



Homeland
Security

August 20, 2007

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

Tonda L. Hadley

FROM: Tonda L. Hadley, Director
Central Regional Office

SUBJECT: *Review of Hurricane Katrina Debris Removal Activities
St Tammany Parish, Louisiana*
FEMA Disaster No. 1603-DR-LA
Public Assistance Identification Number 087-99087-00
Report Number DD-07-10

Attached is our report on the subject review. We contracted with the independent public accounting firm Foxx & Company to perform this review. The report identifies five reportable conditions including ineffective performance by a monitoring contractor, lack of contract competition, noncompliance with federal small project management requirements, limited use of administrative allowance funds, and improper management of excess funds. The report also commends the Parish for effective use of an internal auditor, which resulted in significant cost savings.

We discussed the results of this review with grantee and FEMA officials on June 11, 2007, and Parish officials on June 12, 2007. FEMA, grantee, and Parish officials withheld comments on our findings and recommendations. Please advise this office by November 20, 2007, of the actions taken or planned to implement the recommendations, including target completion dates for any planned actions. If you have questions concerning this report, please call me at (940) 891-8900.

cc: DHS Audit Liaison
FEMA Audit Liaison
Deputy Director, GCRO
Chief Financial Director, GCRO
Regional Director, FEMA Region VI
Public Assistance Officer, FEMA Louisiana TRO
Chief of Staff, FEMA Louisiana TRO
Manager, Compliance Audit Division, LLA
Louisiana State Coordinating Officer

Louisiana State Inspector General
Louisiana Legislative Auditor
Director of Finance, Gulf Coast Recovery Office



August 17, 2007

Office of Inspector General
U.S. Department of Homeland Security
Washington, D.C.

Foxx & Company performed a review of ongoing Hurricane Katrina debris removal activities in St. Tammany Parish, Louisiana managed by the St. Tammany Parish Government. The objective of the review was to determine whether the awarded contracts and contractor billings were in compliance with applicable federal criteria. Foxx also reviewed selected aspects of the overall management of debris removal and monitoring within the Parish because of the magnitude of the devastation and the volume of debris created by Katrina. Foxx performed the review in accordance with Contract Number GS-23F-9832H and Task Order TPD-FIG-06-K-00027 dated January 9, 2006.

The attached report includes recommendations to improve the Parish's management of the Department of Homeland Security (DHS) debris removal grants. Foxx & Company discussed the review results in draft with cognizant DHS, State of Louisiana, and Parish officials. The comments received from these officials were included, as appropriate, in the body of the draft report.

We appreciate the opportunity to have conducted this audit. If you have any questions, or if we can be of any further assistance, please call me at (513) 639-8843.

Sincerely,

Foxx & Company

Martin W. O'Neill
Partner

Attachment

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ACRONYMS:	

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FEMA	Federal Emergency Management Agency
PW	Project Worksheet

INTRODUCTION

Hurricane Katrina struck St. Tammany Parish, Louisiana (Parish) on August 29, 2005. The devastation was extensive. The Federal Emergency Management Agency (FEMA) estimated that 7.3 million cubic yards of residential debris were created within the unincorporated areas of the Parish. The Parish managed debris removal in these areas.¹

The Parish contracted for debris removal primarily with one company.² Although some debris was located on private property and in waterways, the largest volume of debris was located along the Parish's right-of-ways. Nearly 90 percent of the debris was vegetative debris, as opposed to construction and demolition debris.

By September 30, 2006, the cut-off date for our review, FEMA had approved 19 Public Assistance Grant Program Project Worksheets (PWs) for debris removal from the Parish. The total amount approved for the 19 PWs was \$178.4 million, which included the grantee and subgrantee administrative allowances. A schedule of the approved PWs is included as Attachment I. The Parish contractor removed about 7.1 million cubic yards of debris (97 percent of the total estimated) from the Parish by September 30, 2006.

