



An Unmodified Opinion

How Much Is Dirt Worth? A Case of the Disaster After the Disaster

By Michael E. Martinet, MS, CEM

How much is dirt worth? In the case of Jackson County in the Florida panhandle, Department of Homeland Security (DHS) auditors determined the county should pay back \$402,409 for failure to adequately document the use of county-owned materials — namely, dirt.¹

To put this into perspective, the amount was only part of a total audit finding of \$3,061,819. But for the purposes of this discussion, let us first examine these questions:

1. What is dirt worth?
2. How did the county fail to adequately document the use of common dirt to the extent that it could lose more than \$400,000 dollars?

It is important to note that this is not an extraordinary audit finding. In my personal library of more than 400 DHS-Office of the Inspector General audits of the Federal Emergency Management Agency (FEMA) public assistance program, numerous similar findings exist. While this is not a staggering sum of money, comparatively, it is indicative of many local government agencies, particularly the smaller ones in which normal operating procedures fail to meet FEMA's very stringent documentation requirements for post-disaster cost reimbursement.

Many federal documentation requirements seem burdensome but are, in fact,

good business practices — particularly when considering the spending of the federal government on a daily basis. For many smaller cities, counties and special districts, however, daily work is often done without detailed documentation requirements. Many, if not most, problems which arise in the disaster cost recovery process are not the responsibility of the local government finance department. Yet the problems still come home to roost on the desk of the finance director when either FEMA or DHS auditors take back the money. When “the buck stops” on the desk of the local finance director, he or she may wish the local government entity and local colleagues were much more familiar with FEMA and its regulatory requirements.

The county in question in this audit is rural, with a population of just under 50,000 residents. Its current annual operating budget is approximately \$24,239,000.² On April 28, 2014, heavy rain caused flooding. Standing water and runoff washed out roads and ditches, creating a disaster.³

In reviewing the disaster relief grant spending, DHS auditors found the county “did not comply with the federal cost principles requiring grant recipients to adequately document costs under a federal award. Under the Code of Federal Regulations (CFR), grant recipients must maintain records that adequately identify the source and application

of federal funds and maintain source documentation to support those records.”⁴

The county claimed \$402,409 for three repair projects to cover “force account materials,” which are materials purchased or taken from the applicant’s own inventory and used for eligible work. In this case, the force account material used to repair the roads was the county’s own dirt.

According to the audit, the cost of the dirt was not adequately authenticated. “Specifically, county truckdrivers and truck loaders documented the dirt they took every day from the county’s dirt pits on daily activities sheets, which include the location, site details, date of use, employee’s name and hours worked, equipment unit and hours used, task performed, quantity, and materials. County officials explained that truck drivers normally recorded the number of loads hauled, which pits the loads came from, and where the loads were hauled on a daily activities sheet. However, the truck loaders’ daily activities sheets [provided by the county] were incomplete; *they did not include the quantity of dirt loaded or identify which truck had been loaded.*”⁵ (Emphasis added)

This oversight meant federal requirements were not met in documenting costs incurred in spending the disaster relief grant. In the words of the audit

report, “Even though, in keeping with the county’s normal practice, truckdrivers documented the quantity of dirt loaded, we could not trace this quantity to the daily activities sheet of the employees who loaded the trucks. Therefore, the county could not provide documentation verifying the materials were delivered and used at project sites. ... Supervisors typically told employees how many loads to haul to a location, but that has not been documented in the activities sheets either. If properly documented, the sheets would have enabled us to trace the dirt quantity recorded in drivers’ activities sheets to the dirt quantity recorded in the loaders’ activities sheets.”⁶

The county’s problem lay in the dirt pit and a hole in the operating procedure for employees who loaded the trucks there. No individual was designated to monitor the loading process.⁷ And it became an expensive issue.

