

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



Homeland  
Security

June 3, 2010

MEMORANDUM FOR: Major P. (Phil) May, Regional Administrator  
FEMA Region IV

FROM: C. David Kimble, Director  
Eastern Regional Office

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

SUBJECT: *City of Hialeah, Florida*  
Public Assistance Identification Number: 086-30000-00  
FEMA Disaster No.1609-DR-FL  
Report Number DA-10-12

We performed an audit of public assistance funds awarded to the City of Hialeah, Florida (City). The audit objective was to determine whether the City accounted for and expended Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

As of August 26, 2009, the City had received a public assistance grant award of \$11.7 million from the Florida Department of Community Affairs (DCA), a FEMA grantee, for damages resulting from Hurricane Wilma in October 2005. The award provided 100% FEMA funding for 14 large projects and 7 small projects for emergency protective measures, debris removal activities, and repairs to roads and facilities.<sup>1</sup>

We limited our review to \$11.3 million of costs claimed under 12 large projects (see Exhibit). The audit covered the period October 24, 2005, through August 26, 2009, during which the City received \$11.1 million of FEMA funds under the 12 projects. At the time of our audit, the projects were in various stages of completion and the City had not submitted final claims to DCA for project expenditures.

We conducted this audit under the authority of 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 and 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 City's disaster grant accounting system and contracting policies and procedures; judgmentally selected project cost documentation (generally based on dollar value); interviewed

---

<sup>1</sup> Federal regulations in effect at the time of Hurricane Wilma set the large project threshold at \$57,500.

City, DCA, and FEMA personnel; 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 objective. We did, however, gain an understanding of the City's method of grant accounting and its policies and procedures for administering the activities provided for under the FEMA award.

## RESULTS OF AUDIT

The City accounted for FEMA funds on a project-by-project basis according to federal regulations for large projects. However, the City's claim included \$2,511,948 of costs that we questioned as unsupported, duplicate, ineligible, and excessive.

A. Debris Removal Contract Costs. Project 4596 authorized the collection, processing, and disposal of storm-generated vegetative and construction and demolition debris collected from the City's rights-of-way. The authorized scope of work was accomplished by force account labor and equipment, and a debris removal contractor. Under the terms of the contract, the contractor was responsible for processing and disposing of debris collected by contractor and city-owned trucks. The City's claim under the project totaled \$7,197,339.

Federal regulation 44 CFR 13.20(b)(6), requires that expenditures under a federal award be supported by adequate source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contract award documents, etc. Office of Management and Budget Circular A-87 (*Cost Principles for State, Local, and Indian Tribal Governments*), Attachment A, Paragraph C.1 (j), also requires that costs be adequately documented to be allowable under a federal award. However, the City's claim under the project contained \$1,923,955 of costs that were not supported by adequate documentation.

1. Vegetative Debris and Mulch. The contractor billed the City for processing 205,012 cubic yards of vegetative debris brought into the Hialeah Race Track temporary disposal site by City trucks. However, only 79,698 cubic yards were supported by load tickets. During fieldwork, City officials said that the 125,314 cubic yard difference was attributable to disaster-related debris that was located on the Race Track grounds. However, such debris would have been the responsibility of the Race Track owner since debris removal from private property was not authorized under the disaster. Moreover, debris removal charges should be adequately supported to be eligible for FEMA reimbursement.

Under terms of the contract, the contractor charged the City \$4.50 per cubic yard to sort and process debris hauled in by city trucks, and \$21.00 per cubic yard to dispose of the resulting mulch, which was based on a ratio of 3.5 to 1 (3.5 cubic yards of debris = 1 cubic yard of mulch). Using these rates, we calculated that the City's claim included a total of \$1,315,797 for the ineligible debris — \$563,913 for sorting and processing (125,314 x \$4.50) and \$751,884 for 35,804 cubic yards of mulch (125,314 ÷ 3.5 x \$21.00). Therefore, we question the \$1,315,797.

City Response. City officials did not concur with our finding. In a separate written response provided to us subsequent to the exit conference, they said the Race Track owner provided the City with six months of free space/staging area as a temporary debris disposal site, and

that the un-ticketed debris was for debris that was partially located in the City's right-of-way. The debris posed a threat to City roadways as well as the traffic flow surrounding the Race Track area.

