-a-percentage-of-cost contract. The majority of the work was performed under competitively awarded fixed-price contracts. However, one contractor's invoices included a 100% markup on some costs. Federal regulations at 44 CFR 13.36(f)(4) state that the cost-plus-a-percentage-of-cost method of contracting shall not be used. Therefore, we question the \$1,890 mark-up.

#### *Contracting*

KEC has improved its contracting procedures and generally complied with federal procurement standards. In July 2005, we issued, *Kiamichi Electric Cooperative, Inc.* (DD-08-05) reporting that KEC did not comply with federal procurement standards or FEMA guidelines in awarding \$8.38 million in contracted utility and debris removal work. Our current audit disclosed that KEC awarded \$8.75 million to contractors, \$5.74 million before power was restored (emergency period) and \$3.01 million after the emergency period. KEC used mutual aid companies and contractors during the emergency period. Except for monitoring costs, KEC competed the non-emergency work for debris and electrical work with fixed-unit-price contracts as required by

federal procurement standards. We did not question the monitoring costs because the hourly rates were reasonable. During the emergency period, KEC did not always perform cost or price analyses; and, the time-and-material contracts did not always contain ceilings that the contractors exceeded at their own risk as required by 44 CFR 13.36. However, KEC monitored costs and released higher-priced contractors as work was completed. We did not question any costs relating to improper contracting for work performed before power was restored because exigent circumstances existed.

### **Finding C: Reconciliation of FEMA Funds**

In May 2008, KEC received a \$4.5 million duplicate payment from ODEM. Before the duplicate payment, KEC had received \$6.8 million for a total of \$11.3 million of funds received. KEC informed ODEM of the duplicate payment. We met with ODEM officials and discussed the cause of the duplication and the recovery plan. The ODEM representative stated that they were not aware of the size of the overpayment. ODEM officials said that this was not an isolated incident and was due to an antiquated accounting system incapable of handling the number of disasters the state had experienced. These officials said they planned to recover the funds during the closeout process.

After ODEM closeout adjustments, KEC's claimed costs totaled \$10.2 million. The 75% federal share of that amount is about \$7.6 million. Therefore, the net overpayment to KEC was approximately \$3.7 million (\$11.3 million - \$7.6 million). At the completion of our audit, we could not calculate the exact amount overpaid because ODEM and FEMA had not completed final closeouts. As of May 19, 2009, ODEM had not recovered the overpayment. Federal regulations at 44 CFR 13.20 require the grantee and subgrantee to maintain records that adequately identify the source and application of funds provided for financially-assisted activities. These regulations also require effective control and accountability for all grant and subgrant cash. ODEM officials stated that they have improved their quality assurance program to prevent overpayments, but they have not responded to our requests for additional information about the improvements.

### **Other Matters**

#### *Required Audits*

As of June 2008, KEC had not complied with Office of Management and Budget (OMB) Circular A-133 audit requirements that an independent audit be performed regarding the grant money KEC expended for FY 2007 and 2008. OMB Circular A-133.200(b) states, "Non-Federal entities that expend \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in a year in Federal awards shall have a single audit conducted...." KEC management thought they were not required to have the audits until the projects were closed. After we brought this matter to their attention, KEC had the audits performed and the reports were issued in February 2009.

### *Additional Costs*

We identified \$198,349 of costs KEC erroneously excluded from its claim that we determined to be potentially eligible. KEC sent documentation supporting the claim to ODEM, but KEC had not been reimbursed as of May 2009.

## **RECOMMENDATIONS**

We recommend that the Acting Regional Administrator, FEMA Region VI:

1. Disallow \$305,143 (\$228,857 FEMA share) of ineligible costs.
2. Require the Oklahoma Department of Emergency Management to determine and recover the amount of the overpayment to KEC (approximately \$3.7 million).
3. Verify that the Oklahoma Department of Emergency Management has strengthened controls to prevent overpayments of FEMA funds to subgrantees and evaluate the effectiveness of the controls.

## **DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP**

On May 14, 2009, we discussed the results of our audit with FEMA officials, who concurred with our findings and recommendations. We also discussed the results of our audit with ODEM officials on May 19, 2009, and Kiamichi officials on May 21, 2009. Please advise this office by August 24, 2009, of the actions planned or taken to implement the recommendations, including target completion dates for any planned actions. Significant contributors to this report were Paige Hamrick, Curtis Kockler, Doug Denson, and Patti Smith. Should you have questions concerning this report, please contact me, or your staff may contact Paige Hamrick, Audit Manager, at (940) 891-8900.

cc: Audit Liaison, FEMA Region VI  
Audit Liaison, FEMA (Job Code DG8C08)

Schedule of Projects  
Kiamichi Electric Cooperative, Inc.  
FEMA Disaster Number 1678-DR-OK

<b>Project Number</b>	<b>Award Amount</b>	<b>ODEM</b>	<b>Claimed Amount</b>	<b>Questioned Costs</b>	
		<b>Closeout Adjustment*</b>		<b>Eligibility</b>	<b>Markups</b>
51	\$ 561,878	\$ (100)	\$ 561,778	\$ 0	\$ 0
258	1,095	0	1,095	0	0
276	877,425	0	877,425	0	0
279	1,866	0	1,866	0	0
338	863,794	0	863,794	0	0
341	827,672	0	827,672	0	0
342	194,025	(13,311)	180,714	323	1,890
359	866,732	0	866,732	0	0
409	754,600	0	754,600	0	0
457	950,000	0	950,000	0	0
506	180,366	(86,939)	93,427	0	0
516	796,219	0	796,219	0	0
913	213,429	(112,005)	101,424	0	0
916	812,265	(433,386)	378,879	13,887	0
920	488,516	(368,353)	120,163	8,520	0
921	546,461	(51,468)	494,993	30,436	0
922	474,925	(124,597)	350,328	55,103	0
924	482,021	(96,426)	385,595	63,147	0
1035	596,677	(199,132)	397,545	131,837	0
1192	75,174	(28,758)	46,416	0	0
1224	629,320	0	629,320	0	0
1225	80,000	0	80,000	0	0
1226	130,944	0	130,944	0	0
1227	30,400	0	30,400	0	0
1228	104,785	0	104,785	0	0
1229	139,363	0	139,363	0	0
<b>Totals</b>	<b><u>\$11,679,952</u></b>	<b><u>(\$1,514,475)</u></b>	<b><u>\$10,165,477</u></b>	<b><u>\$303,253</u></b>	<b><u>\$1,890</u></b>

\* At the time of our audit, FEMA was adjusting the project worksheets to reflect final project costs based on ODEM's closeout adjustments.