Office of Inspector General

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

SEP 2 8 2006

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

FROM: for Jack Lankford
Gulf Coast Audit Manager

SUBJECT: *Interim Review of Hurricane Katrina Activities*
St. Bernard Parish, Louisiana
FEMA Disaster No. 1603-DR-LA
Public Assistance Identification Number 087-99087-00
Report Number GC-LA-06-54

We performed an interim review of emergency protective services and other disaster costs associated with Hurricane Katrina activities for St. Bernard Parish, LA (Parish). The objective of the review was to determine whether the Parish was accounting properly for disaster-related costs, and whether such costs were eligible for funding under FEMA's Public Assistance program. (Note: We will report separately on a review of debris removal and monitoring costs that is underway).

As of March 15, 2006, the cut-off date of our review, the Parish had received an award of $147.5 million (FEMA share $146.0 million) from the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), the grantee, for 102 projects (65 large and 37 small).[1] The projects were for debris removal, emergency protective measures, and restoration of facilities damaged as a result of Hurricane Katrina. Our review primarily focused on the emergency protective measures funding under Project Worksheet 8 (PW8) that FEMA approved for $31.9 million, including an administrative allowance of about $200,000. Under this PW, the Parish received an expedited payment of $31.9 million from the GOHSEP and had submitted certification of $33.8 million costs incurred.

Our review consisted of an analysis of the Parish's accounting system, eligibility of disaster costs, contracting policies and procedures, and interviews with FEMA, State, and Parish officials. The nature and brevity of this assignment precluded the use of our normal audit protocols. Therefore, we did not conduct this review according to generally accepted government auditing standards. Had we followed such standards, other matters may have come to our attention.

We conducted this review in conjunction with the President's Council on Integrity and Efficiency (PCIE) as part of its examination of relief efforts provided by the federal government in the

[1] Federal regulations in effect at the time of the disaster defined a large project as one costing $55,500 or more, and a small project as one costing less than $55,500.

aftermath of Hurricanes Katrina and Rita. As such, a copy of the report has been forwarded to the PCIE Homeland Security Working Group that is coordinating Inspectors' General reviews of this important subject.

RESULTS OF REVIEW

The Parish's management of its disaster activities was deficient in three principal areas: (1) the accounting system did not allocate costs properly or document cost eligibility; (2) the Parish did not comply with federal contracting procedures; and (3) the Parish did not maintain accountability for capital asset purchases.

Inadequate Accounting System

The Parish's accounting system did not meet federal requirements to maintain records for each approved project and that only eligible costs are charged to the project. Title 44, Code of Federal Regulations, §206.205, requires a project-by-project accounting of eligible costs. If not corrected, this method of accounting may result in substantial errors in the Parish's final claim for reimbursement.

The Parish only established one disaster fund account (Number 500) and charged expenditures for different PWs to that same account. Further, the Parish did not identify the PW number or project description for items charged to the account. Allocating expenditures from multiple projects to a single project account will not enable a reconciliation of the final claim for each project with the Parish's official accounting system. Also, submitting claims that are not reconciled with the official accounting system may cause control weaknesses that could result in duplicative claims and other accounting errors.

Following are costs that the Parish incorrectly certified as eligible to justify their expedited funding for PW 8:

- Vehicle replacement costs of $1,584,477. These costs were approved for funding under PWs 3797 and 1974, and therefore payment under PW8 is ineligible because it would be duplicative funding.

- Direct administrative expenses of more than $130,000 as part of temporary payroll expenses and more than $247,000 as part of their permanent payroll. These costs are not eligible because administrative costs are covered by a statutory administrative allowance under 44 CFR §206.228(a)(2)(ii), and no additional costs for these expenditures are eligible. Examples of the ineligible costs are employees performing accounting, finance, payroll, and purchasing functions, and job titles such as Director of Recovery and Public Affairs Director.

- Sales taxes of $249,635 on trailer and mobile home purchases. The State of Louisiana [Louisiana Revised Statutes 47:301(8)(c)] provides a sales tax exemption to Parish governments. Therefore, the Parish is not entitled to claim these charges for FEMA reimbursement. Parish officials said that they would account for all sales taxes charged and deduct that amount from the final contractor billings.

- Payment of $426,920 for 26 trailers that were not delivered to the Parish Government. Although a refund was received by the Parish from the contractor, the Parish had not made an adjustment in the accounting of costs for PW8.

Non-compliance with Contract Procurement Requirements

The Parish did not award or administer its large disaster procurements according to federal requirements in 44 CFR §13.36. The Parish has reported costs paid under these contracts as of January 2006 as support for the expedited funding received under PW8. We selected four procurements for review based on high dollar value and noted various deficiencies including (1) no written contract or similar document prior to delivery of service; (2) no cost or price analysis; (3) vague or undefined scope of work and no period of performance; (3) ineligible contracting methodology; (4) indefinite pricing; and (5) no monitoring of contractor performance. In addition, the Parish did not obtain competitive bids on these contracts. Although regulations permit noncompetitive contracts due to exigent circumstances, reducing competition increases the need for cost or price analysis, a well-defined scope of work, and effective contract monitoring.

Following are deficiencies we noted in each of the procurements we reviewed:

Contract No. 1: Purchase of 492 trailers and five mobile homes for $8,604,213, including site preparation, installation, and maintenance during the period from September 2005 through December 2005. The Parish did not have a written contractual agreement in advance of delivery and payment, and had no evidence of a cost/price analysis, bids, or negotiation to assure reasonable prices. The Parish prepared purchase orders, apparently as a formality, after it received invoices and the contractor was paid, which minimized their effectiveness as a control procedure.

