

**Long Beach City School
District in New York
Generally Accounted For
and Expended FEMA
Public Assistance Funds
Properly**





DHS OIG HIGHLIGHTS

Long Beach City School District in New York Generally Accounted For and Expended FEMA Public Assistance Funds Properly

September 2, 2016

Why We Did This Audit

The Long Beach City School District, New York (District) received a \$35.5 million Public Assistance grant award from the New York Division of Homeland Security and Emergency Services (New York), a Federal Emergency Management Agency (FEMA) grantee, for damages from Hurricane Sandy that occurred in October 2012.

What We Recommend

FEMA should disallow \$668,430 of ineligible contract costs and direct New York to provide additional technical assistance and monitoring to ensure the District complies with all Federal grant regulations.

For Further Information:

Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

The District accounted for disaster costs on a project-by-project basis as Federal regulations and FEMA guidelines require. However, the District did not comply with Federal procurement standards for \$668,430 of the \$17.1 million of contract costs we reviewed. Specifically, the District awarded a noncompetitive time-and-material contract totaling \$8.4 million for remediation and repair work. Because this award was noncompetitive, FEMA proactively analyzed these costs and determined that the \$8.4 million was reasonable for the work performed. However, one of the District's contractors marked up costs by 20 percent, totaling \$668,430–\$318,300 for overhead and \$350,130 for profit. We generally do not question contract costs for exigent work because it prevents or mitigates the loss of lives and property. However, we always question markups applied as a percentage of costs. Federal regulations strictly prohibit such markups on costs because they provide a disincentive to save costs. Therefore, we question \$668,430 as ineligible.

This finding occurred primarily because of District officials' limited familiarity with Federal regulations and FEMA guidelines. However, New York, as FEMA's grantee, is responsible and should have done more to ensure that the District was aware of and complied with Federal requirements.

FEMA Response

FEMA agreed with our findings and recommendations. Appendix C includes FEMA's written response in its entirety.



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Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 2, 2016

MEMORANDUM FOR: Jerome Hatfield
Regional Administrator, Region II
Federal Emergency Management Agency

Thomas M. Salmon

FROM: Thomas M. Salmon
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Long Beach City School District in New York
Generally Accounted For and Expended FEMA
Public Assistance Funds Properly
Audit Report Number OIG-16-125-D*

We audited Public Assistance grant funds awarded to the Long Beach City School District, New York (District). The New York Division of Homeland Security and Emergency Services (New York), a Federal Emergency Management Agency (FEMA) grantee, awarded the District \$35.5 million for damages from Hurricane Sandy that occurred in October 2012. The award provided 90 percent Federal funding. We audited seven projects totaling \$26.5 million, or about 75 percent of the total award (see table 1). At the time of our audit, the District had completed work on several of its projects but had not yet submitted final claims to New York.

Table 1: Gross and Net Award Amounts

	Gross Award Amount	Insurance Reductions	Net Award Amount
Audit Scope	\$26,516,673	\$3,910,641	\$22,606,032

Source: Office of Inspector General (OIG) analyses of FEMA and District documentation

Background

The Long Beach City School District is in Long Beach City, Nassau County, New York. It is located on a barrier island just south of Long Island. Surrounding the District is the Atlantic Beach to the west, Point Lookout to the east, Island Park to the north, and the Atlantic Ocean to the south. Hurricane Sandy caused a strong storm surge, which inundated the District. Approximately 2–4 feet of brackish saltwater flooded its facilities causing damage to architectural, mechanical, and electrical systems. To prevent further damage to its facilities, the District implemented emergency procedures to



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remove hazardous material and moisture from various school facilities to mitigate the development of mold.

