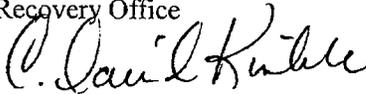




Homeland Security

December 8, 2008

MEMORANDUM FOR: Robert Ives, Director
FEMA Florida Long Term Recovery Office

FROM: C. David Kimble, Director 
Eastern Regional Office

SUBJECT: *Hurricane Wilma Activities for City of Boca Raton, Florida*
Public Assistance Identification No. 099-07300-00
FEMA Disaster Number 1609-DR-FL
Report Number DA-09-06

We performed an audit of disaster costs associated with Hurricane Wilma activities for the City of Boca Raton, Florida. The objectives of the audit were to determine whether the city was properly accounting for disaster-related costs and whether such costs were eligible for funding under the Federal Emergency Management Agency's (FEMA) disaster assistance programs.

As of December 29, 2006, the cut-off date of our review, the city received a public assistance grant award of \$28.1 million from the Florida Department of Community Affairs (DCA), a FEMA grantee, for emergency protective measures and debris removal activities. The award provided for 12 large projects.¹ We reviewed costs totaling \$21.8 million incurred under the 12 projects (see Exhibit 1). The audit covered the period of October 24, 2005 to December 29, 2006, during which the city received \$13.1 million of FEMA funds under the 12 large 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, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed the city's disaster grant accounting system and contracting policies and procedures; selected judgmental samples of project expenditures (generally based on dollar value); interviewed city, DCA, and FEMA personnel; and performed other procedures considered necessary under the circumstances. We did not assess the adequacy of the city's internal controls applicable to its grant activities because it was not necessary to fulfill our audit objectives. 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.

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

RESULTS OF AUDIT

The city accounted for FEMA funds on a project-by-project basis consistent with federal regulations for large projects. However, we identified \$5,556,499 of questioned costs resulting from excessive contract charges, ineligible labor and equipment charges, and ineligible project costs.

- A. Contract Charges. The city's claim of \$16.6 million for a debris removal and disposal services contract under Project 870 included \$5.2 million of excessive costs. The excessive costs occurred because the city did not take proper action to ensure that it obtained the best price for the contracted services.

In May 2004, approximately 18 months prior to Hurricane Wilma, the city used a competitive process to select a contractor for debris removal activities. The contract was for a one-year period and included an option for four (4) one-year renewal periods. According to the contract fee schedule, the contractor would provide debris removal and disposal services for \$19.35 per cubic yard for a catastrophic event. The rate excluded hazardous stump removal and hauling, which was to be billed separately at rates ranging from \$300 to \$1,750 per stump depending upon the size of the stump.

In September 2004, approximately four months after the contract was awarded, the city accepted a modified fee schedule (contract modification No. 1) proposed by the contractor after Hurricane Frances struck the city. The modification increased the rate to \$19.50 per cubic yard. In addition, charges for final debris disposal activities were to be based on actual incoming cubic yards of debris instead of reduced quantities resulting from volume reduction methods as under the original contract terms. Hazardous stump removal and hauling remained on a per stump basis.

In June 2005, the city exercised its option to renew the contract for a one-year period. When Hurricane Wilma struck the city four months later in October 2005, the city accepted a second modified fee schedule (contract modification No. 2) proposed by the contractor that increased the rate from \$19.50 to \$28 per cubic yard. Under this modification, stump removal and hauling services were to be billed on a cubic yard basis, as normal vegetative debris, rather than on a per-stump basis.

According to federal procurement regulations (44 CFR 13.36 (f)), grant recipients are required to perform a cost or price analysis for every procurement action, including contract modifications, to determine the reasonableness of the contractor's proposed price. However, under both contract modifications, the city did not perform such analysis. We performed a cost comparison analysis using the original fee schedule and the fee schedule accepted under modification No. 2 to determine the reasonableness of the \$16.6 million of contract costs claimed under the project. Based on our analysis, we concluded that the city incurred \$5.2 million of additional contract costs by agreeing to the revised fee schedule proposed by the contractor (see Exhibit 2).

OMB Circular A-87 (*Cost Principles for State, Local, and Indian Tribal Governments*, Attachment A, paragraph C.1.a) states that cost under federal awards must be both necessary and reasonable. The Circular defines a reasonable cost as cost that does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

In addition, federal regulation (44 CFR 13.43 (a)(2)) states that a grant recipient's failure to comply with applicable statutes or regulations can result in the disallowance of all or part of the costs of the activity or action found not in compliance. Accordingly, we question the \$5.2 million in excessive contract costs because the city did not comply with federal regulations during the contract modification process to ensure that it obtained a fair and reasonable price for the contracted services.

City officials said that a FEMA official advised them during a prior disaster to renegotiate the contract rate to a "combined" cubic yard rate that would encompass stump removal and hauling activities. However, the city should have performed a price analysis during the renegotiation process to ensure the reasonableness of the contractor's proposed price before agreeing to the change in contract terms.

- B. Labor and Equipment Charges. The city's claim under Project 870 included \$234,303 of labor and equipment charges for sanitation department workers who removed regular, non-disaster related, trash. According to federal regulation (44 CFR 206.223), an item of work must be required as a direct result of a major disaster event to be eligible for FEMA public assistance. Accordingly, we question the \$234,303 — \$189,661 for equipment and \$44,642 for overtime labor.

