

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



Homeland Security

March 12, 2009

MEMORANDUM FOR: Benjamin A. (Alec) Watson, Acting Director
 FEMA Mississippi Transitional Recovery Office

FROM: C. David Kimble, Director *C. David Kimble*
 Eastern Regional Office

SUBJECT: *Hurricane Katrina Activities for Pearl River Valley
 Electric Power Association*
 Public Assistance Identification Number: 000-UABEP-00
 FEMA Disaster No. 1604-DR-MS
 Report No. DA-09-12

We performed an audit of disaster costs associated with Hurricane Katrina activities for Pearl River Valley Electric Power Association (Association) located in Columbia, Mississippi. The objectives of the audit were to determine whether the Association 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 January 14, 2008, the cut-off date of our review, the Association had received an award of \$49.4 million from the Mississippi Emergency Management Agency (MEMA), a FEMA grantee, for debris removal, emergency protective measures, and repair of power distribution infrastructure. The award provided 100% funding for 27 large projects and 11 small projects.¹ Our audit focused primarily on \$15.7 million awarded under 3 large projects identified in the table below.

Project Number	Amount Awarded	Amount Claimed
81	\$2,699,933	\$2,301,368
7808	7,077,763	7,113,152
9226	5,966,650	4,807,625
Total	\$15,744,346	\$14,222,145

However, we also reviewed cost documentation for other projects when we identified a systemic cost eligibility issue. The questioned costs related to those projects are identified under individual findings in the audit results section of this report and in the Exhibit. The audit covered the period August 29, 2005, to January 14, 2008. During this period, the Association received \$14.2 million of FEMA funds under the 3 large projects.

¹ Federal regulations in effect at the time of Hurricane Katrina set the large project threshold at \$55,500.

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 judgmentally selected samples of project cost documentation (generally based on dollar value); interviewed Association, MEMA, and FEMA personnel; reviewed the Association's disaster grant accounting system and procurement policies and procedures; reviewed applicable federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances. We did not assess the adequacy of the Association's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objectives. We did, however, gain an understanding of the Association's grant accounting system and its policies and procedures for administering activities provided for under the FEMA award.

RESULTS OF AUDIT

The Association did not account for project expenditures on a project-by-project basis as required by federal regulation. We also identified questioned costs of \$386,022 resulting from ineligible force account labor charges, equipment charges, and unapplied credits. Lastly, the Association did not always comply with federal procurement procedures when purchasing services and materials under the FEMA award.

- A. Project Accounting. The Association's accounting system did not separately account for project expenditures on a project-by-project basis, as required by federal regulation 44 CFR 13.20(b)(2). The Association set up accounts to capture disaster-related expenses by individual counties where disaster work was performed. However, multiple FEMA projects were written for most of the 13 counties served by the Association. As a result, total costs claimed under individual projects could not be readily identified.

We brought this matter to the attention of Association management during our review and they began making changes to their accounting procedures. The updated procedures incorporate the use of their work order system, which allows labor, equipment, materials, and other costs to be attached to a specific project. We believe these changes render the Association in compliance with federal regulations. Therefore, we consider this finding resolved and closed.

- B. Force Account Labor Charges. The Association's claim included \$327,844 of ineligible and excessive force account labor costs, as follows:
1. *Straight-time Pay*. In 1998, the Association established a policy that provides for all employees, both hourly and salaried, to be compensated at time-and-a-half for regular hours worked while outside contractors are helping to restore power after a major storm. Essentially, all employees are paid an additional half-time of pay for straight-time hours worked. Association officials said that the pay policy was implemented to create pay parity between Association employees and mutual aid workers who, contractually, are to be paid at a rate of time-and-a half when assisting with power restoration.

The Association claimed, and was reimbursed by FEMA, \$230,350 for the additional half-time of compensation paid to its permanently employed personnel who performed emergency protective measures work as a result of the disaster. However, salaries and benefits related to straight-time worked by an applicant's permanently employed personnel engaged in emergency work (debris removal and emergency protective measures) are not eligible for FEMA reimbursement (44 CFR 206.228). The affected projects and questioned costs of \$230,350 are identified in the table below.