OIG Response. The City's written response is contradictory to what we were told verbally during the course of the audit. Nonetheless, our finding remains. Federal regulations require that costs claimed under federal awards be adequately documented to be eligible for FEMA reimbursement. Without such documentation, we could not validate the contractor's charges.

2. Construction and Demolition Debris. The contractor charged the City \$499,212 for processing 60,505 cubic yards of construction and demolition debris that was collected and hauled to the temporary disposal sites by city trucks. However, the City had load tickets to support only 48,267 cubic yards, or 12,238 less than the billed by the contractor. Using the contract rate of \$21.00 per cubic yard for such activity, we calculated that the City's claim was overstated by \$256,998. Therefore, we question the \$256,998.
  3. Load Tickets Missing Debris Pickup Location. The City's claim included \$351,160 for load tickets totaling 17,558 cubic yards that did not document the specific pick up location of the debris. FEMA *Debris Management Guide* (FEMA 325, April 1999, pages 23-24) states that load tickets should provide the origin location of the debris. Without such information, the eligibility of the debris could not be validated. Therefore, we question the contract charges of \$351,160.
- B. Federal-Aid Roads. Under Project 4596, the City claimed \$269,429 for debris removal activities on federal-aid roads that are the responsibility of the Federal Highway Administration (FHWA). According to Section 312 of the Stafford Act, FEMA funds cannot be used for expenditures covered by another federal program. The City requested FHWA reimbursement for the expenditures and planned to have FEMA reduce project costs at close-out for such activity. However, at the completion of our audit the costs remained in the City's claim. Therefore, we consider the charges duplicative and question the \$269,429.
- C. Tree and Stump Removal. The City's claim under Project 4689 included \$115,242 of contract charges for tree and stump removal as well as landscaping activities (trimming, pruning, balancing, and replanting) in City parks. According to FEMA *Public Assistance Guide* (FEMA 322, October 1999, page 47), the removal of trees and stumps in parks and recreational areas is eligible for FEMA reimbursement when such activity is necessary to eliminate public health and safety hazards. The Guide (page 60) also states that costs for tree replacement and replanting are not eligible in recreational areas such as parks.

The City did not document that the removal of the tree limbs and stumps was necessary to eliminate a public health and safety hazard. Tree and stump removal, if hazardous to public safety, should be adequately documented. Office of Management and Budget Circular A-87 (*Cost Principles for State, Local, and Indian Tribal Governments*), Attachment A, Paragraph C.1 (j), requires that costs be adequately documented to be allowable under a federal award. In addition, any cost for landscaping activities (such as tree replacement and replanting) is not eligible for FEMA reimbursement. Therefore, we question the \$115,242.

Subsequent to the exit conference, City officials provided us with photographs of damaged trees located in the parks in question. They believed such photographs showed the hazardous condition of trees and stumps removed from the parks. However, the photographs did not clearly indicate that the trees were located in the parks and met the criteria of being a public health and safety hazard.

City Response. City officials did not concur with our finding. They said that the costs should be allowed because the removal of tree debris was done as an emergency protective measure to avoid any danger to children and residents. In addition, the removal was necessary to ensure public health and safety of the affected community at large.

OIG Response. Federal regulations and FEMA guidelines state that costs must be adequately documented to be eligible under a federal award. The city did not maintain adequate documentation for us to validate its assertion that the trees and stumps were removed for public health and safety reasons. Moreover, landscaping activities such as replacing, replanting, trimming and pruning trees are ineligible for FEMA reimbursement. Therefore, our finding remains unchanged.

- D. Force Account Labor. The City claimed, under several projects, salary costs for providing compensatory time in place of overtime for workers engaged in emergency protective measures. The claim was based on overtime labor hours at a rate of 1.5 times the straight-time rates of the workers. According to FEMA *Public Assistance Guide* (FEMA 322, October 1999, page 36-37), cost for compensatory time for overtime hours is eligible at a straight-time rate. Therefore, we question excess charges of \$120,716. The affected projects and related questioned costs are shown in the table below.

Project Number	Activity	Amount Questioned
1307	Emergency Protective Measures	\$ 28,805
1312	Emergency Protective Measures	\$ 69,847
1779	Emergency Protective Measures	\$ 5,266
1790	Emergency Protective Measures	\$ 16,798
Total		\$120,716

City Response. City officials did not concur with our finding. They said that the FEMA policy allowed for compensatory time to be reimbursed based on the City's compensation policies in affect at the time of the disaster.

