

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

The City of San Buenaventura, California,
Did Not Properly Account for and Expend
FEMA Public Assistance Grant Funds






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Washington, DC 20528 / www.oig.dhs.gov

JAN 3 2013

MEMORANDUM FOR: Nancy Ward
Regional Administrator, Region IX
Federal Emergency Management Agency

FROM: 
D. Michael Beard
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *The City of San Buenaventura, California, Did Not Properly Account for and Expend FEMA Public Assistance Grant Funds*
FEMA Disaster Number 1577-DR-CA
Audit Report Number DS-13-03

We audited Public Assistance (PA) grant funds awarded to the City of San Buenaventura, California (City), Public Assistance Identification Number 111-65042-00. Our audit objective was to determine whether the City accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

The California Emergency Management Agency (Cal EMA), a FEMA grantee, awarded the City \$2,307,402 for costs resulting from storms, flooding, debris flows, and mudslides from December 27, 2004, through January 11, 2005.¹ The award provided 75 percent FEMA funding for 11 large projects and 9 small projects.² Our audit covered the period from December 27, 2004, to July 11, 2012. We audited five large projects with a total award of \$1,425,482 (see Exhibit, Schedule of Audited Projects). As of July 2012, the City had allocated costs totaling \$2,131,549 to the projects in our review and had not submitted a final claim for this subgrant award.

We conducted this performance audit between January and August 2012 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

¹ At the time of this disaster, the grantee's name was the Governor's Office of Emergency Services, which became part of Cal EMA on January 1, 2009.

² Federal regulations in effect at the time of the disaster set the large project threshold at \$55,500.



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findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit applying the statutes, regulations, and FEMA policies in effect at the time of the disaster.

We interviewed FEMA, Cal EMA, and City officials; judgmentally selected (generally based on dollar value) 5 out of 11 total large projects to audit; and performed other procedures considered necessary to accomplish our audit objective. We did not assess the adequacy of the City’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 the City’s method of accounting for disaster-related costs and its policies and procedures.

RESULTS OF AUDIT

Of the \$2,131,549 in project charges we reviewed, the City did not properly account for and expend \$1,517,065 in accordance with Federal grant regulations and FEMA guidelines. Additionally, the City has \$86,585 in unneeded funding that can be deobligated and put to better use (see table 1).

Table1. Summary of Questioned Costs and Funds Not Used

Finding	Subject	Questioned Costs	Unneeded Funding
A	Ineligible Repairs and Project Costs	\$1,014,589	
B	Ineligible Hazard Mitigation Costs	233,973	
C	Ineligible Project Replacement Costs	268,503	
D	Unneeded Funding		\$86,585
Total		\$1,517,065	\$86,585

Finding A: Project Costs Are Not Eligible for Reimbursement

The City has charged Project 897 with \$1,014,589 in costs that we determined are not eligible for PA funding. FEMA approved the project’s scope of work (SOW) to restore the City’s water pipelines to predisaster condition. In performing those repairs, the City did not follow FEMA’s approved repair methodology and incurred costs for work not included in the SOW. The City also charged the project with ineligible hazard mitigation expenses.



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Federal requirements and FEMA guidelines stipulate the following:

- The grantee shall make an accounting to the Regional Director, FEMA, of eligible costs for each approved large project. In submitting the accounting, among other things, the grantee shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the project is in compliance with the provisions of the FEMA-State agreement (44 CFR 206.205(b)(1)).
- An item of work must be required as a result of a major disaster to be eligible for financial assistance (44 CFR 206.223(a)(1)).
- To be allowable under Federal awards, costs must be necessary, reasonable, and adequately documented (2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, Sections C.1.a and C.1.j).³

FEMA approved and funded permanent repairs under Project 897 totaling \$420,804. However, as shown in table 2, the City has charged the project \$1,014,589 to complete the work.

