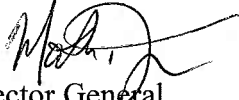




Homeland
Security

August 9, 2011

MEMORANDUM FOR: Tony Russell
Regional Administrator
FEMA Region VI

FROM: Matt Jadacki 
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Interim Report on FEMA Public Assistance Grant Funds Awarded to
Regional Transit Authority, New Orleans, Louisiana*
FEMA Disaster Number 1603-DR-LA
Public Assistance Identification Number 071-UXQ34-00
Audit Report DD-11-16

We are currently auditing \$87.73 million of the \$123.9 million of Federal Emergency Management Agency (FEMA) public assistance grant funds awarded to the New Orleans Regional Transit Authority (RTA) for disaster recovery work related to Hurricane Katrina. The purpose of this memorandum is to advise you of two issues that require your immediate attention. First, neither RTA nor FEMA has provided adequate documentation to verify RTA's legal responsibility for 151 leased buses damaged as a result of the disaster. Second, RTA officials have not provided us with requested insurance policies for the buses and schedules of property insured. Therefore, we cannot determine the eligibility of the \$31.74 million that FEMA anticipates funding for the 151 damaged buses.

We are conducting this audit pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Our overall objective is to determine whether RTA accounted for and expended FEMA public assistance funds according to federal regulations and FEMA guidelines. We are conducting this audit based on the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster. At the conclusion of our audit, we plan to issue our complete audit report including any additional findings and recommendations.

BACKGROUND

The *Regional Transit Authority Act of 1979* amended Title 48 of the Louisiana Revised Statutes of 1950 by adding a new Chapter 14 to create the Regional Transit Authority as a political subdivision. RTA's service area is all of Orleans Parish and the City of Kenner. According to RTA officials, before Hurricane Katrina RTA provided transportation using 175 leased buses, 246 owned buses, and 70 streetcars.

In April 1998, RTA entered into two leases with the same lessor to finance the cost of 175 Orion buses. In June 2002, RTA refinanced the leases for \$43 million through a new lease company. The 2002 lease had a "Rental Payment Schedule" that called for payments beginning October 15, 2002, through April 15, 2010. The Federal Transit Administration awarded RTA federal grants to reimburse it for 80% of its bus lease payments.

ISSUE #1: LEGAL RESPONSIBILITY FOR LEASED BUSES

Neither FEMA nor RTA has provided us sufficient documentation to determine whether RTA owned or was legally responsible for buses that it leased at the time of the disaster. Federal regulations at 44 CFR 206.223(a) require that, to receive federal funding, the subgrantee must be legally responsible for the facility. Also, the Public Assistance Guide (FEMA 322, p. 25) states that an eligible applicant must be legally responsible for the damaged facility at the time of the disaster. Because we cannot determine ownership and legal responsibility at the time of the disaster, we cannot determine the eligibility of \$31.74 million FEMA obligated for repairs to or replacement of 151 leased buses damaged during the disaster. Therefore, until we can verify eligibility, we question the \$31.74 million as unsupported.

Hurricane Katrina damaged 233 RTA buses, of which 151 were leased buses and 82 were owned buses. FEMA obligated \$44.18 million based on the current market "asking price" of the 233 buses before damage plus a refurbish and equipment allowance. Of this amount, \$31.74 million was for the 151 leased buses and \$12.45 million was for the 82 owned buses. RTA opted for an improved project to replace older model buses with new models, which means that its funding will be capped at the \$44.18 million. At the time of this report, RTA had claimed \$26.95 million for the purchase of new buses.

As proof of ownership for the 151 buses, RTA supplied its June 2002 lease agreement for 175 buses. The lease did not state whether ownership of the buses would or would not transfer to RTA at the end of the lease in April 2010. Although RTA eventually acquired titles to the buses in March 2011, RTA could not provide proof of ownership at the time of the disaster.

Additionally, we attempted to verify the Vehicle Identification Numbers (VINs) of the 233 damaged buses through the Louisiana Division of Motor Vehicle records. There were no records for 34 of the 82 buses that RTA said it owned. In April 2011, we provided RTA the list of 34 buses and requested an explanation and copies of vehicle titles. Almost 2 months later, RTA provided a copy of a quitclaim deed document referencing another bus lease, and 11 titles acquired in 2011 indicating that these buses may also have been leased at the time of the disaster. Because we were not supplied

with a list of buses with VINs covered by the lease, we were unable to determine the extent to which the buses should be funded by FEMA.

We also requested documentation supporting eligibility of the buses from FEMA, but we had not received any information as of the date of this report. We did, however, locate a position paper in FEMA's project files that questioned the eligibility of the buses and outlined all the reasons FEMA should not approve funding. FEMA officials said they would have to research what they used to determine eligibility.

ISSUE #2: INSURANCE COVERAGE

RTA officials have not provided us with requested insurance policies and schedules of property insured for the 151 damaged buses that were leased. According to Exhibit C of the June 2002 lease, RTA was required to carry full replacement value insurance on the 175 leased buses. RTA officials said they collected only \$3 million on owned and leased buses for the one policy in effect in 2005, when the disaster occurred. We requested the insurance policy and schedules of property insured in effect at the time of the disaster; however, RTA had not provided those documents as of the date of this report.

Section 312 (42 U.S.C. 5155) of the Stafford Act states, "General prohibition - The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source." FEMA Policy 9525.3 states, "disaster assistance will not be provided for damages covered by insurance. Disaster assistance provided by FEMA is intended to supplement assistance from other sources; therefore, insurance proceeds should be an applicant's first alternative for disaster assistance. An adjustment for the amount that should be received from insurance coverage is required even if the applicant has not completed negotiations with the insurer."

Without adequate support for insurance, we were unable to determine the extent to which the buses were covered by insurance. Therefore, we cannot determine the eligibility of the \$31.74 million that FEMA anticipates funding for the buses.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region VI:

Recommendation #1: Disallow \$31.74 million as unsupported funding anticipated for the repair or replacement of 151 leased buses under Project 12673, or provide proof that RTA was legally responsible for the 151 buses at the time of the disaster (Issue #1).

Recommendation #2: Require RTA to provide any and all insurance policies; schedules of properties to include year, make, model, and VIN; and related supporting documentation for all RTA-owned and -leased buses damaged in the disaster (Issue #2).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the interim results of our audit with FEMA, the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), and RTA officials during our audit and have included their comments in this report as appropriate. We also provided written summaries of our interim findings and recommendations in advance to these officials and discussed them at exit conferences held with FEMA and GOHSEP on June 23, 2011, and RTA officials on June 24, 2011. FEMA, GOHSEP, and RTA officials disagreed with our findings and recommendations.

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. To promote transparency, this report will be posted to our website, with the exception of sensitive information identified by your office. Significant contributors to this report were Tonda Hadley, Judy Martinez, Jeffrey Campora, Dwight McClendon, and Mary Monachello.

Should you have questions concerning this report, please contact me at (202) 254-4100 or Tonda Hadley at (214) 436-5200.

cc: Audit Liaison, FEMA Louisiana Recovery Office
 Audit Liaison, FEMA (Job Code G-11-008)
 Audit Liaison, FEMA Region VI
 Audit Liaison, DHS