

Department of Homeland Security Office of Inspector General

**FEMA Should Recover \$4.9 Million of \$87.7 Million
in Public Assistance Grant Funds Awarded to the
Hancock County, Mississippi, Board of Supervisors
for Hurricane Katrina Damages**



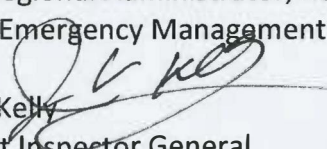


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Department of Homeland Security

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

AUG 26 2014

MEMORANDUM FOR: Andrew Velasquez III
Acting Regional Administrator, Region IV
Federal Emergency Management Agency

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

SUBJECT: *FEMA Should Recover \$4.9 Million of \$87.7 Million in
Public Assistance Grant Funds Awarded to the Hancock
County, Mississippi, Board of Supervisors for Hurricane
Katrina Damages*
FEMA Disaster Number 1604-DR-MS
Audit Report Number OIG-14-127-D

We audited Public Assistance funds awarded to Hancock County, Mississippi, Board of Supervisors (County) (FIPS Code 045-99045-00). 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 of \$87.7 million from the Mississippi Emergency Management Agency (Mississippi), a FEMA grantee, for damages resulting from Hurricane Katrina, which occurred in August 2005. The award provided 100 percent FEMA funding for debris removal, emergency protective measures, and permanent repairs to buildings and facilities. The award consisted of 126 large projects and 109 small projects.¹

We audited 13 projects with awards totaling \$41.8 million. This included a full scope audit of the costs for nine large projects with awards totaling \$38.4 million. We also performed a limited review of four additional projects with awards totaling \$3.3 million to determine whether insurance covered the damages. The audit covered the period of August 29, 2005, to December 4, 2013, during which the County claimed \$41.1 million of costs under the 13 projects we reviewed (see Exhibit, Schedule of Projects Audited and Questioned Costs). At the time of our audit, the County had not completed work on all projects and, therefore, had not submitted a final claim to Mississippi for all project expenditures.

Table 1 shows the gross and net award amounts before and after reductions for insurance for all projects and for those in our audit scope.

¹ Federal regulations in effect at the time of Hurricane Katrina set the large project threshold at \$55,500.



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Table 1: Gross and Net Award Amounts

	Gross Award Amount	Insurance Reductions	Net Award Amount
All Projects	\$93,639,217	\$(5,978,852)	\$87,660,365
Full Audit Scope	38,679,377	(229,748)	38,449,629
Limited Audit Scope	\$ 4,000,064	\$ (673,467)	\$ 3,326,597

Source: FEMA Project Worksheets

We conducted this performance audit between December 2013 and June 2014 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 interviewed FEMA, Mississippi, and County officials; gained an understanding of the County's method of accounting for disaster-related costs and its procurement policies and procedures; judgmentally selected and reviewed (generally based on dollar values) project costs and procurement transactions for the projects included in our review; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances to accomplish our audit objective. As part of our normal audit procedures, we also notified the Recovery Accountability and Transparency Board of contracts the County awarded in excess of \$100,000 for projects included in our audit scope to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. As of the date of this report, the Recovery Accountability and Transparency Board's analysis of contracts was ongoing. When it is complete, we will review the results and determine whether additional action is necessary. 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.



RESULTS OF AUDIT

FEMA should recover \$4.9 million of the \$87.7 million in grant funds awarded to the County. Although the County accounted for FEMA funds on a project-by-project basis as required, we determined that FEMA should deobligate \$3,586,091 of unneeded project funding and put those funds to better use. In addition, the County claimed \$1,330,937 of questionable costs, which included:

- \$1,123,884 in contract costs that did not comply with Federal procurement requirements,
- \$67,472 in costs that insurance covered (duplicate benefits),
- \$56,248 in ineligible project costs,
- \$46,673 in costs that the administrative allowance covered (duplicate benefits), and
- \$36,660 in unauthorized project costs.