Description Of Cost	Project				Total
	115	117	121	7808	
Additional Half-time pay	\$30,600	\$49,280	\$30,823	\$98,042	\$208,745
Fringe Benefits	3,167	5,100	3,190	10,148	21,605
Total	\$33,767	\$54,380	\$34,013	\$108,190	\$230,350

2. *Overtime to Salaried Employees.* FEMA Recovery Policy No. 9525.7 states that straight-time and overtime costs will be determined according to the applicant's written policies in effect prior to the disaster event. The Association's pre-disaster pay policy states that salaried employees do not receive compensation for overtime worked during non-emergency periods. According to project award documentation, the Association's emergency period ended on September 26, 2008, when power was restored to substantially all of its customers. However, the Association's claim included \$42,064 of overtime and related fringe benefits for four salaried employees who worked overtime after such date. The affected projects and questioned costs of \$42,064 are identified in the table below.

Description Of Cost	Project				Total
	8802	8804	8829	9226	
Overtime Pay	\$6,153	\$7,607	\$346	\$24,013	\$38,119
Fringe Benefits	637	787	36	2,485	3,945
Total	\$6,790	\$8,394	\$382	\$26,498	\$42,064

3. *Duplicate Labor Costs.* Force account labor costs (straight-time, overtime, and fringe benefits) of \$38,386 applicable to debris removal activities under Project 81 were also claimed under Project 9226. Accordingly, we question the \$38,386 claimed under Project 9226.
4. *Fringe Benefits.* The Association's claim for overtime fringe benefits was based on worker's compensation and unemployment contribution rates of 2.77% and 1.1%, respectively. However, we validated the worker's compensation and unemployment contribution rates as 2.47% and .23%, respectively, for a total difference of 1.17%. The 1.17% difference, when applied to total eligible overtime wages of \$1.47 million claimed on all projects, resulted in an overstatement of \$17,044. The affected projects and questioned costs of \$17,044 are identified in the table below.

Excessive Fringe Benefits			
Project Number	Amount Questioned	Project Number	Amount Questioned
115	\$ 1,608	8802	\$652
117	2,620	8804	641
121	1,754	8829	1,070
7808	5,114	9226	3,585
Total			\$17,044

C. Equipment Costs. The Association's claim included \$48,956 of ineligible equipment charges, as follows:

- The Association rented two bulldozers to help with disaster-related debris removal following the storm and received reimbursement from FEMA for the rental costs. However, cost documentation supporting the charges included three invoices (Invoice Nos. R2881406, R2881407, and R2881606) totaling \$15,455 for periods occurring after completion of the disaster-related debris removal work. Federal regulation 44 CFR 206.223(a)(1) states that an item of work must be required as a result of the disaster event to be eligible for FEMA financial assistance. The affected projects and questioned costs of \$15,455 are identified in the table below.

Non-Disaster Related Equipment Costs			
Project Number	Amount Questioned	Project Number	Amount Questioned
71	\$1,561	84	\$313
78	624	85	7,805
81	5,152		
Total			\$15,455

- The Association claimed \$33,501 of equipment usage costs on equipment (bulldozers, trucks, and chain saws) for which the rental or purchase costs had already been reimbursed by FEMA. The affected projects and questioned costs of \$33,501 are identified in the table below.

Duplicate Equipment Costs			
Project Number	Amount Questioned	Project Number	Amount Questioned
121	\$2,418	8804	\$3,044
7808	4,464	8829	8,287
8802	840	9226	14,448
Total			\$33,501

D. Unapplied Credits. Federal cost principles for non-profit organizations (OMB 122, Attachment A, Section 5) require a grant recipient to net any refunds for overpayments against the allowable costs to which they relate. The Association received two refunds totaling \$9,222 — \$3,470 under Project 115 and \$5,752 under Project 7808 — as a result of billing errors on invoices, but did not apply such refunds to reduce project costs. Accordingly, we question the \$9,222 of unapplied credits.