Table2. Project Approved Amounts and Incurred Charges

Work Category	FEMA Approved Amount	Project Charges
Repairs Under Contract	\$185,475	\$ 371,729
Force Account and Professional Services	235,329	246,710
Rental Equipment and Category B Tasks	0	162,177
Hazard Mitigation Planning	0	233,973
Total	\$420,804	\$1,014,589

In completing the FEMA-approved repairs, the City—

- Did not apply FEMA’s approved repair methodology—
 - FEMA approved a repair methodology described as a pipe-bursting method, recommended by the City’s own consultant.⁴

³ In effect at the time of the disaster, Office of Management and Budget Circular A-87 relocated to 2 CFR 225 on August 31, 2005.

⁴ *Guidelines for Pipe Bursting* (March 2001), prepared for the U.S. Army Corps of Engineers. The guidelines describe pipe bursting as follows: an existing pipe gets replaced size-for-size with a new pipe in the same location by fracturing the old pipe, displacing the fragments outward while a new pipe is drawn into replace it. It is the most cost-effective method when replacing old pipes.



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- The City applied a different repair methodology (slip-lining method), and incurred repair costs that exceeded FEMA-approved amounts.⁵
- The City did not obtain FEMA's approval for changing the repair methodology or incurring additional costs.
- Charged the project with \$162,177 for tasks not included in the approved SOW—
 - \$101,995 to reevaluate a new repair method and change the approved repair method to slip-lining.
 - \$60,182 for emergency protective measures (Category B work). However, the FEMA-approved SOW for Project 897 was for permanent repairs only (Category F work).
- Charged the project with \$233,973 in ineligible hazard mitigation costs pertaining to engineering and design services and environmental studies (see finding B). FEMA has denied funding for the costs because the City did not complete the hazard mitigation work approved under the project (see finding B).

City officials agreed, and Cal EMA concurred, that the \$60,182 in project charges were for emergency protective measures and should not be included as permanent work for Project 897. They noted however, that the City—

- Changed the repair methodology because the one FEMA approved was not the best.
- Did not inform FEMA about the change in SOW or the increase in project costs because they were not significant.
- Should receive reimbursement for the \$233,973 in hazard mitigation costs, since FEMA had initially approved hazard mitigation work under the project's SOW (see finding B).

We disagree with the City and Cal EMA's argument that changing the approved repair SOW and incurring additional costs because of the change in repair methodology did not require FEMA's approval. FEMA guidance stipulates that the City is required to obtain approval for a change in the SOW and for additional funding needs (FEMA *Public*

⁵ *The International Society for Trenchless Technology* describes slip-lining as the insertion of a new pipe into an existing pipe.



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Assistance Guide, FEMA 322 (1999), pp. 115–116).⁶ We also disagree that the \$233,973 in hazard mitigation costs is eligible for Federal reimbursement.

FEMA was not aware that the City had completed the project using an unapproved repair methodology and charged the project with unapproved costs in completing the permanent repairs. FEMA also noted that the City was not eligible for mitigation funding (see finding B). Therefore, we question the \$1,014,589 in expenditures that the City has charged Project 897.

Finding B: Costs for Two Projects Include Ineligible Hazard Mitigation

The City charged \$467,946 in ineligible hazard mitigation (mitigation) costs for architecture and engineering (A&E) and environmental studies to Projects 897 and 906. (The City allocated 50 percent, or \$233,973, to each project). We question the costs because the City did not complete the mitigation repairs that FEMA approved under the projects' SOW. In addition, FEMA has already informed the City that the costs are not eligible for PA funding.

Federal regulations and FEMA guidelines stipulate the following:

- An item of work must be required as a result of a major disaster to be eligible for financial assistance (44 CFR 206.223(a)(1)).
- To be allowable under Federal awards, the cost must be necessary, reasonable, and adequately documented (2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, Sections C.1.a and C.1.j).
- Mitigation measures must be determined to be cost-effective. For measures that exceed the eligible cost for repair work, the grantee or subgrantee must demonstrate through an acceptable benefit-cost analysis that the measure is cost-effective. FEMA must approve proposed projects prior to funding. The measures will be evaluated for cost-effectiveness; technical feasibility; and compliance with statutory, regulatory, and Executive order requirements (FEMA, *Hazard Mitigation Funding Under Section 406* (Stafford Act), FEMA 9526.1, Section 7.c and d (1998)).

