

**FEMA Improperly Awarded
\$47.3 Million to the City of
Louisville, Mississippi**





DHS OIG HIGHLIGHTS

FEMA Improperly Awarded \$47.3 Million to the City of Louisville, Mississippi

August 16, 2016

Why We Did This Audit

The City of Louisville (City), Mississippi, received a Federal Emergency Management Agency (FEMA) Public Assistance award of \$51.7 million for damages resulting from April 2014 storms. We reviewed Project 104 totaling \$47.3 million for compliance with the Public Assistance Alternative Procedures Pilot (PAAP) Program authorized by the *Sandy Recovery Improvement Act of 2013*.

What We Recommend

FEMA should disallow \$47.3 million as ineligible and unauthorized or properly approve the City's new scope of work for Project 104.

For Further Information:

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

What We Found

FEMA did not approve the new scope of work for a \$47.3 million project the City is seeking authorization for under FEMA's PAAP Program. As a result, the project remains unauthorized, which increases the risk that some or all of the work the City is conducting will be ineligible for funding. Regardless, the City has started work on the project to redesign a new plywood facility and acquire/replace/repair 11 additional facilities under the PAAP Program.

In addition, FEMA has yet to conduct the required environmental and historic preservation review on the revised project to ensure that the new scope of work will not negatively affect the environment or historical structures. This also jeopardizes the Federal funding for the project.

About a month after we discussed these issues with FEMA Region IV officials, they approved the project's new scope of work contingent on the completion of the required environmental and historic preservation review. FEMA committed to complete this review by October 31, 2016. However, until FEMA completes this Federal requirement, the project remains ineligible; therefore, we question \$47.3 million.

FEMA Response

FEMA officials agreed with our findings and recommendation. 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

August 16, 2016

MEMORANDUM FOR: Gracia Szczech
Regional Administrator, Region IV
Federal Emergency Management Agency

Thomas M. Salmon

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

SUBJECT: *FEMA Improperly Awarded \$47.3 Million to the
City of Louisville, Mississippi*
Audit Report Number OIG-16-119-D

The purpose of this memorandum is to advise you of significant issues we identified relative to Public Assistance funds the Federal Emergency Management Agency (FEMA) obligated for the City of Louisville (City), Mississippi. We audited FEMA Public Assistance grant funds awarded to the City. As of October 13, 2015, the City had received a Public Assistance award of \$51.7 million from the Mississippi Emergency Management Agency (Mississippi), a FEMA grantee, for damages resulting from severe storms, tornadoes, and flooding that occurred in April 2014. The award provided 75 percent funding for five large projects and three small projects.¹ We audited Project 104, Destroyed Plywood Facility, totaling \$47.3 million, or 92 percent of the \$51.7 million award. As of October 13, 2015, the cutoff date of our audit, the City had submitted a cost claim of \$19.6 million to Mississippi for reimbursement. Therefore, the City had not completed work on all projects and had not submitted a final claim to Mississippi for all project expenditures.

Background

On April 28, 2014, a treacherous EF-4 tornado tore a path through the City of Louisville, Mississippi, killing 10 people.² The powerful storm was measured at 34 miles long, up to $\frac{3}{4}$ miles wide, with wind speeds up to 185 mph. The City

¹ Federal regulations in effect at the time of the 2014 storms set the large project threshold at \$120,000. Federal Register Volume 79, Number 38, Page 10685, Amendment to the Public Assistance Program's Simplified Procedures Project Thresholds (February 26, 2014).

² The Enhanced Fujita (EF) Scale is a measurement system for rating the intensity of tornadoes by type and severity after their impact. The EF Scale ranges from F0 (light) to F5 (incredible); an F4 has devastating winds ranging from 166 to 200 miles per hour.



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suffered catastrophic damages to residential neighborhoods, infrastructure, businesses, and other public facilities.

From the 1960s until 2009, Georgia Pacific operated a plywood facility in the City. Upon closure of the Georgia Pacific facility, the City purchased the property, including the main plywood factory building and all of the supporting exterior facilities. On April 29, 2013, the City leased the facility to a for-profit entity. The lease places the responsibility for facility repairs on the City.

The Tornado destroyed the City-owned plywood facility, which was weeks away from opening. The City expected the plywood facility to provide over 400 new jobs to the community; therefore, the economic impact of losing it could have been devastating. On April 30, 2014, the President issued a major disaster declaration for certain areas in Mississippi for damages resulting from severe storms, tornadoes, and flooding during the period of April 28, through May 3, 2014.

Results of Audit

FEMA did not approve the new scope of work for a \$47.3 million project the City is seeking authorization for under FEMA's Public Assistance Alternative Procedures Pilot (PAAP) Program authorized by the *Sandy Recovery Improvement Act of 2013*. As a result, the project remains unauthorized, which increases the risk that some or all of the work the City is conducting will be ineligible for funding. Regardless, the City has started work on the project to redesign a new plywood facility and acquire/replace/repair 11 additional facilities under the PAAP Program.

