

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

**Louisiana Should Monitor \$39.8 Million of FEMA Funds
Awarded to Pontchartrain Housing Corporation I to
Ensure Compliance with Federal Regulations**






OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

September 5, 2014

MEMORANDUM FOR: George A. Robinson
Regional Administrator, Region VI
Federal Emergency Management Agency


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

SUBJECT: *Louisiana Should Monitor \$39.8 Million of FEMA Funds
Awarded to Pontchartrain Housing Corporation I to
Ensure Compliance with Federal Regulations*
FEMA Disaster Number 1603-DR-LA
Audit Report Number OIG-14-133-D

We audited Public Assistance grant funds awarded to Pontchartrain Housing Corporation I (Corporation) in Metairie, Louisiana (Public Assistance Identification Number 071-UZ970-00). Our audit objective was to determine whether the Corporation accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines. Although it has been almost 9 years since Hurricane Katrina, the Corporation has not spent the majority of its funding. Therefore, we expanded our audit objective to determine whether its policies, procedures, and business practices are adequate to properly account for and expend FEMA grant funds. Our goal was to identify areas where the Corporation may need additional technical assistance or monitoring to correct noncompliance with Federal regulations before it spends the majority of its funding.

The Louisiana Governor's Office of Homeland Security and Emergency Preparedness (Louisiana), a FEMA grantee, awarded the Corporation \$39.8 million for damages resulting from Hurricane Katrina, which occurred on August 29, 2005. The award provided 75 percent funding for one large alternate project.^{1, 2} The audit included a review of the one large project for the period August 29, 2005, through December 1, 2013, the cutoff date of our audit. Table 1 under finding D shows the gross (\$39.8 million) and net (\$28.5 million) award amounts for eligible damages before and after reductions for National Flood Insurance Program (NFIP) and commercial insurance proceeds.

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

² FEMA funds alternate projects for private nonprofit entities at 75 percent of the approved estimate of disaster damages.



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We conducted this performance audit from December 2013 to 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. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA, Louisiana, and Corporation officials; gained an understanding of the Corporation's method of accounting for disaster-related costs; reviewed the Corporation's procurement policies and procedures; judgmentally selected (generally based on amount) and reviewed project costs and procurement transactions for the project included in our audit scope; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our objective. As part of our standard auditing procedures, we also notified the Recovery Accountability and Transparency Board of all contracts the Corporation awarded under the grant to determine whether the Corporation's contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. We did not perform a detailed assessment of the Corporation's internal controls over its grant activities because it was not necessary to accomplish our audit objective.

BACKGROUND

The Corporation operated the Carriage House Apartments located in New Orleans, Louisiana, as a private, nonprofit entity providing low-income housing. Providing the low-income housing allowed the Corporation to apply for FEMA Federal assistance. Before Hurricane Katrina destroyed the apartments, the Corporation's property consisted of 12 buildings, including an office, clubroom, and laundry facility. Hurricane Katrina destroyed all 12 buildings.

Rather than replace the 12 buildings, in December 2010, FEMA approved the Corporation's request for an alternate project to purchase and renovate a 39,531 square foot administration building. FEMA allows applicants to redirect Federal funding to an alternate project when the applicant determines that the public welfare would be better served by not restoring the damaged facility. Later, after determining the building did not meet Federal base flood elevation requirements, Corporation officials decided to demolish the building and construct a new 37,000 square foot administration building. In July 2012, FEMA approved the Corporation's plans and transferred the 100 percent Federal-share funding from the original 12 buildings to the alternate project funded at 75 percent Federal share (Project 19440).



RESULTS OF AUDIT

At the time of our audit, the Corporation had claimed only \$2.8 million under its \$39.8 million award and had awarded contracts for \$13.6 million. Generally, the Corporation properly accounted for claimed costs; and, except for contracting, its policies, procedures, and business practices are adequate to properly account for and expend FEMA grant funds.

