

**The Office of Community
Development Paid Most
Contractors in a Timely
Manner for Hazard Mitigation
Work on Louisiana Homes**





DHS OIG HIGHLIGHTS

The Office of Community Development Paid Most Contractors in a Timely Manner for Hazard Mitigation Work on Louisiana Homes

June 10, 2016

Why We Did This Audit

The Louisiana Office of Community Development (OCD) received \$702.9 million in Federal Emergency Management Agency (FEMA) funds for hazard mitigation grant program (HMGP) work on 9,588 properties under Hurricanes Katrina and Rita. We received allegations that the timeliness of OCD payments was placing financial hardship on program contractors. Therefore, our objective was to determine whether OCD processed payments to contractors in a timely manner and according to Federal regulations, FEMA guidelines, and State laws. We did not verify the validity of costs claimed or completion of work.

What We Recommend

This report contains no recommendations.

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

OCD paid most contractors promptly for work they performed on Louisiana homes to lessen the risk of damages from future disasters. OCD spent the \$702.9 million in FEMA funds as follows:

- \$628.2 million for repairs on properties,
- \$72.9 million for project management, and
- \$1.8 million still owed to 71 contractors.

Of the \$628.2 million for repairs, OCD sent \$226.7 million directly to homeowners and \$401.5 million in two-party checks to contractors and homeowners. Of the \$401.5 million paid jointly to contractors/homeowners, OCD paid \$352.8 million (87.9 percent) within 30 days. For various reasons, OCD took longer to pay the remaining \$47.4 million (11.8 percent). We could not age \$1.3 million (0.3 percent) of payments because of the lack of payment dates in OCD records. OCD representatives said the primary reasons for delayed and pending payments include disputes between homeowners and contractors, and homeowners not submitting proof of flood insurance.

FEMA Response

FEMA officials generally agreed with our findings. Because the audit does not identify any issues requiring further action from FEMA Region VI, we consider this audit closed.



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Department of Homeland Security

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

June 10, 2016

MEMORANDUM FOR: George A. Robinson
Regional Administrator, Region VI
Federal Emergency Management Agency

FROM: John V. Kelly
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *The Office of Community Development Paid Most
Contractors in a Timely Manner for Hazard Mitigation
Work on Louisiana Homes*
Audit Report Number OIG-16-104-D

We audited Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) funds awarded to the Louisiana Office of Community Development (OCD). OCD received HMGP awards totaling \$702.9 million from the Governor's Office of Homeland Security and Emergency Preparedness (Louisiana), a FEMA grantee, following Hurricanes Katrina (\$681.9 million) and Rita (\$21 million), which occurred in August and September 2005, respectively. The awards provided 75 percent FEMA funding for elevating and reconstructing homes to mitigate against damages from future disasters.¹ We received allegations that the timeliness of OCD's payments was placing financial hardship on program contractors. Therefore, we conducted this audit solely to address those concerns. However, despite the fact that we noted additional concerns that would justify future audit(s), we did not verify the validity of costs claimed or completion of work.

Background

On August 29, 2005, and September 24, 2005, the President declared major disasters in Louisiana for damages from Hurricanes Katrina and Rita, respectively. Section 404 of the *Robert T. Stafford Disaster Relief and Emergency*

¹ The FEMA Hazard Mitigation Grant Program Desk Reference, Section 13, states that FEMA can fund up to 75 percent of the eligible costs. The grantee must provide a 25 percent match, which can be a combination of cash and in-kind sources. The grantee cannot use funding from other Federal sources for the 25 percent share with the exception of funding the U.S. Department of Housing and Urban Development provides to states under the Community Development Block Grant program. For Louisiana post-Katrina, Congress ruled that the magnitude of such funding satisfied the non-Federal share in Section 603 of the Disaster Relief and Summer Jobs Act of 2010 (P.L. 111-212).



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Assistance Act, as amended (P.L. 93-288), authorizes cost-effective, hazard mitigation measures that “substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster.” As a result of Hurricane Katrina, FEMA approved \$1.7 billion to Louisiana (as grantee) for the “Section 404” HMGP. Louisiana awarded a subgrant of \$681.9 million of these funds to OCD, another State agency, to elevate or reconstruct eligible structures to comply with local floodplain ordinances, in an effort to address repetitive flood problems in Louisiana. Following Hurricane Rita, which occurred about a month later, FEMA approved \$137.9 million to Louisiana for the “Section 404” HMGP. Again, Louisiana awarded a subgrant of \$21 million of these funds to OCD for elevating and reconstructing homes. Figure 1 illustrates an elevated home in Louisiana.

