

FEMA Should Recover \$3.4 Million of the \$3.5 Million Awarded to Hope Academy for Hurricane Katrina Damages





DHS OIG HIGHLIGHTS

FEMA Should Recover \$3.4 Million of the \$3.5 Million Awarded to Hope Academy for Hurricane Katrina Damages

September 19, 2016

Why We Did This Audit

Hope Academy (Hope) in D'Iberville, Mississippi, received a Federal Emergency Management Agency (FEMA) Public Assistance award of \$3.5 million for damages Hurricane Katrina caused in August 2005. Both FEMA and the Office of Inspector General had concerns about the eligibility of Hope as an applicant for assistance and about Hope's purchase of land for permanent relocation of damaged properties.

What We Recommend

FEMA should disallow \$3.4 million of funds awarded to Hope and emphasize to Mississippi its grant management responsibilities.

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

FEMA failed to properly validate Hope's eligibility for Federal disaster funds estimated at \$3.5 million. This occurred because FEMA lacks adequate policies and guidelines to prohibit officials of an unaccredited and unlicensed non-public school from applying for and receiving Federal funds. Hope contends that, at the time of the disaster, it served approximately 90 students in grades K-12 in a 5,770 square-foot building also used as a church. FEMA relied on this information in determining the size of the new facility, site work and ancillaries, and acreage that Hope needed to replace its damaged facility. However, Hope failed to provide documentation sufficient to support the number of students and grade levels it serviced. In addition, we found that—

- Hope failed to follow Federal procurement regulations when awarding \$1.8 million in contracts for land acquisition, project management, and architectural and engineering services;
- Hope allowed its Board president to enter into an unethical related-party transaction with his personal company for land acquisition costing \$1.5 million; and
- Hope officials allege that they lost all of their records in the storm and could not recall the names of most students; however, they did recall a 15-page list of contents the storm destroyed. They asked FEMA to pay \$792,972 for the damaged contents even though they maintained insurance to cover only \$17,200 in contents.

Hope could not provide adequate documentation to support the number of students and grade levels it serviced or its claim for lost contents. Therefore, we question \$3.4 million of the \$3.5 million grant award.

FEMA Response

FEMA officials 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 19, 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 Should Recover \$3.4 Million of the \$3.5 Million
Awarded to Hope Academy for Hurricane Katrina
Damages*
Audit Report Number OIG-16-135-D

We audited Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to Hope Academy (Hope), D'Iberville, Mississippi, for Hurricane Katrina damages. We reviewed four projects totaling \$3.4 million (see appendix B, table 4), or about 96 percent of the total \$3.5 million grant Hope received from the Mississippi Emergency Management Agency (Mississippi), a FEMA grantee. The award provided 100 percent FEMA funding.

Hope has claimed \$1.7 million or about 49 percent of the \$3.5 million. FEMA had concerns about the eligibility of Hope as an applicant and Hope's purchase of land for permanent relocation of damaged properties.

Background

The Lord of the Harvest, Incorporated, a private non-profit, founded Hope Academy on August 14, 1995, as a non-public private learning center.¹ The same building housed both the Lord of the Harvest Church and Hope Academy. Hope's purpose was to be a Christian school for educating believers in a manner consistent with the requirements of Holy Scripture. On August 29, 2005, Hurricane Katrina devastated the City of D'Iberville, Mississippi, where Hope was located. A 20-foot storm surge from the Gulf of Mexico flooded the City and damaged much of the community including the church building that also housed Hope Academy.

¹ FEMA has determined that private-non-profit organizations that own or operate facilities that provide certain services of a governmental nature are eligible for financial assistance. Qualifying private-non-profits are those that provide education, medical, custodial care, emergency, utility, certain irrigation facilities, and other essential governmental services.



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Results of Audit

FEMA failed to properly validate Hope's eligibility status as an applicant; and Hope failed to provide the Office of Inspector General (OIG) and FEMA access to sufficient records pertinent to the grant. Therefore, we could not determine whether Hope had the number of students it asserts attending school. Hope contends that, at the time of the disaster, it served approximately 90 students in grades K–12. FEMA relied on this information in determining the size of the new facility, site work and ancillaries, and acreage that Hope needed to replace its damaged facility. However, Hope failed to provide documentation sufficient to support the number of students and grade levels it serviced. During our audit, we were able to collect additional documentation to support Hope's eligibility as an applicant. However, because Hope could not provide credible evidence to support its claimed number of students, which helps determine the building size, site work and ancillaries, and amount of land needed, FEMA should disallow \$2.9 million, which represents the cost related to those items.

In addition, we found other problems that should convince FEMA further that Hope should not receive the majority of Federal funds that FEMA approved. Specifically—

- Hope failed to follow Federal procurement regulations when awarding \$1.8 million in contracts for land acquisition, project management, and architectural and engineering services. For example, Hope allowed its Board president to enter into an unethical related-party transaction with his personal company for land acquisition costing \$1.5 million.
- Hope officials cannot provide documentation for building contents they say the storm destroyed. Hope officials allege that they lost all of their records in the storm and could not recall the names of their 90 students; however, they were able to put together from memory a 15-page list of contents the storm destroyed. They asked FEMA to pay \$792,972 for the destroyed items even though they maintained insurance for only \$17,200 in contents. However, FEMA approved and obligated only \$491,673 of the \$792,972; therefore, we recommend FEMA disallow the \$491,673.

These issues occurred primarily because FEMA lacks adequate policies and guidelines to prohibit officials of an unaccredited and unlicensed non-public school from applying for and receiving Federal funds. FEMA is responsible for validating applicants' eligibility before awarding funds. In addition, the grantee (Mississippi) is responsible for ensuring that its subgrantee (Hope) is aware of and complies with procurement requirements, as well as for providing technical assistance and monitoring grant activities. Therefore, FEMA should emphasize



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to Mississippi its grant management responsibilities for ensuring that subgrantees follow Federal procurement regulations.

Finding A: FEMA Failed to Adequately Justify Hope's Eligibility

FEMA failed to properly validate Hope's eligibility status as an applicant because FEMA failed to require sufficient records pertinent to assessing eligibility. According to FEMA's *Public Assistance Guide* (FEMA-322, July 2007, p. 92), Federal and State personnel should review each request for public assistance to ensure applicant eligibility. Additionally, those organizations not subject to A-133 requirements must still maintain complete records available for review or audit by appropriate officials or representatives of the Federal agency.² According to 2 Code of Federal Regulations (CFR) 215.53(e), authorized representatives shall have the "right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents."