Contract No. 2: Task Order, dated September 16, 2005 was executed to perform distinctly different tasks, including (1) decontamination and refurbishing of 26 acre complex for operating the Parish government; (2) provide and coordinate all necessary housing, offices, foods, and supplies for 200 government personnel; and (3) coordination of federal assets deployed for operation by the Parish government. Under this contract, the Parish paid $7,022,460 during the period from September 2005 through January 2006 that included the purchase of 224 trailers and 14 mobile homes as well as other services provided by the Task Order. Various problems with the contract and billings included:

- The Parish did not competitively bid the contract, and did not perform a cost/price analysis.

- The scope of work was poorly defined, and no period of performance was stated.

- The contract provided for payment on a "cost plus basis," but this was not further defined to determine if this was a cost plus percentage, cost plus fixed fee, or what type of "cost plus."

- The contractor billed the Parish for its cost plus a percentage of its cost. Cost plus percentage of cost contracts are prohibited by 44 CFR 13.36(f)(4). The additional charges for percentage add-ons were over $245,000 for four percent overhead and over $638,000 for ten percent profit. Further, the Parish did not have documentation to verify that the base on which the overhead and profit were applied was limited to the contractor's actual costs (i.e. that a markup was not already included in the base price).

- The tasks performed under the contract were distinctly different, some more labor intensive than others, and should have had contractual terms to match the level of effort under each type of work.

- The contract provided for the Parish to make payments with federal government funds made available for disaster relief. This provision is prohibited under FEMA policy in the contract eligibility section of Public Assistance Guide (FEMA 322) that states, "...contracts contingent on FEMA reimbursement are not eligible."

Contract No. 3. Amendment No. 1 dated September 13, 2005 was to provide environmental services to help mitigate the threat to life, health, or safety. The contract amount was not to exceed $15,000,000. Pricing was to be based on a cost-plus percentage basis, with the percentage markup of 15 percent. Under this contract, the Parish paid $1,945,232 through January 24, 2006. Problems with the award and administration of this contract included:

- The Parish did not perform a cost or price analysis on this non-competitive contract.

- The contract did not include a period of performance.

- The Parish paid the contractor on a cost plus percentage of cost basis that is not allowable under FEMA regulations. Although the contract specified 15 percent, the contractor generally calculated the fee at 12 percent.

- Although the contract provided for payment on a cost plus percentage basis, the rates charged for personnel and equipment appeared to be more consistent with time and materials type contracting that includes profit. The Parish did not provide documentation of any review to verify that the contractor billed on the basis of actual costs. Separate line items for fees to the contractor based on a percentage of the rates totaled about $215,000.

- Invoices did not adequately describe work to reconcile with the contract scope.

- The Parish did not keep a record of contract monitoring.

Contract No. 4. This award, dated October 11, 2005, was to provide services related to the hurricane response and incident management. Pricing was on a time and materials basis. Under this contract, the Parish paid $1,314,051 through January 24, 2006. Problems with this contract were that it was non competitive and no cost or price analysis was performed, the period of performance was not stated, a not-to-exceed amount was not included as required for time and materials contracts, and the work appeared to be administrative, which was not eligible because it was covered by the statutory administrative allowance.

Non-Accountability of Capital Purchases

The Parish did not maintain complete accountability for trailers and mobile homes purchased and included as support for the expedited funding received for PW 8. The Parish's inventory list contained only 591 trailers and mobile homes, whereas payment was made to two contractors for 735 units during the audit period. This leaves 144 units unaccounted for at an estimated cost of more than $2,490,000. Unless these units can be accounted for, and a determination made they were used for eligible disaster activities, the $2,490,000 is not eligible for FEMA reimbursement.

RECOMMENDATIONS

We recommend that the FEMA Director, Louisiana Transitional Recovery Office, in coordination with the grantee and subgrantee:

(1) Provide assistance as needed to the Parish in setting up an accounting system to charge disaster expenditures to the applicable project or a suspense account at the time of the transaction;
(2) Request the Parish to amend its reimbursement documentation for PW 8 to deduct $2,638,032 for charges ineligible or not applicable, including: the $1,584,477 for vehicle replacement that is applicable to other PWs; $377,000 for direct administrative expenses not eligible; $249,635 for ineligible sales taxes; and $426,920 for a refund received from a contractor for overcharge of trailer payments.;
(3) Require the Parish to amend any ongoing contracts to comply with FEMA regulations, and to comply with FEMA regulations for all future contracts.
(4) Review contract billings based on cost plus percentage of cost and verify that rates charged for labor, equipment, and materials were based on actual costs to the contractor.

(5) Disallow $1,098,000 for the percentages added for overhead and profit on cost plus percentage of cost contracts ($883,000 for the trailer contract; $215,000 for the environmental services contract) due to the prohibition of this type of contracting.
(6) Determine whether non-compliance with contracting requirements resulted in excessive or ineligible charges, and adjust funding accordingly.
(7) Disallow the claim for approximately $2,490,000 for the 144 unaccounted for trailers and mobile homes unless the Parish provides additional documentation.

DISCUSSION WITH MANAGEMENT AND FOLLOW-UP

We discussed the results of our review with Parish officials on May 24, 2006 and with FEMA and grantee officials on June 1, 2006. Parish officials generally concurred with the findings but pointed out that many of the deficiencies were due to the suspension of normal procedures during the emergency. FEMA and grantee officials withheld concurrence pending issuance of our report.

Please inform us within 30 days of the actions taken to implement the recommendations. Your response should be sent to:

U.S. Department of Homeland Security
Office of Inspector General
One Seine Court, 6th Floor
New Orleans, LA 70114

Should you have any questions concerning this report, please contact me at (510) 377-7383.

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