

LIVINGSTON PARISH COUNCIL



COMPLIANCE AUDIT
ISSUED APRIL 28, 2010

**LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

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DARYL G. PURPERA, CPA

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DAN DAIGLE, CPA, CIA, CFE

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor and at the office of the parish clerk of court.

This document is produced by the Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. Eight copies of this public document were produced at an approximate cost of \$52.50. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. This report is available on the Legislative Auditor's Web site at www.la.la.gov. When contacting the office, you may refer to Agency ID No. 2523 or Report ID No. 50090022 for additional information.

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA

April 28, 2010

**THE HONORABLE MIKE GRIMMER,
PRESIDENT
LIVINGSTON PARISH COUNCIL**
Livingston, Louisiana

We have audited certain transactions of the Livingston Parish Council (Parish). Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*; therefore, we are not offering an opinion on the Parish's financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of the Parish. Copies of this report have been delivered to the District Attorney for the Twenty-First Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Dan Daigle, CPA, CIA, CFE
Director of Compliance Audit

DD/dl

LIVPC10

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Executive Summary

- Professional Engineering Consultants Corporation (PEC), the Parish's debris removal monitor, issued Daily Hazardous Tree Monitor Reports (tree tickets) for hazardous tree and limb removal because of Hurricane Gustav that may not meet Federal Emergency Management Agency (FEMA) guidelines. Based on FEMA estimates, this practice has resulted in charges totaling \$13,922,746 from International Equipment Distributors, Inc. (IED), the parish's debris removal contractor, which may not be reimbursable to Livingston Parish by FEMA.
- Mr. James Clark, an employee of Livingston Parish Sewerage District 1 & 2 (District) and owner of CC & C (a subcontractor to IED) submitted time sheets to both IED and the District for work from September 3 through 7. Mr. Clark stated that he did not perform debris removal work for IED as his time sheet reflected, but that he deserved to be paid as owner of CC&C. Mr. Clark's time sheets may result in a false claim to FEMA for reimbursement.

Background

On August 31, 2008, the Parish Council met in an emergency session and authorized the Parish President, Mr. Mike Grimmer, to sign a contract with IED, a prequalified debris removal vendor, for disaster debris management and removal services in the aftermath of Hurricane Gustav. The contract included prices for the removal, hauling and disposal of debris blocking public right of ways (cut and push), debris placed on the side of public right of ways (ROW), and hazardous leaning trees and hanging limbs (leaners and hangers). At later dates, contract addendums were added to include debris removal from ditches and canals.

On September 8, 2008, Mr. Grimmer signed a contract with PEC for debris removal monitoring. PEC was to coordinate all debris related activities between Livingston Parish, state and federal agencies, and the debris removal contractor. In addition, PEC was to ensure that the FEMA emergency plan and debris removal contract requirements are met by monitoring the debris removal from public roads, rights of way, and other public property; monitoring the debris management sites; and providing roving debris monitors to ensure that the debris management plan and contracts were effectively and efficiently implemented. PEC was to provide loading site monitors, debris management site monitors, and debris management consulting services to perform these tasks. The contract called for PEC personnel to be paid at hourly rates which varied by job function. The contract, however, did not contain a cost limit as required by FEMA guidance.¹

According to Mr. Brian Fairburn, former Livingston Parish OEP director, representatives from the Parish, IED, PEC, FEMA, and Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) held weekly debris meetings to resolve any issues and discuss progress made on the debris removal. Although meetings were held by the Parish to monitor the work performed, the Parish did not require invoices be submitted on a timely basis

¹ The FEMA debris guide, FEMA-325, states that if a time and materials contract is awarded, the applicants must monitor and document contractor expenses, have a cost ceiling or "not to exceed" provision in the contract, and contact the state to ensure proper guidelines are followed.

and therefore could not review the documentation to ensure only eligible work was performed by its contractors. As of May 2009, the Parish had received \$2,751,966 of invoices of the PEC estimated \$58,689,141 of debris removal work performed. In May 2009, eight months after work had started, Mr. Grimmer issued a cease work order to IED.

At the request of the Parish Administration, we examined the debris removal and debris monitoring contracts and the associated work performed and compared it to applicable FEMA guidance. We also spoke to various people involved in the debris removal operations including IED and PEC representatives, Parish employees, and GOHSEP.

Hazardous Limb and Tree Removal

Hazardous limb and tree removal, also known as leaners and hangers, are leaning trees and hanging limbs which may pose a threat to public areas. The FEMA debris guide² outlines specific requirements for leaners and hangers to be considered eligible for FEMA funding and the documentation that is required to demonstrate eligibility. The documentation must include a description of the immediate threat, e.g., photos of hanging limbs or leaning trees; clearly defined scope of work to remove the immediate threat; specification of improved property by recording nearest building address or GPS location; and denoting the date, labor, and equipment used to perform the work.