E. Procurement Procedures. The Association did not always comply with federal procurement procedures when purchasing services and materials under the FEMA projects.

1. *Non-Competitive Contracts*. The Association awarded six non-competitive contracts for permanent infrastructure work to its power system that commenced after September 26, 2005. Federal regulation 44 CFR 13.36(d)(4)(i) allows procurements by non-competitive proposals under certain conditions, one of which is during times of public exigency or emergency. However, exigent circumstances did not exist after September 26, 2005, to warrant the use of non-competitive proposals because power had been substantially restored to all of the Association's customers as of such date. In addition, the contracts were awarded on a time-and-material basis that did not contain cost ceilings as required by 44 CFR 13.36(b)(10).

Costs under the contracts totaled \$7.25 million as of the end of our fieldwork. We were unable to determine whether a cost savings would have been realized had the Association followed proper contracting procedures. However, under the contracting procedures used by the Association, FEMA has no assurance that the work performed under the contracts was obtained at a fair and reasonable price.

2. *Code of Standards of Conduct*. The Association did not have a written code of conduct governing the performance of employees engaged in the award and administration of contracts, as required by 44 CFR 13.36(b)(3). Under the regulation, no employee, officer or agent of the grantee or subgrantee shall participate in the selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. The Association's absence of a written code of conduct allowed a pre-existing conflict-of-interest to go unaddressed when federal funds were used to purchase materials.

We noted that the Association purchased utility poles from a pole company owned by an immediate family member of the general manager. The cost of the poles exceeded the costs of comparable poles purchased by the Association from a non-related party by \$114,541. However, we were not able to determine if the non-related party would have had available inventory to supply the poles had the Association requested them to do so. As a result, we are not questioning the \$114,541.

We brought this matter to the attention of Association officials during fieldwork and the exit conference. Shortly after the exit conference, the officials notified us that the Association's Board of Directors had adopted a resolution prohibiting nepotism. A copy of the resolution was provided to us on December 8, 2008. Although the resolution addressed nepotism, which can create a conflict of interest, it falls short in addressing other situations where a conflict would arise for employees who participate in the selection, or in the award or administration of a contract. Therefore, our finding remains.

RECOMMENDATIONS

We recommend that the Acting Director, Mississippi Transitional Recovery Office, in coordination with MEMA:

Recommendation #1. Disallow the questioned costs of \$386,022.

Recommendation #2. Instruct the Association to comply with federal procurement regulations when acquiring goods and services under the FEMA award.

Recommendation #3. Instruct the Association to adopt a comprehensive code of conduct for employees engaged in the award and administration of contracts that conforms to the standards established by 44 CFR 13.36(b).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

The audit results were discussed with FEMA officials on October 6, 2008, and with Association and MEMA officials on November 20, 2008. Comments provided by Association officials, where appropriate, are incorporated in the body of this report.

Please advise me by May 12, 2009, of the actions taken to implement the recommendations contained in this report. Should you have any questions concerning this report, please call me at (404) 832-6702, or Larry Arnold, Audit Manager, at (228) 385-1717. Key contributors to this assignment were Larry Arnold, James Miller, and Robin Rowan.

cc: Regional Director, FEMA Region IV
Audit Liaison, FEMA Region IV
Audit Liaison, FEMA Mississippi Transitional Recovery Office
Audit Liaison, FEMA
Audit Liaison, Gulf Coast Recovery Office

Pearl River Valley Electric Power Association
Columbia, Mississippi
FEMA Disaster No. 1604-DR-MS
Schedule of Amount Questioned

Project Number	Amount Questioned
71	\$ 1,561
78	624
81	5,152
84	313
85	7,805
115	38,845
117	57,000
121	38,185
7808	123,519
8802	8,282
8804	12,080
8829	9,739
9226	82,917
Total	\$386,022