FEMA funded 100 percent of the cost of debris removal for all applicants affected by Hurricane Katrina. As of September 30, 2006, the Parish received \$178.4 million from the Louisiana Governor's Office of Homeland Security and Emergency Preparedness (State), a FEMA grantee.

RESULTS OF REVIEW

In the wake of Hurricane Katrina, the Parish successfully removed large volumes of debris. The removal of debris helped to restore public health and safety and ensure economic recovery throughout the Parish. Also, the Parish established an internal audit activity shortly after the hurricane occurred that resulted in significant cost savings. However, our review identified some reportable conditions concerning the Parish's management of the debris removal. The conditions included ineffective contractor performance, the amendment of a contract without competition, and noncompliance with federal project and cash management requirements. The effectiveness of the internal audit activities and the reportable conditions are discussed in detail below.

A. Effective Reviews of Billed Costs

In September 2005, the Parish hired an internal auditor to review contractor invoices and supporting documentation for debris removed from right-of-ways. The Parish did not pay invoices submitted by the debris removal contractor until the internal audit process was

¹ Seven other applicants within the Parish applied for FEMA funding to remove debris within their jurisdictions. One applicant managed its own debris removal and the U.S. Corps of Engineers, funded by FEMA through a mission assignment, managed the other six.

² The Parish awarded contracts to the prime debris removal company to remove about 97 percent of the debris in the Parish.

completed and the costs billed were determined to be supported and accurate. The Parish requested reimbursement from the State after paying the invoices.

The internal audit process initially focused on contractor invoices for debris removed from Parish right-of-ways under PWs 516 and 3068. The internal auditor and staff reviewed invoices totaling \$130 million and identified unsupported costs of at least \$12 million, about 9 percent of the costs billed. At the end of our fieldwork, the Parish had not paid the contractor for these unsupported costs. The internal auditor identified excess contractor billings for picking up and hauling debris, ineligible charges for chipping and burning vegetative debris, tree cuts that either were not documented or were ineligible, and other costs not eligible under the terms of the contract.

Internal audit also reviewed some of the costs billed by the Parish's contractor hired to monitor the removal of right-of-way debris. The internal auditor identified monitoring contractor billings for personnel who were ineligible as direct labor charges. In addition, the process identified unsupported costs. The internal audit effort identified adjustments of at least \$1.3 million for both ineligible and unsupported monitoring contractor costs as of September 30, 2006. The Parish disallowed these costs. In autumn 2006, the Parish expanded its audit efforts on time charged by the monitoring contractor on right-of-way debris removal and initiated efforts to include other PWs for the removal and monitoring of debris located on private property and in waterways. This expansion demonstrates the Parish's continuing effort to review costs billed.

In June 2007, during our exit conference, Parish officials said the adjustments for monitoring costs billed had increased to approximately \$9 million. The \$9 million included \$593,461 for monitoring the removal of leaners and hangers as discussed in reportable condition B.

Conclusion:

St. Tammany Parish government should be commended for establishing an internal audit activity immediately following Hurricane Katrina. The effectiveness of the audits resulted in significant adjustments in the billing for debris removal from the Parish.

B. Ineffective Performance by a Monitoring Contractor

Because the Parish's monitoring contractor did not effectively monitor debris removal tree cutting operations, the debris removal contractor billed the Parish for unsupported tree cuttings. Therefore, the monitoring contractor's billings for monitoring these tree cuttings were unreasonable because its performance was ineffective. According to 44 CFR 13.22 federal funds may be used only for allowable costs. Federal cost principles state that to be allowable, costs must be necessary and reasonable for proper and efficient performance and administration of federal awards (2 CFR Part 225, Appendix A, C.1. a).

In September 2005, the Parish awarded a non-competitive contract to a company to monitor debris removal from the Parish. The Parish re-bid the monitoring contract in November 2005 and awarded the contract to the incumbent company. Under the original and re-bid contracts, the

company was responsible for determining that the debris removal contractor performed under the terms of the contract and supported invoiced costs to the Parish. The contractor was required to provide personnel trained to make the debris eligibility determinations. FEMA approved PW 2383 for about \$24 million to cover the cost of the monitoring effort. The debris removal contractor cut and removed hazardous limbs and trees starting in September 2005. The contractor completed the work by September 30, 2006, the cutoff date for our review³.