City officials concurred with our finding.

- C. Project Costs. The city's claim under Project 870 included \$65,390 of contract charges associated with removing debris, which had been designated as being ineligible by FEMA inspectors on the respective load tickets. According to federal regulations (44 CFR 13.22), grant funds may be used only for allowable costs. Accordingly, we question the \$65,390 claimed under the project.

City officials concurred with our finding.

RECOMMENDATIONS

We recommend that the Director of the Florida Long Term Recovery Office, in conjunction with the grantee:

Recommendation #1. Disallow the \$5,556,499 of questioned costs.

Recommendation #2. Instruct the city to comply with federal procurement regulations whenever awarding or modifying contracts for goods and services under the FEMA award.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the results of our review with city, FEMA, and DCA officials on December 11, 2007. The city's comments, where appropriate, have been incorporated into the body of this report. Please advise me by February 10, 2009 of actions taken to implement our recommendations. Should you have any questions concerning this report, please contact me at (404) 832-6702, or Modupe Akinsika at (404) 832-6704. Key contributors to this assignment were Modupe Akinsika, Helen White, and Calbert Flowers.

cc: DHS Audit Liaison
FEMA Audit Liaison
Deputy Director, GCRO
Chief Financial Director, Gulf Coast Recovery Office
Regional Director, FEMA Region IV
Public Assistance Office, FEMA Florida Transitional
Recovery Office
Chief of Staff, FEMA Florida LTRO
Florida State Coordinating Officer
Florida Legislative Auditor
Director of Finance, Gulf Coast Recovery Office

City of Boca Raton, Florida
FEMA Disaster No. 1609-DR-FL
Schedule of Amount Awarded, Incurred, and Questioned
October 24, 2005 to December 29, 2006

Project No.	Amount Awarded	Amount Incurred	Amount Questioned
870	\$24,360,397	\$18,914,989 ²	\$5,556,499
872	1,041,037	0	0
4068	132,139	132,139	0
4073	742,885	980,150	0
612	509,441	509,441	0
614	160,067	160,067	0
1501	95,955	95,955	0
1505	92,709	92,709	0
4471	259,200	259,200	0
4590	359,911	359,911	0
6022	114,291	114,291	0
6048	213,859	213,859	0
Total	\$28,081,891	\$21,832,711	\$5,556,499

² The amount incurred includes \$2,305,730 for Federal Highway Administration (FHWA) roads that city officials had identified and said would be deducted from the final claim, and will be claimed with the FHWA grant costs.

City of Boca Raton, Florida
FEMA Disaster No. 1609-DR-FL
Analysis of Contract Charges Based on Fee Schedules

<u>Contract Charges - Modified Fee Schedule</u>				<u>Contract Charges - Original Fee Schedule</u>				
	<u>Cubic Yards</u>	<u>Rate</u>	<u>Cost</u>	<u>Cubic Yards</u>	<u>Rate</u>	<u>Estimated Tipping Fee (per CY)</u>	<u>Cost</u>	<u>Difference</u>
Pickup and haul	576,009.95	\$19.40	\$11,174,593	576,009.95	\$12.75		\$7,344,127	\$3,830,466
Management, processing & reduction (Note 2)	645,053.96	\$5.10	\$3,289,775	645,053.96	\$3.60		\$2,322,194	\$967,581
Final Disposal C&D and Non-vegetation				37,610.90	\$3.00	\$12.00	\$564,164	
Vegetation				151,860.77	\$3.00	\$4.50	\$1,138,956	
All Debris (Note 3)	645,053.96	\$3.50	\$2,257,689				\$1,703,120	\$554,569
Totals		\$28.00	\$16,722,057		\$19.35		\$11,369,441	\$5,352,616
Less: Savings from Stumps (Note 4)								(\$95,810)
Net Excess Costs Questioned (Note 5)								\$5,256,806

*Verified based on actual load tickets billed.

- Note 1** Final disposal was not a part of the original contract. Therefore, the city would have incurred tipping fee costs. We gave the city credit for costs of \$12.00 and \$4.50 per cubic yard of estimated tipping fees for final disposal of debris. The estimated tipping fees were obtained from the Solid Waste Authority of Palm Beach County – Rate Schedule.
- Note 2** The primary contractor managed the temporary site, processed and reduced all debris that came into the site. The total of 645,054 cubic yards represent what the debris removal contractors and city employees hauled in as debris.
- Note 3** We separated the construction and demolition (C&D) and non-vegetative cubic yards (37,611) from the vegetative cubic yards (607,443). To account for the original contract charges, we multiplied the vegetative cubic yards (607,443) by 25 percent to account for the debris that would have been reduced, which amounted to 151,861 cubic yards.
- Note 4** We performed a cost comparison analysis on the removal of 139 stumps included in the city’s debris removal claim. The modified contract included stump removal at the same cubic yard price for vegetative debris. However, the original contract provided for stump removal at various unit prices depending on the size of the stump. Based on the cost comparison, we gave the city credit for approximate savings of \$95,810 due to the contract modification.
- Note 5** At the time of our review, the Federal Highway Administration (FHWA) had not determined costs to be reimbursed to the city for FHWA roads. Questioned costs disallowed by FEMA should be reduced accordingly to account for any funding received from FHWA.