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**FEMA**

August 13, 2009

**MEMORANDUM FOR:** Tonda L. Hadley, Director  
Central Regional Office  
Office of Inspector General  
US Department of Homeland Security

**FROM:** Tony Russell, Acting Director  
FEMA Louisiana Transitional Recovery Office

**SUBJECT:** City of Kenner  
FEMA Disaster No. 1603-DR-LA and No. 1607-DR-LA  
Report Number DD-09-04

The Federal Emergency Management Agency (FEMA) has reviewed the Office of Inspector General's (OIG) memorandum of May 28, 2009 replying to FEMA's April 10, 2009 response to this audit. The memorandum was sufficient to resolve Recommendations 1 and 2. However, the remaining recommendations remain unresolved.

This memorandum provides FEMA's response and corrective actions taken or planned to implement the remaining audit recommendations.

**Audit Recommendations and Actions Required**

**A. Accounting for Grant Funds**

*Recommendation 1: Require GOHSEP to ensure that the City completes the implementation of the new system that complies with the federal requirement to track receipt and expenditures of grant funds on a project-by-project basis.*

The audit report states that the City used only one general ledger to account for FEMA costs and did not identify the project worksheet number, document a project description for any of the items charged to the account or account for the costs on a project-by-project basis. The audit report concludes that the City's accounting system did not meet federal requirements to maintain records for each approved project or maintain documentation to support the validity and eligibility of disaster funds, in violation of 44 CFR 13.20(b)(2).

In its response, the City of Kenner states that it has installed the Munis Accounting System, which now enables it to track receipts and expenditures of grant funds on a project-by-project

basis. The City of Kenner is currently in the process of entering back data, which must be completed manually because some of the data is from prior years that the City closed out. As evidence of the implementation of the new financial accounting system, the City of Kenner has supplied Exhibit A, a copy of several of the capitol account ledgers that contains data in the manner OIG recommended, essentially enabling the City to track receipts and expenditures of grant funds on a project-by-project basis.

**FEMA response:** GOHSEP requested and received correspondence from the City of Kenner regarding the installation of the new accounting system. See attached Exhibit A and B. Exhibit A is copies of several account ledgers, which shows that the City of Kenner is now able to track receipts and expenditures of grant funds on a project-by-project basis and Exhibit B is a copy of the letter GOHSEP set to the City of Kenner. FEMA believes that this action will resolve and close this audit recommendation, and that further action is not necessary.

#### B. Contract Amendments

*Recommendation 2: Require GOHSEP to inform City officials that any modifications to contracts that significantly change the type or magnitude of work on future FEMA projects must provide for full and open competition.*

The audit states that after Hurricane Katrina, the City amended existing contracts with three companies to include work on debris removal even though the type and magnitude of work significantly changed from the original contracts. The audit report continues noting that the City made improvements in its contracting practices on later contracts. The City competitively bid three other Katrina-related debris removal contracts awarded in December 2005, March 2007 and April 2007. The City also publicly bid and awarded a debris removal contract for subsequent hurricane seasons.

The City of Kenner states that it understands the requirements of 44 CFR 13.36, and has revised its procurement processes to comply fully with these regulations.

**FEMA response:** GOHSEP requested and received correspondence from the City of Kenner regarding the requirements of 44 CFR 13.36. See attached Exhibit B. Exhibit B indicates GOHSEP clearly advised the City of Kenner of its obligation to follow 44 CFR 13.36, and the City of Kenner has revised its procurement processes to comply fully with these regulations. FEMA believes that this action will resolve and close this audit recommendation, and that further action is not necessary.

#### C. Quantities of Debris Claimed

*Recommendation 3: Disallow the \$486,463 claimed for trucks that hauled volumes of debris above acceptable FEMA levels.*

The audit report states that the City claimed costs for loads of debris in trucks estimated to contain more than 95% of the truck's official capacity. In addition, the audit report cites FEMA directive 9580.1, which states that trucks cannot receive credit for more than 100% of the measured capacity of the truck certification even if the material is above the sideboards.

