

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

FEMA Public Assistance Grant Funds Awarded to
City of Miramar, Florida - Hurricane Wilma



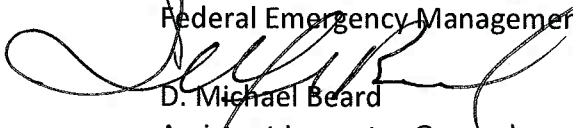


OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

JUN 15 2012

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

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

SUBJECT: *FEMA Public Assistance Grant Funds Awarded to
City of Miramar, Florida—Hurricane Wilma*
FEMA Disaster Number 1609-DR-FL
Audit Report Number DA-12-20

We audited Public Assistance funds awarded to the City of Miramar, FL, (City) (FIPS Code 011-45975-00). 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.

As of October 20, 2011, the City had received an award of \$16.5 million from the Florida Division of Emergency Management (State), a FEMA grantee, for damages resulting from Hurricane Wilma, which occurred in October 2005. The award provided 100 percent FEMA funding for debris removal activities, emergency protective measures, and permanent repairs to buildings and facilities. The award consisted of 10 large projects and 10 small projects.¹

We reviewed costs totaling \$15.9 million claimed under eight large projects and one small project (see Exhibit, Schedule of Projects Audited). The audit covered the period October 23, 2005, to April 6, 2011, during which the City received \$15.9 million of FEMA funds under the projects reviewed. At the time of our audit, the City had not submitted final claims on all project expenditures to the State.

We conducted this performance audit between October 2011 and April 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 Federal regulations in effect at the time of the disaster set the large project threshold at \$57,500.



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Department of Homeland Security

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 by applying 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 City, State, and FEMA personnel; reviewed the City'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 City'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 City's method of accounting for disaster-related costs and its policies and procedures for administering the activities provided for under the FEMA award.

RESULTS OF AUDIT

The City did not separately account for project expenditures as required by Federal regulations. In addition, we question \$5,991,845 of contract costs claimed for debris removal activities because the City did not comply with Federal procurement standards. Finally, the City's claim contained \$30,238 of costs covered by insurance and the Federal Highway Administration.

Finding A: Project Accounting

The City did not separately account for project expenditures as required by Federal regulations. According to 44 CFR 206.205(b)(1), large project expenditures are to be accounted for on a project-by-project basis. Further, 44 CFR 13.20(b)(2) requires grant recipients to maintain accounting records that identify adequately the source and application of funds for federally sponsored activities. The City established a special account within its general ledger to record disaster expenditures and revenues. However, the account did not separately identify project expenditures and receipts, and contained non-FEMA-eligible expenditure and receipt transactions. As a result, individual project receipts and expenditures could not be readily identified and traced to supporting documentation without direct assistance from City officials.



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Finding B: Contracting Procedures

The City did not comply with Federal procurement standards when awarding three contracts totaling \$5,991,845 for debris removal activities. Federal procurement standards at 44 CFR 13.36 required the City, among other things, to—

- Perform procurement transactions in a manner providing full and open competition except under certain circumstances. One allowable circumstance is when there is a public exigency or emergency for the requirement that will not permit a delay resulting from competitive solicitation. (13.36 (c)(1) and (d)(4)(i))
- Perform a cost or price analysis in connection with every procurement action, including contract modifications, and make independent estimates before receiving bids or proposals. (13.36(f)(1))
- Take all necessary affirmative steps to ensure that minority firms, women's businesses, and labor surplus area firms are used when possible. (44 CFR 13.36 (e)(1))

In addition, FEMA's *Public Assistance Guide* (FEMA 322, *Public Assistance Guide*, October 1999, p. 39) 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, (3) FEMA authorizes noncompetitive proposals, or (4) solicitation from a number of sources has been attempted and competition is determined to be inadequate.