FEMA Has Questioned Hope Academy's Eligibility and Funding Amount

In October 2005, Hope submitted a Request for Public Assistance to FEMA for disaster-related damages. In May 2006, FEMA determined that Hope was eligible for Public Assistance as a private non-profit. After FEMA initially approved Hope as an eligible applicant, FEMA inspected the school (see figure 1) and determined that the cost to repair it, \$480,420, would exceed 50 percent of the cost to replace it, \$738,233, (\$480,420 divided by \$738,233 equals 65 percent). Therefore, in accordance with FEMA's "50 Percent Rule," FEMA approved funding to replace the school.³

² The *Single Audit Act of 1984* (with amendment in 1996) and Office of Management and Budget (OMB) Circular A-133 ("Audits of State, Local Governments, and Non-Profit Organizations") provide audit requirements for ensuring Federal funds are spent properly [source: www.whitehouse.gov/omb/financial_fin_single_audit].

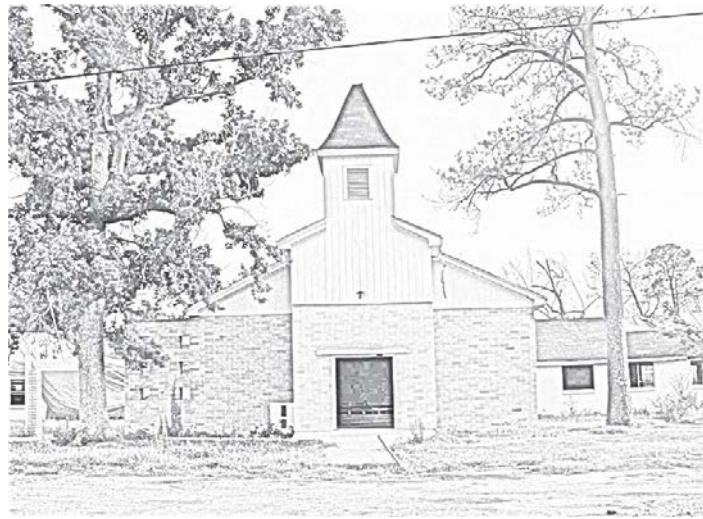
³ According to 44 CFR 206.226(f)(1), "A facility is considered repairable when disaster damages do not exceed 50 percent of the cost of replacing a facility . . ." FEMA refers to this regulation as the "50 Percent Rule" and implements it according to its Disaster Assistance Policy 9524.4.



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Figure 1: Old Hope Academy Facility



Source: FEMA

Although the FEMA Mississippi Recovery Office (MSRO) initially approved Hope as an eligible Public Assistance applicant, the MSRO rescinded that eligibility because it questioned Hope's claim of accreditation and curriculum.⁴ Consequently, in September 2008, the MSRO denied Hope's request for an improved project and permanent relocation and requested Hope provide documentation of its accreditation and proof that its curriculum was not primarily for religious purposes. The MSRO overturned Hope's eligibility status and deobligated all of its projects.

Hope appealed this decision to the FEMA Regional Administrator (FEMA Region IV). On behalf of Hope, Mississippi provided a letter requesting that FEMA reassess Hope's eligibility. In that letter, Mississippi reminded FEMA of its policy that a school that satisfies state compulsory education laws generally qualifies as an educational institution. Hope received partial approval in February 2010 from FEMA Region IV that determined Hope was an eligible applicant, but the auditorium was ineligible for funding because of its use as a chapel.

In June 2010, Hope filed a second appeal to the FEMA Assistant Administrator for the Disaster Assistance Directorate (FEMA Assistant Administrator) requesting it reinstate eligibility for the auditorium. The FEMA Assistant Administrator determined that the auditorium was eligible after receiving a letter from Mississippi alleging that the auditorium's primary use was for

⁴ According to 44 CFR 206.221(e)(1), eligible educational facilities [do] "not include buildings, structures and related items used primarily for religious purposes or instruction."



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educational activities in support of the school up to the time of the disaster. Mississippi also provided a schedule of weekly activities as evidence that Hope used the auditorium more than 50 percent of the time for educational purposes.

After FEMA Region IV re-established Hope's eligibility, the MSRO reinstated the scope of work and the previously determined eligible amounts for the following projects:

- Project 9041, Damaged Fences;
- Project 9425, School Storage Buildings;
- Project 9806, Hope Academy School Building, Temporary Relocation (September 2006–May 2009);
- Project 9807, Hope Academy School Building, Temporary Relocation (September 2005–June 2006); and
- Project 10067, Contents.

For Project 9724, Hope Academy Building, the MSRO decided to reinstate the first version of the project, which did not include increases to capture replacement costs with applicable codes and standards requirements, and relocation costs. Instead FEMA awarded \$991,250 (\$1,013,813 less \$22,563 for insurance proceeds) to rebuild and elevate Hope at its old site. This amount included \$27,887 for gutting, water extraction, and mucking out debris; \$738,233 for replacement of the building; and \$247,693 for slab elevation, a ramp, and elevator.

Hope Academy Requested a Larger Building at a Different Location

Hope did not agree with FEMA's decision to replace the new facility at the same size and elevate the new facility at its current location. Hope argued that it needed additional square footage to comply with current codes and standards. In addition, Hope argued that, according to Mississippi safety codes, the physicality of the space would not allow for the increased square footage and appropriate number of exits. In September 2011, Hope appealed the eligibility of costs associated with relocation and applicable codes and standards for Projects 9724, 9806, 9807, and 9425 (building, temporary relocation, and storage buildings) to FEMA Region IV. Hope contended that FEMA should perform a new cost effectiveness analysis and approve \$2,062,168 in additional funding for adequate replacement cost. Hope also requested FEMA reevaluate its facility for assistance and eligibility for land acquisition, site work, and ancillaries required to relocate its entire facility, including the auditorium and mandated increases to comply with current codes and standards for educational facilities.



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In December 2012, FEMA Region IV approved the appeal, in part, to capture all applicable codes and standards upgrades for a like-kind replacement facility increasing the facility from its original size of 5,770 square feet to 13,319 square feet. FEMA evaluated Hope's projects to determine whether elevation or relocation provided the most cost-effective measure to ensure compliance with floodplain management requirements. FEMA determined that the \$846,864 cost to relocate was cost effective because it was less than the \$988,515 cost to elevate the new school.