**FEMA response:** Based on FEMA guidance previously provided to OIG, FEMA does not agree with the OIG audit that any claim for more than 95% of a truck's certified capacity is ineligible. 100% of a truck's certified capacity is eligible when the truck is filled with debris completely to the "brim", with no air holes, and the debris in the truck is heaped above the sideboards. To the extent that the City of Kenner claimed 100% of a truck's capacity, FEMA considers those amounts eligible. In its May 28, 2009 reply, OIG accepted FEMA's response to this recommendation that to the extent that the City of Kenner claimed 100% of a truck's capacity, those amounts are eligible according to FEMA guidance.

The City of Kenner submitted an extensive response to this report, disputing this audit finding and recommendation, and attached voluminous documentation they state supports most of the questioned costs. Due to the volume of materials that FEMA PA must review and analyze, FEMA anticipates making a final determination as to the accuracy of the City of Kenner's assertions by date no later than December 21, 2009, and will deobligate any funds it deems ineligible, if any.

*Recommendation 4: Disallow \$4,977,574 claimed for debris hauled by trucks that were not certified.*

The audit report questions \$4,977,574 for costs claimed for hauling debris in uncertified trucks. The audit report questions any costs claimed for debris removal when the truck number was missing from the load ticket or when the truck number did not agree with the certification forms maintained on file by the monitoring contractor. According to the City's monitoring contractor, the load ticket file could contain errors possibly caused when the debris monitor prepared the load tickets or when the data input person entered the incorrect information. The report also points out other weaknesses in the truck certifications such as:

- Truck certification forms were not always signed. Of those provided by the City's monitoring contractor, about 33% were not signed.
- Trucks with different Vehicle Identification Numbers were given the same truck number for certification purposes. Fourteen truck numbers were duplicated for trucks with different Vehicle Identification Numbers.

In its March 30, 2009 response, the City of Kenner states that it evaluated the certification records and the spreadsheet OIG relied upon to make Recommendation 4 and found many errors. The City of Kenner and its monitors spent more than 700 man-hours addressing this recommendation. The City found three principal errors in OIG's data and addressed each in its response.

#### *Investigation 1*

After Hurricane Katrina, FEMA inspectors certified truck capacities during the debris operations along side the City debris monitors, but the FEMA inspectors clearly indicated that only the FEMA inspectors' certifications would be valid. The City claimed that the FEMA inspectors kept their certifications in a notebook, and when they were transferred or left the disaster, the inspectors took the truck certifications and measurements in the notebook with them without leaving the City a copy. Subsequently, the City of Kenner debris monitors continued to certify

truck capacities by themselves. On October 31, 2005, the City of Kenner advised FEMA that the FEMA debris inspectors had taken the City's truck certification documentation. The City provided documentation of this action in comments in PW 1221 and a letter dated October 31, 2005. See Exhibit C, copy of the PW 1221 V3 (page 3) and D, copy of letter to FEMA dated October 31, 2005. The City of Kenner claimed that the taking of its certification records has caused 80% of the certification truck issues. The City has supplied copies of a list of trucks that did debris work for the debris removal contractor and identified those trucks that FEMA took the certifications of, those that the City has certifications of, and those that the City has been unable to locate as of the date of the response letter. The City of Kenner also supplied a list of truck certifications that they actually have.

Furthermore, while performing this analysis, the City noticed that there were three certification procedures that caused the DHS-OIG spreadsheet analysis to have issues. During the debris operations, re-certification of a truck's capacity was possible without changing its number. The City of Kenner claimed the DHS-OIG spreadsheet did not consider this. Since the OIG spreadsheet did not know which capacity was correct for a re-certified truck, the spreadsheet used the lower capacity. This caused the spreadsheet to indicate that there was more debris hauled than the truck's certified capacity, i.e. more than 100% of a truck's certified capacity.

The OIG spreadsheet converted truck number 001 to truck number 1 when there was also a truck number 1 in service causing incorrect capacities assigned to the wrong truck. This also caused the spreadsheet to indicate that there was more debris hauled than the truck's certified capacity, i.e. more than 100% of a truck's certified capacity.