Figure 1: East School Boiler Room



Source: Long Beach City School District, New York

Results of Audit

The District accounted for disaster costs on a project-by-project basis as Federal regulations and FEMA guidelines require. However, the District did not comply with Federal procurement standards for \$668,430 of the \$17.1 million of contract costs we reviewed. Specifically, the District awarded a noncompetitive time-and-material contract totaling \$8.4 million for remediation and repair work. Because this award was noncompetitive, FEMA proactively conducted a cost analysis and determined the \$8.4 million in contract cost was reasonable for the work performed. However, one of the District's contractors marked up invoices with ineligible costs totaling \$668,430. Specifically, the marked up invoices contained \$318,300 for overhead and \$350,130 for profit. Therefore, we question as ineligible the markups totaling \$668,430 that the District paid. We generally do not question contract costs for exigent work because it prevents or mitigates the loss of lives and property. However, we always question markups applied as a percentage of costs. Federal regulations strictly prohibit such markups on costs because they provide a disincentive to save costs.

This finding occurred primarily because of District officials' limited familiarity with Federal regulations and FEMA guidelines. However, New York, as FEMA's grantee, is responsible and should have done more to ensure that the District was aware of and complied with Federal requirements.



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Finding A: Improper Contracting

The District did not follow Federal procurement standards for \$668,430 of the \$17.1 million in contract costs we reviewed for debris removal, emergency protective measures, and permanent work. The District awarded a noncompetitive time-and-material contract totaling \$8.4 million. The District referred to the contract as a “Preliminary Construction/Remediation Agreement.” The scope of the contract, for the most part, was for exigent work “to immediately commence with all remediation and repair work as needed to allow for the safety of building occupants and prevent interruption of building activities and services.” Because this award was noncompetitive, FEMA proactively conducted a cost analysis using cost-estimating software. Specifically, a FEMA project specialist found the contractor invoices appeared reasonable by comparing cost estimates using computer software that analyzes cost information used in government and construction industries.

We generally do not question contract costs for exigent work because it prevents or mitigates the loss of lives and property. However, we did question \$668,430 of markups on costs because one of the District’s contractor’s invoices contained overhead and profit charges. Despite awarding a time-and-material contract with overhead and profit margins built into the “fully loaded” rates, these invoices added overhead and profit charges characteristic of a prohibited cost-plus-a-percentage-of-cost contract. According to 44 Code of Federal Regulations (CFR) 13.36(f)(4), recipients of Federal funds must not use cost-plus-a-percentage-of-cost and percentage-of-construction-cost-methods of contracting. Therefore, we question the prohibited markups on costs totaling \$668,430 of the \$8.4 million as ineligible (see table 2).

Table 2: Improper Contractor Costs

Project	Invoice Totals	Ineligible Markups on Costs		
		Overhead	Profit	Total
2536	\$ 4,243,494	\$ 120,491	\$ 132,540	\$ 253,031
2528	1,543,153	71,908	79,099	151,007
2527	866,563	50,106	55,117	105,223
1967	674,437	18,120	19,932	38,052
2447	564,830	29,765	32,741	62,506
2712	406,101	24,735	27,209	51,944
1421	143,084	3,175	3,492	6,667
Total	\$8,441,662	\$318,300	\$350,130	\$668,430

Source: OIG analyses of FEMA and District documentation

By definition, time-and-material contracts provide for acquiring supplies or services based on (1) direct labor hours at specified fixed hourly rates that



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include wages, overhead, general and administrative expenses, and profit; and (2) materials at cost, including, if appropriate, material handling costs. Therefore, the time-and-material rates of this contractor were to include profit and overhead, yet this contractor charged markups of 20 percent on top of its agreed-upon time-and-material rates. Marking up costs based on a percentage of costs provides a disincentive for the contractor to save costs because the higher the cost, the higher the profit. District personnel said they were unfamiliar with Federal procurement standards that prohibited cost-plus-percentage-of-cost contracts.