The Parish's internal audit team reviewed invoices submitted by the contractor for cutting hazardous limbs and trees from right-of-ways. The internal audit team identified about \$3.6 million⁴ of unallowable costs because the contractor (1) billed for tree cutting and stump removal work that the Parish could not validate, (2) billed for multiple tree limb cuts on individual trees when the contract provided for a single cut per tree, and (3) billed for trees that were not located in areas specified in the contract. As a result, the Parish withheld payment to the debris removal contractor for unsupported tree cutting costs.

The internal auditor interviewed field monitors and reviewed support documentation for tree cuts signed by the monitors. The Parish concluded that the monitors did not properly determine hazardous limbs and tree eligibility. Instead, the monitors often recorded the cuts called by the tree cutters when the cuts were being made. The monitors did not verify the cut calls. Ineffective monitoring also occurred because debris monitors were not trained to perform their tasks and document the work completed by the contractor. The ineffective monitoring resulted in the debris removal contractor invoicing costs that were not eligible.

Parish officials determined that the monitoring contractor did not comply with the terms of the monitoring contract. The Parish initially determined that the monitoring contractor invoiced at least \$445,000 for the time associated with the ineffective monitoring of hazardous tree and limb removal. As of September 30, 2006, the Parish officials had not made a decision on disallowing the monitor's costs associated with the substandard performance because the primary concern of the Parish was with the unsupported bills submitted by the debris removal contractor.

During the exit conference, Parish officials said they decided in April 2007, after completing the review of the monitoring contractor's work, not to pay the costs associated with ineffective performance. The officials also said that the estimated costs had increased to \$593,461.

Conclusions/recommendations

The Parish did not pay for costs invoiced by the debris removal contractor for cuts of hazardous limbs and trees determined to be ineligible. We believe that the monitoring contractor, like the debris removal contractor, should not be paid for ineffective performance.

We recommend that the Director, Louisiana Transitional Recovery Office,

³ In November 2006, FEMA authorized the Parish to remove additional trees resulting from Katrina-related salt-water damage.

⁴ The \$3.6 million of unsupported tree cuttings was part of the \$12 million of unsupported costs identified by the internal auditor.

1. Require the State to verify that the Parish did not claim \$593,461 billed by the monitoring contractor for ineffective performance.

C. Contract Amended without Competition

Shortly after Hurricane Katrina occurred, the Parish amended an existing contract for the removal of debris without performing a cost or price analysis, even though the debris type and contract value changed significantly due to Hurricane Katrina. As a result, the Parish did not use a competitive process as an opportunity to lower prices and achieve a more effective operation. The Parish had no assurance that it received the best value or used the most effective contractor.

Federal procurement standards at 44 CFR 13.36 require subgrantees to promote and provide for full and open competition in awarding contracts. According to 44 CFR 13.36 (f) (1) through (2), subgrantees must perform a cost or price analysis in connection with every non-competitive procurement action including contract modifications. Subgrantees are also required to negotiate profit as a separate element of the price for each contract in all cases where a cost analysis is performed.

In June 2005, before Hurricane Katrina, the Parish awarded a competitive contract to cover removal and disposal of any construction and demolition debris that could result from storm damage during calendar year 2005. Parish officials estimated the value at \$500,000.⁵ Following Hurricane Katrina, the Parish faced the removal of a substantial amount of primarily vegetative debris. Even though the inclusion of vegetative debris caused a significant increase in the volume of debris, and therefore cost of the removal, the change in scope was not discussed by Parish, State, and FEMA officials before the contract was amended. FEMA decided that the existing contract could be modified without competing the addition of vegetative debris to the contract. Based on FEMA's decision, the Parish did not re-compete the contract and did not perform the required cost or price analysis. Instead, the Parish amended the existing contract to include the removal of vegetative debris. The modification increased the value of the contract to \$130 million.