Figure 1: Elevated Home in Gretna, Louisiana



Source: Louisiana OCD Applicant Tracking System

Results of Audit

OCD processed the majority of HMGP contract payments within 30 days of receiving documentation that the work was complete. We determined that OCD spent the \$702.9 million in FEMA funds as follows:

- \$628.2 million for repairs on properties,
- \$72.9 million for project management, and
- \$1.8 million still owed to 71 contractors.



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Because Louisiana's prompt payment statutes exclude contracts for residential construction, we considered a payment timely if OCD made it within 30 days, the time frame set forth in the Federal *Prompt Payment Act*, 31 U.S.C. Chapter 39 (P.L. 97-177), as amended, § 3902. Of the \$628.2 million for repairs, OCD sent \$226.7 million directly to homeowners and \$401.5 million in two-party checks to contractors and homeowners. Of the \$401.5 million paid jointly to contractors and homeowners, OCD paid \$352.8 million (87.9 percent) within 30 days. For various reasons, OCD took longer to pay the remaining \$47.4 million (11.8 percent). We could not age \$1.3 million (0.3 percent) of payments because of the lack of payment dates in OCD records. OCD representatives said the primary reasons for both delayed and pending payments include disputes between homeowners and contractors, and homeowners not submitting proof of flood insurance. We excluded the \$226.7 million in one party checks paid directly to homeowners because OCD would have no control over when homeowners paid the contractor.

On August 31, 2015, responsibility for the elevation and reconstruction of homes under the HMGP program transferred from OCD (subgrantee) to Louisiana (grantee). Louisiana has assured FEMA that it will promptly resolve any outstanding issues with this subgrant. Therefore, because the grantee has assumed responsibility for its subgrant and because only a small fraction of payments to contractors remains outstanding, we are making no recommendations to FEMA at this time.

Timeliness of Payments to Contractors

OCD processed the majority of contract payments in a timely manner. As of July 2015, OCD had paid \$628.2 million for work on 9,588 properties.² Initially, OCD made payments directly to homeowners; these payments, totaling \$226.7 million, were for mitigation work on 7,763 properties. After April 2011, OCD revised its process to improve internal controls and, for the most part, issued two-party checks payable to both the homeowners and contractors; these payments, totaling \$401.5 million, were for mitigation work on 6,468 properties. The 7,763 properties related to one-party checks plus 6,468 related to two-party checks equals 14,231, which exceeds the total properties involved of 9,588. This overlap occurred because some properties received payments under both one-party and two-party methodologies.

² OCD provided expenditure data in aggregate for both Hurricanes Katrina and Rita. For that reason, we analyzed expenditures for the two disasters in a combined manner.