This issue occurred primarily because FEMA did not follow established procedures for approving work and obligating Federal funds. In addition, FEMA has yet to conduct the required environmental and historic preservation review on the revised project to ensure that the new scope of work will not negatively affect the environment or historical structures. This also jeopardizes the Federal funding for the project.

About a month after we discussed these issues with FEMA Region IV officials, they approved the project's new scope of work contingent on the completion of the required environmental and historic preservation review. FEMA committed to complete this review by October 31, 2016. However, until FEMA completes this Federal requirement, the project remains ineligible; therefore, we question \$47.3 million as ineligible.



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Ineligible Funding

FEMA neglected to prepare a \$47.3 million project worksheet for the City's new scope of work to redesign the new plywood facility and acquire/replace/repair 11 additional facilities in accordance with the PAAP Program. As a result, the project remains unauthorized and might not comply with Federal environmental and historic preservation laws, which places the City's Federal funding in jeopardy.

Unauthorized Scope of Work

To mitigate the risk of noncompliance issues and potential ineligible costs, Federal appropriations law requires the grantor agency to approve a new or modified scope of work, which provides reasonable assurance that the parties understand what is expected.

The *Sandy Recovery Improvement Act of 2013* revised the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* by adding Section 428, which authorizes alternative procedures for the Public Assistance Program.³ It also authorizes FEMA to implement the alternative procedures through the PAAP Program. The law identifies the following goals for the procedures:

- reducing the costs to the Federal Government of providing public assistance;
- increasing flexibility in the administration of such assistance;
- expediting the provision of assistance to a State, tribal or local government, or nonprofit owner or operator of a private nonprofit facility; and
- providing financial incentives and disincentives for timely and cost-effective completion of projects with such assistance.

The original plywood factory was located south of Louisville, Mississippi, on 25 acres of land the City owned. FEMA properly applied its criteria in deciding to replace, rather than repair the plywood factory.⁴ On October 20, 2014, FEMA approved the City's request to replace its plywood factory to pre-disaster function, design, and capacity. FEMA prepared Project Worksheet 104, "Destroyed Plywood Facility," and obligated \$47.3 million for the City to complete the project.

³ *The Sandy Recovery Act of 2013* (Public Law 113-2), amends Title IV of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (42 United States Code 5121 et seq.) (*Stafford Act*). Specifically, the law authorizes alternative procedures for the Public Assistance Program under sections 403(a)(3)(A), 406, 407 and 502(a)(5) of the *Stafford Act*.

⁴ 44 Code of Federal Regulations (CFR) 206.226(f)(1) and (2) allow replacement of a facility if the cost to repair it exceeds 50 percent of the cost to replace it.



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For estimating replacement costs, FEMA considered the factory and each of its eight auxiliary buildings to be separate sites as follows:

- Site 1: Exterior site amenities
- Site 2: Main plywood factory building
- Site 3: Open metal shed
- Site 4: A-frame shed
- Site 5: Regenerative thermal oxidizer control shed
- Site 6: Safety outbuilding
- Site 7: Electrostatic precipitator
- Site 8: Guard house
- Site 9: Concrete log conditioning kiln building

While pre-disaster function, design, capacity, and condition determine the amount of FEMA eligible funding, a subgrantee may use this funding to complete a project with a different function, design, or capacity. FEMA refers to such a project as an alternate project. Thus, with FEMA's approval, the City would be eligible to use the \$47.3 million in funds toward an alternate project without the reduction in funding required under the standard alternate project procedures.⁵

Subsequently, the City chose to participate in the PAAP Program and use the eligible funds toward an alternate project. The PAAP Program allows consolidating facilities into a single project with no requirement to build to pre-disaster function, design, or capacity. On January 27, 2015, the City submitted its request for a consolidated fixed estimate subgrant to FEMA and its proposed scope of work, which included the following 12 projects:

- Project 1: Plywood and Veneer Plant
- Project 2: City Street Repairs
- Project 3: Memorial Park Cemetery Enhancements
- Project 4: Equipment Purchases
- Project 5: Property Acquisitions
- Project 6: Traffic Signal Purchase and Installation
- Project 7: Ivy Park Renovation, Enhancement Expansion
- Project 8: Old Armory Roof Repair
- Project 9: Sidewalk Repairs
- Project 10: City-owned Railroad Reconstruction/Repair
- Project 11: Drainage Improvements
- Project 12: Municipal Arts Center Renovation

⁵ Federal regulation 44 CFR 206.203(d)(2) provides that alternate project funding is eligible to repair or expand other selected public facilities, construct new facilities, or perform hazard mitigation measures. Normally, FEMA reduces the Federal share of funding for alternate projects.