Finally, Mississippi did not satisfactorily fulfill its grant management responsibilities for monitoring and reviewing contract costs the County claimed.

Finding A: Funds Put to Better Use

FEMA should deobligate \$3,586,091 of unneeded funds from Project 10603 and put those funds to better use because the County no longer needs the funding to cover project costs.

Federal appropriations laws and the Statement of Federal Financial Accounting Standards (SFFAS) require Federal agencies to record obligations in the accounting records on a factual and consistent basis throughout the government.² That is, the agency must increase or decrease obligated funds when probable and measurable information becomes known.³ Agencies must document both the initial recordings and the adjustments to recorded obligations.

FEMA obligated \$12,461,762 for road repairs under Project 10603. The County completed the road repair work in May 2011 for \$8,875,671, or \$3,586,091 less than the \$12,461,762 that FEMA had obligated for the project work. Mississippi reviewed and approved the County's claimed costs of \$8,875,671 and transmitted a request for project closeout to FEMA in August 2013. When we began our audit in December 2013,

² U.S. General Accounting Office's (GAO) *Principles of Federal Appropriations Law*, 3rd edition, volume II, February 2006, chapter 7, section B: Criteria for Recording Obligations (31 U.S.C. §1501).

³ 7 *Government Accountability Office-Policy and Procedures Manual* § 3.5.D; B-300480, April 9, 2003, and SFFAS Number 5, paragraphs 19, 24, 25, and 29.



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FEMA had not yet closed out the project and deobligated the \$3,586,091 of excess funding. FEMA officials initially said they planned to delay project closeout pending completion of our audit, but later told us they would initiate closeout of the project and deobligate the excess funding. However, as of May 2014, or 9 months after Mississippi requested that FEMA close out the project, the \$3,586,091 of excess funding remained obligated. FEMA should immediately deobligate the \$3,586,091 of unneeded funds and put them to better use.

Subsequent to our exit conference, FEMA deobligated the \$3,586,091 of unneeded funds in June 2014. Therefore, we consider this recommendation to be resolved and closed.

Finding B: Contracting Procedures

The County did not comply with Federal procurement requirements when awarding architectural and engineering (A/E) contracts totaling \$1,207,217 for nonemergency culvert cleanout and replacement work and road repairs.

Federal procurement standards at 44 Code of Federal Regulations (CFR) Part 13.36 require the County, among other actions, to—

- conduct all procurement transactions in a manner providing full and open competition. Sub-grantees may use noncompetitive procurement under certain circumstances, one of which is when the public exigency or emergency will not permit a delay resulting from competitive solicitation (44 CFR 13.36(c) and 44 CFR 13.36(d)(4)(i)(B)); and
- use competitive proposal procedures for qualifications-based procurement of A/E professional services, evaluate competitors' qualifications, and select the most qualified competitor subject to negotiation of fair and reasonable compensation (44 CFR 13.36(d)(3)(v)).

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

The County did not competitively bid contracts for professional A/E services supporting culvert clean-out and replacement (Project 9604) and road repairs (Projects 10603 and 11090) totaling \$1,207,217. Full and open competition increases the probability of reasonable pricing from the most qualified contractors and helps discourage and prevent favoritism, collusion, fraud, waste, and abuse.



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Instead of soliciting competitive proposals, the County used an A/E firm that it used before Hurricane Katrina. County officials did not believe a competitive process for A/E services was necessary because the contractor had performed work for the County before Hurricane Katrina on County state-aid road projects. They further said Mississippi procurement laws do not require competitive bids for professional services. However, Federal procurement regulations required the County to seek competitive bids for the nonemergency work. We question the \$1,207,217 claimed for nonemergency contract work the County awarded without full and open competition. The \$1,207,217 includes \$83,333 of duplicate administrative and unauthorized costs that we questioned in findings E and F. Therefore, to avoid questioning the same costs twice, we are recommending disallowance of improper contract costs of \$1,123,884 in this finding as table 2 shows.

