

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

FEMA's Implementation of the
Mississippi Secondary Programmatic
Agreement under Hurricane Katrina

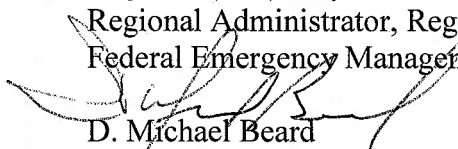




Homeland Security

DEC 22 2011

MEMORANDUM FOR: Major P. (Phil) May
Regional Administrator, Region IV
Federal Emergency Management Agency

FROM: 
D. Michael Beard
Acting Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *FEMA's Implementation of the Mississippi Secondary
Programmatic Agreement under Hurricane Katrina*
FEMA Disaster Number 1604-DR-MS
Audit Report Number DA-12-03

We audited the Secondary Programmatic Agreement (Secondary Agreement) among the Federal Emergency Management Agency (FEMA), Advisory Council for Historic Preservation, Mississippi State Historic Preservation Officer (State Preservation Officer), Mississippi Band of Choctaw Indians, and Mississippi Emergency Management Agency (State). The purpose of the audit was to determine whether FEMA was properly implementing the agreement to identify and document historic sites. The Director of FEMA's Mississippi Recovery Office in Biloxi, Mississippi, requested this audit.

BACKGROUND

Section 106 of the *National Historic Preservation Act* requires all federal agencies to review the effect of an agency undertaking on historic properties prior to funding the project, activity, or program. FEMA develops programmatic agreements with states and tribal governments as an alternative to Section 106 compliance (36 CFR 800.14(b)), in order to simplify and expedite coordination and to provide specific guidance to consulting parties in the historic review process. Agreements also exempt routine disaster recovery activities with little potential of adversely affecting historic properties from the review mandated by Section 106.

FEMA entered into a statewide programmatic agreement with the State and the State Preservation Officer on January 5, 2004, to address FEMA's responsibilities under the *National Historic Preservation Act*. On October 7, 2005, after Hurricane Katrina, FEMA executed a first addendum to the agreement to address debris removal on privately owned property that did not affect buildings or structures. A second addendum was executed on January 5, 2006, to address

the demolition of buildings and structures damaged by Hurricane Katrina. FEMA determined that these undertakings may affect historic properties, including districts, and that to meet its responsibilities under the *National Historic Preservation Act*, the activities should be streamlined and improved by developing and implementing a Secondary Agreement.

The Secondary Agreement states, in part, that FEMA shall, in consultation with the State Preservation Officer and tribal governments, identify and document surviving resources through intensive surveys, reconnaissance surveys, photographs, oral history, preparation of maps, production of digital data for use in a geographic information system, and determinations of National Register eligibility. The purpose of the agreement is to mitigate damage to historic and archaeological sites in future disasters. The agreement covers Hancock, Harrison, Jackson, Pearl River, Stone, George, and Forrest counties, and includes the documentation of the 19th century Choctaw communities on the Mississippi Gulf Coast. The final product will be an Integrated Historic Properties Survey Report that will record and document historic properties that may be eligible for or are listed in the National Register of Historic Places, either individually or as part of a district.

As of March 2011, FEMA had 18 personnel engaged in the Secondary Agreement undertakings, which included 5 technical assistance consultants hired under FEMA's Nationwide Infrastructure Support Technical Assistance Consultants (NISTAC) contract. The staff included environmental and historic preservation specialists, archaeologists, and architectural historians. Annual salary cost of the assigned personnel was \$1.8 million. As of June 2011, FEMA had completed most of the planned archaeological intensive surveys and all of the structural surveys in the historic districts in Hancock County.

SCOPE AND METHODOLOGY

We reviewed FEMA's activities under the Secondary Agreement to determine whether FEMA properly implemented the agreement, including whether—

- Public Assistance funding was properly used to implement the agreement
- Work performed was within the scope of the agreement
- Contractors supporting the agreement were in compliance with contract terms
- Deliverables were being achieved within agreed timeframes

To accomplish our audit objective, we did the following:

- Reviewed FEMA policies and guidance on programmatic agreements
- Reviewed State Preservation Officer guidelines on archaeological investigations
- Interviewed FEMA and State Preservation Officer personnel responsible for implementing the Secondary Agreement
- Reviewed an assessment by environmental specialists from FEMA Regions IV and X on FEMA's implementation of the Secondary Agreement
- Reviewed FEMA legal opinions on the Secondary Agreement

- Toured an archaeological site in Hancock County, Mississippi, to observe FEMA's intensive survey techniques
- Evaluated the NISTAC contract and compliance with the contract terms for technical assistance consultants assigned to activities under the Secondary Agreement

The audit covered the period from August 29, 2005, to July 12, 2011. We conducted this performance audit 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 according to the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We did not assess the adequacy of FEMA's internal controls applicable to the Secondary Agreement because it was not necessary to accomplish our audit objective. However, we did gain an understanding of FEMA's policies and procedures for conducting activities under the Secondary Agreement.

