

Office of Inspector General

U.S. Department of Homeland Security
Eastern Region
Office of Emergency Management Oversight
10 Tenth Street, Suite 750
Atlanta, Georgia 30309



**Homeland
Security**

October 7, 2009

MEMORANDUM FOR: Robert Ives, Director
FEMA Florida Recovery Office

FROM: C. David Kimble, Director
Eastern Region Office

A handwritten signature in black ink that reads "C. David Kimble".

SUBJECT: *Florida Department of Juvenile Justice*
Public Assistance Identification Number: 000-UC0KW-00
FEMA Disaster Nos. 1539, 1545, 1551, and 1561
Report Number: DA-10-01

We audited public assistance funds awarded to the Florida Department of Juvenile Justice (Department). The objective of the audit was to determine whether the Department accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

As of April 15, 2009, the cut-off date of our review, the Department received public assistance grant awards totaling \$5.8 million from the Florida Department of Community Affairs (DCA), a FEMA grantee, as a result of damages sustained from Hurricanes Charley, Frances, Ivan, and Jeanne that occurred in 2004. The awards provided 90% FEMA funding for debris removal, emergency protective measures, repairs to buildings, and other disaster-related activities. At the time of our audit, the Department had not submitted final claims to DCA for project expenditures.

We limited our review to \$2.3 million of costs claimed under 11 large projects and 67 small projects awarded for repairs to buildings damaged during the disasters (see Exhibit)¹. The audit covered the period August 13, 2004, to April 15, 2009, during which the Department received \$2.1 million of FEMA funds under the projects included in our audit scope. The specifics for each disaster are shown in the following table:

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

| Disaster | Disaster No. | Large Projects Audited | Small Projects Audited | Amount Awarded (Millions) | Federal Funds Received (Millions) |
|-------------------|--------------|------------------------|------------------------|---------------------------|-----------------------------------|
| Hurricane Charley | 1539 | 2 | 15 | \$0.3 | \$0.25 |
| Hurricane Frances | 1545 | 7 | 29 | \$1.5 | \$1.37 |
| Hurricane Ivan | 1551 | 2 | 19 | \$0.4 | \$0.37 |
| Hurricane Jeanne | 1561 | 0 | 4 | \$0.08 | \$0.07 |
| Total | | 11 | 67 | \$2.28 | \$2.06 |

We conducted this performance audit under the authority of the *Inspector General Act of 1978*, as amended, and according to the 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 on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We reviewed the Department’s disaster accounting system and contracting policies and procedures; selected judgmental samples of project expenditures (generally based on dollar value); interviewed Department, DCA, and FEMA personnel; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances. We did not assess the adequacy of the Department’s internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the Department’s method of grant accounting and its policies and procedures for administering the activities provided for under the FEMA awards.

RESULTS OF AUDIT

The Department claimed \$2,081,630 (FEMA share \$1,873,467) of repair costs to leased facilities damaged during the disasters. However, the Department was not legally responsible for such repairs. Federal regulation 44 CFR 206.223(a)(3) states that an item of work must be the legal responsibility of an eligible applicant to be eligible for financial assistance.

The Department operates as a privatized agency² with many of its services and facilities contracted to various service providers. Pre-disaster contracts between the Department and the service providers included leases for 18 State-owned facilities. FEMA provided funding under the awards to cover disaster repairs to 13 of the 18 facilities under contract. According to *FEMA Public Assistance Policy Digest* (FEMA 321, October 2001, Page 76), when an applicant leases an owned facility to a tenant the lease should be examined to establish responsibility for disaster repairs. We examined provisions under the approved contracts for the 13 facilities and concluded that the service providers were responsible for losses and damages to the facilities, thus making the facilities ineligible for FEMA funding. Specifically, the contracts stated the following:

² Privatization is commonly defined as a process that is aimed at shifting functions and responsibilities, in whole or in part, from the government to the private sector through such activities as contracting for services. In recent years, the state of Florida has substantially increased its use of privatization to provide public services that are more efficient and cost effective.

- *The Providers must procure and maintain fire and extended coverage for all real property, improvements, furnishings, and equipment thereon furnished by the Department in an amount equal to its full insurable replacement value.³*
- *The Department shall be able to recover the required coverage amount of insurance under said policy should the Provider not rebuild/repair any building which is required to be covered by this section which is completely or partially destroyed.*
- *Upon possession of Department furnished property by the Provider, the Provider assumes the risk and responsibility for its loss and damage.*
- *Notwithstanding any other provision in this contract to the contrary, the Provider is liable for all consequential damages resulting from the Provider's failure to comply with the requirements of this contract to maintain and repair the facility, grounds, utilities and equipment owned by the Department.*

Therefore, we question the \$2,081,630 claimed for ineligible repairs to the leased facilities. The projects and related questioned costs are identified in the Exhibit.

RECOMMENDATION

We recommend that the Director of the FEMA Florida Recovery Office, in coordination with the DCA, disallow the \$2,081,630 (FEMA share \$1,873,467) of questioned costs.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the audit results with Department, DCA, and FEMA officials on August 10, 2009. Department officials did not agree with our determination that the repairs were the legal responsibility of the providers. However, we disagree. The contracts specifically state that the providers are responsible for maintaining fire insurance and extended coverage on the leased facilities and, upon possession, assume the risk and responsibility for loss and damages to the facilities.