Table 2: Questioned Costs for Noncompetitive Contracts

Project Number	Gross Amount Questioned	Costs Questioned Under Finding E	Costs Questioned Under Finding F	Net Amount Questioned
9604	\$ 221,553	\$ 0	\$ 0	\$ 221,553
10603	749,563	46,673	36,660	666,230
11090	236,101	0	0	236,101
Total	\$1,207,217	\$46,673	\$36,660	\$1,123,884

Source: FEMA Project Worksheets and OIG Analysis

County Response. County officials disagreed with this finding, saying they believed the contract costs were reasonable and, therefore, FEMA should allow the costs. They also said that 44 CFR 13.36(d) allows noncompetitive procurements under certain circumstances and that our audit did not seek to determine whether any of the circumstances applied to the procurement in question. Finally, they said the A/E firm was the only suitable choice for the work in question because of its expertise and familiarity with the damages.

OIG Response. County officials did not provide any evidence supporting their assertions that the contract costs were reasonable and that the A/E firm was the only suitable choice for the work in question. While Federal procurement regulations allow noncompetitive procurements under certain circumstances, none of the circumstances applied in this case. Therefore, our position remains unchanged.



Finding C: Costs Covered by Insurance

The County’s claim included \$67,472 in duplicate benefits for costs that its insurance covered. According to the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended (Stafford Act), Section 312, *Duplication of Benefits*, no entity will receive assistance for any loss for which it has received financial assistance from any other program, insurance, or any other source.

The County received insurance proceeds totaling \$959,343 for disaster-related damages under five projects and reported the proceeds to FEMA. However, FEMA inadvertently reduced project costs by \$891,871, leaving \$67,472 of the proceeds uncredited. During our fieldwork, FEMA officials concurred with this finding. We question the \$67,472 as table 3 shows.

Table 3: Project Costs Covered by Insurance

Project Number	Project Description	Award Amount	Insurance Proceeds Deducted by FEMA ⁴	Actual Insurance Proceeds	Amount Questioned
6638	West Shoreline Community Center	\$ 8,741	\$ 9,212	\$ 17,189	\$ 7,977
8331	Human Services Building	3,181,534	518,051	531,974	13,923
8808	Farmers Market Pavilion	106,253	0	23,860	23,860
10919	Sheriff’s Office-Police Cars	1,115,161	218,403	229,748	11,345
10920	Sheriff’s Office-Other Vehicles	30,069	146,205	156,572	10,367
Total		\$4,441,758	\$891,871	\$959,343	\$67,472

Source: FEMA Project Worksheets, County Records, and OIG Analysis

County Response. County officials elected to withhold comment on this finding pending FEMA’s final review and determination on the finding.

Finding D: Ineligible Project Costs

FEMA mistakenly awarded the County \$56,248 for ineligible project costs. The County claimed \$7,299,926 under Project 4656 to remove sediment from County ditches. Mississippi reviewed the costs at project closeout and determined that \$59,398 of the costs were ineligible for FEMA reimbursement. However, instead of disallowing the

⁴ Insurance proceeds FEMA deducted for Project 6638 include a mandatory flood insurance reduction of \$6,515. Amounts for insurance proceeds FEMA deducted and actual insurance proceeds for Project 8331 both include mandatory flood insurance reductions of \$233,800.



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\$59,398, FEMA disallowed only \$3,150. This occurred because FEMA mistakenly used an exceptions report it prepared before project closeout that listed only \$3,150 of ineligible costs. Therefore, FEMA should disallow the additional \$56,248 that Mississippi identified as ineligible (\$59,398 less \$3,150) from Project 4656.

County Response. County officials disagreed with this finding, saying we should not question the costs because we accepted Mississippi's determination that the costs were ineligible without reviewing the eligibility of the costs.