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In a letter dated February 20, 2015, FEMA acknowledged receipt of the City's letter, and approved the City's request to participate in the PAAP Program. FEMA also accepted the scope of work contingent upon environmental and historical compliance. As of May 9, 2016 (our exit conference date), the City continued to work on the new plywood facility; however, FEMA still had not revised the project worksheet to authorize the new scope of work.

Federal regulations at 44 Code of Federal Regulations (CFR) 206.202 required the City, Mississippi, or FEMA, among other things, to—

1. identify all eligible work and submit all costs for disaster-related damages for funding (44 CFR 206.202(d)(1));
2. prepare a project worksheet, which must identify the eligible scope of work and must include a quantitative estimate for the eligible work (44 CFR 206.202(d)(1)(i));
3. obligate funds to the grantee based on the approved project worksheet. The grantee must then approve subgrants based on the project worksheet FEMA approved for each applicant (44 CFR 206.202(e)(1)); and
4. obligate Federal funds within 45 days of the applicant submitting the project worksheet (44 CFR 206.202(e)(2)).

In addition, Federal cost principles require costs to be authorized to be allowable under Federal awards.⁶ Finally, according to FEMA's *Public Assistance Guide* (FEMA 322, July 2007, p. 96), "the project worksheet is the primary form used to document the location, damage description and dimensions, scope of work, and cost estimate for each project. It is the basis for the grant."

By not properly approving the new scope of work, FEMA has failed to specify the grantee's obligations and has increased the risk for unauthorized expenditures.

⁶ 2 CFR 225 Appendix A (C)(1)(c)



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Lack of Environmental and Historic Preservation Reviews

In January 2016, FEMA conducted an environmental and historic preservation review for replacing the old plywood facility with a finding of “no significant impact.” However, FEMA has not conducted an environmental and historic preservation review for the proposed new scope of work. As a result, FEMA has no assurance that the new scope of work will not harm the environment or historical structures.

Federal regulations at 44 CFR Part 10, Environmental Considerations, establish a complex set of requirements and guidance for FEMA to follow. FEMA must act with care in carrying out its responsibilities to protect, restore, and enhance the quality of the environment (44 CFR 10.4(a)). For example, FEMA should avoid or minimize adverse environmental consequences by, among other things—

- using the environment without degradation, or undesirable and unintended consequences; and
- preserving historic, cultural, and natural aspects of national heritage; maintaining, wherever possible, an environment that supports diversity and variety of individual choice.

Further, FEMA’s *Public Assistance Guide* (FEMA 322, June 2007, pp. 127–131), requires FEMA to review each Public Assistance project to ensure the work complies with applicable Federal environmental and historic preservation laws and their implementing regulations, as well as applicable executive orders. In addition, the *National Environmental Policy Act* requires FEMA to follow a specific process to “ensure that agency decision-makers have considered, and the general public is fully informed about, the environmental consequences of a proposed Federal action.”⁷ Finally, the *National Historic Preservation Act* requires FEMA to consider the effects of its projects on any historic district, site, building, structure, or object.⁸ Despite the requirement that FEMA must complete the environmental and historic preservation reviews before it obligates funds and the City begins work, the City has completed about 33 percent of the project.

The City started work on the new scope of work before completion of the environmental and historic preservation review because FEMA approved the alternate project in a February 2015 letter to the State. In the letter, FEMA approved the City’s request to participate in the PAAP Program and accepted the new scope of work *contingent* upon environmental and historical compliance. However, FEMA failed to write a project worksheet to authorize the new scope of work and has not completed a review to determine environmental

⁷ *National Environmental Policy Act of 1969*, as amended (Public Law 91–190)

⁸ *The National Historic Preservation Act*, as amended (Public Law 89–665)



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and historical compliance of the alternate project. In the February 2015 letter, FEMA also advised the State that “failure to comply with these conditions of the grant will result in deobligation of funding for the affected elements of the consolidated project worksheet, or the project worksheet as a whole, depending on the circumstances.”

Preliminary Discussions with FEMA Officials

We discussed our findings with FEMA Region IV officials on February 17, 2016. These officials, when asked about Project 104 and the scope of work, could not provide a reason for not preparing a project worksheet to approve the new scope of work for the consolidation of the 12 projects or for not conducting an environmental and historic preservation review on the new scope of work. In fact, the FEMA officials we spoke to were surprised they could not locate a revised project worksheet. FEMA officials assured us that they would begin the process of approving the City’s new scope of work as soon as possible, which would require FEMA to also determine environmental and historical compliance.