In contracting for FEMA-funded work, the Corporation did not follow all Federal procurement standards in awarding contracts. Although the Corporation used open and free competition, it did not include required provisions in its contracts and did not take required steps to ensure the use of small businesses, minority-owned firms, and women's business enterprises for its contract work. These findings occurred because Louisiana, as grantee, did not ensure that the Corporation was aware of and followed Federal procurement standards.

After we discussed the procurement issues with Corporation officials, they added the required provisions to their contracts. Further, although they did not take the specific steps that Federal regulations require to ensure the use of small businesses, minority-owned firms, and women's business enterprises, Corporation officials did award a significant amount of the \$13.6 million in contract work to these types of firms. Therefore, we are not questioning these costs. However, FEMA should direct Louisiana to monitor the Corporation's performance to ensure compliance with all Federal requirements. Doing so should prevent the improper payment of over \$26.2 million (\$19.5 million Federal share) the Corporation plans to spend on contracts to complete its alternate project (\$39.8 million less \$13.6 million).

Finally, FEMA overestimated the amount of insurance the Corporation would receive for property damages by \$3.3 million. As a result, FEMA underestimated the amount of disaster damages eligible for the project. When we brought this to the attention of FEMA officials, they corrected the error.

Finding A: Accounting for Disaster Costs

Generally, the Corporation properly accounted for claimed costs; and, except for procurement (see finding B), its policies, procedures, and business practices are adequate to properly account for and expend FEMA grant funds. The Corporation began demolition in November 2012 and had just begun construction work when we started our audit in December 2013. At that time, the Corporation had claimed only \$2.8 million for demolition, architectural and engineering services, construction, and project management.



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According to 2 Code of Federal Regulations (CFR) 215.21(b)(2), recipients of Federal awards must maintain records that adequately identify the source and application of funds provided for federally sponsored activities. Additionally, *Cost Principles for Non-Profit Organizations* require recipients to adequately document costs (2 CFR, Appendix A to Part 230, §A.2.g).

We verified that the Corporation had set up separate accounts for the receipt and expenditure of FEMA funds. We also verified that the Corporation had maintained adequate documentation to support claimed costs. In addition, we discussed with Corporation officials several Federal requirements related to the eligibility of FEMA disaster funds. For example, we discussed the types of activities that the statutory administrative allowance covers (*Public Assistance Policy Digest, FEMA 321, October 2001*), and the requirement to obtain and maintain adequate amounts of insurance once they completed their alternate project (44 CFR 206.252(d)). We also provided them a copy of and website link to our *Audit Tips for Managing Disaster-Related Project Costs* (DHS OIG, September 2012).

Finding B: Procurement

Although the Corporation used open and free competition in awarding \$13,554,837 in contracts, it did not comply with two other Federal requirements. First, the Corporation did not include in its contracts all the applicable provisions that 2 CFR 215.48 and its Appendix A require. These provisions document the rights and responsibilities of the parties and minimize the risk of misinterpretations and disputes. Corporation officials said that they were not aware of the Federal requirement for the provisions. Subsequently, Corporation officials added the provisions to their contracts to comply with Federal requirements.

Second, the Corporation did not take required steps to ensure the use of small businesses, minority-owned firms, and women's business enterprises when possible. Federal regulations at 2 CFR 215.44(b) require grant recipients to take specific steps to further this goal. Although the Corporation did not take the specific affirmative steps listed in the regulations, it did award four of its seven contracts to these types of firms. The four contracts totaled \$2.2 million, or 16 percent of the \$13.6 million total for the seven contracts.

Further, to ensure compliance with future contracts, the Corporation provided us with a "minority business compliance memorandum" indicating that the Corporation will take positive efforts to use small businesses, minority-owned firms, and women's business enterprises, whenever possible in connection with the remaining Federal grant. Therefore, we did not question any costs related to contracting because the Corporation otherwise properly procured its disaster-related contracts.