⁶ The State Office of Emergency Services (Cal EMA) requires subgrantees to provide written notification of any significant changes in the cost or SOW; that is, a change in cost that exceeds 10 percent of the project estimate. Such requests shall contain sufficient documentation to support the eligibility of all claimed work and costs (California Governor's Office of Emergency Services, Cal EMA, *2005–2006 State Administrative Plan* (2006), pp 37–38).



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- A later version of FEMA 9526.1 states that if a facility has Section 406 hazard mitigation funding included in the approved SOW and the subgrantee wishes to restore the facility to its predisaster condition and function without the Section 406 hazard mitigation SOW, then the subgrantee must request a change of SOW before the project is completed. Section 406 hazard mitigation funds must be deobligated when the subgrantee does not use the funds as approved in the SOW (FEMA, *Hazard Mitigation Funding under Section 406 (Stafford Act)*, FEMA 9526.1, Section VII.C (2007)).

FEMA approved funding for Projects 897 and 906 to restore the City's water well facilities located east and west of the Ventura River to predisaster condition. The SOW for the two projects included funding for disaster repairs and \$1.8 million in hazard mitigation work to protect the damaged facilities from future flooding. The City, however, completed the disaster repairs for the two projects without the mitigation work. In addition, the City—

- Did not inform FEMA in a timely manner that completed project repairs did not include mitigation or request FEMA approval for the change in SOW.
- Developed a mitigation proposal with a SOW that was significantly different and more expensive than the one FEMA had approved.
- Requested Federal funding of \$5.4 million for hazard mitigation work.
 - FEMA completed a benefit-cost analysis and determined that the proposed mitigation work was not cost-effective, and deobligated the \$1.8 million in mitigation funding previously approved.
- Requested Federal reimbursement of \$467,946 in costs related to A&E and environmental studies incurred to develop the revised mitigation proposal.
 - FEMA informed the City that the costs are not eligible for reimbursement, as the mitigation work approved under the projects was not completed.

City officials argued that FEMA should reimburse the costs because FEMA (1) had approved mitigation funding under the projects, (2) was aware of the City's action to develop a comprehensive hazard mitigation plan, and (3) had advised the City about coordinating with other government agencies to avoid duplicative efforts. Cal EMA officials concurred with City officials' comments.



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A FEMA official explained that the City was not eligible for mitigation funding, as it did not complete the required repairs under the project. The official added that the City had been notified that the revised mitigation proposal exceeded the FEMA-approved SOW, and that the City should seek funding for the work under the Hazard Mitigation Program administered by the State.⁷

Because the City did not complete the mitigation repairs approved under Projects 897 and 906, we question the \$467,946 in hazard mitigation costs the City plans to claim for the projects. This amount includes \$233,973 in costs that we determined ineligible (see finding A). To avoid duplicate questioned costs, the net amount questioned and recommended for disallowance within this finding is \$233,973 (\$467,946 less \$233,973).

Finding C: The Replacement of a Damaged Well Did Not Meet Federal Regulations

The City incurred costs totaling \$268,503 under Project 906 to replace a water production well destroyed during the disaster. We determined that the new well was significantly different in design and components from the destroyed well. Moreover, the City did not perform a repair versus replace cost analysis as required under FEMA guidelines.

Federal requirements and FEMA guidelines stipulate the following:

- To be eligible for financial assistance, an item of work must be required as the result of the major disaster event (44 CFR 206.223(a)(1)).
- A facility is considered repairable when the disaster damages do not exceed 50 percent of the cost of replacing the facility to its predisaster condition, and it is feasible to repair the facility so that it can perform the function for which it was being used as well as it did immediately prior to the disaster. If a damaged facility is not repairable, approved restorative work may include replacement of the facility (44 CFR 206.226(f)(1)-(2)).
- Replacement costs are eligible if repair costs are equal to or greater than 50 percent of the cost to replace a facility. Replacement costs include the costs for all work necessary to provide a new facility of the same size or design capacity and function as the damaged facility in accordance with current codes and standards (FEMA, *Public Assistance Guide*, FEMA 322 (1999), pp. 28-29).