Prior to the debris removal process, a damage assessment was conducted and routes were assigned to work crews. Each work crew consisted of an IED debris removal crew and a monitor from PEC. The crews went to their assigned routes to locate trees which met FEMA's criteria. As cuts were made, the monitors took pictures, completed reports of work performed, and issued tree and load tickets. The tree tickets included the date, time, address or GPS location of the tree, the size of the eligible cut made, and the corresponding picture numbers. A load ticket was then issued after the cuts were made, which allowed the debris to be transported for disposal. PEC's contract stated that its primary function was to issue debris load tickets for eligible debris cleared and provide documentation as required by FEMA. IED received a copy of the tree ticket at the site and used the PEC tree tickets to prepare its invoices to the Parish.

During our fieldwork, FEMA requested sample documentation from PEC of the leaner and hanger debris removal work performed. PEC provided a sample of its documentation for \$3,341,265 of leaner and hanger charges. FEMA reviewed the documentation and concluded that 16% (\$543,320) of the charges contained in the sample was eligible for FEMA reimbursement.

We also examined PEC's documentation of leaners and hangers removal and reviewed charges where there was a large volume of leaners or hangers at one given GPS location. After reviewing the documentation, we discussed instances with PEC when photographic documentation indicates limbs that appear not cut, measurements that were incorrect, cuts that may not meet FEMA size criteria, hanging limbs cut from leaning trees, and trees that appear to have limbs cut that did not meet the FEMA hanger criteria.

PEC's contract states, "The primary function of the Loading Site Monitors is to issue debris load tickets for eligible debris cleared and to provide documentation as required by FEMA reimbursement requirements." In a letter to the LLA dated November 3, 2009, Mr. Tony Arikol, President of PEC, wrote that "Our field monitors were to document all work performed by the Contractor, and to make notation to what appeared to be eligible or ineligible in accordance with FEMA eligibility criteria . . ." However, Mr. Arikol's interpretation of PEC's contractual

² The FEMA debris guide, FEMA-325, states that for a hanger to be eligible it must be located on improved public property, greater than two inches in diameter at the point of breakage and still hanging in a tree and threatening a public use area. For a leaner to meet the eligibility requirements it must have its damage caused by the disaster, be an immediate threat to lives, public health and safety or improved property, have a diameter breast height of six inches or greater and have one or more of the following criteria: more than 50% of the crown damaged or destroyed, have a split trunk or broken branches that expose the heartwood, have fallen or been uprooted within a public use area, and/or leaning at an angle greater than 30 degrees.

responsibilities is different than the requirements of PEC’s contract terms. Our sample documentation provided by PEC contained no evidence that PEC’s debris monitors recorded eligibility determinations. Finally, Mr. Arikol stated that when the monitor’s documentation was processed in PEC’s office and compared to IED’s invoices, the questionable items regarding eligibility would be discussed with FEMA and only eligible costs would be submitted to the Parish for payment. In a letter dated November 2, 2009, PEC has reviewed nine IED invoices and recommended that the Parish pay \$2,631,175 (87% of the invoice total) for leaner and hanger operations although FEMA’s percentage of eligible charges was substantially lower.

We also spoke to IED representatives concerning the same issues. Mr. Wendell Anthony, arborist for IED, stated that the monitors and the crews decided on which trees needed to be cut, although it was the responsibility of the monitor (PEC) to only document the eligible debris. IED’s contract with the parish stated, “Debris to be removed by the Contractor will be designated by an Owner’s official or inspector or other personnel approved by the owner.” According to PEC’s contract, Mr. Grimmer, and Mr. Fairburn, PEC was the parish’s representative regarding debris removal. Mr. Smith Day, internal counsel for IED, stated that IED received copies of the tree tickets from PEC as part of the debris removal process and relied upon those tree tickets for invoicing the parish.

Given PEC’s statement that all work was documented and eligibility determinations were not made in the field, we could not rely on the accuracy of the tree tickets. Therefore, we examined the photos for each tree ticket in our sample of charges totaling \$45,900 to determine if all of the evidence was consistent with FEMA criteria.² Although all tree tickets in our sample indicated photographs were taken, PEC could not produce photographs for 47% of the charges. Our analysis is summarized in the chart below.

LLA Sample* of Leaner and Hanger Charges		
Photographs Consistent with FEMA Guidance	7%	\$3,060
No Photographic Evidence	47%	\$21,590
Inconclusive Photographic Evidence	43%	\$19,975
Other Issues**	3%	\$1,275
Total Sample	100%	\$45,900
*This is a judgmental sample which may not be representative of the entire population of leaner and hanger charges.		
**Other issues included limbs which were not cut, a cut that was measured incorrectly and did not meet the minimum FEMA size criteria, or a hanger which was cut from leaner (FEMA will not pay for both charges).		