Finding B: Grant Management

New York should have done more as FEMA's grantee to ensure the District was aware of and complied with Federal procurement standards. In its FEMA-State Agreement, New York agreed to "comply with the requirements of laws and regulations found in the Stafford Act and 44 CFR." Further, Federal regulations at 44 CFR 13.37(a)(2) and 13.40(a) require grantees to (1) ensure that subgrantees are aware of Federal regulations, (2) manage the operations of subgrant activity, and (3) monitor subgrant activity to ensure compliance. It was New York's responsibility to ensure the District complied with applicable Federal regulations and FEMA guidelines. It is FEMA's responsibility to hold New York accountable for proper grant administration.

Recommendations

We recommend the Regional Administrator, FEMA Region II:

Recommendation 1: Disallow \$668,430 (Federal share \$601,587) of ineligible markups on contract costs (finding A).

Recommendation 2: Direct New York to provide additional technical assistance and monitoring to the District to ensure compliance with Federal procurement standards (finding B).

Discussion with Management and Audit Follow-up

We discussed the results of our audit with District, New York, and FEMA officials during our audit. We also provided a draft report in advance to those officials and discussed it at exit conferences with FEMA on June 29, 2016, and New York and the District on July 6, 2016.

FEMA Region II officials provided a written response on July 27, 2016, agreeing with our findings and recommendations (see appendix C). The response indicated that FEMA expects to implement its proposed corrective actions to



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address all recommendations by November 30, 2016. Therefore, we consider the two recommendations contained in this report resolved but open. We will evaluate closure upon documentation that FEMA has implemented its proposed corrective actions. Please email closeout documentation and requests to William.Johnson@oig.dhs.gov.

The Office of Emergency Management Oversight major contributors to this report are William Johnson, Director; Anthony Colache, Audit Manager; Keith Lutgen, Auditor-in-Charge; and Mark Phillips, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact William Johnson, Director, Eastern Regional Office - North at (404) 832-6703.



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Appendix A

Objective, Scope, and Methodology

We audited FEMA Public Assistance grant funds awarded to the Long Beach City School District, New York (FIPS Code 059-05993-00). Our audit objective was to determine whether the District accounted for and expended FEMA funds according to Federal regulations and FEMA guidelines for Disaster Number 4085-DR-NY. The District received a Public Assistance grant award of \$35.5 million from the New York Division of Homeland Security and Emergency Services, a FEMA grantee, for damages resulting from Hurricane Sandy, which occurred in October 2012. The award provided 90 percent FEMA funding for debris removal, emergency protective measures, and permanent repairs to buildings and facilities. The award consisted of 15 large projects and 1 small project.¹ We audited six large and one small project totaling \$26,516,673 (see appendix B). The audit covered the period October 24, 2012, through November 30, 2015. At the time of our audit, the District had completed work on four of the large projects we audited, but it had not submitted a final claim to New York.

We interviewed FEMA, New York, and District personnel; gained an understanding of the District's method of accounting for disaster-related costs and its procurement policies and procedures; judgmentally selected and reviewed (generally based on dollar amounts) project costs and procurement transactions for the projects in our audit scope; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our audit objective. We did not perform a detailed assessment of the District's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective.

We conducted this performance audit between September 2015 and May 2016 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. To conduct this audit, we applied the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$67,500 [Notice of Adjustment of Disaster Grant Amounts, 77 Fed. Reg. 61423 (Oct. 9, 2012)].
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Appendix B
Potential Monetary Benefits