⁷ On October 4, 2010, FEMA notified the City in writing to consider the State-administered Hazard Mitigation Grant Program as a source of funding for its comprehensive mitigation proposal, since the mitigation did not qualify for PA funding.



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- A repair versus replacement analysis is conducted if repairs to a facility appear to cost 50 percent or more of the cost of replacing the facility (FEMA, *Applicant Handbook*, FEMA 323 (1999), Appendix A, p. A-8).
- Determination of eligibility for a replacement facility shall include only costs for the repair of damage, and not the costs of any triggered or mandatory upgrading of the facility beyond the repair of the damaged elements, even though these upgrade costs may be eligible for FEMA funding (FEMA, *The 50 percent Rule: The Eligibility of Facilities for Replacement under 44 CFR 206.226(d)(1)*, FEMA Guidance No. 4511.61 E, The Guidance (updated 2012)).

During project formulation, the City represented to FEMA that the destroyed well (identified as Well 1A) was one of the City’s primary production wells and required replacement.⁸ However, City records indicate that the destroyed well was not a primary production well and did not suffer significant damage that would require replacement.

- A City report indicates that the City initially constructed the well as an interim well while it upgraded its inventory of primary wells. The report further indicates that the destroyed well had previously been used for testing during the City’s Test Well Program.⁹
- The City’s representation to FEMA that Well 1A was destroyed beyond repair is inconsistent with the status of the well immediately after the rainstorm subsided. As shown in figure 1, significant portions of the well remained intact, providing the City an opportunity to conduct a repair versus replace cost analysis in accordance with Federal regulation and FEMA guidelines.

⁸ The City completed replacement Well 11 on June 1, 2005, before FEMA approved funding for Project 906 on June 22, 2005.

⁹ The report, prepared in 2002 by a City consultant, detailed four primary wells and ten testing wells, and identified one interim well (Well 1A). According to the report, the City used Well 1A as part of its Test Well Program to assess aquifer conditions and evaluate the feasibility of constructing additional primary well facilities as part of its Capital Improvement Plan, further validating that Well 1A was more of a test well than a primary well.



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Figure 1.



Damaged well, designated as Well 1A, following the disaster.

***Source:* FEMA Region IX, August 29, 2012.**

- The City did not provide FEMA with, nor did FEMA request, information showing the cost-effectiveness of replacing versus repairing the well. (FEMA was under the impression that the damage was beyond repair.) As shown in figure 2 and table 3, the design and components of the new replacement well significantly exceeded those of the damaged well.

Figure 2.



Replacement well, primary water production well designated as Well 11.

***Source:* OIG site visit, April 2012.**



Table3. Components of Well 1A versus Well 11

	Well 1A (Interim Well)	Well 11 (Primary Well)
Material	Mild Steel – 10-inch well casing	Stainless Steel – 18-inch well casing
Equipment	--Submersible pump --Piping --Electrical Equipment	--Programmable Logic Controller --Intelligent Motor Control Center --Enclosure for the Motor Control Center --Pump --Pump chamber --Piping --Electrical equipment

In response to our observations, the City—

- Said that FEMA had approved the well replacement and that the FEMA-approved project worksheet specifically documented that Well 1A was a primary water production well that was destroyed by the disaster.
- Explained that the report prepared by the City consultant erroneously identified the Well 1A as an interim well.
- Provided, in two separate instances, several electronic records to support its assertions.
- Provided a State of California “Well Completion Report” for Well 1A, and explained that this type of report is for primary producing wells.¹⁰

The City’s explanations and records did not provide evidence to support that Well 1A was a primary producing well or that it was destroyed beyond repair. With a few exceptions, the additional records provided by the City subsequent to our fieldwork were copies of the same documentation we had obtained previously. Further, the State of California issues Well Completion Reports for all well constructions. The report identifies components and capacity data of newly constructed wells, but does not identify the type of well constructed. The State issued a similar report for Well 1A in September 2001, when the City first constructed the well as an interim well.

¹⁰ The State of California, Resources Agency, Department of Water Resources, issues Well Completion Reports for all newly constructed, modified, or destroyed wells. The agency defines a test well as a well used to obtain information for designing other wells. There is no definition of an interim well.