Based on PEC-written tree tickets, IED provided invoices totaling \$16,626,340 for leaner and hanger removal. As of the report date, FEMA has not determined an exact amount which will be considered reimbursable to Livingston Parish. Because the Parish did not receive invoices on a timely basis, it could not review the documentation to ensure only eligible work was performed by its contractors.

The issuance of a load ticket allows the debris to be loaded and transported to a debris site for disposal. IED invoices the following services on a cubic yard basis: loading and hauling of debris to a temporary debris site, site management, debris reduction, and loading and hauling of debris reduction by-products. Because PEC issued load tickets for all debris, regardless of the eligibility, the additional charges for the transportation and disposal of ineligible debris may not be reimbursable to the parish. Since the transportation and disposal charges are billed on a cubic yard basis, we were unable to quantify the amount of the transportation and disposal charges that relate to the leaner and hanger debris removal charges discussed in this report.

In its response dated March 22, 2010, PEC states that “The LLA concluded approximately 90% was ineligible due to lack of photographic documentation . . .” This statement by PEC is not accurate since this audit report does not conclude or label any work performed by PEC or IED to be eligible or ineligible. We considered all documentation provided by PEC and compared that to PEC’s responsibilities in its contract with the Parish and to FEMA’s criteria. Being the grantor agency, FEMA is the only agency that is capable of determining eligibility. PEC’s response further states, “The monitors documented everything - no effort was made to not document any work whether eligible or ineligible . . .,” which is different from the services required in their contract with the parish. The contract states that PEC’s primary function is to issue debris load tickets for eligible debris cleared and to provide documentation as required by FEMA reimbursement requirements. As a result, PEC states in its response that “. . . 89% of the work was determined to meet FEMA’s criteria for eligibility.” If PEC’s assessment is correct as stated in its response, approximately 11% (\$1,828,897) of leaner and hanger charges from IED may not be reimbursed by FEMA to the Parish.

We recommend that the Parish:

- (1) seek legal advice to determine amounts to be paid to IED and PEC for hazardous limb and tree removal operations;
- (2) ensure that future debris removal monitors:
 - a. understand the applicable FEMA guidelines,
 - b. only write load and tree tickets for eligible debris,
 - c. document all debris operations in accordance with FEMA guidelines,
 - d. report all debris removal contractor issues to a designated Parish official, and
 - e. require invoice review and submission on a monthly basis;
- (3) place a contract limit on all future debris removal monitor contracts; and
- (4) require future debris removal contractors to invoice on a monthly basis.

Initial Debris Clearance

Initial debris clearance activities, also known as cut and push, are the first phase of debris removal in which crews remove debris that poses an immediate threat to life or safety from the roads and place the debris in the right of way for later pickup and removal. During the cut and push operations, IED contracted with CC&C Contractors to provide one work crew and various items of equipment. The CC&C crew worked for five days and submitted daily sheets detailing hours each employee worked and the items of equipment that were used. During all five days of the cut and push activities, Mr. James Clark, owner of CC&C, was listed as the foreman and operating a truck for the work crew. The time sheets detailed that Mr. Clark worked and operated a truck between 10 and 12 hours per day for a total of 58 hours. IED subsequently submitted an invoice which contained charges for Mr. Clark's labor and vehicle usage totaling \$5,800.

In addition to ownership of CC&C, Mr. Clark is the full-time director for the Livingston Parish Sewerage District 1 & 2 (District). During four of the five days Mr. Clark reported working for CC&C, he also reported working and operating a truck for 63 hours for the District. The District submitted all employees' time and equipment operations, including Mr. Clark's time and truck usage, for that time period to FEMA for reimbursement.

We spoke to Mr. Clark concerning the hours he reported working for CC&C and the District. Mr. Clark stated that he worked for the District the entire time and he was never present for the cut and push activities; however, he was in contact with his crew the entire time via cellular phone. Mr. Clark stated that since he owns CC&C, he is entitled to receive compensation and that even though he was not present at the CC&C worksite, he still reported hours for himself on the time sheets. Mr. Smith Day and Mr. Rock Malone of IED stated that they were not aware that Mr. Clark was not performing the cut and push activities and that he should not be paid if he was not physically at the worksite.

We recommend that the Parish:

- (1) require IED to ensure that only persons actually doing the eligible work are billed;
- (2) review all invoices and available documentation for cut and push activities to ensure that payment is only made for work performed; and
- (3) ensure that debris contractors in possible future disasters monitor and document all cut and push operations to ensure that only work performed is billed to the Parish.

Subcontractors Employment of Family Members of Parish Officials

Three subcontractors of IED, the parish's debris removal contractor, employed or contracted with immediate family members of two Parish Council members, Mr. Jimmie McCoy Sr. and Mr. Don Wheat. According to parish debris removal records, such as drainage canal tickets, emergency crew daily sheets, and monitor reports, at least two of the council members' immediate family were working for sub-contractors of IED as vehicle operators during debris

removal operations. We attempted to contact the subcontractors, but we were only able to confirm that one of the subcontractors hired the family member on a contractual basis. Because of the lack of information, we were unable to determine if these transactions constitute a violation of the Louisiana Code of Governmental Ethics and therefore will be referred to the Board of Ethics for its consideration.