Please advise me by December 7, 2009, of actions taken or planned to implement our recommendation. Should you have questions concerning this report, please contact me at (404) 832-6702, or Modupe Akinsika, Audit Manager, at (404) 832-6704. Key contributors to this assignment were Modupe Akinsika, Mary Stoneham, and Cal Flowers.

cc: Regional Administrator, FEMA Region IV
 Audit Liaison, FEMA Region IV
 Audit Liaison, FEMA

³ An extended coverage endorsement is a common extension of property insurance beyond coverage for fire and lightning, and includes, among other things, insurance against loss by perils of windstorm and hail.

Florida Department of Juvenile Justice
FEMA Disaster Nos. 1539, 1545, 1551, and 1561-DR-FL
Schedule of Amount Awarded and Questioned
August 13, 2004 to April 15, 2009

Hurricane Charley - Disaster 1539-DR-FL

| Project Number | Amount Awarded | Amount Questioned |
|----------------|----------------|-------------------|
| 1800 | \$62,900 | \$62,900 |
| 2477 | 116,318 | 116,318 |
| 2519 | 3,444 | 3,444 |
| 2550 | 1,056 | 1,056 |
| 2552 | 23,600 | 23,600 |
| 2597 | 1,836 | 1,836 |
| 3147 | 1,020 | 1,020 |
| 3151 | 5,589 | 5,589 |
| 3152 | 1,050 | 1,050 |
| 3662 | 9,761 | 9,761 |
| 3665 | 2,009 | 2,009 |
| 3684 | 1,040 | 1,040 |
| 3693 | 9,880 | 9,880 |
| 3751 | 1,385 | 1,385 |
| 6950 | 2,995 | 2,995 |
| 6953 | 14,540 | 14,540 |
| 7117 | 20,133 | 20,133 |
| Sub-Total | \$278,556 | \$278,556 |

Hurricane Frances-Disaster 1545-DR-FL

| Project Number | Amount Awarded | Amount Questioned |
|------------------|--------------------|--------------------|
| 6271 | \$107,567 | \$107,567 |
| 6287 | 3,331 | 3,331 |
| 6322 | 206,904 | 206,904 |
| 6361 | 9,899 | 9,899 |
| 6383 | 79,697 | 79,697 |
| 6407 | 108,617 | 108,617 |
| 6419 | 158,353 | 158,353 |
| 6420 | 12,064 | 12,064 |
| 6421 | 17,719 | 17,719 |
| 6422 | 41,441 | 41,441 |
| 6450 | 3,909 | 3,909 |
| 6546 | 3,131 | 3,131 |
| 6560 | 3,145 | 3,145 |
| 6561 | 2,705 | 2,705 |
| 6562 | 14,096 | 14,096 |
| 6563 | 3,585 | 3,585 |
| 6565 | 3,331 | 3,331 |
| 6566 | 5,844 | 5,844 |
| 6585 | 2,969 | 2,969 |
| 6586 | 17,009 | 17,009 |
| 6587 | 2,965 | 2,965 |
| 6589 | 2,348 | 2,348 |
| 6590 | 2,520 | 2,520 |
| 6591 | 1,192 | 1,192 |
| 6592 | 2,534 | 2,534 |
| 6890 | 3,466 | 3,466 |
| 7101 | 261,690 | 261,690 |
| 7722 | 16,197 | 16,197 |
| 7725 | 16,063 | 16,063 |
| 7813 | 242,982 | 242,982 |
| 7815 | 53,949 | 53,949 |
| 7816 | 41,601 | 41,601 |
| 8202 | 51,507 | 51,507 |
| 8614 | 1,350 | 1,350 |
| 8699 | 12,698 | 12,698 |
| 8702 | 10,693 | 10,693 |
| Sub-Total | \$1,529,071 | \$1,529,071 |

Hurricane Ivan – Disaster 1551-DR-FL

| Project Number | Amount Awarded | Amount Questioned |
|----------------|----------------|-------------------|
| 2375 | \$5,564 | \$0 |
| 3115 | 3,308 | 3,308 |
| 3116 | 36,570 | 36,570 |
| 3145 | 8,172 | 8,172 |
| 3152 | 7,647 | 7,647 |
| 3157 | 16,091 | 16,091 |
| 3457 | 55,645 | 55,645 |
| 3460 | 37,068 | 37,068 |
| 3574 | 4,566 | 4,566 |
| 3575 | 5,564 | 5,564 |
| 3576 | 5,707 | 5,707 |
| 3577 | 26,723 | 0 |
| 3578 | 3,500 | 0 |
| 3579 | 8,931 | 8,931 |
| 3580 | 6,420 | 6,420 |
| 3582 | 8,064 | 0 |
| 3583 | 18,052 | 0 |
| 3584 | 6,669 | 0 |
| 3585 | 13,951 | 0 |
| 3587 | 21,933 | 0 |
| 3588 | 112,211 | 0 |
| Sub-Total | \$412,356 | \$195,689 |

Hurricane Jeanne – Disaster 1561-DR-FL

| Project Number | Amount Award | Amount Questioned |
|----------------|--------------|-------------------|
| 4972 | \$43,677 | \$43,677 |
| 4976 | 11,498 | 11,498 |
| 5041 | 6,767 | 6,767 |
| 5042 | 16,372 | 16,372 |
| Sub-Total | \$78,314 | \$78,314 |

| | | |
|-------|-------------|-------------|
| Total | \$2,298,297 | \$2,081,630 |
|-------|-------------|-------------|