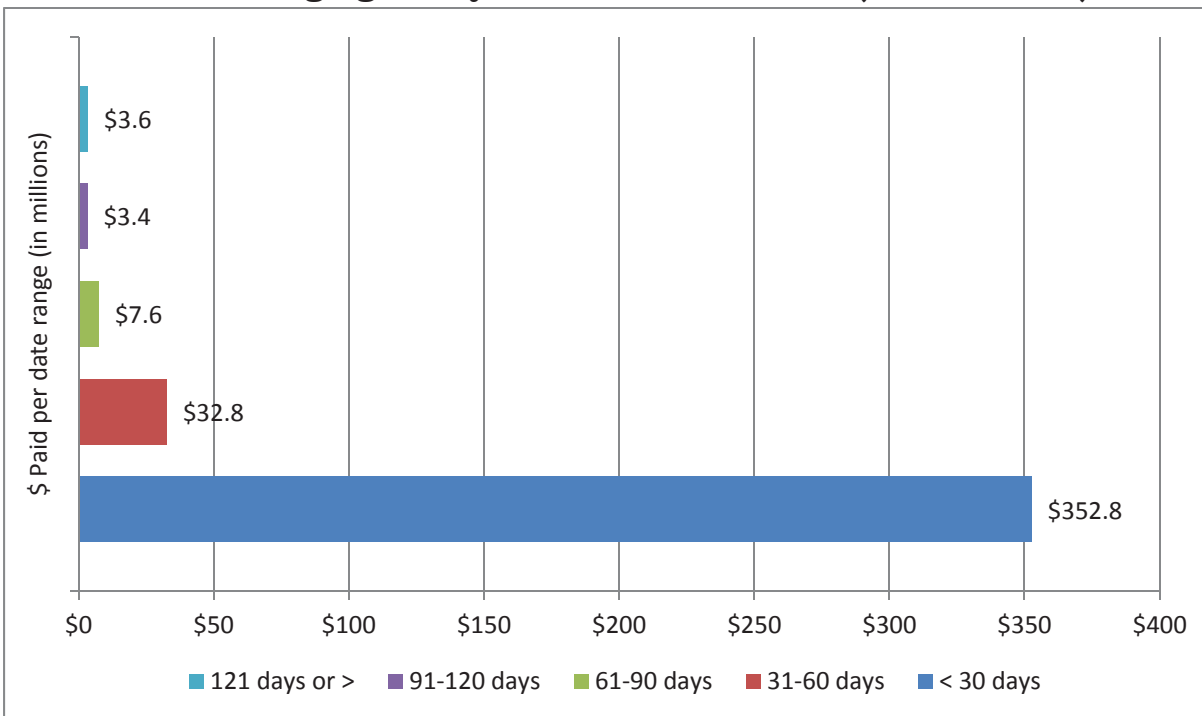


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We focused our audit on the timeliness of the \$401.5 million paid in two-party checks because it represents the amount OCD paid to contractors.³ Appendix B provides a flowchart of OCD's payment process. Louisiana's prompt payment statutes, for both public and private projects, exclude contracts for residential construction. Therefore, we applied the rules applicable to the Federal Government under the *Prompt Payment Act* to our analysis.⁴ Generally, this Act requires the Government to make payments within 30 days of receiving a proper invoice from a contractor, or within 30 days after Government acceptance of the work. We based the aging data presented in chart 1 below on OCD's date of approval for payment and the date the bank sent the two-party check.

Chart 1: Aging of Payments to Contractors (\$ in millions)



Source: Office of Inspector General (OIG) analysis of data received from OCD

To summarize results of aging analysis:

- \$352.8 million or 87.9 percent of payments were within 30 days, which is acceptable according to 48 Code of Federal Regulations (CFR) § 52.232–

³ We did not age one-party checks to determine payment timeliness because (1) OCD did not have a means to determine when or if contractors received checks, (2) OCD issued most of the checks before April 2011 (long before we received the allegations), and (3) the OCD system did not always contain certain dates (approval or payment dates) for aging.

⁴ Prompt payment regulations for construction contracts are at 48 CFR § 52.232–27.



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27(a)(1)(ii)(A)(2) for final payments based on completion and acceptance of all work.

- \$47.4 million or 11.8 percent of payments were beyond 30 days.
- We could not age \$1.3 million or 0.3 percent of payments because of the lack of payment dates in OCD records.

According to OCD officials, the reasons for payment delays are situational. For example, reasons might include (1) homeowner's request to stop payment, (2) homeowner failing or refusing to purchase flood insurance before project closeout, and (3) homeowner dispute with the contractor concerning completion of work per the contract. In addition, the Louisiana Legislative Auditor's Office reviews payment packages before release and returns them to OCD if they contain errors, which might also delay payments.

Although OCD's payment process was very lengthy (see flowchart in appendix B), Louisiana assumed responsibility of OCD's subgrant in August 2015. Therefore, we are not making recommendations to FEMA about OCD's payment process.

Outstanding Payments to Contractors

OCD owes 71 contractors \$1.8 million for 180 properties. According to OCD officials, it did not expect to pay the majority of the \$1.8 million in the near future.

We randomly selected 30 of the 71 contractors with outstanding balances and requested that they verify outstanding balances. Of the 30 contractors selected, 11 responded, with 9 of the 11 contractors disagreeing with the amount owed. They generally asserted that the homeowner owed them more than the amount OCD's records indicated. When we asked about the accuracy of the amount owed to the contractors, OCD attributed the differences to disputes over liquidated damage penalties to the contractor; contractor not providing details of what constitutes amounts it has claimed; contractor including amounts related to pending appeal in amount due; and disagreement with contractor over what constitutes eligible work.