OIG Response. We disagree with County officials. Mississippi, as grantee, is responsible for reviewing a subgrantee's costs under a FEMA award for compliance with Federal regulations and FEMA guidelines. In fulfilling this requirement, Mississippi determined that \$59,398 of costs the County claimed under the project were ineligible. Therefore, our reviewing these costs for eligibility would serve no purpose and would be a duplication of effort.

Finding E: Costs Covered by Administrative Allowance

The County claimed \$46,673 of costs under Project 10603 that duplicate costs the statutory administrative allowance covers. According to FEMA *Public Assistance Guide* (FEMA 322, October 1999, pp. 41–42), the administrative allowance that applicants receive covers the direct and indirect costs of requesting, obtaining, and administering public assistance. No other administrative or indirect costs are eligible for FEMA reimbursement. Examples of the activities that the administrative allowance covers include:

- identifying damage;
- attending the applicants' briefing;
- completing forms necessary to request assistance;
- establishing files, and providing copies and documentation;
- assessing damage, collecting cost data, and developing cost estimates; and
- working with the State during project monitoring, final inspection, and audits.

The County claimed \$46,673 under Project 10603 for fees its engineer charged to identify and inspect damages and prepare project worksheets. However, the statutory administrative allowance covers the costs of these activities. As required by Section 312 of the *Stafford Act*, no entity will receive assistance for any loss for which it has received financial assistance from any other program, insurance, or any other source. Therefore, we question the \$46,673 as duplicate benefits. As of December 2011, FEMA had obligated \$62,309 under the project to cover the statutory administrative allowance. County officials said they were not aware of the administrative allowance guidance.



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FEMA agreed with this finding and disallowed the \$46,673 of questioned costs in June 2014. Therefore, we consider this recommendation to be resolved and closed.

County Response. County officials disagreed with this finding, saying the claimed costs were not duplicative because they were for activities necessary for determining damages for the project's scope of work.

OIG Response. County officials provided no evidence to support their assertion that the costs did not duplicate costs of activities included in the administrative allowance. Therefore, our position remains unchanged.

Finding F: Unauthorized Project Costs

The County claimed \$36,660 of unauthorized A/E costs under Project 10603. According to 44 CFR 206.202(d)(1), the project worksheet must identify the eligible scope of work and must include a quantitative estimate for the eligible work. Under Project 10603, FEMA disallowed \$667,595 of road repair costs because the roads were associated with bonds that the County issued before Hurricane Katrina to cover road repairs. The County appealed FEMA's determination to the U.S. Civilian Board of Contract Appeals (Arbitration Board) for dispute resolution. The Arbitration Board ruled in favor of the County and directed FEMA to restore \$667,595 of funding to the project. The Arbitration Panel's decision did not include any costs for A/E services related to the road repairs. Despite the Arbitration Panel's decision, the County's claim under the project included \$36,660 in A/E costs for the road repairs. Therefore, we question the \$36,660 of unauthorized project costs. FEMA agreed with this finding and disallowed the \$36,600 of questioned costs in June 2014. Therefore, we consider this recommendation to be resolved and closed.

County Response. County officials disagreed that FEMA should disallow the costs, saying the A/E costs were necessary and required to complete work under the project.

OIG Response. The A/E costs in question may have been necessary to complete work under the project. However, the Arbitration Board ruling did not approve the costs in question. Therefore, our position remains unchanged.

Finding G: Grant Management

The nature and extent of ineligible costs we identified demonstrate that Mississippi should have done a better job of reviewing the County's contracting methods and project costs. Federal regulations require grantees to (1) ensure that subgrantees are aware of Federal regulations, (2) manage the day-to-day operations of subgrant activity,



and (3) monitor subgrant activity to ensure compliance.⁵ Therefore, we recommend that FEMA remind Mississippi of its grant management responsibilities for monitoring and reviewing costs that subgrantees claim.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Deobligate \$3,586,091 of unneeded funding from Project 10603 and put those Federal funds to better use (finding A).⁶

Recommendation #2: Disallow \$1,123,884 of ineligible costs (\$221,553 from Project 9604, \$666,230 from Project 10603, and \$236,101 from Project 11090) the County claimed for contracts that it did not procure in accordance with Federal requirements, unless FEMA decides to grant an exception for all or part of the costs as provided for in 44 CFR 13.6(c) and Section 705(c) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, and determines the costs are reasonable (finding B).