During the exit conference, Parish officials emphasized that FEMA made the decision to not compete the modification to the contract. The officials also said that with FEMA's help, they had negotiated with the contractor to lower its rates based on comparisons with local applicants' costs. The officials contended that the negotiated rates were reasonable.

Conclusions/Recommendations

Because the value of the existing contract increased significantly and the scope of the work changed substantially, the Parish should have re-competed the debris removal contract. Without

⁵ The contract specified the amount the Parish would pay for each cubic yard of debris removed. The contract did not specify the expected quantity of debris or establish the value of the contract. Parish officials estimated the contract could cost the Parish about \$500,000, based on the volume of construction and demolition debris caused by storms in 2002 and 2003.

competition, the Parish could not assure FEMA that contract costs to remove the vegetative debris created by Hurricane Katrina were reasonable. However, because the contractor has completed the majority of the debris removal activities under this contract, it is not practical to seek competition on the remainder of the work under the contract.

We recommend that the Director, Louisiana Transitional Recovery Office, require the State to:

2. Notify Parish officials that, according to federal procurement standards at 44 CFR 13.36, contract modifications on future FEMA projects should provide for full and open competition when the type or magnitude of work significantly changes the value of the contract.

D. Noncompliance with FEMA Small Project Management Requirements

FEMA incorrectly classified one of the Parish's debris removal projects as a small project even though the cost of removing the debris exceeded the threshold for small projects. The project should have been classified as a large project.

The Public Assistance Digest, FEMA Publication 321, explains two different payment methods for Public Assistance grants that are dependent on whether a project is small or large. The determination is based on a cost threshold that is adjusted each year. When Hurricane Katrina occurred in August 2005, the threshold for small projects was \$55,500. FEMA policy states that two separate PWs cannot be written for the same location and classified as small if their combined cost exceeds the small project threshold. Projects exceeding the \$55,500 threshold are to be managed as large projects.

Small projects are funded using cost estimates. FEMA approves and obligates funding based on the estimate and makes federal funding available to the State. The State provides funds to the applicant as soon as the PW is approved. FEMA does not perform a final inspection of completed small projects. The approved funding level for small projects is fixed regardless of the final cost incurred by the applicant.

Large projects are funded based on actual costs. After a PW is approved, FEMA obligates and makes funds available to the State. As work is accomplished, the applicants are reimbursed from the State for incurred expenses. When the project is complete, the State determines the final cost of the project, often performing inspections or reviews.

In February 2006, the Parish contracted with a company to remove and dispose of vegetative debris located on the trails and buildings throughout a Parish park. FEMA initially determined the project was to be a small project. FEMA approved PW 2294 for \$48,000 for the removal of debris from the park. During the initial work, the contractor and FEMA representatives determined that there was more debris than originally estimated. FEMA then approved another small PW 8609 for \$28,000 to complete the effort. The combined cost of removing the debris in the park was \$76,000, which exceeded the small project threshold of \$55,500 by \$20,500.

The incorrect classification of the park's debris removal effort impacted the funding, as well as oversight and closeout requirements. According to FEMA officials, the overall cleanup effort should have been classified as a large project.

Parish officials said, during the exit conference, that the decision to classify the work as two small projects was FEMA's responsibility. The officials also said they had accounted for the costs under both PWs and ensured that the work was completed.

Conclusions/Recommendations

Although the park project began with the correct designation as a small project, the additional funding raised the cost to a large project classification. Because the cleanup cost exceeded the small project cost threshold, the project should have been converted to a large project and closed according to large project closeout procedures. The Parish should be required to account for all costs associated with removing debris from the park.

We recommend that the Director, Louisiana Transitional Recovery Office:

3. Require the State to consider the cleanup of the park to be a large project, and
4. Close the project according to large project closeout procedures.