OCD officials also told us the reasons for pending payments include disputes between homeowners and contractors, and homeowners not submitting proof of flood insurance, which continue to delay project closure and final payments. According to OCD officials, they have communicated with contractors concerning pending payments; however, OCD could not provide any evidence supporting their communications with contractors. The unresolved issues above resulted in



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contractors not getting paid and, in some cases, homeowners not obtaining certificates of occupancy.

OCD stated that it is working with contractors to resolve payment issues and would then make payments for items resolved. According to OCD, FEMA is aware of this situation and requested detailed information for use in developing a payment plan. However, the plan was not in place before our audit.

Pending Payments Related to Completed Projects

Of the \$1.8 million owed to 71 contractors for 180 properties, contractors had completed work on 168 properties. We asked OCD why payments were pending on 168 completed projects. OCD said reasons for pending payments include disputes between homeowners and contractors, and homeowners not submitting proof of flood insurance. Also, according to OCD officials, administrative issues have delayed payments after work is complete.

According to OCD records, 12 of the 180 properties are incomplete for the following reasons:

- no proof of flood insurance,
- disqualified contractors,
- incomplete roof work, and
- overpayments to homeowners for which OCD has not received reimbursement.

Because of these issues, OCD does not consider these projects completed; thus, OCD has not paid some contractors, and in some cases, the homeowner may not be able to obtain a certificate of occupancy.

Summary

OCD processed the majority of HMGP contract payments within 30 days of receiving documentation that the work was complete. Further, on August 31, 2015, responsibility for the elevation and reconstruction of homes under the HMGP program transferred from OCD (subgrantee) to Louisiana (grantee). Louisiana has assured FEMA that it will promptly resolve any outstanding issues with this subgrant. Therefore, because the grantee has assumed responsibility for its subgrant and because only a small fraction of payments to contractors remains outstanding, we are making no recommendations to FEMA at this time.



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Discussion with Management and Audit Follow-up

We discussed the results of our audit with OCD, Louisiana, and FEMA officials during our audit and included their comments in this report as appropriate. We also provided a draft report in advance to Louisiana and FEMA officials and discussed it at the exit conference with FEMA on April 15, 2016. Louisiana officials did not request an exit conference. FEMA and Louisiana officials generally agreed with our findings. This audit did not identify any issues requiring further actions by FEMA; therefore, we consider this audit closed.

The Office of Emergency Management Oversight major contributors to this report are Larry Arnold, Director; John Skrmetti, Audit Manager; Jerry Aubin, Auditor-in-Charge, Lynn Smith, auditor, and Sean Forney auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Larry Arnold, Director, Gulf Coast Regional Office, at (228) 822-0387.



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Appendix A

Objective, Scope, and Methodology

We audited the FEMA HMGP grant funds awarded to OCD, FIPS Code 000-99022. Our objective was to determine whether OCD processed HMGP contract payments in a timely manner and according to Federal regulations, FEMA guidelines, and State laws. While we noted additional concerns that would justify future audit(s), we conducted this audit solely to address the limited scope described above. We did not verify the validity of costs claimed or completion of work. OCD received a grant of \$681.9 million for elevation and reconstruction of homes from the Governor's Office of Homeland Security and Emergency Preparedness (Louisiana), a FEMA grantee, following Hurricane Katrina (1603-DR-LA) and an additional \$21 million for the same purpose following Hurricane Rita (1607-DR-LA), totaling \$702.9 million.

We audited OCD's timeliness of HMGP contractor payments on Projects 50 (Hurricane Katrina) and 113 (Hurricane Rita), encompassing 9,588 properties with over 22,000 payment transactions. We focused our analysis on the timeliness of the two-party checks because these represent payments, mainly after April 2011, to contractors, in keeping with our objective. We randomly selected 30 of the 71 contractors with outstanding balances due and sent them surveys to verify balances. Our audit covered the period August 29, 2005, to July 20, 2015.

To accomplish our objective, we interviewed FEMA, Louisiana, and OCD officials, and HMGP contractors; gained an understanding of OCD's payment process; reviewed project and payment transactions for the two OCD projects relative to our audit; and performed other procedures considered necessary under the circumstances to accomplish our audit objective. We did not assess the adequacy of OCD's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective.