Finding C: Grants Management

The contracting findings in this report occurred because Louisiana, as the grantee, did not adequately monitor the Corporation's day-to-day grant activities. According to 44 CFR 13.40(a), grantees are responsible for managing and monitoring the day-to-day operations of grant- and subgrant-supported activities to ensure compliance with applicable Federal requirements. Additionally, grantees must ensure that subgrantees are aware of requirements that Federal statutes and regulations impose upon them (44 CFR 13.37(a)(2)). In this instance, Louisiana did not ensure that the Corporation (1) included the required provisions in its contracts; or (2) took required steps to encourage the use of small businesses, minority-owned firms, and women's business enterprises when possible.

On November 26, 2013, the Regional Administrator of FEMA Region VI sent a letter to the Director of the Governor's Office of Homeland Security and Emergency Preparedness. The letter requested that Louisiana develop the necessary policies and procedures to ensure grant applicants are aware of and comply with Federal procurement standards. While Louisiana develops these policies and procedures, FEMA should require Louisiana to monitor the Corporation's performance to ensure it complies with Federal regulations, including procurement standards.

Finding D: FEMA's Allocation of Insurance Proceeds

FEMA correctly reduced the Corporation's award by \$3 million for NFIP insurance. However, FEMA used an incorrect amount when it reduced the award for commercial insurance. The Corporation received \$8,238,525 in commercial insurance proceeds for property damages to the Carriage House Apartments complex. However, FEMA incorrectly allocated \$11,536,872—approximately \$3.3 million more than the amount for additional property insurance proceeds that did not relate to the complex. This error resulted in \$3.3 million less eligible funding for the Corporation. FEMA officials said the error occurred because FEMA did not initially realize that it could accurately allocate the proceeds to properties that were not part of the Carriage House Apartments complex. However, as table 1 shows, we analyzed the insurance settlement and determined the appropriate allocation of insurance proceeds.



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Table 1. Calculation of Alternate Project Eligible Amount

Amounts	OIG Calculation	FEMA Calculation	Difference OIG – FEMA
Gross Award Amount of Damages (excludes demolition costs)	\$39,778,703	\$39,778,703	\$ 0
Less NFIP Insurance	3,000,000	3,000,000	0
Less Commercial Insurance	<u>8,238,525</u>	<u>11,536,872</u>	<u>(3,298,347)</u>
Equals Net Award Amount of Damages	\$28,540,178	\$25,241,831	\$3,298,347
Less 25% Alternate Project Reduction	<u>7,135,045</u>	<u>6,310,458</u>	<u>\$824,587</u>
Alternate Project Eligible Amount	\$21,405,133	\$18,931,373	\$2,473,760

Source: FEMA Project Worksheets and OIG Analysis

Federal regulations at 44 CFR 206.250(c) require FEMA to deduct actual and anticipated insurance recoveries from otherwise eligible costs. During our review, we met with FEMA officials who agreed with this finding. FEMA obligated an additional \$2,473,760 to correct the error. Therefore, FEMA does not need to take any further action on this finding.

RECOMMENDATION

We recommend that the Regional Administrator, FEMA Region VI, direct the Louisiana Governor’s Office of Homeland Security and Emergency Preparedness to monitor the Corporation’s performance to ensure compliance with Federal regulations to prevent the improper payment of over \$26 million (\$19.5 million Federal share) the Corporation plans to spend to complete Project 19440.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with Corporation officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, Louisiana, and Corporation officials. We discussed it at exit conferences held with FEMA officials on June 30, 2014, and with Louisiana and Corporation officials on July 17, 2014. FEMA and Louisiana generally agreed with our findings and recommendation. Corporation officials withheld comment on our findings and recommendation.

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 the recommendation. Also, please include the contact information of responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation.



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Until we receive and evaluate your response, we will consider the recommendation 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 Christopher Dodd, Acting Director; Judy Martinez, Audit Manager; Ronald Jackson, Auditor-in-Charge; and Dwight McClendon, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Christopher Dodd, Acting Director, Central Regional Office, at (214) 436-5200.



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