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The Livingston Parish Council is the governing authority for Livingston Parish and is a political subdivision of the State of Louisiana. The year 1996 was the first year that the Parish Council operated as a President/Council form of government which operates under a home rule charter. The Livingston Parish Home Rule Charter operates with an elected Parish President who is the chief executive officer of the Parish and the head of the executive branch of Parish government and an elected nine-member council which is the legislative branch of the government. The council enacts ordinances, sets policies, and establishes programs in such fields as social welfare, transportation, drainage, and industrial inducement and health services.

The Louisiana Legislative Auditor received a request to examine the debris removal operations in Livingston Parish. The procedures performed during this audit consisted of:

- (1) interviewing Parish employees;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records;
- (4) gathering documents from external parties;
- (5) inspecting sites; and
- (6) reviewing applicable federal and state laws and regulations.

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Management's Response



LIVINGSTON PARISH

Office of the President

An Equal Opportunity Employer

MIKE GRIMMER
Parish President

ANDREW K. ROWE, CPA
Director of Finance

RANDY DELATTE
Director DPW

Daryl G. Purpera
Louisiana Legislative Auditor
1600 North Third St.
Baton Rouge, LA 70804-9397

Dear Mr. Purpera:

We are in receipt of your March 2010 audit of the Livingston Parish program to clean up debris after Hurricane Gustav. We are truly grateful for the opportunity to review your findings, and we have nothing to add to your report.

Sincerely,



Mike Grimmer

**Don Wheat
27179 S. Satsuma Road
Livingston, LA 70754**

April 1, 2010

Mr. Daryl G. Purpera
Louisiana Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70821

RE: Livingston Parish Compliance Audit Report

Dear Mr. Purpera:

Thank you for the opportunity to respond to your draft.

I note that FEMA's findings are not only disputed but also on appeal. In fact, the Louisiana Governor's Office of Homeland Security and Emergency Preparedness (LA-GOHSEP) has found that FEMA's analysis is "fatally flawed and discriminatory."

The Legislative Auditor's submission continues the same flaws, and I urge you to correct your mistakes. Specifically, FEMA's Disaster Assistance Fact Sheet DAP9580.204¹ is directly on point. With regard to documentation required for hazardous trees the Fact Sheet provides:

Documentation: Applicants should submit a spreadsheet showing the number of trees cut and the size and location of each tree. The location should include the street/road name and GPS coordinates of each tree removed along public rights-of-way, and the property address and GPS coordinates of each tree removed from private property. Applicants **may also** provide photographs of the flush-cut trees and certify that the trees were six inches or larger in diameter, measured 4.5 feet above the ground. (Emphasis added.)

Similarly, DAP9580.204 provides the following regarding documentation for hazardous limbs:

Documentation: Applicants should submit a spreadsheet containing the location of the trees, the number of limbs cut on each tree, and a certification that the limbs were two inches or larger in diameter. The location should include the name of the street/road and GPS coordinates for each tree or cluster of trees along public rights-of-way, and the street address or parcel number for hazardous limbs cut on private

¹A copy is attached for reference. This is a general guidance document not limited to prospective application.

property. Applicants **may also submit photographs to document the number of hazardous limbs cut. If the applications contracted for the removal of hazardous limbs on a per-tree basis, the number of limbs cut per tree is not necessary. (Emphasis added.)**

The Parish's monitors have prepared the necessary spreadsheets showing the required documentation, including street/road name, GPS coordinates, number of trees and/or limbs cut, and the sizes of each. This is the exact documentation required by FEMA, yet you purport to conclude that 47% of your non-representative sample was without documentation. At the same time, your non-representative samples are criticized for their being no description of an immediate threat in 43% of the limited instances reviewed.

The hazardous trees eligibility criteria is provided in DAP9580.204 as follows:

Eligibility Criteria: Trees that are leaning such that they are in an imminent state of falling over and trees with broken canopies may pose an **immediate threat** to life, public health, safety, and improved property. Trees should be six inches or larger in diameter, measured 4.5 feet above ground. (Emphasis added.)

By definition, the trees posed an immediate threat.

Again, the eligibility criteria for hazardous limbs as provided in DAP9580.204 provides:

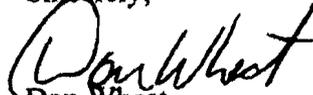
Eligibility Criteria: Broken limbs two inches or larger in diameter measured at the point of break that pose an **immediate threat** to life, public health, of safety or pose an immediate threat of significant damage to improved property, are eligible for removal. (Emphasis added.)