After FEMA agreed to increase the building size from 5,770 to 13,319 square feet, (see figure 2), Hope officials felt that it would be unreasonable and undesirable to elevate their new 13,319 square-foot building on the existing 0.66 acres of land. In addition, Hope officials contended they should be eligible for relocation costs because, among other things, FEMA policy encourages applicants to move facilities away from hazardous areas.

At the time of Hurricane Katrina, the building that housed the Lord of the Harvest Church and Hope Academy was located outside the 100-year flood plain. Therefore, Lord of the Harvest Church was not required to purchase flood insurance. However, Lord of the Harvest did have a small church policy that paid \$22,563 in proceeds for wind damage to the building. On November 17, 2005, FEMA issued updated Advisory Base Flood Elevation maps because it determined the 100-year Flood Insurance Rate Maps were outdated. After issuing the updated maps, FEMA considered Hope to be within the 100-year flood zone. This required the school to be elevated. FEMA decided that, because the school was now located in a flood zone, FEMA would also pay for elevating the facility an additional 8 feet to put it above the Advisory Base Flood Elevation.

On August 25, 2008, Mississippi, on behalf of Hope, requested FEMA relocate the new facility onto a larger piece of land outside of the flood plain. In addition to the relocation request, Mississippi recommended FEMA approve the new building (Project 9724) as an improved project.⁵

⁵ An applicant may decide to improve a damaged facility when performing restoration work on it. FEMA calls projects that incorporate such improvements "improved projects."



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Figure 2: New Hope Academy Facility



Source: <http://www.hopeacademyfg.org/about-hope-academy/>

FEMA Failed to Require Proof that Hope Was Eligible for Assistance

FEMA failed to properly validate Hope's eligibility status as an applicant. Hope claimed to be a school servicing grades K–12 eligible for public assistance without providing any reliable documentation to corroborate that claim. Although Hope lost a 5,770 square-foot building situated on 0.66 acres of land, FEMA approved Hope as an eligible applicant and ultimately approved a new 13,319 square-foot building on 15.9 acres of land based almost completely on Hope's word that it serviced 90 students in grades K–12. The increase in square footage was partially attributable to code requirements that allow additional square feet per person for various spaces. Further, grade levels serviced at the school and the numbers of students enrolled determine the amount of land a state recommends a school should have to be safe and orderly. Mississippi guidelines recommend a minimum of 5 acres of land plus one additional acre for every 100 students for elementary school sites (K–8), and 15 acres plus one acre for every 100 students for secondary school sites (9–12).

Hope provided FEMA a letter alleging that approximately 90 students ranging from kindergarten through 12th grade attended the school at the time of the disaster. In an effort to validate the number of students enrolled in Hope at the time of the disaster, we requested the following:

- names of students,
- tuition receipts,
- names of students dually enrolled with an on-line school,
- student transcripts and grade reports,
- payroll tax records for teachers and other workers,
- canceled checks supporting any school disbursement, and
- interviews with former students of Hope.



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Of the documents we requested to support the number of students, Hope provided the following documents subsequent to our exit conference:

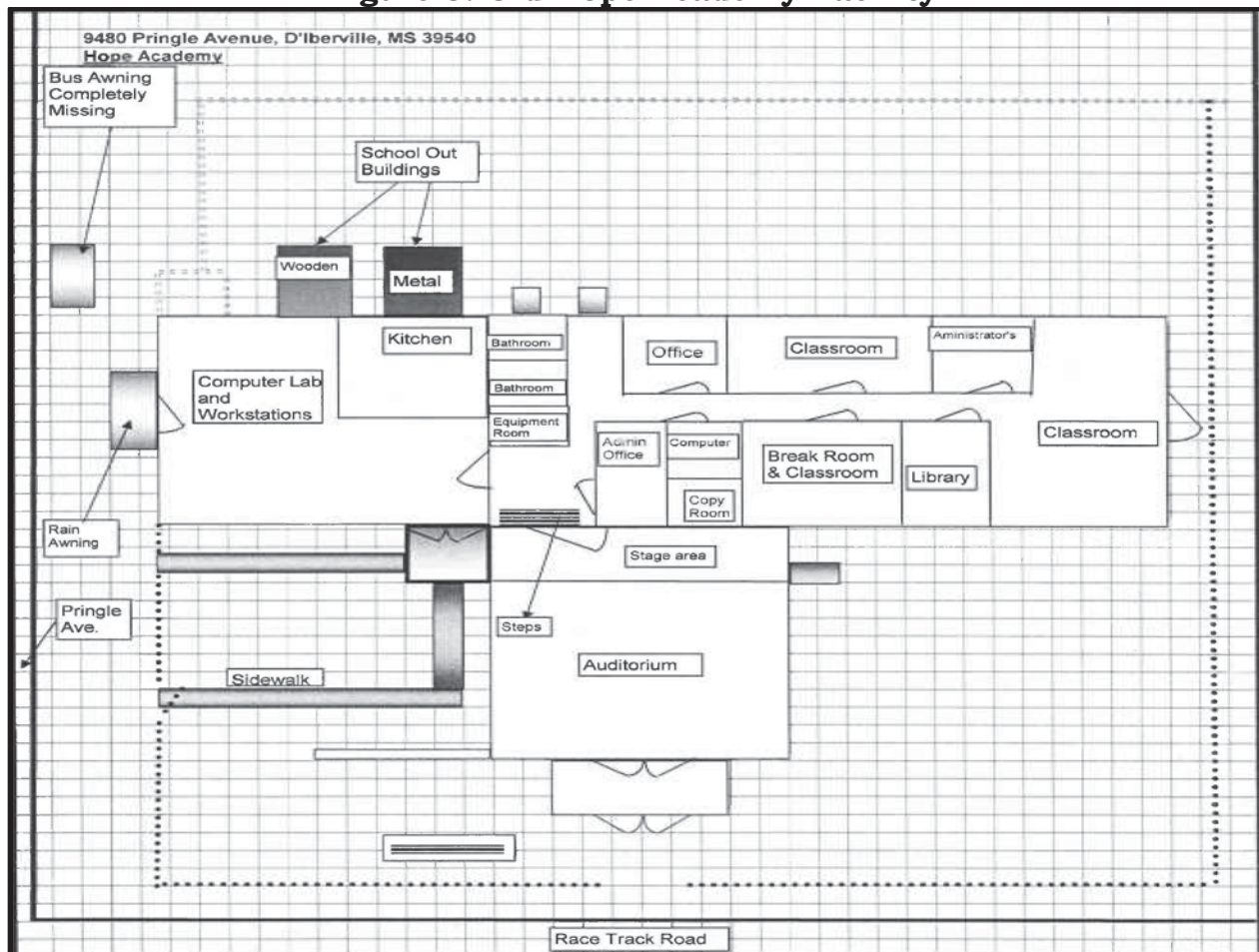
- the names of only 13 students that Hope contends attended the school during the time of the disaster, which included 8 students dually enrolled with an on-line school a year before the disaster;
- a form requesting the transfer of one student's cumulative records to Hope from 2005 (this student's name was included with the 13 students named above);
- two high school students' transcripts from 1999 and 2004 (these students' names were not included with the 13 students named above because they were in the 12th grade in the respective years mentioned);
- one student's results for an achievement and aptitude test from 1999; and
- nine checks totaling \$3,535 supporting school operations during early 2005.