After our preliminary discussion, FEMA officials approved the new scope of work for Project 104 on March 18, 2016, contingent on the outcome of an environmental and historic preservation review of the work. FEMA committed to completing this review of the City’s new scope of work to redesign a new plywood facility and acquire/replace/repair 11 additional facilities by October 31, 2016.

Recommendation

We recommend that the Regional Administrator, FEMA Region IV, disallow \$47,299,126 (Federal share \$35,474,345) from Project 104 as ineligible and unauthorized unless FEMA conducts an environmental and historic preservation review of the City’s new scope of work to redesign a new plywood facility and acquire/replace/repair 11 additional facilities.

Discussion with Management and Audit Follow-up

We discussed the results of our audit with FEMA officials during and after our audit and included their comments in this report, as appropriate. We also provided a draft management advisory report in advance to these officials for review and comment on May 6, 2016. FEMA officials concur with our findings and recommendation.



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FEMA officials provided a written response on June 7, 2016, agreeing with our findings and recommendation (see appendix C). FEMA expects to complete its proposed corrective actions to address our recommendations by October 31, 2016. Therefore, we consider the report recommendation to be resolved but open. We will close the recommendation when we receive and review documentation that FEMA has completed its proposed corrective actions. Please email closeout documentation and request to larry.arnold@oig.dhs.gov.

The Office of Emergency Management Oversight major contributors to this report are Larry Arnold, Director; Melissa Powe Williams, Audit Manager; Katrina Griffin, Auditor-in-charge; and Rickey Smith, 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 Public Assistance grant funds awarded to the City (Public Assistance Identification Number 159-42280-00). Our audit objective was to determine whether the City accounted for and expended FEMA grant funds according to Federal regulations and FEMA guidelines. We also had concerns about how effectively the City complied with the PAAP Program.

As of October 13, 2015, the City had received a Public Assistance award of \$51.7 million from for damages resulting from severe storms, tornadoes, and flooding (FEMA Disaster Number 4175-DR-MS) that occurred in April 2014. The audit covered the period April 28, 2014, through October 13, 2015, the cutoff date of our audit. The award provided 75 percent funding for five large projects and three small projects.

We audited Project 104, Destroyed Plywood Facility, totaling \$47.3 million, or 92 percent of the Federal funds awarded to the City. As of October 13, 2015, the cutoff date of our audit, the City had submitted a cost claim of \$19.6 million to Mississippi for reimbursement. Therefore, the City had not completed work on all projects and not submitted a final claim to Mississippi for all project expenditures.

We interviewed FEMA, Mississippi, and City officials; gained an understanding of the City's method of accounting for disaster-related costs; reviewed the City's procurement policies and procedures and contracting documents; and performed other procedures considered necessary to accomplish our objective. We did not perform a detailed assessment of the City's internal controls over its grant activities because it was not necessary to accomplish our audit objective.

We conducted this performance audit between October 2015 and April 2016, 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 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 by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.



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Appendix B
Potential Monetary Benefits

Table 1: Summary of Potential Monetary Benefits

Type of Potential Monetary Benefit	Amount	Federal Share
Questioned Cost - Ineligible	\$47,299,126	\$35,474,345
Questioned Cost - Unsupported	0	0
Funds Put to Better Use	0	0
Totals	\$47,299,126	\$35,474,345

Source: Office of Inspector General analysis of report findings



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Appendix C FEMA Region IV Response

U. S. Department of Homeland Security
Region IV
3003 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

June 7, 2016

MEMORANDUM FOR: Larry Arnold
Director
Gulf Coast Regional Office
Office of Disaster Assistance Oversight

FROM: Gracia B. Szczepan
Regional Administrator 

SUBJECT: Management Response to Draft Report
"FEMA Improperly Awarded \$47.3 Million to the City of
Louisville, Mississippi"
FEMA Disaster: 4175-DR-MS
Draft Audit Report Number: OIG-16-XX-D

Thank you for the opportunity to review and comment on the attached Draft Report. The Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report. The report offers one recommendation, which is discussed below.

Recommendation: The OIG recommends that the Regional Administrator, FEMA Region IV, disallow \$47,299,126 (Federal share \$35,474,345) from Project 104 as ineligible and unauthorized; or properly conduct an environmental and historic preservation review and approve the City's new scope of work to redesign a new plywood facility and acquire/replace/repair 11 additional facilities.

Response: FEMA concurs with the Recommendation. FEMA will conduct an environmental and historic preservation review of the City's new scope of work to redesign a new plywood facility and acquire/replace/repair 11 additional facilities. Based on that review, FEMA will approve or deny the new scope of work. Estimated Completion Date (ECD): 10/31/2016

Again, thank you for the opportunity to comment on this Draft Report. The technical comments were previously provided under a separate cover. Please contact Kathy Kilcrease, at (770) 220-5534, should you have further questions. We look forward to working with you in the future.

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Appendix D **Report Distribution**

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