




Homeland Security

July 16, 2010

MEMORANDUM FOR: Nancy Ward
Regional Administrator
FEMA Region IX

FROM: 
Robert J. Lastrico
Western Regional Director

SUBJECT: *City of Napa, California*
Public Assistance ID. No. 055-50258-00
FEMA Disaster No. 1628-DR-CA
Audit Report Number DS-10-09

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

The City received a public assistance subgrant award of \$4 million from the California Office of Emergency Services (OES),¹ a FEMA grantee, for emergency protective measures and permanent repairs to facilities damaged by severe storms beginning on December 17, 2005. Of the \$4 million, FEMA provided 75% federal funding and non-federal sources funded the remaining 25% for 32 projects (9 large projects and 23 small projects²). The audit covered the period of December 17, 2005, to May 27, 2010, and included a review of nine large projects with a total award of \$3.6 million (see Exhibit). Of the nine large projects within the scope of this audit, the City had abandoned one, had completed four, and as of May 27, 2010, was in various stages of completion for the other four projects.

We conducted this performance 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. The evidence obtained during the audit fulfilled those requirements.

We discussed audit issues with FEMA, Cal EMA, and City officials. We reviewed judgmentally selected samples of cost documentation to support project costs and personnel charges; and performed other procedures considered necessary to accomplish our objective. We did not assess

¹ OES became a part of the California Emergency Management Agency (Cal EMA) on January 1, 2009.

² At the time of the disaster, the large project threshold was at \$57,500.

the adequacy of the City’s internal controls applicable to subgrant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the City’s method of accounting for disaster-related costs.

RESULTS OF AUDIT

The City generally expended and accounted for public assistance funds according to federal regulations and FEMA guidelines. However, \$386,617 in funding for two projects was no longer needed by the City and could be deobligated by FEMA. In addition, the City should submit quarterly progress reports to Cal EMA and improve its accounting for disaster-related costs. Also, estimated costs for one project currently in the design phase have increased significantly and the changes in the scope of work do not comply with FEMA's work and cost eligibility criteria.

Finding A – Project Funding

City records for the nine projects we reviewed showed that one project was completed under budget and one was abandoned. The City has not notified Cal EMA or FEMA that \$386,617 (the federal share is \$289,963) in funds awarded to the two projects shown below are not needed by the City and available for deobligation by FEMA.

Project Number	Award Amount	Costs Incurred	Funds Not needed
2279	\$364,102	\$37,854	\$326,248
2740	60,369	abandoned	60,369
Total	\$424,471	\$37,854	\$386,617

City officials agreed that Project 2279 was completed under budget and project 2740 was abandoned. Those officials planned to notify Cal EMA about the excess funds at project closeout, when all projects are completed. According to Title 44, *Code of Federal Regulations*, Section 206.205(b)(1) [44 CFR 206.205(b)(1)], the grantee for this disaster, Cal EMA, shall make an accounting of eligible costs for each large project and certify to FEMA that the reported costs were for eligible disaster work as soon as practicable after the City has completed the approved work and requested payment. Even though the City has not requested final payment and closure of its entire award, nothing in the regulations preclude the City from requesting final payment on a project-by-project basis. In addition, according to FEMA Standard Operating Procedure 9570.14, *Program Management and Grant Closeout*, paragraph 9.2.1, the grantee should reconcile costs within 90 days of the date that the subgrantee completes the project.

Finding B - Quarterly Progress Reporting

The City had not submitted quarterly progress reports to Cal EMA. According to 44 CFR 13.20(a)(1), both Cal EMA and the City are required to meet various financial management standards including fiscal control and accounting procedures that permit the preparation of reports required by statute or regulation. According to 44 CFR 13.40(a), Cal EMA is responsible for monitoring and reporting program performance to ensure compliance with federal requirements and achievement of performance goals. In addition, 44 CFR 13.40(d) requires that as soon as known, Cal EMA must inform FEMA of favorable developments

which enable meeting time schedules and objectives sooner or at less cost than anticipated.³ The City's quarterly reports are needed by Cal EMA to fulfill the project monitoring and program performance reporting required by FEMA.