During interviews with two former students, the students reported conflicting numbers, ranging from 40 to 100 students. Further, given that Hope failed to provide documentation supporting its alleged enrollment, the design of the Church/School raises additional questions concerning the number of students enrolled at Hope Academy at the time of Hurricane Katrina. Figure 3 shows that the Church/School had only two classrooms, a classroom or break room, a computer lab, and an auditorium. Without additional support, we do not find it credible that these five separate rooms would be adequate to educate 90 students in 13 different grade levels.



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Figure 3: Old Hope Academy Facility



Source: FEMA

To understand why FEMA Region IV overturned the MSRO's decision concerning Hope's eligibility, we requested the evidence supporting its decision and received the following:

- letter from Mississippi;
- Mississippi Compulsory School Attendance Law;
- FEMA Disaster Assistance Policy 9521.3, PNP Facility Eligibility;
- letter from Hope attaching its calendar, curriculum, graduation requirements, and attendance procedures;
- letter from Accelerated Christian Education, noting Hope's accreditation from that entity;
- licenses of two teachers;
- five letters from two former students and three members of the community; and
- printed online documents dated after the disaster.



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FEMA Region IV failed to take steps to verify the assertions Hope made regarding its eligibility for grant money. Instead, FEMA Region IV accepted Hope's assertion that it was a legitimate K-12 school servicing 90 students without requiring it to provide adequate evidence to support such an assertion. Although Federal regulations do not enumerate every step FEMA and grantees should take to assess an applicant's eligibility, or every type of document that should be collected and reviewed in connection with that assessment, FEMA and grantees are expected to perform reasonable due diligence on first-time applicants. It is our opinion that FEMA should have required Hope to provide sufficient evidence to establish that it did in fact educate 90 students at 13 levels, and that failure to do so was unreasonable under the circumstances.

FEMA Failed to Require Records Sufficient to Prove Eligibility

FEMA determined that Hope was eligible to receive grant money without first requiring Hope to submit records sufficient to prove its eligibility. When OIG and FEMA asked Hope to provide such records in connection with this audit, the materials Hope provided were insufficient to support its claim of eligibility. According to Hope officials, the storm destroyed all of their records. At the start of our audit, many records that Hope provided—such as the school's curriculum, calendar, handbook, and number of students—appeared unofficial and were not certified, signed, or dated. We could not verify the credibility of the documents provided. Further, we could not always corroborate the testimonial evidence provided with independent third parties. We requested the following documents from Hope:

1. evidence to support that students attended Hope at the time of the disaster:
 - names of students,
 - tuition receipts,
 - names of the students dually enrolled with an online school, and
 - students transcripts and grade reports;
2. name of the school listed on students' transcripts;
3. source(s) of income (i.e., tuition, donations, fundraising activities):
 - bank deposits documenting income received
4. funding sources (including amounts) other than FEMA for Hurricane Katrina disaster recovery;
5. financial statements from 2004 to 2012;
6. State and Federal annual filings for 2004 through 2012;
7. filings for Internal Revenue Service (IRS) form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax;
8. canceled checks to support salaries paid to staff for 2004 and 2005;



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9. filings and copies of payments for social security, Medicare, and other payroll taxes; and
10. bank records for 2004 and 2005 to support:
 - liability insurance policy payments, staff salaries, payments for social security, Medicare and other payroll taxes, payments for online classes, book and food vendors, etc.

We informed Hope that third parties such as the IRS, banks, vendors, online school, and students could provide some documents. Subsequent to our exit conferences, Hope provided the names of 13 students, of which 8 were dually enrolled in an online school; and 2 students' transcripts listing Hope as the school name. Hope also provided an achievement and aptitude test for one of the students, which also listed Hope as the student's school. Hope failed to provide documentation detailing the source(s) of its income, stating that its bank does not maintain records more than 7 years. However, Hope was able to provide nine canceled checks totaling \$3,535 from early 2005 supporting payments made for various things such as fundraising, tax service, phone service, field trip, basketball tournament, cap and gown parts, and other supplies.

Hope continues to maintain that all its financial statements were lost in Hurricane Katrina, and it generated no additional financial statements after 2005 and before 2012. Further, Hope officials contend they were not required to file income tax returns to the IRS or the State. Finally, Hope contends it paid staff members as contractors, and therefore did not withhold payroll taxes, and issued IRS form 1099's to each staff member. Although Hope provided request forms made to the IRS, Hope produced no filings. We do not question Hope's eligibility because of the lack of support that they paid instructors or other staff because State law does not require paid instructors to operate a non-public school. However, because we did not have sufficient records pertinent to the grant, we could not verify the number of students that might have attended the school. In addition, because Hope failed to provide financial statements, we were not able to determine whether it received duplicate funding from other sources.⁶

Summary

FEMA failed to perform reasonable due diligence to verify Hope's eligibility status as an applicant; therefore, we recommend that FEMA Region IV obtain credible evidence before determining an applicant's eligibility. Because Hope

⁶ According to Section 312 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)*, as amended, no entity will receive assistance for any loss for which it has received financial assistance from any other program, insurance, or any other source.



