

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

**FEMA Should Recover \$951,221 of Public Assistance
Grant Funds Awarded to Palm Beach County, Florida –
Hurricane Jeanne**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

JUL 10 2013

MEMORANDUM FOR: Major P. (Phil) May
Regional Administrator, Region IV
Federal Emergency Management Agency

FROM: John V. Kelly
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *FEMA Should Recover \$951,221 of Public Assistance
Grant Funds Awarded to Palm Beach County, Florida –
Hurricane Jeanne*
FEMA Disaster Number 1561-DR-FL
Audit Report Number DA-13-24

We audited Public Assistance grant funds awarded to Palm Beach County, Florida (County) (FIPS Code 099-99099-00). Our audit objective was to determine whether the County accounted for and expended Federal Emergency Management Agency (FEMA) funds according to Federal regulations and FEMA guidelines.

The County received a Public Assistance grant award totaling \$47.9 million from the Florida Division of Emergency Management (State), a FEMA grantee, for damages resulting from Hurricane Jeanne, which occurred in September 2004. The award provided 100 percent FEMA funding for the first 72 hours of emergency protective measures and debris removal activities, and 90 percent funding thereafter for these two activities. The award also provided 90 percent FEMA funding for permanent repairs to buildings, roads, and recreational facilities. The award consisted of 63 large projects and 173 small projects.¹

We audited 14 large projects and 1 small project with awards totaling \$29.2 million (see Exhibit, Schedule of Projects Audited) for debris removal, emergency protective measures, and permanent repairs to buildings and recreational facilities. We limited our review of small projects to determining whether the County (1) completed the projects and (2) received duplicate benefits for the projects. The audit covered the period from September 24, 2004, to March 7, 2013, during which the County claimed \$27.0 million of FEMA funding under the projects reviewed. At the time of our audit, the County had completed work on all large projects included and had submitted a final claim to the State for all project expenditures.

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$54,100.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

We conducted this performance audit between July 2012 and April 2013 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 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. To conduct this audit, we applied the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We judgmentally selected project costs (generally based on dollar value); interviewed County, State, and FEMA personnel; reviewed the County's procurement policies and procedures; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our audit objective. We did not assess the adequacy of the County's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective. However, we gained an understanding of the County's method of accounting for disaster-related costs and its policies and procedures for administering activities provided for under the FEMA award.

RESULTS OF AUDIT

FEMA should recover \$951,221 (Federal share \$859,074) of grant funds awarded to the County. The County did not account for projects on a project-by-project basis as required by Federal regulations and FEMA guidelines. In addition, the County's claim included \$951,221 of questionable costs, as follows:

- \$416,529 of contract costs that were not supported by adequate documentation;
- \$461,366 of ineligible project costs;
- \$49,560 of duplicate benefits for debris removal activities; and
- \$23,766 of ineligible administrative costs.

Finding A: Grant Accounting

The County did not account for large projects on a project-by-project basis. According to 44 Code of Federal Regulations (CFR) 13.20(a)(2), fiscal control and accounting procedures of a State and its subgrantees must be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Further, 44 CFR 206.205(b) requires that large project expenditures be accounted for on a project-by-project basis.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

The County initially set up FEMA disaster-account codes to capture disaster costs. However, it recorded very little expenditure in the accounts. Instead, the County commingled nearly all disaster-related receipt and expenditure transactions with nondisaster transactions in its general accounts, with no separate accounting establishing project balances, receipts, or expenditures. As a result, we could not readily identify and trace total costs claimed under each individual project to supporting documentation without direct assistance from County officials.

County officials disagreed that project expenditures were not recorded separately in the County's accounting system. However, the evidence supports our finding.

Finding B: Supporting Documentation

The County's claim included \$416,529 of contract charges under Projects 5296 and 4597 that were not supported by adequate documentation. Cost principles at 2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, Section (C)(1)(j), state that a cost must be adequately documented to be allowable under federal awards. We question the \$416,529, as follows:

- The County claimed \$4,529,860 of contract labor charges under Project 5296 for debris monitors, based on hourly labor rates. However, it did not have time and attendance records to support \$294,123 of the contract charges. Therefore, we question the \$294,123.
- The County claimed \$459,151 of contract charges under Project 4597 for debris removal activity at a temporary disposal and reduction site. Based on our review of adjusted contractor invoices agreed upon by the County and the contractor, the County actually paid the contractor a net amount of \$336,745, or \$122,406 less than the amount claimed. The difference occurred because a FEMA inspector used the original invoices rather than the adjusted invoices to determine eligible project costs at project closeout. We question the \$122,406.