OIG Response. The City did not properly interpret the federal guidelines as they relate to reimbursement for compensatory time. FEMA policy states that eligible compensatory time will be reimbursed at regular-time rates.

- E. Costs Covered by Insurance. According to 44 CFR 206.250(c), anticipated and actual insurance recoveries shall be deducted from otherwise eligible project costs. The City's claim under Project 3670 included \$80,947 to repair the awning of the water department's building that housed City fleet vehicles. After applying the insurance deductible, we determined that \$64,462

of the damages was covered by insurance. However, City officials did not pursue insurance reimbursement for these costs. Therefore, we question the \$64,462.

F. Force Account Equipment. The City's claim included \$18,144 of excessive equipment costs, as follows:

- According to FEMA *Public Assistance Guide* (FEMA 322, October 1999, page 37) and the FEMA Equipment Rate Schedule, equipment use is to be reimbursed at an hourly or mileage rate depending on the type and use of such equipment. The FEMA Equipment Rate Schedule stipulates that automobiles and pickup trucks used to transport people should be reimbursed on the basis of mileage. The City claimed a total of \$12,644 under Projects 3542 and 3554 for pickup trucks used by City employees to travel to specific work sites. The claim, however, was based on hours of use rather than mileage as required. The City did not document actual mileage for most of the vehicles. Therefore, we question \$12,644 (\$4,793 for Project 3542 and \$7,851 for Project 3554) claimed for the transport vehicles.
- Under emergency protective measures Project 1307, the City claimed \$5,500 more than equipment costs actually incurred because of an error made in recording the number of miles the vehicle was driven. The City claimed 10,063 miles instead of the 63 miles that the vehicle was actually used (a difference of 10,000 miles). Using the mileage rate of \$0.55 per mile, we question the \$5,500 of excessive costs.

## RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV, in coordination with DCA:

**Recommendation # 1.** Disallow \$1,923,955 of ineligible and unsupported contract costs for debris removal work (Finding A).

**Recommendation # 2.** Disallow \$269,429 of debris removal costs for roads to be funded by the FHWA (Finding B).

**Recommendation # 3.** Disallow \$115,242 of unsupported and unauthorized costs for stump and tree removal activities (Finding C).

**Recommendation # 4.** Disallow \$120,716 of excessive compensatory time costs for force account labor (Finding D).

**Recommendation # 5.** Disallow \$64,462 of repair costs covered by insurance (Finding E).

**Recommendation # 6.** Disallow \$18,144 of excessive force account equipment charges (Finding F).

## **DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP**

The audit results were discussed with City officials, DCA, and FEMA on March 3, 2010. City officials requested additional time to review and respond to our findings. On March 16, 2010, City officials provided a written response for our consideration. Their comments are included in the body of this report.

Please advise me by August 2, 2010, of the actions taken or planned to implement the recommendations contained in this report, including target completion dates for any planned actions. Should you have any questions concerning this report, please contact me at (404) 832-6702 or Modupe Akinsika, Audit Manager, at (404) 832-6704. Key contributors to this report were Modupe Akinsika, Helen T. White, Jerry Aubin, and Gwinnette Kendrick.

cc: Mary Lynne Miller – Deputy Regional Administrator  
Jesse Munoz—Director Recovery  
Valerie Rhoads—Branch Chief of PA  
Kelly Burkitt—Regional Audit Coordinator  
Robert Ives—FL Recovery Office Director  
Audit Liaison, FEMA

City of Hialeah, Florida  
FEMA Disaster No. 1609-DR-FL  
Schedule of Amount Awarded, Claimed, and Questioned  
October 24, 2005 to August 26, 2009

Project Number	Amount Awarded	Amount Claimed	Amount Questioned
1307	\$ 456,275	\$ 456,390	\$ 34,305
1312	1,070,087	1,086,204	69,847
1779	158,586	157,730	5,266
1790	432,158	431,419	16,798
2882	299,227	299,227	
3532	349,855	510,207	
3542	137,122	137,122	4,793
3554	526,175	526,175	7,851
3670	80,947	80,947	64,462
4596/4672 <sup>2</sup>	7,197,339	7,197,339	2,193,384
4689	627,162	368,758	115,242
Total	\$11,334,933	\$11,251,518	\$2,511,948

---

<sup>2</sup> The City combined costs claimed under debris removal Projects 4672 and 4596. Therefore, we audited both projects as one combined project.