Twenty-two (22) previously used truck numbers were reassigned to new trucks with different capacities as the debris operation continued, but the OIG spreadsheet did not take this into consideration. Essentially, there were two different trucks with two different capacities working at different times that were each assigned the same number during the debris operations.

## Investigation 2

The OIG spreadsheet contained a look-up formula, which OIG used to search the spreadsheet. The City of Kenner analyzed the look-up formula and noted two problems. First, the list of certified trucks in the spreadsheet is not a complete list. The City of Kenner claimed that there are several truck certifications missing, including eight (8) certifications not included on the list, the missing truck certifications the FEMA inspectors took with them, and a few truck certifications that the City could not locate. They City will continue to search for the missing certifications.

Second, the look-up formula did not search all of the rows that contained truck certifications for several dates. For instance, the formula searched only through rows 243 for the September 5 - September 8 schedules, despite having truck certifications on rows 245-283 for those same dates. The City of Kenner details eight (8) other instances where the look-up formula did not search all of the rows with truck certifications.

### Investigation 3

When the City of Kenner utilized the look-up feature, it found that the OIG spreadsheet haul ticket data was missing information, was incorrect and did not match the documents the City had. Furthermore, when the City used the look-up formula to see if a debris truck was certified, it found numerous electronic errors, including spaces, commas and differences in capitalization would cause trucks to come up without a truck certification.

**FEMA response:** The City of Kenner submitted an extensive response to this report, disputing this audit finding and recommendation, and attached voluminous documentation they state supports most of the questioned costs. Due to the volume of materials that FEMA must review and analyze to determine if uncertified trucks carried debris loads, FEMA anticipates making a final determination as to the accuracy of the City of Kenner's assertions by date no later than December 21, 2009, and will deobligate any funds it deems ineligible, if any.

#### D. Costs for Cleaning Catch Basins

*Recommendation 5: Disallow the claimed costs of \$2,550.00.*

The audit report states the City of Kenner claimed ineligible costs in the amount of \$2,550.00 for debris removed from catch basins by the contractor responsible for cleaning catch basins.

The City of Kenner agrees to reimburse the \$2,550.00 to FEMA.

**FEMA response:** By date no later than December 21, 2009, FEMA will deobligate \$2,550.00 and provide OIG a copy of the PW.<sup>1</sup>

#### E. Receipt and Use of Administrative Allowance Funds

*Recommendation 6: Require GOHSEP to provide the City of Kenner with a list of eligible uses of administrative allowance funds and guidance on what type of records must be maintained to account for the use of administrative allowance funds to support costs on closeout; and to ensure that the administrative allowance funds are fully supported at close out.*

The audit claims the City of Kenner did not separately track the expenditures of \$130,000.00 in administrative allowance funds received for administrating the necessary costs of requesting, obtaining and administrating federal disaster assistance in accordance with 44 CFR 206.228(a)(ii).

City of Kenner acknowledges that it did not keep track of its administrative allowance expenditures. With the installation of the Munis Accounting System, the City of Kenner now tracks these allowances. However, for the expended funds, the City of Kenner suggested that the expenditure of the administrative allowance on legal fees is sufficient to show how the administrative funds were spent. The City claims that the costs incurred in legal fees have already exceeded the administrative allowance.

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<sup>1</sup> The OIG report does not indicate which PW contains this cost.

Tonda L. Hadley  
August 13, 2009  
Page 6

**FEMA response:** In order to determine if FEMA agrees with the City of Kenner's suggestion, FEMA will take this matter under advisement and determine if it agrees with the City of Kenner's suggestion. By date no later than December 21, 2009, FEMA will complete its review and deobligate any funds it deems ineligible, if any.

I believe that the FEMA, State and City actions described above adequately resolve the OIG recommendations.

Enclosures

cc: Gray Jones, Acting Regional Administrator, FEMA Region VI  
Col. (R) Thomas Kirkpatrick, Louisiana State Coordinating Officer  
Mark Riley, Deputy Director, GOHSEP  
Mark Debosier, Assistant Deputy Director, Disaster Recovery, GOHSEP  
Bernard Plaia, Attorney, GOHSEP