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failed to provide OIG and FEMA sufficient records pertinent to the grant, we could not determine the eligibility or reasonableness of the size of the new facility, site work and ancillaries, and acreage that Hope officials say they need. Therefore, we recommend that FEMA Region IV disallow \$2,914,357 as ineligible (see table 1). These costs consist of \$2,067,492 for Project 9724, Building; \$511,103 for Project 11290, Site work and Ancillaries; and \$335,762 for Project 11291, Land Acquisition.

Table 1: Ineligible Award Amount

Project Number	Description	Award Amount	Ineligible Amount
9724	Building	\$2,067,492	\$2,067,492
11290	Site work and Ancillaries	511,103	511,103
11291	Land Acquisition	335,762	335,762
Total		\$2,914,357	\$2,914,357

Source: FEMA Project Worksheets

The original facility's layout determines the basis of eligible code upgrades. Section 406(e) of the *Stafford Act* requires that the cost of repair and restoration be on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards.⁷ The size of the new school building, amount of acreage, and site work and ancillaries costs are all contingent upon the number of students and grade levels Hope serviced at the time of the disaster. The evidence provided to support the number of students and grade levels serviced by Hope is not sufficient. Because of the complex and technical nature of calculating allowable costs for these facilities, we could not determine how much Federal funding, if any, Hope is entitled to. Therefore, we are questioning the entire \$2,914,357. FEMA should determine the reasonable costs to accommodate relevant codes and standards requirements for the actual eligible facility size, site work and ancillaries, and acreage.

FEMA should consider the lack of credible evidence to support the number of students and grade levels that Hope contends it serviced in 2005. FEMA should then re-examine the estimated costs of these three projects and disallow those amounts that appear unreasonable. We did not question as *ineligible* the \$491,673 that FEMA approved for Project 10067 to replace building contents; however, we do question these costs as *unsupported* in finding C.

⁷ Robert T. *Stafford Disaster Relief and Emergency Assistance Act*, as amended.



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Finding B: Contracting Procedures

Hope failed to comply with Federal procurement regulations when awarding contracts for land acquisition, project management, and architect and engineering (A/E) services valued at \$1,799,593. Specifically, Hope failed to maintain a written standard of conduct on conflicts of interest. As a result, Hope entered into a related-party transaction for land acquisition costing \$1,468,206, which increased the risk of fraud, waste, and abuse and also led to \$968,706 in unreasonable costs. Additionally, Hope awarded an A/E services contract valued at \$203,887 and a project management services contract valued at \$127,500 without full and open competition or a cost or price analysis. Federal procurement standards at 2 CFR 215 required Hope, among other things, to—

1. maintain “written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved” (2 CFR 215.42);
2. conduct all procurement transactions “in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. ... Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered” (2 CFR 215.43);.
3. make positive efforts by taking specific steps to use small businesses, minority firms, and women’s business enterprises, whenever possible (2 CFR 215.44(b)); and
4. perform a cost or price analysis in connection with every procurement action, including contract modifications, to determine the reasonableness of the proposed contract price (2 CFR 215.45).

In addition, Federal cost principles applicable to nonprofit entities require costs to be reasonable for the performance of the award (2 CFR 230, appendix A, A.2.a.). These principles also state that a cost is reasonable if, in its nature and amount, it does not exceed that which a prudent person would incur under the circumstances prevailing at the time (2 CFR 230, appendix A, A.3.).



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Conflict of Interest

Hope failed to maintain a written standard of conduct on conflicts of interest. As a result, it entered into a related-party transaction for land acquisition valued at \$1,468,206, which was at least \$968,706 too high. Further, in our opinion, this transaction involved unethical behavior. Hope had no written code of conduct governing the performance of its employees engaged in the award and administration of contracts. Hope officials simply stated that the property purchased was the only property for which they could receive financing.

First, Hope's Board gave its school administrator unilateral authority to make decisions to purchase property. Then, the administrator and Hope's Board President entered into a contract to purchase 15.9 acres of land that the Board President owned for \$92,340 per acre, or \$1,468,206, in an upscale Gulfport, Mississippi community. The Board President signed as purchaser and seller on the closing documents for the land purchase, as well as authorized signer on the check used to pay the seller. In addition, the seller (i.e., the Board President) financed the loan proceeds payable to the purchaser for the land purchase. This would make Hope's Board President the seller, buyer, financier, and payer in this land transaction.

The Board President, in his capacity as the seller, hired three appraisers to offer professional opinions on the value of the land. Hope officials relied on the appraisals the seller procured and failed to obtain their own independent appraisal for the land purchased to determine its fair value. Although the seller hired and paid for the appraisers, Hope's administrator said the appraisals were a collaborative effort between Hope and the seller, and Hope reimbursed the seller for the cost of the appraisals. Even so, the three appraisals are very questionable. All three appraisal amounts were very close, with two presenting the exact same value of \$1,600,000. This was particularly interesting considering the two that presented the same value used a different site description;—one appraiser's site description included wetlands, and the other did not. Further, none of the appraisers valued the wetlands lower than the uplands (usable acres), thereby failing to take into account the increased cost to develop wetlands in determining their value.

Hope then requested reimbursement from FEMA for the land purchase of 15.9 acres at \$92,340 per acre, or \$1,468,206. FEMA did not approve the number of acres requested or the price per acre, but instead offered to approve 7 acres at \$45,000 per acre, or \$315,000 total. After our audit cutoff date, Hope challenged this decision in June 2015, before the United States Civilian Board of Contract Appeals (Arbitration Board). The Arbitration Board



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overturned FEMA's decision deciding on 15.9 acres at \$40,000 per upland acre and \$19,000 per wetland acre, or \$499,500 total.

We reviewed land acquisition costs for three different schools and concluded that the costs Hope claimed were excessive. For the properties we reviewed, we determined that the average cost per usable acre was \$25,965. Because some wetlands were valued the same as uplands, we were not able to determine an average cost of wetlands using the same properties. To value the wetlands, we subtracted \$21,000 (the cost recommended by Hope's mitigation expert—who is also Hope's Board President—to develop the wetlands) from the average cost of a usable acre to come to \$4,965 (\$25,965 less \$21,000). To be conservative in determining unreasonable land acquisition costs, we used the highest (Arbitration Board) of the three estimates of reasonable costs as determined by the Arbitration Board, OIG, and FEMA (see table 2).