County officials disagreed with this finding, saying that they would review their project files and provide supporting documentation to FEMA to show that the costs are eligible.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Finding C: Contracting Procedures

The County did not comply with Federal procurement requirements when awarding a contract valued at \$461,366 for repairs to the County Courthouse and Roger Dean Stadium. According to Federal regulations at 44 CFR 13.36, the County is required to, among other things—

- Conduct all procurement transactions in a manner providing full and open competition. Noncompetitive procurement may be used under certain circumstances, one of which is when public exigency or emergency will not permit a delay resulting from competitive solicitation. (44 CFR 13.36(c)(1) and 44 CFR 13.36(d)(4)(i)(B).
- Perform a cost or price analysis in connection with every procurement action, including contract modifications, to determine the reasonableness of the contractor's proposed price. (44 CFR 13.36(f)(1))
- Use time and materials contracts only after a determination that no other contract is suitable and that the contract contains a ceiling price that the contractor exceeds at its own risk. (44 CFR 13.36(b)(10)(1) & (11))
- Use an appropriate method of contracting other than cost plus a percentage of cost, which is not eligible. (44 CFR 13.36(f)(4))

In addition, FEMA's *Public Assistance Guide* (FEMA 322, October 1999, pp. 39–40) specifies that—

- Contracts must be of reasonable cost, generally must be competed, and must comply with Federal, State, and local procurement standards.
- Noncompetitive proposals should be used only when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals, and one of the following circumstances applies: (1) the item is available only from a single source, (2) there is an emergency requirement that will not permit a delay for competition, (3) FEMA authorizes noncompetitive proposals, or (4) solicitation from a number of sources has been attempted and competition is determined to be inadequate. (44 CFR 13.36(d)(4)(i))

FEMA may grant exceptions to Federal procurement requirements to subgrantees on a case-by-case basis (44 CFR 13.6(c)).

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Using the County's emergency contracting procedures, the County hired two contractors under noncompetitive contracts to repair damages to the County Courthouse (Project 5211) and to provide professional planning and management services for repairs to Roger Dean Stadium (Project 5010). The County claimed contract costs of \$212,677 and \$248,689 under Projects 5211 and 5010, respectively. While exigent circumstances warranted the use of noncompetitive proposals, the County did not perform a cost or price analysis on the contractors' proposed prices and awarded one contract as a time and materials contract and the other as a cost plus percentage of cost contract, a contracting method strictly prohibited by Federal regulations. Because of the County's improper procurement actions, FEMA has no assurance that the contract costs are reasonable. Therefore, we question the \$461,366 of costs claimed for the improper contracts.

County officials disagreed with this finding. They said that FEMA approved their existing maintenance and repairs agreement with these contractors. They also said that they would provide supporting documentation to FEMA to show that the contract costs are eligible.

Finding D: Duplication of Benefits

The County's claim included \$49,560 of debris removal activities funded by the Federal Highway Administration (FHWA). According to Section 312 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, no entity will receive assistance for any loss in which the entity has already received financial assistance from any other program, from insurance, or from any other source. We question the \$49,560, as follows:

- The County received \$3,414,125 of FHWA funding for debris removal activities on federal-aid roads, but credited only \$3,370,550 to the FEMA projects, leaving an unapplied balance of \$43,575. We were unable to determine the methodology used by the County to allocate the \$3,370,550 of FHWA funding to the various projects, and thus could not determine to which project(s) the \$43,575 should be applied. Therefore, we question the \$43,575 under Project 4725, which is the largest-dollar project for debris removal from federal-aid roads.
- The County claimed \$5,985 under small Project 4611 for debris removal activities on federal-aid roads. However, the County received \$5,985 of FHWA funding to cover the costs, but did not credit the FEMA project for the funds received. Therefore, we question the \$5,985.

County officials disagreed with this finding. They said that they would review project files for documentation to show the costs are eligible.

OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Finding E. Administrative Allowance

The County received \$23,766 of ineligible administrative allowance funding under Project 1209. Under Section 406 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, p. 489, as amended, the County is entitled to an administrative allowance based on a statutory formula to cover the costs associated with requesting, obtaining, and administering FEMA awards.² Federal regulation 44 CFR 206.228(a)(3)(ii) limits administrative costs to that allowance.

FEMA advanced \$16,743,391 under Project 1209 for debris removal activities completed by the County. The funding consisted of \$16,619,566 for debris removal activities and \$123,825 for the administrative allowance. The County provided documentation to support the advance. However, FEMA deobligated \$16,619,566 for debris removal funding and only \$100,059 for the administrative allowance, leaving a balance of \$23,766 administrative allowance obligated. FEMA later reallocated the debris removal funding (direct costs and administrative allowance) to other projects but mistakenly did not deobligate the \$23,766 of administrative allowance that remained for Project 1209. Therefore, we question the \$23,766.

County officials agreed with this finding.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Instruct the State to reemphasize to the County its need to account for FEMA project expenditures for on a project-by-project basis as required by Federal regulations and FEMA guidelines (finding A).