By definition, the Parish's monitors have adequately documented the description of the immediate threat by FEMA's own guidance.

I stand by the Parish's appeal, particularly with its support from LA-GOHSEP. The Legislative Auditor's conclusions are not only inaccurate and misleading, they totally ignore FEMA's guidance.

Further, I have learned that my dad may have performed temporary work as an employee for a sub-contractor of IED for a very short period of time. It is my understanding that this activity is not in violation of the Ethics Code, because a sub-contractor's employment activities are not under the supervision of the Livingston Parish Council.

Accordingly, I respectfully take exception to your report.

Sincerely,

Don Wheat

DW

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

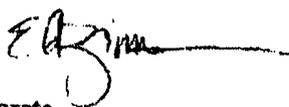
AUG 02 2009



FEMA

MEMORANDUM FOR: FEMA Regional Administrators
Regions I - X

ATTENTION: Disaster Assistance Division Directors

FROM: Elizabeth A. Zimmerman 
Assistant Administrator
Disaster Assistance Directorate

SUBJECT: Disaster Assistance Fact Sheet 9580.204
Documenting and Validating Hazardous Trees, Limbs, and Stumps

The purpose of this memorandum is to announce the issuance of the attached final Disaster Assistance Fact Sheet 9580.204, *Documenting and Validating Hazardous Trees, Limbs, and Stumps*. This Fact Sheet provides guidance on the documentation required to obtain Public Assistance funding for the removal of hazardous trees, limbs, and stumps. It also describes the process FEMA will use to validate applicants' requests for reimbursement.

If you have any questions about this Fact Sheet, please contact Amanda Brown, Public Assistance Division, via email at Amanda.Brown@dhs.gov, facsimile (202) 646-3288, or phone (202) 646-3869.

Attachment



FEMA

DISASTER ASSISTANCE

FACT SHEET

DAP
9580.204

Documenting and Validating Hazardous Trees, Limbs, and Stumps

Overview

Removal of hazardous trees, limbs, and stumps that present immediate threats to lives, public health and safety, or improved property and meet other eligibility criteria specified in the *Debris Management Guide, FEMA 325*, may be eligible for Public Assistance grant funding. The regulations governing FEMA's Public Assistance Program (Code of Federal Regulations, Title 44: Emergency Management and Assistance, Part 206, Subparts G (Public Assistance Project Administration) and H (Public Assistance Eligibility)) require States and local government applicants to provide documentation of costs and work performed to support requests for reimbursement from FEMA (44 CFR §206.202(b) (4), *Application procedures, Grantee*). The regulations also require States to monitor grant and subgrant supported activities such as debris removal and disposal operations. 44 CFR §206.205(b)(1), *Payment of claim, Large projects*, states: "The Grantee shall make an accounting to the RD [Regional Director, now Regional Administrator] of eligible costs for each approved large project. In submitting the accounting the Grantee shall certify that reported costs were incurred in the performance of eligible work... [and] that the approved work was completed." Additionally, 44 CFR §206.205(b)(2) states: "The RD shall review the accounting to determine the eligible amount of reimbursement for each large project and approve eligible costs. If a discrepancy between reported costs and approved funding exists, the RD may conduct field reviews to gather additional information."

This Fact Sheet provides guidance on the documentation applicants should provide in their requests for Public Assistance funding for removing hazardous trees, limbs, and stumps. It also describes the process FEMA will use in coordination with States and local government applicants to validate that eligible work was completed when a discrepancy between reported costs and eligible funding arises.



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Documentation: Applicants should submit a spreadsheet showing the number of trees cut and the size and location of each tree. The location should include the street/road name and GPS coordinates of each tree removed along public rights-of-way, and the property address and GPS coordinates of each tree removed from private property. Applicants **may also** provide photographs of the flush-cut trees and certify that the trees were six inches or larger in diameter, measured 4.5 feet above the ground. (Emphasis added.)

Similarly, DAP9580.204 provides the following regarding documentation for hazardous limbs:

Documentation: Applicants should submit a spreadsheet containing the location of the trees, the number of limbs cut on each tree, and a certification that the limbs were two inches or larger in diameter. The location should include the name of the street/road and GPS coordinates for each tree or cluster of trees along public rights-of-way, and the street address or parcel number for hazardous limbs cut on private

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By definition, the trees posed an immediate threat.