While documentation requirements are detailed and picayune, this is the way FEMA and other federal agencies regularly do business. Local agencies spending federal grant funds must become knowledgeable of these precise requirements and be prepared to follow them. Otherwise, they risk losing substantial amounts of federal disaster assistance. Because this county could not fully account for the quantities of dirt loaded, transported

and used at construction sites, it lost the monetary value of the dirt, the value of the equipment used, and the labor and benefits costs involved in the loading, transportation and use of the dirt.⁸

FEMA public assistance funds can be a great benefit to local government agencies in the wake of a disaster, but, without a doubt, they come with serious and sticky strings attached. Local government agencies need to recognize that the way they normally do business may not meet stringent federal documentation requirements. If local governments choose to do business as usual when spending federal funds, they risk losing them. Oftentimes, the devil is in the details.

Dirt Wasn’t the Only Problem

This audit also revealed other problems which, frankly, represent much more serious issues than \$400,000 worth of dirt. Damages to county property and infrastructure totaled slightly more than \$28 million. Many of the 90 smaller damage sites were combined into three large projects, which totaled \$24.9 million and exceeded the county’s annual operating budget.

The audit faults the county for its failure to comply with the CFR purchasing regulations (2CFR, Part 200). What many local government agencies do not know or do not fully understand

is that when spending federal grant funds, the local agency must follow its own purchasing regulations *and* the federal regulations in 2CFR, Part 200, whichever are more restrictive.⁹ In this case, the county misinterpreted federal regulations and guidelines; as a result, it “did not use cost as a basis for awarding the contract” and “did not adequately analyze cost or price in awarding the contract.”¹⁰

In part, the county may have been its own worst enemy, insofar as some of its contracts were procured in accordance with appropriate federal regulations while others were not. Many government agencies opt for decentralized purchasing, with each department procuring its own contracts; however, unless all purchasing agents are aware of and follow the precise rules in 2 CFR, Part 200, their contracts may become problematic.

One of the errors cited in this audit arose from confusion over procurement of Architectural and Engineering (A/E) services. Local governments are allowed to use price as one of a number of evaluation factors when procuring these services, but in virtually all other contracts, price must be the single evaluation factor when the bidders are otherwise qualified and capable of performing the work. In this case, the county hired an A/E firm to perform “project management” work,

rather than architectural or engineering work, as narrowly allowed under 2 CFR, Part 200.

Another cited error was failure to complete an adequate cost or price analysis on the project management contracts: "The county misinterpreted federal regulations because it did not compare the negotiated price with the prices offered by other contractors performing similar work."¹¹ To explain, for all contracts funded in whole or in part with FEMA grant monies, the local government agency must perform a price or cost analysis, and sometimes both. When a contract is properly bid, with three or more bidders, this constitutes price analysis, once all bids are properly documented. However, if a contract contains change orders, then each change order must be accompanied by a separate cost analysis performed to determine if it is reasonable in cost.

Future Directions

The world, including the United States, is experiencing a dramatic increase in the frequency and intensity of disasters. Whether this is the result of "climate change" may be left to the bickering of scientists and politicians. But whatever the reasons, the financial impacts of this surge are a growing threat to the economic viability of communities hit by disasters.

The Wall Street Journal, January 19, 2019, edition, featured this headline: "PG&E: The First Climate-Change Bankruptcy, Probably not the Last." The article outlined the astounding drop in market value of the giant California utility from \$25 billion in October 2018 to \$4 billion a mere three months later. According to the article, PG&E did not properly manage its potential disaster risks.

How many smaller government agencies are failing in the same way to understand their potential downside risks? Likewise, how many are failing to properly prepare for disaster because they don't understand the documentation requirements of FEMA and other federal agencies? As we have seen time and again, federal agencies will provide post-disaster financial assistance, but only if their rules are closely followed. ■



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Endnotes

1. "FEMA Should Recover \$3,061,819 in Grant Funds Awarded to Jackson County, Florida," Department of Homeland Security, Office of the Inspector General audit number OIG-19-12, Dec. 4, 2018.
2. Jackson County, FL Budget found at <http://www.jacksoncountyfl.net/news/fy-2018-19-tentative-budget>
3. Ibid, p. 2.
- 4-7. Ibid, p. 6.
8. Ibid, p. 16.
9. FEMA Public Assistance Program Field Operations Pocket Guide, FEMA P-1011, April 2014.
10. See Endnote 1, p. 4.
11. See Endnote 1, p. 5.