Recommendation #2: Disallow \$416,529 (Federal share \$374,876) of unsupported contract costs claimed (finding B).

Recommendation #3: Disallow \$461,366 (Federal share \$415,229) of improper contract costs, and instruct the State to remind the County that it is required to comply with Federal procurement standards when acquiring goods and services under FEMA awards (finding C).

² While Section 406(f) was used to establish management cost rates at the time of the disaster, it was repealed in 2007 when FEMA promulgated regulations at 44 CFR Part 207.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Recommendation #4: Disallow \$49,560 (Federal share \$45,203) of debris removal activities that were funded by the Federal Highway Administration (finding D).

Recommendation #5: Disallow \$23,766 (Federal share \$23,766) of ineligible administrative allowance paid to the County (finding E).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with County, State, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at the exit conference held on April 29, 2013. County officials' comments, where appropriate, are incorporated into the body of this 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 recommendation. Until we receive and evaluate your response, we will consider the recommendations as 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 on our website for public dissemination.

Major contributors to this report are David Kimble, Eastern Region Audit Director; Adrienne Bryant, Audit Manager; Helen White, Auditor-in-charge; Vilmarie Serrano, Senior Auditor; and Jerry Aubin, Program Analyst.

Please call me with any questions at (202) 254-4100, or your staff may contact David Kimble, Eastern Region Audit Director, at (404) 832-6702.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Exhibit

Schedule of Projects Audited

Project Number	Project Scope	FEMA Category of Work	Amount Awarded	Amount Questioned	Federal Share	Finding
4725	Debris Removal – Solid Waste Authority	A	\$5,107,172	\$ 43,575	\$ 39,218	D
5296	Debris Removal – Solid Waste Authority	A	4,529,860	294,123	264,711	B
4600	Debris Removal – Solid Waste Authority	A	4,065,574			
4597	Debris Removal – Solid Waste Authority	A	3,215,175	122,406	110,165	B
4556	Debris Removal – Solid Waste Authority	A	3,125,389			
4635	Debris Removal – Solid Waste Authority	A	2,964,097			
4704	Debris Removal – Solid Waste Authority	A	2,469,895			
4897	Emergency Protective Measures – Sheriff’s Dept.	B	1,075,685			
2688	Emergency Protective Measures – Fire/Rescue	B	658,638			
5006	Public Buildings and Facilities	E	730,442			
5211	Public Buildings and Facilities	E	283,522	212,677	191,409	C
3578	Public Buildings and Facilities	E	224,072			
5223	Public Utilities – Authority	F	491,417			
5010	Recreational or Other	G	248,689	248,689	223,820	C
4611	Debris Removal – SWA	A	23,280	5,985	5,985	D
	Debris Removal – Solid Waste Authority ³	A		23,766	23,766	E
Total			\$29,212,907	\$951,221	\$859,074	

³ The questioned amount is the ineligible administrative allowance costs received by the County.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix

Report Distribution

Department of Homeland Security

Secretary
Chief Financial Officer
Under Secretary for Management
Acting Chief of Privacy Officer
Audit Liaison, DHS

Federal Emergency Management Agency

Administrator
Chief of Staff
Chief Financial Office
Chief Counsel
Director, Risk Management and Compliance
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA (G-12-041-EMO-FEMA)

State

State Auditor, Florida
Executive Director, Florida Division of Emergency Management

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Subgrantee

Audit Liaison, Palm Beach County

Congress

Senate Committee on Appropriations, Subcommittee on Homeland Security
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Appropriations, Subcommittee on Homeland Security
House Committee on Homeland Security
House Committee on Oversight and Government Reform
House Committee on Transportation and Infrastructure

ADDITIONAL INFORMATION AND COPIES

To obtain additional copies of this document, please call us at (202) 254-4100, fax your request to (202) 254-4305, or e-mail your request to our Office of Inspector General (OIG) Office of Public Affairs at: DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

For additional information, visit our website at: www.oig.dhs.gov, or follow us on Twitter at: [@dhsoig](https://twitter.com/dhsoig).

OIG HOTLINE

To expedite the reporting of alleged fraud, waste, abuse or mismanagement, or any other kinds of criminal or noncriminal misconduct relative to Department of Homeland Security (DHS) programs and operations, please visit our website at www.oig.dhs.gov and click on the red tab titled "Hotline" to report. You will be directed to complete and submit an automated DHS OIG Investigative Referral Submission Form. Submission through our website ensures that your complaint will be promptly received and reviewed by DHS OIG.

Should you be unable to access our website, you may submit your complaint in writing to: DHS Office of Inspector General, Attention: Office of Investigations Hotline, 245 Murray Drive, SW, Building 410/Mail Stop 2600, Washington, DC, 20528; or you may call 1 (800) 323-8603; or fax it directly to us at (202) 254-4297.

The OIG seeks to protect the identity of each writer and caller.