E. Limited Use of Administrative Allowance Funds

The Parish did not spend its administrative allowance funds provided by FEMA and mistakenly held the unused funds for future disasters. However, funds not expended by closeout of the grant must be returned to FEMA. Therefore, the Parish must forfeit unused administrative funds when the FEMA grants are closed out. As of September 30, 2006, the Parish had not expended \$482,000 of administrative allowance funds.

Title 44 CFR 206.228 states that a Statutory Administrative Allowance is provided to subgrantees to cover the necessary direct and indirect costs of requesting, obtaining, and administering federal disaster assistance. This Statutory Administrative Allowance (sliding scale) is automatically added as a percentage of the total amount of assistance for the subgrantee when projects are processed.⁶ Federal requirements state that subgrantees must maintain records of how administrative allowance funds are spent. The records are subject to audit. In addition, at closeout, unused administrative allowance funds must be returned to FEMA.

By December 31, 2006, the Parish received \$807,000 in administrative allowance funds. However, the Parish only applied about \$325,000 to eligible administrative costs. The Parish used part of the \$325,000 to recover personnel costs associated with the establishment of an internal audit capability.

⁶ The Administrative Allowance is based on a sliding scale, ranging from 3 percent of the first \$100,000 of eligible costs to ½ percent of eligible costs in excess of \$5,000,000.

Parish officials told us they planned to hold any unused funds in a disaster relief account to help meet any future disaster needs. The officials were not aware that any unused administrative funds had to be returned to FEMA at closeout. Parish officials commented, during the exit conference, that they have begun applying the funds to eligible costs.

Conclusions/Recommendations

The Parish should apply the administrative allowance for all eligible costs or return unused funds to FEMA. Accordingly, we recommend that the Director, Louisiana Transitional Recovery Office require the State to:

5. Advise the Parish on the federal requirements concerning how administrative allowance funds may be used, and
6. Ensure that the Parish returns any unused administrative funds to FEMA at closeout.

F. Excess Funds Received Not Timely Managed

The Parish requested and received from the State about \$2.5 million more than it needed as a reimbursement for invoices submitted by the monitoring contractor under PW 2383. The Parish did not return the funds in a timely manner or remit interest earned on the funds. Therefore, the Parish did not comply with federal requirements concerning the return of excess funds and interest to the federal government.

According to 44 CFR 13.21(b), subgrantees are required to minimize the time elapsing between the transfer of federal funds and the disbursement of funds. Further, 44 CFR 13.21(i) requires that interest earned on advances by subgrantees be submitted promptly (but at least quarterly) to the federal agency. A subgrantee may keep interest amounts up to \$100 per year for administrative expenses.

The Parish requested about \$21.6 million reimbursement from the State for invoices covering the contractor's expenses of monitoring debris removal. The Parish based its request on 80 percent of the amount owed to the contractor. The Parish withheld 20 percent to cover any unforeseen ineligible charges. While the reimbursement request for costs incurred through July 7, 2006 was being processed by the State, Parish auditors determined that the contractor should be paid less than the amount requested because of overtime charges and other invoiced cost discrepancies. However, the Parish did not amend its reimbursement request to the State. In October 2006, the Parish received about \$2.5 million more than it needed to pay the contractor and deposited these excess funds in an interest-bearing account.

Parish officials stated that some of the excess funds paid for monitoring the contractor when the contractor submitted more invoices. On December 29, 2006, the Parish repaid the remaining \$1,537,505 to the State. The Parish did not provide us the amount of interest earned on the excess funds because it was co-mingled with other funds. However, we calculated the amount of

interest earned based on a conservative interest rate of 4 percent, and determined that the Parish could have earned approximately \$10,000 for two months on the \$1,537,505.

At the exit conference, Parish officials said they calculated the current interest, using a 5 percent rate, to be at least \$20,000. The officials said the interest earned would be returned to FEMA.