Again, the eligibility criteria for hazardous limbs as provided in DAP9580.204 provides:

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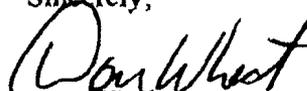
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Don Wheat

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U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

AUG 02 2009



FEMA

MEMORANDUM FOR: FEMA Regional Administrators
Regions I - X

ATTENTION: Disaster Assistance Division Directors

FROM: Elizabeth A. Zimmerman *E.A. Zimmerman*
Assistant Administrator
Disaster Assistance Directorate

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Documenting and Validating Hazardous Trees, Limbs, and Stumps

The purpose of this memorandum is to announce the issuance of the attached final Disaster Assistance Fact Sheet 9580.204, *Documenting and Validating Hazardous Trees, Limbs, and Stumps*. This Fact Sheet provides guidance on the documentation required to obtain Public Assistance funding for the removal of hazardous trees, limbs, and stumps. It also describes the process FEMA will use to validate applicants' requests for reimbursement.

If you have any questions about this Fact Sheet, please contact Amanda Brown, Public Assistance Division, via email at Amanda.Brown@dhs.gov, facsimile (202) 646-3288, or phone (202) 646-3869.

Attachment

**FEMA****DISASTER ASSISTANCE****FACT SHEET****DAP
9580.204**

Documenting and Validating Hazardous Trees, Limbs, and Stumps

Overview

Removal of hazardous trees, limbs, and stumps that present immediate threats to lives, public health and safety, or improved property and meet other eligibility criteria specified in the **Debris Management Guide, FEMA 325**, may be eligible for Public Assistance grant funding. The regulations governing FEMA's Public Assistance Program (Code of Federal Regulations, Title 44: Emergency Management and Assistance, Part 206, Subparts G (Public Assistance Project Administration) and H (Public Assistance Eligibility)) require States and local government applicants to provide documentation of costs and work performed to support requests for reimbursement from FEMA (44 CFR §206.202(b) (4), *Application procedures, Grantee*). The regulations also require States to monitor grant and subgrant supported activities such as debris removal and disposal operations. 44 CFR §206.205(b)(1), *Payment of claim, Large projects*, states: "The Grantee shall make an accounting to the RD [Regional Director, now Regional Administrator] of eligible costs for each approved large project. In submitting the accounting the Grantee shall certify that reported costs were incurred in the performance of eligible work... [and] that the approved work was completed." Additionally, 44 CFR §206.205(b)(2) states: "The RD shall review the accounting to determine the eligible amount of reimbursement for each large project and approve eligible costs. If a discrepancy between reported costs and approved funding exists, the RD may conduct field reviews to gather additional information."

This Fact Sheet provides guidance on the documentation applicants should provide in their requests for Public Assistance funding for removing hazardous trees, limbs, and stumps. It also describes the process FEMA will use in coordination with States and local government applicants to validate that eligible work was completed when a discrepancy between reported costs and eligible funding arises.

DISASTER ASSISTANCE FACT SHEET DAP9580.204**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS****Documenting Hazardous Trees, Limbs, and Stumps****General**

Applicants should provide documentation that directly supports their requests for Public Assistance funding and certification that they performed the work in accordance with FEMA eligibility criteria. The documentation may include photographs, maps, and other documents that show the location of the work on public rights-of-way, evidence of the immediate threat, and details of the work performed to remove the threat. If applicants perform the work, they should submit documentation of labor and equipment charges required to do the work, such as payroll records, applicant-owned equipment usage records, and equipment rental invoices. If applicants hire contractors to perform the work, the applicants should submit the contract and invoices to FEMA.

Applicants should separate costs for the removal of hazardous trees, limbs, and stumps from debris removal paid on a cubic yard or ton basis to avoid double payment, unless they can clearly show that costs for cutting are separate from costs to remove and dispose of the debris.

Specific eligibility criteria and documentation requirements for each item of work are provided below. Failure to provide sufficient documentation may jeopardize the applicant's request for Public Assistance funding.

Hazardous Trees

Eligibility Criteria: Trees that are leaning such that they are in an imminent state of falling over and trees with broken canopies may pose an immediate threat to life, public health, safety, and improved property. Trees should be six inches or larger in diameter, measured 4.5 feet above ground level.

Documentation: Applicants should submit a spreadsheet showing the number of trees cut and the size and location of each tree. The location should include the street/road name and GPS coordinates of each tree removed along public rights-of-way, and the property address and GPS coordinates of each tree removed from private property. Applicants may also provide photographs of the flush-cut trees and certify that the trees were six inches or larger in diameter, measured 4.5 feet above the ground.

DISASTER ASSISTANCE FACT SHEET DAP9530.201

**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS*****Hazardous Limbs***

Eligibility Criteria: Broken limbs two inches or larger in diameter measured at the point of break that pose an immediate threat to life, public health, or safety, or pose an immediate threat of significant damage to improved property, are eligible for removal.

Documentation: Applicants should submit a spreadsheet containing the location of the trees, the number of limbs cut on each tree, and a certification that the limbs were two inches or larger in diameter. The location should include the name of the street/road and GPS coordinates for each tree or cluster of trees along public rights-of-way, and the street address or parcel number for hazardous limbs cut on private property. Applicants may also submit photographs to document the number of hazardous limbs cut. If the applicants contracted for the removal of hazardous limbs on a per-tree basis, the number of limbs cut per tree is not necessary.