Recommendation #3: Direct Mississippi to remind the County of its responsibility to comply with Federal procurement regulations when acquiring goods and services under the FEMA award (finding B).

Recommendation #4: Disallow \$67,472 of costs that insurance covered (finding C).

Recommendation #5: Disallow \$56,248 of ineligible costs FEMA inadvertently awarded the County under Project 4656 (finding D).

Recommendation #6: Disallow \$46,673 of costs the County claimed under Project 10603 that the statutory administrative allowance covers (finding E).⁷

Recommendation #7: Disallow \$36,660 of unauthorized project costs the County claimed under Project 10603 that are ineligible for FEMA reimbursement (finding F).⁸

⁵ 44 CFR 13.37(a)(2) and 44 CFR 13.40(a).

⁶ FEMA officials deobligated the unneeded funds in question. Therefore, we consider this recommendation resolved and closed.

⁷ FEMA officials disallowed the costs covered by the statutory administrative allowance. Therefore, we consider this recommendation resolved and closed.

⁸ FEMA officials disallowed the unauthorized project costs. Therefore, we consider this recommendation resolved and closed.



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Recommendation #8: Remind Mississippi of its grant management responsibilities for monitoring and reviewing costs that subgrantees claim (finding G).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with County, Mississippi, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at the exit conference on June 9, 2014. County officials disagreed that FEMA should disallow the costs we question. We included their comments, where appropriate in 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 contact information for 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 will provide 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, Director; Larry Arnold, Audit Manager; John Skrmetti, Auditor-in-charge; Gary Rosetti, Senior Auditor; and Sean Forney, Auditor.

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



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Exhibit

Schedule of Projects Audited and Questioned Costs

Project Number	Category	Project Scope	Amount Awarded	Amount Claimed	Questioned Costs	Funds Put to Better Use	Finding	
Projects Included in Full Scope:								
5	B	Overtime Hours for Emergency Response	\$1,173,922	\$1,175,172	\$ 0	\$ 0		
1097	B	Public Safety Radio System	6,842,567	6,842,567	0	0		
4656	A	Sediment Debris Filled Ditches	7,296,776	7,299,926	56,248	0	D	
9604	C	Culverts Cleanout/Replacement	3,062,655	3,062,836	221,553	0	B	
10603	C	Road Repair- Phases I and II	12,461,762	8,875,671		3,586,091	A	
						666,230	0	B
						46,673	0	E
						36,660	0	F
10724	C	Right of Entry Standing Dead Tree Removal in Surge Area	1,602,144	1,602,144	0	0		
10919	E	Sheriff's Office-Police Cars	1,115,161	679,456	11,345	0	C	
10934	B	Jail-Inmates Relocation Through Pearl River County Jail	2,105,723	5,856,490	0	0		
11090	C	Road Repair- Phase III	2,788,919	2,684,801	236,101	0	B	
Subtotal			\$38,449, 629	\$38,079,063	\$1,274,810	\$3,586,091		
Projects Reviewed for Insurance Requirements:								
6638	E	West Shoreline Community Center	\$ 8,741	\$ 0	\$ 7,977	\$ 0	C	
8331	E	Human Services Building	3,181,534	2,959,653	13,923	0	C	
8808	E	Farmers Market Pavilion	106,253	0	23,860	0	C	
10920	E	Sheriff's Office-Other Vehicles	30,069	35, 586	10,367	0	C	
Subtotal			\$ 3,326,597	\$ 2,995,239	\$ 56,127	\$ 0		
Totals			\$41,776, 226	\$41,074, 302	\$1,330,937	\$3,586,091		

Source: FEMA Project Worksheets, County Records, and OIG Analysis



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