FEMA requires Cal EMA – and in turn, Cal EMA requires the City – to prepare and submit quarterly progress reports that highlight significant developments in grant and subgrant activities. Information required in a quarterly report includes quarter-end project status with respect to percent completion, costs incurred, projected completion dates, actual completion dates, and cost reimbursement status. Our review identified that the City had not submitted any of the required quarterly reports. Consequently, the quarterly reports submitted by Cal EMA to FEMA for the disaster included incorrect information about the City's financial activities. For example, Cal EMA's report for the fourth quarter of 2009 identified only eight of the nine large projects awarded to the City. In addition, in the same quarterly report, one project was identified with expenditures of \$364,102 (same as the PW award amount), but the project was actually completed under budget for \$37,854. City officials agreed that the required quarterly reports were not submitted.

Finding C – Accounting for Project Costs

The City can improve its record keeping when accounting for disaster costs. According to 44 CFR 13.20(a)(2), the City is required to have fiscal control and accounting procedures that permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Thus, the City is required to maintain accounting records that identify how FEMA funds are used. In reviewing the City's accounting records in support of disaster costs, we identified various instances where record keeping can be improved.

Some examples of record keeping errors are listed below.

- Time sheets did not always record the correct disaster work. Some employees who performed debris removal work (Category A) were coded as having completed emergency protective measures (Category B).
- Documents supporting initial clean up work performed under a time and material agreement did not identify that the City (1) inspected and approved the completed work or (2) verified that amounts invoiced related to the tasks completed. In fact, some documentation submitted by a City contractor to support invoiced amounts included hand written edits increasing labor hours. The documentation did not explain the nature of the increased labor hours or indicate the City's approval for the increases.
- In a few instances, project records did not describe the tasks performed by the City's consultants, or describe how an incurred expense related to a project.

We discussed the above observations with City officials and they agreed to improve record keeping ensuring that claims submitted to FEMA are adequately supported.

³ This citation also requires the grantee to report problems, delays, and adverse conditions as soon as they become known.

Finding D – Project Cost Increases and Scope Changes

The scope of work (SOW) developed by the City for project 2277 includes improvements that are in addition to repairs approved by FEMA to restore the damaged facility to pre-disaster condition. According to 44 CFR 206.203(d), funding for improved projects is limited to the federal share of the approved estimate of eligible costs to repair a damaged facility to its pre-disaster design. Therefore, the costs of improvements envisioned by the City are not eligible for reimbursement by FEMA.

Under project 2277, FEMA awarded the City \$89,922 to repair a weir and sluice gate⁴ (facility) located on a small diversion dam constructed downstream from the City's reservoir. The facility is important to the City, since when it is fully functioning, it diverts discharge flow from the reservoir to a water treatment plant that produces about 15% of the City's drinking water. FEMA approved the SOW and funding for this project in July 2006. City records currently identify that the SOW now includes improvements with estimated costs of \$746,000; an increase of \$656,078 over the amount approved by FEMA. As of May 2010, the project had not started because the City is awaiting National Marine Fisheries Service (NMFS)⁵ clearance to permit disaster repairs. Clearance will only be provided when the City agrees to make the NMFS improvements. The required improvements include the installation of water flow monitors to control and measure water flow fluctuations, and other similar improvements to the City's reservoir and a water treatment plant. These improvements are unrelated to the disaster damage and not required to restore the facility to its pre-disaster condition.

City officials stated that in December 2009, Cal EMA was informed of the revised SOW and cost increases. Those officials also stated that formal notification to FEMA would be provided once clearance to start the disaster repairs was obtained from NMFS. Since the project improvements would be made as a result of NMFS review and clearance, City officials believe that the revised SOW is eligible for funding under FEMA's Public Assistance Program. They indicated that once cleared by NMFS, and the project is completed, they plan to submit total project costs to FEMA for reimbursement of the federal share. In May 2010, the City requested a time extension to July 2011 to allow for completion of the NMFS review and clearance process. Due to ongoing priorities, FEMA has not responded to the City's request.