Hazardous Stumps

Eligibility Criteria: Stumps that are 24 inches or larger in diameter measured 24 inches above the ground and have 50 percent or more of their root ball exposed are eligible for removal on a per-stump basis. Reimbursement for the removal of stumps measuring less than 24 inches in diameter will be based on the reasonable cubic yard prices for vegetative debris. Please see Disaster Assistance Policy DAP9523.11, *Hazardous Stump Extraction and Removal Eligibility*, for additional information on the estimated volume of various size stumps.

Documentation: Applicants should complete a *Hazardous Stump Worksheet*, found in Disaster Assistance Policy DAP9523.11. The Worksheet captures information on the number of hazardous stumps removed, hazardous stump location and size, and the quantity of fill material required to fill the resultant hole. Applicants that request reimbursement for force account labor and equipment should provide all of the above information except the sizes of the stumps removed.

The documentation requirements stated above only apply when applicants are collecting, hauling, and disposing of the debris. They do not apply during the emergency debris clearance phase when crews clear roads to provide emergency access to critical facilities.

Additional information on the eligibility of hazardous trees, limbs, and stumps can be found in Part I of FEMA's *Debris Management Guide*, FEMA 325, and in Disaster Assistance Policies DAP9523.11, *Hazardous Stump Extraction and Removal Eligibility*, and DAP9523.13, *Debris Removal from Private Property*.

DISASTER ASSISTANCE FACT SHEET DAP9580.204**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS*****Validating Eligible Work***

FEMA, in coordination with the State and the applicant, may select a small sample of hazardous trees, limbs, and/or stumps to validate eligible scopes of work and eligible project funding if a discrepancy between documentation, work performed, and eligible funding exists. The validation process will include field visits to verify that the applicant performed work in accordance with FEMA eligibility criteria. FEMA will use the results of the validation process to determine eligible project funding.

FEMA, State, and Applicant Validation Team

The validation of work to remove hazardous trees, limbs, and stumps should be a coordinated and collective effort between FEMA, the State, and the applicant. Validation teams performing physical inspections should be comprised of representatives from FEMA, the State, and the applicant who are familiar with debris removal operations, FEMA policy and debris removal eligibility, and debris monitoring documentation practices. The validation teams should meet prior to conducting validations to identify expectations and objectives, and hold meetings as necessary to resolve issues. The validation teams should work to achieve consensus on validation determinations.

Validation Samples

FEMA, the State, and the applicant should select a sample of at least 500 work items to validate the applicant's request(s) for reimbursement. Separate validations should be conducted for hazardous trees, limbs, and stumps and for work performed on public and private property. Only one validation should be conducted for each scope of work selected for validation.

Interim Validations

FEMA may conduct interim validations before the completion of the debris removal operation as a quality control measure and to establish Public Assistance grant amounts for the applicable scope of work. The decision on whether or not to conduct an interim validation should be a joint decision between FEMA, the State, and the applicant. Interim validations should include a sample of at least 500 work items completed up to the date of validation. The results from any validation should apply exclusively to the scope of work that the applicant completed before FEMA conducted the validation. For example, an interim validation may occur 30 days after the applicant initiates a debris removal operation and focus on work performed during the first 30 days. FEMA may conduct a final validation for the remainder of the work after the applicant completes the debris removal operation. The final validation should include a sample of at least 500 work items completed after the date of the interim validation. The results from the first validation will be used to determine the eligible scope of work for

DISASTER ASSISTANCE FACT SHEET DAP9580.204**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS**

work and costs claimed during the first 30 days, and the final validation results will be applied to determine the eligible scope of work for the remaining work and associated costs claimed.

Documentation Requirements

The documentation for the validation process should include:

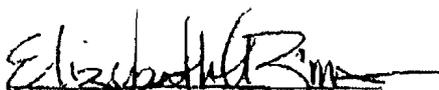
- names and affiliations of validation team members;
- date and locations of inspections;
- the number of hazardous trees, limbs, and stumps selected for validation;
- the debris removal load tickets or invoices for the hazardous trees, limbs, and stumps selected for validation;
- the validation results;
- name of the debris removal contractor that performed the work (if applicable);
- name of the applicant's debris monitor that provided oversight for the work claimed (if applicable); and
- rights of entries and indemnification agreements when the applicant performed work on private property.

Applying Validation Percentages to Determine Eligibility

FEMA will apply the percentage of the debris removal work that it validated to the applicant's total claim for reimbursement. However, FEMA will approve 100 percent funding for the applicable scope of work if it validates at least 80 percent of the sample of work items. Eligible funding for scopes of work validated at less than 80 percent will be based on the actual percentage of validated work.

Timeframe

FEMA should validate the removal of hazardous trees, limbs, and stumps within 45 days of project completion.



