

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

FEMA Should Recover \$1.9 Million of Public  
Assistance Grant Funds Awarded to the Hancock  
County Utility Authority — Hurricane Katrina





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Department of Homeland Security

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FEB 15 2013

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 Should Recover \$1.9 Million of Public Assistance Grant  
Funds Awarded to the Hancock County Utility Authority —  
Hurricane Katrina  
FEMA Disaster Number 1604-DR-MS  
Audit Report Number DA-13-09

We audited Public Assistance (PA) funds awarded to the Hancock County Utility Authority (Authority) in Waveland, Mississippi (FIPS Code 045-UP37K-00). Our audit objective was to determine whether the Authority accounted for and expended Federal Emergency Management Agency (FEMA) funds according to Federal regulations and FEMA guidelines.

The Authority received a PA award totaling \$2.9 million from the Mississippi Emergency Management Agency (State), a FEMA grantee, for damages resulting from Hurricane Katrina, which occurred in August 2005. The award provided 100 percent FEMA funding for emergency protective measures and permanent repairs to buildings and facilities. The award consisted of 10 large projects and 8 small projects.<sup>1</sup>

We audited four large projects with awards totaling \$2.3 million (see Exhibit, Schedule of Projects Audited). The audit covered the period of August 29, 2005, to April 19, 2012, during which the Authority received \$2.3 million in FEMA funds for the four projects. At the time of our audit, the Authority had completed work on all awarded projects and had submitted a final claim to the State for all project expenditures.

We conducted this performance audit between April and October 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 findings and conclusions

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



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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 Authority, State, and FEMA personnel; reviewed the Authority's procurement policies and procedures; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances to accomplish our audit objective. We did not assess the adequacy of the Authority'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 Authority'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 \$1.9 million of grant funds awarded to the Authority. The Authority did not (1) separately account for project expenditures as required by Federal regulations, (2) fully comply with Federal procurement requirements when awarding contracts totaling \$1,888,228 for permanent work, or (3) have adequate documentation to support \$14,278 of contract costs.

#### **Finding A: Project Accounting**

The Authority 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 adequately identify the source and application of funds for federally sponsored activities. The Authority recorded disaster expenditures and receipts within its operation and maintenance account, which also contained non-FEMA-eligible expenditure and receipt transactions. The account identified entries for FEMA expenditures and receipts as such, but did not separately identify all expenditures and receipts by project. As a result, individual project receipts and expenditures could not be readily identified and traced to supporting documentation without direct assistance from Authority and State officials. This condition increased the risk of receipts and expenditures being duplicated among projects.

**Authority Response.** Authority officials agreed with this finding, saying that they are working to separately account for project expenditures.



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**Finding B: Contracting Procedures**

The Authority did not comply with Federal procurement requirements when awarding contracts valued at \$1,888,228 for permanent work under Projects 7410, 8099, and 8887. However, the Authority did properly comply with Federal procurement standards when awarding contracts for diesel generators under Project 6685. Federal procurement regulations at 44 CFR 13.36 required the Authority, among other things, to—

- Conduct all 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. (44 CFR 13.36(c)(1) and (d)(4)(i)(B))
- Take all necessary affirmative steps to ensure that minority firms, women’s business enterprises, and labor surplus area firms are used, when possible, during the procurement process. (44 CFR 13.36 (e)(1))
- Perform a cost or price analysis in connection with every procurement action, including contract modifications, to determine the reasonableness of the proposed contract price. A cost analysis is required when adequate price competition is lacking. (44 CFR 13.36(f)(1))

In addition, the FEMA *Public Assistance Guide*, FEMA 322, 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.

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

**Minority Firms, Women’s Business Enterprises, and Labor Surplus Area Firms Were Not Adequately Considered**

The Authority could not provide evidence that it took affirmative steps to include minority firms, women’s business enterprises, and labor surplus area firms in its bid process for contract work valued at \$995,185 (Projects 8099 and 8887) for electrical repairs to the wastewater treatment plant. Authority officials said that they believed that when they advertised projects in the newspaper, everyone had an equal chance to bid on the work. However, in addition to normal Federal contracting competitive procedures, 44 CFR 13.36 (e)(2) lists some additional steps that should be taken to provide opportunities to minority firms, women’s business enterprises, and labor surplus area firms. Authority officials also said that this requirement may have been met by the engineering firm they hired to draft bid advertisements. However, Authority officials did not provide any evidence to support their assertion. As a result, we



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concluded that the Authority did not take affirmative steps to give such business enterprises opportunities available to them under Federal regulations to participate in federally funded work. Therefore, we question the \$995,185 claimed for the contract work.

Authority Response. Authority officials agreed with this finding, stating that they understood our position, given that the contracts in question were not awarded under exigent circumstances.

#### Cost/Price Analysis

The Authority did not perform a cost or price analysis when procuring emergency contract work valued at \$907,321 (Projects 7410 and 8099) for electrical repairs to the wastewater treatment plant. A cost or price analysis is required 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)).