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Cal EMA noted that the City would need to prove that the well replacement meets the eligibility requirements of FEMA's PA program before it can receive Federal reimbursement for the work.

We conclude that the replaced well did not meet FEMA's eligibility requirements. Therefore, we question the \$268,503 that the City has charged Project 906.

Finding D: The City Has Unused Funds That Cal EMA Needs To Deobligate

City officials said that during the FEMA closeout, they would not be claiming cost reimbursements totaling \$86,585 under Project 905.

Federal appropriations laws and the Statement of Federal Financial Accounting Standards (SFFAS) stipulates the following:

Federal agencies must record obligations in the accounting records on a factual and consistent basis. That is, the agency must increase or decrease obligated funds when probable and measurable information becomes known (Government Accountability Office, *Policy and Procedures Manual* § 3.5.D; B-300480 (2003), and SFFAS Number 5, paragraphs 19, 24, 25, and 29).

City officials explained that they abandoned the project and did not complete any of the repair work because the City could not obtain the required permits for the project. The officials added that they would not be submitting a cost reimbursement claim to FEMA for this project. Therefore, FEMA should deobligate \$86,585 in unneeded project funding and put those funds to better use.

RECOMMENDATIONS

We recommend that the FEMA Region IX Administrator:

Recommendation #1: Disallow \$1,014,589 (Federal share \$760,942) for ineligible repair and hazard mitigation costs incurred under Project 897 (finding A).

Recommendation #2: Disallow \$467,946 (Federal share \$350,960) for ineligible hazard mitigation costs under Projects 897 and 906 (finding B). To avoid duplicating hazard mitigation costs questioned under recommendation #1, do not deduct \$233,973 to the extent of FEMA's disallowance of costs questioned in recommendation #2 (finding B).

Recommendation #3: Disallow \$268,503 (Federal share \$201,377) for ineligible project replacement costs under Project 906 (finding C).



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Recommendation #4: Deobligate \$86,585 (Federal share \$64,939) from Project 905 and put those Federal funds to better use (finding D).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of this audit with City, State, and FEMA officials during our audit, and have included their comments in this report, as appropriate. We also provided written summaries of our findings and recommendations in advance to these officials and discussed them at exit conferences held with the City and Cal EMA on July 10 and August 9, 2012, respectively. City and Cal EMA officials partially agreed with finding A, did not agree with findings B and C, and agreed with finding D. FEMA officials withheld further comment until after we issue our final report.

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 recommendations. Until we receive and evaluate your response, we will consider the recommendations open and unresolved.

Consistent with our responsibility under 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. We will post the report to our website for public dissemination.

Major contributors to this report are Humberto Melara, Western Region Audit Director; Louis Ochoa, Audit Manager; Arona Maiava, Auditor-in-Charge; Renee Gradin, Senior Auditor; Paul Sibal, Auditor; and Elizabeth Finn, Program Analyst.

Please call me with any questions, at (202) 254-4100 or your staff may contact Humberto Melara, Western Region Audit Director at (510) 637-1463.



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EXHIBIT

Schedule of Audited Projects
December 27, 2004, to June 2012
City of San Buenaventura, California
FEMA Disaster Number 1577-DR-CA

Project Number	Project Award Amount	Project Charges Reviewed ¹	Ineligible Repairs and Project Costs (Finding A)	Ineligible Hazard Mitigation Cost (Finding B)	Ineligible Project Replacement Costs (Finding C)	Total Costs Questioned	Unneeded Funding (Finding D)
897	\$420,804	\$1,014,589	\$1,014,589			\$1,014,589	
905	86,585	0				0	\$86,585
906	303,609	502,476		\$233,973	\$268,503	502,476	
1249	407,061	407,061				0	
1836	207,423	207,423				0	
Totals	\$1,425,482	\$2,131,549	\$1,014,589	\$233,973²	\$268,503	\$1,517,065	\$86,585

¹ Projects 897 and 906 incurred significant cost overruns of which the City did not properly inform FEMA through Cal EMA.

² To avoid duplicate questioned costs, the net hazard mitigation amount questioned and recommended for disallowance under finding B is \$233,973 (\$467,946 total hazard mitigation costs less \$233,973).



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