Conclusions/Recommendations

The Parish should return excess funds in a timely manner, calculate the actual amount of interest earned on the excess funds, and remit that amount to FEMA immediately. Accordingly, we recommend that the Director, Louisiana Transitional Recovery Office, require the State to:

7. Instruct the Parish to immediately remit all interest earned on the excess FEMA funds (less \$100 for expenses) to FEMA.

DISCUSSIONS WITH MANAGEMENT

We discussed the results of the review with FEMA, State, and Parish officials during exit conferences in June 2007. The officials said that they would reserve their official comments until after the report was issued. FEMA will receive comments from the State and the Parish, and will provide written comments to the Office of Inspector General. However, during the exit conference with the Parish, the Parish officials suggested changes that they believe were needed to clarify the facts presented in the report. The suggestions provided by the Parish officials have been incorporated, as appropriate, into the Results of Review section of the report.

**Department of Homeland Security
Office of Inspector General
State of Louisiana—St. Tammany Parish
Review of Debris Removal Activities**

**Schedule of Approved Project Worksheets
As of September 30, 2006**

Project Worksheet	Activity	PW Amount Approved	Parish Claim
516	Debris Removal	\$110,000,956	\$106,042,353
585	Debris Monitoring	37,425	37,054
2294	Debris Removal	48,506	48,025
2383	Debris Monitoring	24,430,323	21,684,962
2914	Debris Removal	1,898,325	1,862,622
2981	Debris Removal	7,424	7,350
2983	Debris Removal	378,206	49,020
2984	Debris Removal	337,505	-0-
2986	Debris Removal	280,797	-0-
2990	Debris Removal	1,051,550	-0-
3068	Debris Removal	20,721,673	9,679,864
3100	Debris Removal	186,441	-0-
3171	Debris Removal	5,555,137	104,888
3660	Debris Removal	7,726,691	1,578,042
3664	Debris Monitoring	1,515,037	4,055,560
4796	Debris Monitoring	1,515,037	-0-
6785	Debris Removal	366,331	-0-
8609	Debris Removal	28,281	28,000
13057	Debris Removal	2,315,641	-0-
Total		\$178,402,286	\$145,177,740

**Department of Homeland Security
Office of Inspector General
State of Louisiana – St. Tammany Parish
Review of Debris Removal Activities**

Objectives, Scope, and Methodology

The objective of Foxx & Company's review of ongoing Hurricane Katrina debris removal activities in St. Tammany Parish, Louisiana was to determine whether the awarded contracts and contractor billings were in compliance with applicable federal criteria. Foxx also reviewed selected aspects of the overall management of debris removal and monitoring within the Parish because of the magnitude of the devastation and the volume of debris created by Katrina.

The scope of the review included all debris removal and monitoring activities managed by the Parish during the period August 29, 2005 through September 30, 2006. However, we also included more current activities related to conditions found during our review to determine what changes had occurred. Foxx & Company performed the work at the Joint Field Office in Baton Rouge, FEMA's area office in St. Tammany Parish, St. Tammany Parish's government offices, contractor locations, and at the landfill locations.

Foxx & Company's methodology included interviews with FEMA, State, Parish, and contractor officials to obtain an understanding of internal control systems and to identify current issues and concerns relative to the debris removal. Our review included reviewing all contract types, procurement methods, reasonableness of contract rates, compliance with federal requirements, and cost/price analyses performed by the Parish. We also reviewed selected contractor billings that led to Parish payment requests to the State through September 30, 2006. This effort allowed us to determine whether the amounts claimed for incurred expenses were appropriately supported, accurate, and according to applicable laws and regulations.

The Department of Homeland Security, Office of Inspector General is reporting the results of the audit to appropriate DHS officials. Foxx & Company discussed the review results in draft with cognizant FEMA, State, and Parish officials. The comments received were incorporated, as appropriate, within the body of the report.

The nature and brevity of this review precluded the use of our normal review protocols. Therefore, this review was not conducted according to Generally Accepted Government Auditing Standards. Had we followed such standards, other matters may have come to our attention. However, we conducted sufficient procedures to achieve the objectives of the review and to ensure that the reportable conditions were correct.