Table 3: Projects Audited and Questioned Costs

Project	Category of Work*	Awarded	Insurance Proceeds	Net Amount Awarded	Amount Questioned (Finding A)	Federal Share (Finding A)
Projects in Audit Scope						
2536	E	\$ 9,436,392	\$ 1,634,783	\$ 7,801,609	\$ 253,031	\$ 227,728
1967	E	6,658,114	500,000	6,158,114	38,052	34,247
2528	E	5,532,619	1,275,858	4,256,761	151,007	135,906
2527	E	2,696,032	500,000	2,196,032	105,223	94,701
834	B	1,716,419	0	1,716,419	0	0
611	A	425,725	0	425,725	0	0
836	B	51,372	0	51,372	0	0
Subtotal		<u>\$ 26,516,673</u>	<u>\$ 3,910,641</u>	<u>\$ 22,606,032</u>	<u>\$ 547,313</u>	<u>\$ 492,582</u>
Projects Not in Audit Scope with Questioned Costs²						
2447	E	\$ 1,814,359	\$ 500,000	\$ 1,314,359	\$ 62,506	\$ 56,255
2712	E	392,331	277,484	114,847	51,944	46,750
1421	E	187,641	187,641	0	6,667 ³	6,000
Subtotal		<u>\$ 2,394,331</u>	<u>\$ 965,125</u>	<u>\$ 1,429,206</u>	<u>\$ 121,117</u>	<u>\$ 109,005</u>
Totals		<u>\$28,911,004</u>	<u>\$4,875,766</u>	<u>\$24,035,238</u>	<u>\$668,430</u>	<u>\$601,587</u>

Source: OIG analyses of FEMA and District documentation

* FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).

Table 4: Summary of Potential Monetary Benefits

Type of Potential Monetary Benefit	Total	Federal Share
Questioned Costs – Ineligible	\$ 668,430	\$ 601,587
Questioned Costs – Unsupported	0	0
Funds Put to Better Use	0	0
Total	<u>\$668,430</u>	<u>\$601,587</u>

Source: OIG analyses of report findings

² We identified projects, not in our scope, with invoices totaling \$121,117 in ineligible overhead and profit markups. Therefore, we included the \$121,117 in our questioned costs.

³ The District used insurance proceeds to pay for ineligible costs (overhead and profit) associated with Project 1421.



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Appendix C
FEMA Region II Audit Response

U.S. Department of Homeland Security
Region II
Jacob K. Javits Federal Office Building
26 Federal Plaza, 13th Floor
New York, New York 10278



FEMA

July 27, 2016

MEMORANDUM FOR: Thomas M. Salmon
Acting Assistant Inspector General
Office of Emergency Management Oversight
Office of Inspector General

FROM: Jerome Hatfield
Regional Administrator, Region II
Federal Emergency Management Agency

SUBJECT: Management's Response to OIG Draft Report: "Long Beach City
School District in New York Generally Accounted for and
Expended FEMA Public Assistance Funds Properly"
(Project No. G-15-041-EMO-FEMA)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA) appreciates the Office of Inspector General's (OIG) review and report.

FEMA is pleased to note OIG's positive recognition of the Long Beach City School District's (the District) general accounting of FEMA Public Assistance funds and its ability to account for disaster costs on a project-by-project basis.

The draft report contained 2 recommendations with which FEMA concurs. Please see the attached for our detailed response to each recommendation.

Again, FEMA thanks you for the opportunity to review and comment on this draft report. Please direct any questions regarding this response to Anastasia Holmes, FEMA Region II Recovery Division Appeals and Audits Analyst, at Anastasia.holmes@fema.dhs.gov or 202-384-2925.



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Appendix C (continued)

**Attachment: Management Response to Recommendations
Contained in G-15-041-EMO-FEMA**

Recommendation 1: Disallow \$668,430 (Federal share \$601,587) of ineligible markups on contract costs (finding A).

Response: Concur. FEMA will review the costs associated with the markups and will deobligate any costs found to be ineligible.
Estimated Completion Date (ECD): November 30, 2016.

Recommendation 2: Direct New York to provide additional technical assistance and monitoring to the District to ensure compliance with Federal procurement standards (finding B).

Response: Concur. FEMA will direct the Grantee in writing to provide technical assistance and oversight to ensure compliance with Federal procurement standards in 44 C.F.R. § 13.36 and emphasize the Grantee's responsibility to monitor the Applicant's grant activities.
ECD: August 15, 2016.



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Appendix D
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Appendix D (Continued)

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