Under emergency procurement procedures, the Authority hired a contractor who had done recent work at the plant as a subcontractor to make the emergency repairs. According to Authority officials, the contractor was hired because of the contractor's familiarity with the plant operations. However, the Authority did not perform a cost or price analysis to determine the reasonableness of the contractor's proposed price. Authority officials said that during an Authority Board of Directors meeting held on September 5, 2005, the contractor was told to do whatever was necessary to get the plant running, and a cost or price analysis was never discussed. Federal regulations require a cost or price analysis in connection with every procurement action, including those awarded under exigent circumstances. Therefore, we question the \$907,321 awarded for the contract work because FEMA has no assurance that the costs were reasonable. Because this amount includes \$14,278 from Project 8099 (Finding C discussed below, unsupported costs), the net amount we are questioning is \$893,043.

Authority Response. Authority officials agreed that they did not perform a cost or price analysis for the emergency work. However, the Authority disagreed with our position that FEMA should disallow the costs. Authority officials said that they feel it is an unfair requirement because it was not feasible to perform a cost/price analysis due to the chaotic nature of the emergency situation. The Authority also claimed that the U.S. Army Corps of Engineers and Authority Board members told the contractor to, "Do what it takes to get the plant running."

Office of Inspector General (OIG) Response. The Authority was required to comply with Federal grant administrative requirements as a condition of obtaining its FEMA award. Those requirements necessitate that a cost or price analysis be performed in connection with every procurement action. Additionally, 44 CFR 13.43(a)(2) states that if a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, a State plan or application, a notice of an award, or elsewhere, the



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awarding agency may disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance.

**Finding Summary**

Based on the Authority’s procurement actions, FEMA has no assurance that the Authority paid a fair and reasonable price for the contract work and that minority firms, women’s business enterprises, and labor surplus area firms were provided opportunities, to the extent practical, to participate in federally funded work. As a result, we question a total of \$1,888,228 of contract work that was not procured in accordance with Federal requirements, as shown in table 1. Although Authority officials claimed a lack of knowledge of the Federal procurement requirements, improper contracting should have been identified during the State’s and/or FEMA’s review process.

**Table 1. Questioned Costs for Federal Contracting Procedures**

Project Number	Project Scope	Amount Awarded	Cost or Price Analysis	Minority/ Women/ Labor Firms	Total Amount Questioned
7410	Southern Regional Wastewater Treatment Plant Phase 2 Electrical Repairs	\$848,662	\$848,662	\$0	\$848,662
8099	Southern Regional Wastewater Treatment Plant Phase 3 Electrical Repairs	623,685	44,381	480,085	524,466
8887	Southern Regional Wastewater Treatment Plant Remaining Electrical Repairs	600,885	0	515,100	515,100
Totals		\$2,073,232	\$893,043	\$995,185	\$1,888,228

**Finding C: Unsupported Costs**

The Authority did not have adequate documentation to support \$14,278 of contractor time-and-material charges claimed under Project 8099. Cost principles at OMB Circular A-87, Attachment A, Section C.1.j, state that a cost must be adequately documented to be allowed under Federal awards. Further, as stated in FEMA’s *Policy Digest* (FEMA 321, October 2001, p. 20), applicants must carefully document contractor expenses when using time-and-material contracts.

The contractor billed the Authority \$13,043 for subcontractor time-and-material charges for emergency generator setup. Also, the contractor billed \$1,235 for the rental of a bucket truck. However, the contractor provided only summary invoice data, and the Authority did not require the contractor to provide additional detailed documentation such as timesheets, materials invoices, and equipment usage sheets to support the billings. Therefore, we question the \$14,278 of unsupported costs.



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*Authority Response.* Authority officials agreed with this finding, saying that the contractors had been contacted but were unable to provide the supporting documentation.

### RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV:

**Recommendation #1:** Instruct the State to remind subgrantees of their requirement to account for large projects on a project-by-project basis (finding A).

**Recommendation #2:** Disallow \$1,888,228 of ineligible costs claimed for contracts that were not procured 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 (finding B).

**Recommendation #3:** Instruct the State to remind subgrantees of their requirement to comply with Federal procurement regulations and FEMA guidelines when acquiring goods and services under the FEMA award (finding B).

**Recommendation #4:** Disallow \$14,278 of unsupported contract costs (finding C).

**Recommendation #5:** Reemphasize to the State and FEMA Region IV Public Assistance personnel the need to review costs claimed by subgrantees for adherence to Federal regulations and FEMA guidelines (finding C).

### DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with the Authority, 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 October 29, 2012. Authority officials' comments, where appropriate, are included 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 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.



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Major contributors to this report were David Kimble, Eastern Region Audit Director; Larry Arnold, Audit Manager; and Rickey Smith, Auditor-in-charge.

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.





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Exhibit

**Schedule of Projects Audited  
August 29, 2005, to April 19, 2012  
Hancock County Utility Authority  
FEMA Disaster Number 1604-DR-MS**

Project Number	Project Scope	Amount Awarded	Amount Claimed	Amount Questioned	Findings
6685	Southern Regional Wastewater Treatment Plant—Two Packaged Diesel Generator Sets	\$237,760	\$237,760	\$0	
7410	Southern Regional Wastewater Treatment Plant Phase 2 Electrical Repairs	848,662	848,662	848,662	B
8099	Southern Regional Wastewater Treatment Plant Phase 3 Electrical Repairs	623,685	679,349	538,744	B, C
8887	Southern Regional Wastewater Treatment Plant Remaining Electrical Repairs	600,885	601,289	515,100	B
Totals		\$2,310,992	\$2,367,060	\$1,902,506	



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**State**

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State Auditor, Mississippi

**Subgrantee**

Executive Director, Hancock County Utility Authority

**Office of Management and Budget**

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