Table 2: Excessive Land Costs

Type of Land	Number of Acres	Reasonable Cost Per Acre			Cost Per Acre Claimed
		(Arbitration Board)	(OIG Analysis)	(FEMA)	
Uplands (Usable Acres)	9.4	\$40,000	\$25,965	\$45,000	\$92,340
Wetlands	6.5	19,000	4,965	0	92,340
Total	15.9	\$499,500	\$276,344	\$315,000⁸	\$1,468,206

Source: OIG analysis

Hope had no policies or procedures in place to prevent its officers or agents from participating in the award or administration of a contract when there was a conflict of interest. Therefore, we question \$1,468,206 for the improper procurement of land, which includes \$968,706 (\$1,468,206 minus 499,500) of unreasonable costs.⁹ Although the Arbitration Board only approved \$499,500 of the \$1,468,206, we are questioning the entire \$1,468,206 because Hope claimed that amount before the Arbitration Board's decision, and, in our opinion, Hope's actions during the land purchase were unethical.

Full and Open Competition, Cost or Price Analysis, and Solicitation of Disadvantaged Firms

Hope failed to provide full and open competition, perform a cost or price analysis, or take required steps to ensure opportunities for disadvantaged firms

⁸ FEMA only approved 7 of the 16 acres.

⁹ The unreasonable costs discussed in finding B were resolved during arbitration.



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when awarding contracts for A/E services valued at \$203,887 and project management services valued at \$127,500. Therefore, we question the cost of these two contracts totaling \$331,387.

Full and open competition increases the probability of reasonable pricing from the most qualified contractors and helps discourage and prevent favoritism, collusion, fraud, waste, and mismanagement of Federal funds. In addition, the absence of a cost or price analysis increases the likelihood of unreasonable contract costs and misinterpretations or errors in pricing. Finally, Hope failed to take the required steps to ensure that small, minority, or women's businesses received adequate opportunities to bid on Federally funded work as Congress intended. We cannot place a price on this violation of Federal regulation because it is a socioeconomic goal that does not relate to price or cost.

- A/E Services. Hope awarded an A/E services contract valued at \$203,887 for the design and construction of its new school. Hope failed to follow Federal regulations that required it to solicit proposals from an adequate number of qualified sources. Instead, Hope awarded a noncompetitive contract to a local firm without giving other firms the opportunity to submit proposals. According to Hope officials, there were no available A/E firms with the skills needed to perform the work. In addition, Hope officials said that they did not know they were required to conduct a competitive process for A/E professional services contracts. Hope hired the A/E firm on June 18, 2013, and began advertising for construction contractors for the new school on November 7, 2014. Therefore, considering that Hurricane Katrina occurred in 2005, exigent circumstances did not exist to warrant the use of noncompetitive contracting.

In addition, Hope failed to perform a cost or price analysis when procuring the A/E contract valued at \$203,887. A cost or price analysis determines the reasonableness of the contractor's proposed price. To determine reasonable estimates for an A/E firm on projects of above-average complexity and non-standard design, FEMA uses percentages derived from FEMA Engineering and Design Cost Curve A. We reviewed rates FEMA Cost Curve A allows and determined that the contract costs of \$203,887 were within the allowed amount of \$390,624 (\$3,756,000 times 10.4 percent) and were reasonable. However, absent full and open competition and a cost or price analysis, FEMA had no assurance that the A/E contract it entered into reflected the most advantageous offer available.



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Finally, Hope failed to make positive efforts to ensure that disadvantaged firms received opportunities to bid on the A/E contract valued at \$203,887. Federal regulations require subgrantees to take specific steps to assure the use of these types of firms whenever possible. The steps include using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce to solicit and use these firms.

- *Project Management.* Hope failed to provide full and open competition when awarding a project management services contract valued at \$127,500. Federal procurement regulations required Hope to accept the bid that “is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered.” Hope officials said they considered other firms for the work but were not aware they should publicly bid professional services. This assertion does not seem credible given that the program management contract became effective February 2014, 9 years after the disaster, by which point Hope should have been well versed in the regulations governing the grant money. Because the selection process was not transparent, OIG and FEMA were unable to determine how Hope went about selecting the contractor.

In addition, Hope failed to perform a cost or price analysis when procuring the project management services contract valued at \$127,500. FEMA Public Assistance Guide (FEMA 322, June 2007, p. 59) states, “for a project requiring basic construction inspection services, a fee not exceeding 3 percent of construction costs may be used.” Further, the *FEMA Cost Estimating Format (CEF) Instructional Guide for Large Projects*, 11.1(H)(1), allows 1 percent of construction costs for management of the project design phase. Using these cost guidelines for construction services, we concluded that 4 percent of construction costs or \$150,240 (\$3,756,000 times 4 percent) is fair and reasonable compensation for the project management services the firm provided.

Finally, although Hope ended up selecting a small firm to provide project management services, it did so purely by coincidence. Hope failed to compete the work, or take the required steps to ensure opportunities for disadvantaged firms.

Summary

Because of Hope’s procurement actions, FEMA has limited assurances that Hope accepted the most advantageous offers for land acquisition, A/E services, and program management services, or that disadvantaged firms received



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opportunities to bid on the work. In addition, Hope's land purchase process, in our opinion, was unethical. Therefore, we question all of the \$1,799,593 of contract costs, of which at least \$968,706 is unreasonable.

Through the protracted application, appeals, and second-appeals process, Hope obtained and demonstrated extensive knowledge of FEMA policies and procedures in its attempt to secure public assistance. Therefore, it is not a credible defense for Hope to assert, after it received the grant, that it was wholly unaware of the rules governing how to spend the public assistance it received.

Finding C: Unsupported Costs for Building Contents

Hope could not provide adequate documentation to support its claim for lost contents as Federal cost principles require (2 CFR 230, appendix A, A.2.g.). Hope officials allege that they lost all of their records in the storm. However, they assembled a 15-page list of building contents they recalled losing and requested \$792,972 from FEMA for the lost items. Although Hope officials failed to provide any accounting records or other evidence to prove they owned these items before the disaster, FEMA approved \$491,673 of Hope's \$792,972 claim.

Further, according to its insurance policy, Hope only insured \$17,200 in contents. We find it doubtful that any responsible entity would own building contents worth hundreds of thousands of dollars, yet only insure the contents for \$17,200. Despite the lack of any credible evidence that Hope was entitled to reimbursement for these contents, FEMA awarded Hope \$491,673 on Project 10067 to replace them. Because FEMA officials failed to require Hope to prove that it owned the contents before the disaster, FEMA has no assurance that the funds granted to Hope were for eligible items. Therefore, we question \$491,673 as unsupported costs for building contents.

