



FEMA

December 20, 2013

Mr. Bryan Koon, Director
Florida Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Attention: Larissa Pallo

Reference: FEMA-1609-DR-FL
City of Fort Lauderdale
PA ID 011-24000-00
First Appeal, Project Worksheet 2932

Dear Mr. Koon:

This is in response to the City of Fort Lauderdale's (Subgrantee) first appeal of the Federal Emergency Management Agency's (FEMA) decision to reduce costs for debris removal activities and contract costs on Project Worksheet (PW) 2932. The deobligation was based on the results of an audit conducted by the United States Department of Homeland Security, Office of Inspector General (OIG). The amount in dispute for this appeal is \$9,957,555.

As a result of the declared event, the Subgrantee was awarded funding in the amount of \$14,081,178 under PW 2932 for the collection and processing of storm debris through the management of Temporary Debris Reduction Storage (TDRS) sites. Subsequently, the OIG audited the Subgrantee and released Report Number DA-10-19 (Audit Report) which summarized its audit activities, findings, and recommendations with respect to the Subgrantee's claimed costs on PW 695 under FEMA-1602-DR-FL (Hurricane Katrina), and the appealed items for this PW 2932 under Hurricane Wilma. The OIG reviewed the Subgrantee's claims and found a number of cost discrepancies which it submitted to FEMA. Upon review of the Audit Report, FEMA concurred with several of the OIG's findings on both PWs. In regard to PW 2932, FEMA disallowed the three items that are the subject of this appeal: (1) \$8,693,270 for certain debris removal and disposal services not included in the PW's approved scope of work; (2) \$129,235 for undocumented operations at TDRS sites; and (3) \$1,135,052 in excessive debris removal costs by contractors under time and material contracts. These three costs amount to the appealed \$9,957,555.

Regarding the first two findings (i.e., OIG's finding of work and costs not included in PW 2932's scope of work and operations at the TDRS sites), the Subgrantee states that "the scope had been written sufficiently general so as to include any and all reasonable debris collection and

removal operations, and does not serve to limit the eligible work to just TDRS operations." In support of this interpretation, the Subgrantee points to several clauses and statements in the scope of work that it says shows the language was not "narrowly tailored" so as to preclude non-TDRS work. FEMA maintains that the language in all five PW versions is not general in nature. That language did not address trees, waterways, beach debris removal, or sand screening. Rather, the PW discusses cubic yard quantities of vegetative debris taken to named TDRS sites, mulching operations, and final disposal transport. The PW also identifies construction and demolition debris often associated with urban vegetative debris. The appeal item, as submitted, did not provide the level of information necessary to expand upon the PW's scope issue and overturn FEMA's revised eligibility determination.

Regarding the OIG's third finding, and FEMA's subsequent deobligation, that time and material contracts' costs were excessive, the Subgrantee maintains that FEMA incorrectly applied its reasonableness standard in arriving at its disallowance. It contends that a comparison of reimbursement rates granted by FEMA to "other subgrantees similarly situated" would yield the fair and reasonable average rate of \$12.63 per cubic yard (cy) that should be applied. FEMA agreed with the OIG that the 70 hour limit of time and material contracts was greatly exceeded and costs past that 70 hours would be in conformance with the Subgrantee's pre-existing debris contract at \$11.50 per cy. FEMA maintains that this approach is reasonable, rather than deobligating all costs because of misuse of time and material contracts by the Subgrantee. FEMA adopted the Audit Report's rationale and findings, and the Subgrantee has not submitted with its appeal evidence sufficient to change this determination.

Therefore, based upon the foregoing, the appeal is denied. Please inform the Subgrantee of this decision and its right to a second appeal pursuant to 44 CFR 206.206.

The Subgrantee may appeal this determination to the Assistant Administrator, Recovery Directorate, at FEMA Headquarters pursuant to 44 CFR § 206.206, Appeals. If the Subgrantee elects to file such a second appeal, the appeal must: 1) contain documented justification supporting the Subgrantee's position, 2) specify the monetary figure in dispute, and 3) cite the provisions in federal law, regulation, or policy with which the Subgrantee believes the initial action was inconsistent. A second appeal must be submitted to Florida Division of Emergency Management Agency (FDEM) by the Subgrantee within 60 days of the Subgrantee's receipt of this letter. FDEM's transmittal of that appeal, with recommendation, is required to be submitted to my office within 60 days of your receipt of the Subgrantee's letter. My office will transmit the second appeal to FEMA headquarters.

If you have any questions, please contact Mr. Jesse F. Munoz, Director, Recovery Division, at (770) 220-5300.

Sincerely,



Major P. May
Regional Administrator

Kymerly Holcolmbe

From: Dawn Johnson
Sent: Tuesday, January 21, 2014 10:11 AM
To: Kymerly Holcolmbe
Subject: FW: Notification of Appeal Determination for DR-1609 PW-2932

FYI

From: Pay, Shelby [mailto:Shelby.Pay@em.myflorida.com]
Sent: Tuesday, January 21, 2014 7:54 AM
To: Dawn Johnson
Cc: Francis, Jeanette
Subject: Notification of Appeal Determination for DR-1609 PW-2932

To City of Fort Lauderdale:

Notification of Appeal Determination for PW 2932

This email serves as a notice that your appeal has been reviewed by FEMA for PW 2932 in DR 1609, Hurricane Wilma. Based upon the justifications provided, the request has been denied. Please refer to your FEMA and State Appeal Determination Letter in FloridaPA.org to review details regarding this appeal.

In an effort to reduce costs we are no longer mailing documentation. Documents have been uploaded in the Floridapa.org system for quick reference. When time allows, click and follow the link below to view or download this information for your records. If you have any questions or require additional clarification regarding this determination, please contact Ms. Shelby Pay, Appeals Officer, at Shelby.Pay@em.myflorida.com or via telephone at (850) 414-6992.

**To Download your Appeal Determination Letter from
www.FloridaPA.org**

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