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

The City did not solicit competitive bids when awarding contract work totaling \$5,991,845 under Project 3012 for debris removal from public rights-of-way and cleanup activities. Instead, the City contacted three area contractors and awarded the work without negotiation. Full and open competition increases the probability of reasonable



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

pricing from the most qualified contractors and allows the opportunity for minority firms, women's business enterprises, and labor surplus area firms to participate in federally funded work. Full and open competition also helps discourage and prevent favoritism, collusion, fraud, waste, and abuse. In addition, the City did not perform a cost or price analysis of the contractors' proposed prices. A cost or price analysis decreases the likelihood of unreasonably high or low prices, contractor misinterpretations, and errors in pricing relative to the scope of work. We question the \$5,991,845 of contract costs because FEMA has no assurance that the City paid a fair and reasonable price for the project work.

City officials said that exigent circumstances warranted the use of noncompetitive contracting and that they acted in the best interest of their citizens. However, the contracts in question were awarded for debris removal from the City's rights-of-way. FEMA has determined that such activity is not a public exigency or emergency that relieves the applicant of competitive bidding (FEMA Policy 9580.4, Fact Sheet: *Debris Operations – Clarification: Emergency Contracting vs. Emergency Work*, January 2001).

Finding C: Duplicate Benefits

The City's claim included \$30,238 of costs that were covered by insurance and by the Federal Highway Administration. Section 312(a) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, states that no entity will receive assistance for any loss for which financial assistance has already been received from any other program, from insurance, or from any other source. We question the \$30,238 as follows:

- Under Project 258, FEMA reduced project costs by \$648,068 based on estimated insurance proceeds. However, the City actually received \$660,278 of insurance proceeds to cover losses under the project, or \$12,210 more than the amount reduced by FEMA.
- Under Project 3012, the City received \$759,614 from the Federal Highway Administration for debris removal (\$741,586) and emergency protective measures (\$18,028) on Federal-aid roads. FEMA credited the project with the \$741,586 received for debris removal, but mistakenly did not credit the \$18,028 for the emergency protective measures work (cones and barricades, and maintenance of traffic).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

Recommendation #1: Instruct the State to emphasize to subgrantees the requirement that FEMA project expenditures be accounted for on a project-by-project basis (44 CFR 206.205(b)(1) and 44 CFR 13.20(b)(2)) (finding A).

Recommendation #2: Disallow the \$5,991,845 of ineligible costs claimed for debris removal contracts that were not procured in accordance with Federal procurement requirements, unless FEMA makes an affirmative decision that all or part of the contract costs are fair and reasonable, and waives the procurement requirements as provided for in 44 CFR 13.6(c) (finding B).

Recommendation #3: Disallow \$30,238 of ineligible costs claimed for costs covered by insurance and the Federal Highway Administration (finding C).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the results of our audit with City, grantee, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed them at an exit conference held with City and grantee officials on April 12, 2012, and with FEMA officials on April 19, 2012. City officials agreed with finding A, but withheld comments on findings B and C pending receipt of the 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 recommendation. Until your response is received and evaluated, the recommendations will be considered 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 were David Kimble, Eastern Region Audit Director; Felipe Pubillones, Audit Manager; Salvador Maldonado-Avila, Auditor-in-Charge; and Carlos Aviles, Auditor.



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

cc: Administrator, FEMA
Chief Counsel, FEMA
Chief Procurement Officer, FEMA
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA (Job Code G-11-025)
Audit Liaison, DHS GAO-OIG Liaison
Director, DHS Departmental GAO-OIG Liaison Office
Director, Florida Division of Emergency Management
State Auditor, Florida
Finance Director, City of Miramar



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Department of Homeland Security

EXHIBIT

**Schedule of Projects Audited
October 23, 2005, to April 6, 2011
City of Miramar, Florida
FEMA Disaster Number 1609-DR-FL**

Project Number	Amount Awarded	Amount Claimed/Reviewed	Amount Questioned
258	\$ 59,363	\$ 59,363	\$ 12,210
302	238,104	238,104	
2786	157,928	157,928	
3012	12,883,972	12,883,972	6,009,873
4262	1,650,223	1,650,223	
5325	545,079	545,079	
5386	159,785	159,785	
5525	49,460	49,460	
7130	132,142	132,142	
Total	\$15,876,056	\$15,876,056	\$6,022,083

ADDITIONAL INFORMATION AND COPIES

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