Finding D: Mississippi's Grant Management

Mississippi failed to fulfill its grantee responsibility to (1) ensure that subgrantees are aware of Federal regulations, (2) manage the operations of subgrant-supported activities, and (3) monitor subgrant-supported activities to ensure compliance.¹⁰

Specifically, Mississippi failed to ensure that Hope—

¹⁰ 2 CFR 215.51(a), 44 CFR 13.37(a)(2), and 44 CFR 13.40(a)



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1. provided critical documents or any credible evidence of its eligibility for Public Assistance;
2. complied with applicable Federal procurement regulations; or
3. provided adequate documentation to support costs claimed.

The State believes they provided FEMA sufficient evidence because FEMA accepted it and approved Hope's eligibility. We believe the State and FEMA should have been more diligent before approving an applicant's eligibility. Therefore, FEMA should emphasize to Mississippi its grant management responsibilities for ensuring that subgrantees are aware of and follow all Federal grant requirements.

Recommendations

We recommend that the Regional Administrator, FEMA Region IV should:

Recommendation 1: Obtain credible evidence before determining an applicant's eligibility (finding A).

Recommendation 2: Determine the number of students that attended Hope and the grade levels serviced at the time of the disaster, and disallow any portion of the \$2,914,357 of ineligible costs for Projects 9724 (Building), 11290 (Site work), and 11291 (Land Acquisition) that exceeds the amounts required to replace the facility based on its actual pre-disaster design and in conformity with applicable codes, specifications, and standards, taking into consideration the number of students and the grades serviced, among other relevant factors (finding A).

Recommendation 3: Disallow \$1,799,593 of ineligible costs that Hope claimed for contracts that it failed to procure in accordance with Federal requirements unless FEMA decides to grant an exception for all or part of the costs as provided for in 44 CFR 13.43(a)(2) (finding B).¹¹ Specifically, disallow—

- \$1,468,206 for conflict of interest and lack of competition when procuring 15.9 acres of land, of which at least \$968,706 is unreasonable;
- \$203,887 for lack of competition, failure to perform a cost or price analysis, and not taking steps to ensure opportunities for disadvantaged firms when procuring A/E services; and
- \$127,500 for lack of competition and failure to perform a cost or price analysis when procuring project management services.

¹¹ We did not count questioned costs multiple times for the same projects; instead, we reduced findings by previously questioned costs and netted the difference.



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Recommendation 4: Disallow any portion of the \$491,673 in claimed building contents that exceeds the amount of school supplies and equipment that a school of Hope's size and capacity would have likely owned (finding C).

Recommendation 5: Emphasize to Mississippi its grant management responsibilities for ensuring that subgrantees are aware of and follow all Federal grant requirements (finding D).

Discussion with Management and Audit Follow-Up

We discussed the results of our audit with Hope, Mississippi, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at exit conferences with FEMA officials on April 28, 2016, and with Mississippi and Hope officials on May 4, 2016. FEMA concurs with our recommendations; however, Mississippi and Hope officials do not. We included the officials' comments, as applicable, in the body of the report.

FEMA Region IV officials provided a written response on August 11, 2016, and agreed with our findings and recommendations (see appendix C). FEMA has taken corrective action to resolve recommendations 1, 3, and 5; therefore, we consider these recommendations resolved and closed with no further action required from FEMA. FEMA expects to complete its proposed corrective actions to resolve recommendations 2 and 4 by January 31, 2017. Therefore, we consider report recommendations 2 and 4 resolved and open. We will close the recommendations when we receive and review documentation that FEMA has completed its proposed corrective actions. To close recommendations, please provide our office documentation necessary to inform us about the status of the open recommendations by January 31, 2017, the proposed date for completion of planned 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; and Katrina Griffin, 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 FEMA Public Assistance Program grant funds awarded to Hope (Public Assistance Identification Number 047-05B1D-00). Our audit objective was to determine whether Hope accounted for and expended FEMA funds according to Federal regulations and FEMA guidelines for FEMA Disaster Number 1604-DR-MS. Hope received a Public Assistance grant award of \$3,561,355 (\$3,538,792 net after reductions for insurance and other adjustments) from Mississippi. The award provided 100 percent FEMA funding for debris removal, emergency protective measures, and permanent repairs to buildings and facilities and consisted of six large projects and three small projects.¹²

Our audit covered the period August 29, 2005, to February 19, 2015, during which Hope claimed \$1,754,066 in costs for the four projects in our audit scope. At the time of our audit, Hope had not completed work on all projects and, therefore, had not submitted a final claim to Mississippi for all project expenditures.

To accomplish our objective, we interviewed FEMA, Mississippi, and Hope officials; gained an understanding of Hope's method of accounting for disaster-related costs and its procurement policies and procedures; judgmentally selected and reviewed (generally based on dollar values) 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 under the circumstances to accomplish our audit objective. As part of standard audit procedures, we also notified the Recovery Accountability and Transparency Board of all contracts Hope awarded under the projects within our audit scope to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. The Recovery Accountability and Transparency Board determined that none of the contractors were debarred, and no other issues came to its attention related to those contractors that would indicate fraud, waste, or abuse. We did not

¹² Federal regulations in effect at the time of Hurricane Katrina set the large project threshold at \$55,500 [Notice of Adjustment of Disaster Grant Amounts, 69 Federal Register 61515 (October 19, 2004)].



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Appendix A (continued)

perform a detailed assessment of Hope's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective.

Table 3 shows the gross and net award amounts before and after reductions for insurance for all projects and for those in our audit scope.

Table 3: Gross and Net Award Amounts

	Gross Award Amount	Insurance Reductions	Net Award Amount
All Projects	\$3,561,355	\$(22,563)	\$3,538,792
Audit Scope	\$3,428,594	\$(22,563)	\$3,406,031

Source: FEMA Project Worksheets

We conducted this performance audit between February 2015 and April 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, we applied 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 4: Projects Audited and Questioned Costs

Project Number-Category of Work ¹³	Award Amount	Questioned Costs			
		Finding A	Finding B	Finding C	Totals
9724-E	\$ 2,067,492	\$ 2,067,492	\$ 238,961	\$ 0	\$ 2,306,453
10067-E	491,673	0	0	491,673	491,673
11290-G	511,103	511,103	82,426	0	593,529
11291-G	335,762	335,762	1,478,206 ¹⁴	0	1,813,968
Subtotals	\$3,406,030	\$2,914,357	\$1,799,593	\$491,673	\$5,205,623
Less Amounts Questioned Twice*			(\$1,799,593)	0	(\$1,799,593)
Net Totals	\$3,406,030	\$2,914,357	\$ 0	\$491,673	\$3,406,030

Source: FEMA project worksheets, Hope's records, and OIG analysis

*See recommendation 1.