Although project improvements mandated by NMFS may be required by other laws and regulations (e.g., the *Endangered Species Act of 1973*, as amended), they are not disaster-related and therefore, are not eligible under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* or FEMA regulations for funding under FEMA's Public Assistance program. FEMA should inform Cal EMA and the City that the improvements required by NMFS are not eligible for Public Assistance Program funding and that project 2277 will be classified as an improved project if the City plans to make improvements required by NMFS. Likewise, if the City does not plan to pursue making these improvements, project 2277 should be deobligated.

⁴ A sluice is a water channel that is controlled at its head by a gate. A sluice gate is traditionally a wooden or metal plate which slides in grooves in the sides of the channel. Raising a sluice gate allows water to flow under it. (The term *sluice gate* refers to any gate that operates by allowing water to flow under it.) When a sluice gate is fully lowered, water sometimes spills over the top, in which case the gate operates as a weir.

⁵ NMFS is an office within the National Oceanic and Atmospheric Administration, United States Department of Commerce. NMFS issues permits that ensure that activities are carried out in a way that safeguards the animals and environment that are subject to those activities, or that might be incidentally affected.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IX, in coordination with Cal EMA:

Recommendation #1. Deobligate \$386,617 (\$289,963 federal share) in disaster funds currently obligated for projects 2279 and 2740 (Finding A).

Recommendation #2. Require Cal EMA to strictly follow the monitoring and program performance reporting requirements of 44 CFR 13.40 to ensure that quarterly progress reports are submitted by subgrantees and that such reports are accurate, current, and complete and reflect significant developments in project execution. (Finding B).

Recommendation #3. Require Cal EMA to ensure that the City complies with the requirements of 44 CFR 13.20(a)(2) by improving record keeping procedures and supporting disaster grant costs with properly maintained documentation (Finding C).

Recommendation #4. Inform Cal EMA and the City that the improvements required by NMFS (\$656,078) are not eligible for Public Assistance Program funding and that project 2277 will be classified as an improved project if the City plans to make improvements; and if not, project 2277 will be deobligated (Finding D).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the results of our audit with City, Cal EMA, and FEMA officials during our audit and included their comments in this report as appropriate. We discussed our findings and recommendations at exit conferences held with the City on April 30, 2010, and with Cal EMA on May 27, 2010. City and Cal EMA officials concurred with Findings A, B, and C. For Finding D, these officials agreed that some of the project improvements did not benefit the damaged facility, but did not concur that the City was responsible for funding the work. We also notified FEMA officials of the audit results on May 24, 2010 and they withheld further comments until after we issued our final report.

Please advise this office by September 14, 2010, of the actions planned or taken to implement the recommendations, including target completion dates for any planned actions. Significant contributors to this report Humberto Melara, Venetia Gatus, and Montul Long.. Should you have any questions, please contact me at (510) 637-1482, or your staff may contact Humberto Melara, Audit Manager, at (510) 637-1463.

cc: Audit Liaison, FEMA Region IX
Audit Liaison, FEMA (Job Code: DG9W07/G-09-068-EMO-FEMA)

**Schedule of Audited Projects
City of Napa, California
FEMA Disaster Number 1628-DR-CA**

PW	Category of Work	Award Amount	Status of Work*	Costs Audited	Questionable increases to SOW	FEMA Funds Not Needed	Finding Reference
1679	C	\$ 136,606	C	\$ 194,086			
1721	B	1,323,929	C	1,323,993			
1725	A	895,288	C	895,288			
2277	F	89,922	NC	0	\$656,078		D
2279	A	364,102	C	37,854		\$326,248	A
2740	C	60,369	A	0		60,369	A
3420	G	116,257	NC	0			
3423	G	503,907	NC	0			
3646	C	110,272	NC	0			
Totals		\$3,600,652		\$2,451,221	\$656,078	\$386,617	

* C= completed, NC = not completed, and A = abandoned