RESULTS OF AUDIT

FEMA generally complied with the requirements of the Secondary Agreement. The use of Public Assistance funding is appropriate for implementing the requirements of the Secondary Agreement. Also, contractors supporting work under the agreement were in compliance with contract terms. However, planned archaeological efforts could be reduced, resulting in significant labor cost savings. Additionally, the State Preservation Officer and FEMA need to coordinate more closely when identifying new structural historic districts in order to avoid unnecessary costs. Finally, several deliverables required of FEMA under the Secondary Agreement had not been accomplished in a timely manner.

Finding A: Archaeological Efforts Can Be Reduced

FEMA was performing archaeological efforts beyond those required by the Secondary Agreement. FEMA identified 157 sites for intensive archaeological survey work. At the time of our review, survey teams had performed work on 20 of the sites, incurring more than \$1.2 million in labor and travel costs over a 22-month period (March 2009 through January 2011). The number of sites planned for evaluation can be reduced and still meet FEMA's obligation under the Secondary Agreement, resulting in labor cost savings.

The Secondary Agreement requires FEMA to conduct surveys of historic properties (including standing structures and archaeological sites) in Hancock, Harrison, Jackson, Pearl River, Stone, George, and Forrest counties. To implement the requirements of the agreement, FEMA initiated a pilot program in Hancock County and selected 25 sites for archaeological intensive surveys. Labor effort under such surveys includes the following activities:

- Identifying sites
- Identifying private property owners
- Obtaining rights of entry from property owners
- Performing intensive surveys or “digs” to screen for artifacts
- Washing, cleaning, and identifying artifacts
- Recording artifact locations
- Storing artifacts
- Preparing a determination of eligibility of a historical site based on artifacts found
- Obtaining State Preservation Officer concurrence of determination of eligibility
- Determining whether the private property owner desires to keep the artifacts or donate them to the State Preservation Officer
- Delivering artifacts to the State Preservation Officer

In March 2009, FEMA began archaeological survey work under the pilot program. As of January 2011, survey teams had completed nearly all required survey activities on 20 of the sites. Total labor and travel costs for survey activities during the 22-month period exceeded \$1.2 million. At the time of our audit, surveys had not begun on the remaining five sites in Hancock County.

FEMA historic preservation personnel have identified 132 additional sites for investigation in Harrison, Jackson, Pearl River, Stone, George, and Forrest counties. Based on the time spent and costs incurred for the 20 archaeological surveys in Hancock County, we estimate that the total costs for the planned level of effort (157 sites) will exceed \$9 million and take more than 14 years to complete. In our view, this is cost prohibitive and not necessary to meet FEMA’s responsibilities under the agreement. This conclusion is supported by an assessment conducted in March 2011 by historic and environmental personnel from FEMA Regions IV and X on the work plan developed to satisfy FEMA’s obligations under the agreement. In that assessment, the review team concluded that the number of archaeological sites to be evaluated was excessive for meeting FEMA’s obligation under the agreement and was unsustainable.

During our fieldwork, FEMA eliminated contract labor staff (technical assistance consultants) engaged in the archaeological work and initiated action to hire noncontract employees as well as local hires to perform the remaining planned archaeological work. This action will significantly reduce labor costs from an estimated \$1.2 million to \$400,000 for every 20 sites completed, and eliminate travel and per diem costs of contract personnel. Using these new cost data, we estimate that the total costs for the planned archaeological effort of 157 sites will be reduced by about 65%, from more than \$9 million to approximately \$3.1 million.

FEMA can realize additional savings if it reduces the number of sites planned for archaeological surveys. We met with representatives of the Mississippi Department of Archives and History, including the State Preservation Officer, a signatory of the Secondary Agreement, and determined that the State Preservation Office is receptive to reducing the number of sites. The State Preservation Officer also indicated that they would like to see the archaeological effort accomplished as soon as possible. In addition, environmental and historic preservation staff and executive personnel at the Mississippi Recovery Office indicated to us that they are agreeable to

reducing the number of sites. Therefore, FEMA should reach out to the stakeholders to negotiate a more realistic work plan for satisfying its requirements under the agreement.

Finding B: Closer Coordination Is Needed To Identify Structural Historic Districts

FEMA did not notify the State Preservation Officer of two potential new historic districts (Lameuse Street and Reynoir Street) identified in Biloxi, Mississippi (Harrison County). FEMA performed windshield tours, without State Preservation Officer coordination, of the districts and began the labor-intensive process of evaluating them. The agreement stipulates that FEMA must coordinate with the State Preservation Officer on the initial determination of a new historic district. Closer coordination between the State Preservation Officer and FEMA will prevent unnecessary survey costs should the State Preservation Officer disapprove any potential new historic districts identified by FEMA.