Table 5: Summary of Potential Monetary Benefits

Type of Potential Monetary Benefit	Amounts	Federal Share
Questioned Costs – Ineligible	\$ 2,914,357	\$ 2,914,357
Questioned Costs – Unsupported	491,673	491,673
Funds Put to Better Use	0	0
Totals	\$3,406,030	\$3,406,030

Source: OIG analysis of findings in this report

¹³ FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).

¹⁴ Hope paid \$1,478,206 for land acquisition. At the time of our audit, FEMA had obligated only \$335,762 for that project.



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Appendix C
FEMA's Response to Report


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



FEMA

August 11, 2016

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

FROM: Gracia B. Szczech 
Regional Administrator

SUBJECT: Management Response to Draft Report
*"FEMA Should Recover \$3.4 Million of the \$3.5 Million
Awarded to Hope Academy for Hurricane Katrina
Damages"*
FEMA Disaster: 1604-DR-MS
Draft Audit Report Number: OIG-16-XX-D

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security's 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.

FEMA is strengthening its implementation of the Public Assistance program in order to promote efficiency, consistency and transparency in its management and disbursement of federal funds. FEMA is committed to successfully implementing the Public Assistance program to assist communities in recovering from the devastating effects of disasters by providing assistance in an efficient, effective, consistent and customer-friendly manner while ensuring the appropriate stewardship of taxpayer dollars.

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

Again, we thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

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DHS Management Response to Recommendations Contained in OIG-16-XX

“Recommendation 1: Obtain credible evidence before determining an applicant’s eligibility (finding A).”

Response: Concur. FEMA has recently updated its guidance on documentation and eligibility requirements to determine an applicant’s eligibility to receive assistance under the Public Assistance (PA) Program. See *Public Assistance Program and Policy Guide*, Chapter 2 (2016 ed.). In addition, FEMA’s process for acquiring and analyzing the necessary documentation to determine an applicant’s eligibility is currently being refined as a part of the new PA Program Delivery Model implementation process. We consider this recommendation resolved and closed.

“Recommendation 2: Determine the number of students that attended Hope and the grade levels serviced at the time of the disaster, and disallow any portion of the \$2,914,357 of ineligible costs for Projects 9724 (Building), 11290 (Site work), and 11291 (Land Acquisition) that exceeds the amounts required to replace the facility based on its actual pre-disaster design and in conformity with applicable codes, specifications, and standards, taking into consideration the number of students and the grades serviced, among other relevant factors (finding A).”

Response: Concur. FEMA will determine the pre-disaster design capacity of Hope Academy, and re-evaluate our determinations for Projects 9724 (Building), 11290 (Site work), and 11291 (Land Acquisition). FEMA will disallow any funding associated with the building or site work that FEMA determines exceeds requirements mandated by applicable codes, specifications, and standards. FEMA will also re-evaluate our determination regarding the land acquisition costs to determine whether they exceeded the amount allowable under applicable codes, specifications, and standards. FEMA notes, however, that the Civilian Board of Contract Appeals binding arbitration decision likely precludes FEMA from disallowing funding regarding matters that were resolved by the arbitration, per 44 C.F.R. § 206.209(k)(3). Estimated completion date (ECD) is January 31, 2017.

“Recommendation 3: Disallow \$1,799,593 of ineligible costs that Hope claimed for contracts that it did not procure in accordance with Federal requirements. Specifically, disallow-

- \$1,468,206 for conflict of interest when procuring 15.9 acres of land of which at least \$968,706 is unreasonable
- \$203,887 for lack of competition, cost or price analysis, and not taking steps to ensure opportunities for disadvantaged firms when procuring A/E services; and
- \$127,500 for lack of competition and cost or price analysis when procuring project management services

unless FEMA decides to grant an exception for all or part of the costs as provided for in 44 CFR 13.43(a)(2) (finding B).”



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Response: Concur. FEMA agrees that Hope Academy did not properly procure the contracts for land acquisition, architectural and engineering services (A/E services) and project management (PM) services. FEMA funded only the costs that it found to be reasonable, and disallowed the excess costs. This approach is consistent with 44 CFR 13.43(a)(2), which states that remedies for noncompliance include the option to “Disallow ... all or part of the cost of the activity or action not in compliance.” FEMA’s specific determinations of reasonable costs for land acquisition, A/E services and PM services are as follows:

- In July 2015, FEMA disallowed \$968,706 of the \$1,468,206 costs associated with the land acquisition purchase, in compliance with the binding arbitration decision of the Civilian Board of Contract Appeals, which found that amount (\$968,706) to be unreasonable and the remaining amount (\$499,500) to be reasonable.
- FEMA and the OIG reviewed the questioned A/E costs and found the claimed \$203,887 was within the range of reasonable A/E costs for a project of above average complexity.
- FEMA and the OIG reviewed the questioned PM services costs and found that the claimed \$127,500 was within the range of reasonable PM costs for basic construction inspection services and management of the project design phase.

Having found the questioned costs to be reasonable, we consider this recommendation resolved and closed.

“Recommendation 4: Disallow any portion of the \$491,673 in claimed building contents that exceeds the amount of school supplies and equipment that a school of Hope’s size and capacity would have likely owned (finding C).”

Response: Concur. FEMA will re-evaluate our determination regarding the building contents and will disallow any portion of the \$491,673 in claimed building contents that exceeds the amount of school supplies and equipment that a school of Hope’s size and capacity would have likely owned. ECD: January 31, 2017.

“Recommendation 5: Emphasize to Mississippi its grant management responsibilities for ensuring that subgrantees are aware of and follow all Federal grant requirements (finding D).”

Response: Concur. FEMA will send the State a letter reminding them of their requirements as a Grantee to ensure that Subgrantees are aware of and follow all Federal grant requirements. We consider this recommendation resolved and closed.



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Appendix D
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