We conducted this performance audit between July 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. Unless stated otherwise in this report, to conduct this audit, we applied the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disasters.

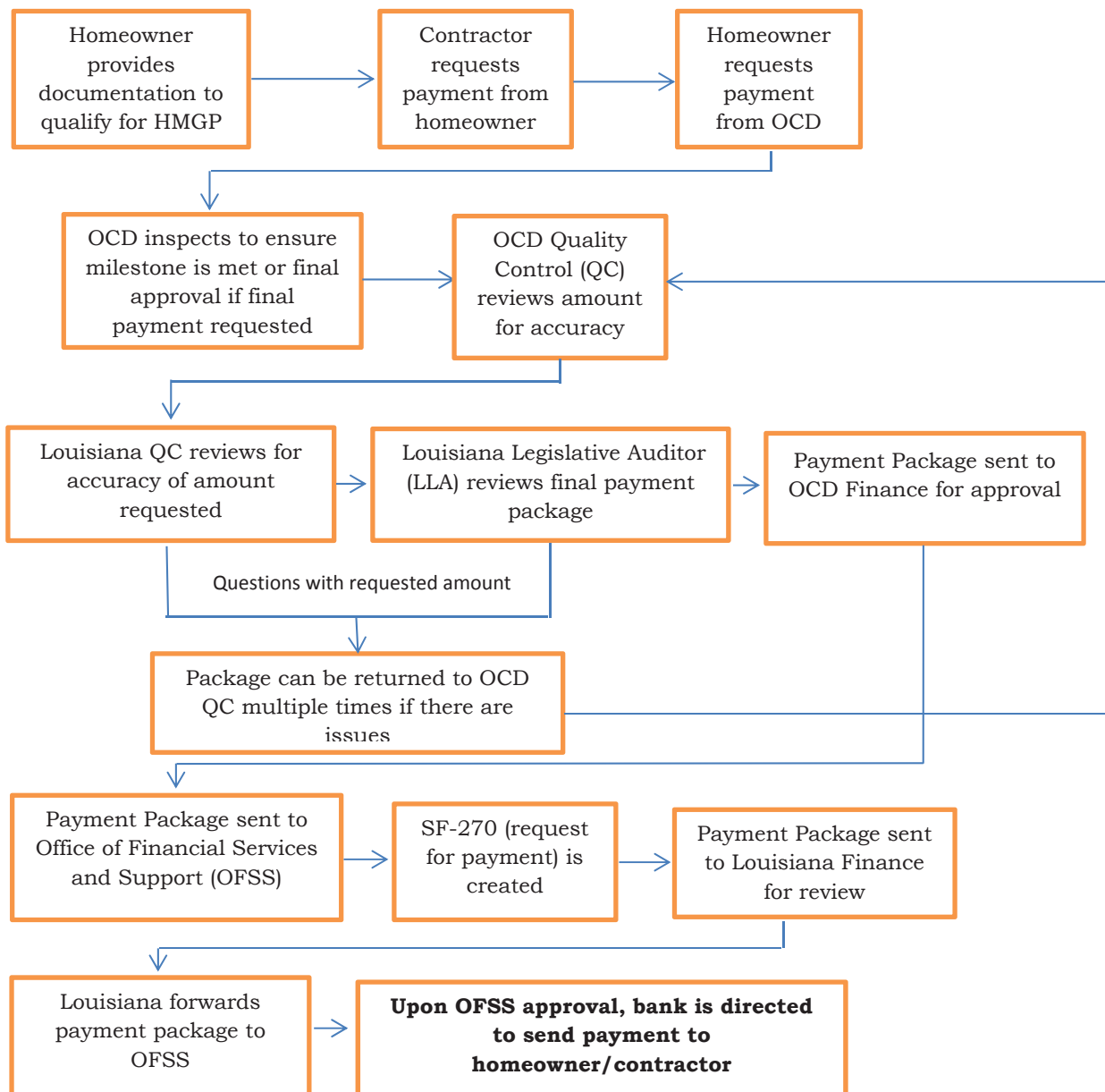


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Appendix B

Flowchart of OCD Payment Process



Source: OIG prepared based on information received from OCD



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Appendix C

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