Finding C: Timeliness of Deliverables Needs Improvement

As of July 12, 2011, several deliverables required of FEMA under the Secondary Agreement had not been accomplished in a timely manner. The completion of the work has been hindered by the much slower than anticipated progress of the archeological and structural survey process. The end products are dependent on the completion of the planned surveys.

The Secondary Agreement requires specific deliverables by FEMA to satisfy the treatment measures of adverse effects caused by debris removal and demolition on privately owned properties following Hurricane Katrina. The following deliverable requirements identified in Section IX of the Agreement have not been accomplished in a timely manner:

- *Historic Property Survey/National Register of Historic Places Determinations of Eligibility.* This deliverable established timeframes and benchmarks to complete the Secondary Agreement measures. This task was planned on an annual basis through a report prepared by FEMA and approved by the stakeholders. An annual report was completed for 2009, which presented the accomplishments for 2009 and benchmarks for 2010. As of August 5, 2011, the date of our exit conference, the annual report for 2010 had not been completed. However, prior to issuance of this audit report, FEMA completed the 2010 report and provided us with a copy of the report.
- *Comprehensive Report of 106 Compliance Efforts.* This deliverable requires a comprehensive report of FEMA's efforts to meet the compliance requirements of Section 106 of the *National Historic Preservation Act* for historic properties that may have been affected directly or indirectly by FEMA's disaster assistance programs. The report will identify key lessons learned through the response to the disaster. It will also identify policy-level issues that may have limited FEMA's ability to identify alternatives that could have avoided adverse effects upon historic properties. This report had an initial projected completion date of June 2011, but is now projected to be completed and distributed by December 2012.

- *Survey Data Publications.* FEMA has not completed any of the smaller reports for the individual counties. For example, a standard survey report (SSR), which summarizes the archeological and structural work for each county, has not been prepared for any of the counties. The structural work in Hancock County is completed, but the SSR will not be completed until the archeological work is completed. SSRs should be completed in order to complete the larger Survey Data Publications and the Integrated Historic Properties Survey Report (IHPSR). With delay in fieldwork and the departure of experienced environmental and historic staff at the Mississippi Recovery Office, the planned IHPSR completion date of the first quarter 2014 is questionable.
- *Historical Marker Program.* This deliverable establishes the creation of cast aluminum state historical marker signs for the historical properties identified by FEMA, in consultation with the State Preservation Officer, as having exceptional significance. FEMA will assist in and fund the preparation of the historical markers. This program was initially projected to be finished in December 2011, but now is projected to be finished by December 2012.

These deliverables, with the exception of historical markers, are reports or documents on the results of the archeological and structural surveys. The purpose of the deliverables is to mitigate the adverse effects on National Register-listed and -eligible resources that occurred during the Hurricane Katrina relief efforts and to provide planning and information that will enhance compliance with Section 106 of the *National Historic Preservation Act* in future disasters.

With closer monitoring from the Mississippi Recovery Office executive staff and adherence to established timeframes and benchmarks, the deliverables should be accomplished in a timelier manner. Until recently, the Mississippi Recovery Office executive staff did not provide much oversight to the environmental and historic staff. Going forward, closer oversight of work being completed to satisfy the Secondary Agreement will help to complete tasks on schedule.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IV, requires the Director of the Mississippi Recovery Office to:

Recommendation #1: Work with the State Preservation Officer and the Mississippi Band of Choctaw Indians to negotiate a more realistic goal of the number of archeological sites to be surveyed (finding A).

Recommendation #2: Coordinate with the State Preservation Officer on the identification of new historic districts and obtain State Preservation Officer concurrence prior to engaging in the labor-intensive effort of documenting potential new historic districts (finding B).

Recommendation #3: Update the deliverable schedule completion dates and closely monitor the performance of the environmental staff once archaeological sites have been negotiated by the stakeholders of the Secondary Agreement (finding C).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the audit results with FEMA officials during our audit. We also provided a written summary of our findings and recommendations in advance to these officials and discussed them at the exit conference held on August 5, 2011. FEMA officials agreed with all of the findings.

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 David Kimble, Larry Arnold, Gary Rosetti, John Skrmetti, J Hugh Dixon, and Mary James.

Should you have questions concerning this report, please contact me at (202) 254-4100 or David Kimble at (404) 832-6702.

cc: Administrator, FEMA
Executive Director, FEMA Mississippi Recovery Office
Audit Liaison, FEMA Mississippi Recovery Office
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA (Job Code G-11-033)
Audit Liaison, DHS

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