Elizabeth A. Zimmerman
Assistant Administrator
Disaster Assistance Directorate

8.7.09
Date

**Jimmie McCoy
P.O. Box 79
Livingston, LA 70786**

April 1, 2010

Mr. Daryl G. Purpera
Louisiana Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70821

RE: Livingston Parish Compliance Audit Report

Dear Mr. Purpera:

Thank you for the opportunity to respond to your draft.

I note that FEMA's findings are not only disputed but also on appeal. In fact, the Louisiana Governor's Office of Homeland Security and Emergency Preparedness (LA-GOHSEP) has found that FEMA's analysis is "fatally flawed and discriminatory."

The Legislative Auditor's submission continues the same flaws and I urge you to correct your mistakes. Specifically, FEMA's Disaster Assistance Fact Sheet DAP9580.204¹ is directly on point. With regard to documentation required for hazardous trees the Fact Sheet provides:

Documentation: Applicants should submit a spreadsheet showing the number of trees cut and the size and location of each tree. The location should include the street/road name and GPS coordinates of each tree removed along public rights-of-way, and the property address and GPS coordinates of each tree removed from private property. Applicants **may also** provide photographs of the flush-cut trees and certify that the trees were six inches or larger in diameter, measured 4.5 feet above the ground. (Emphasis added.)

Similarly, DAP9580.204 provides the following regarding documentation for hazardous limbs:

Documentation: Applicants should submit a spreadsheet containing the location of the trees, the number of limbs cut on each tree, and a certification that the limbs were two inches or larger in diameter. The location should include the name of the street/road and GPS coordinates for each tree or cluster of trees along public rights-of-way, and the street address or parcel number for hazardous limbs cut on private property. Applicants **may also** submit photographs to document the number of

¹A copy is attached for reference. This is a general guidance document not limited to prospective application.

hazardous limbs cut. If the applications contracted for the removal of hazardous limbs on a per-tree basis, the number of limbs cut per tree is not necessary. (Emphasis added.)

The Parish's monitors have prepared the necessary spreadsheets showing the required documentation, including street/road name, GPS coordinates, number of trees and/or limbs cut, and the sizes of each. This is the exact documentation required by FEMA, yet you purport to conclude that 47% of your non-representative sample was without documentation. At the same time, your non-representative samples are criticized for their being no description of an immediate threat in 43% of the limited instances reviewed.

The hazardous trees eligibility criteria is provided in DAP9580.204 as follows:

Eligibility Criteria: Trees that are leaning such that they are in an imminent state of falling over and trees with broken canopies may pose an **immediate threat** to life, public health, safety, and improved property. Trees should be six inches or larger in diameter, measured 4.5 feet above ground. (Emphasis added.)

By definition, the trees posed an immediate threat.

Again, the eligibility criteria for hazardous limbs as provided in DAP9580.204 provides:

Eligibility Criteria: Broken limbs two inches or larger in diameter measured at the point of break that pose an **immediate threat** to life, public health, of safety or pose an immediate threat of significant damage to improved property, are eligible for removal. (Emphasis added.)

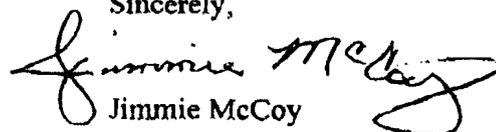
By definition, the Parish's monitors have adequately documented the description of the immediate threat by FEMA's own guidance.

I stand by the Parish's appeal, particularly with its support from LA-GOHSEP. The Legislative Auditor's conclusions are not only inaccurate and misleading, they totally ignore FEMA's guidance.

Further, I understand that my son may have worked as an employee of one or more companies who sub-contracted with IED to perform various activities. The Livingston Parish Council had no supervision or jurisdiction whatsoever over my son's employment relationship or his activities on the project. Consequently, my son's employment did not violate the Ethics Code and was perfectly appropriate.

I hope this clarifies any misunderstandings printed in your report.

Sincerely,


Jimmie McCoy

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

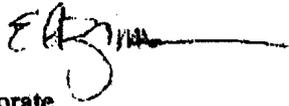
AUG 02 2009



FEMA

MEMORANDUM FOR: FEMA Regional Administrators
Regions I - X

ATTENTION: Disaster Assistance Division Directors

FROM: Elizabeth A. Zimmerman 
Assistant Administrator
Disaster Assistance Directorate

SUBJECT: Disaster Assistance Fact Sheet 9580.204
Documenting and Validating Hazardous Trees, Limbs, and Stumps

The purpose of this memorandum is to announce the issuance of the attached final Disaster Assistance Fact Sheet 9580.204, *Documenting and Validating Hazardous Trees, Limbs, and Stumps*. This Fact Sheet provides guidance on the documentation required to obtain Public Assistance funding for the removal of hazardous trees, limbs, and stumps. It also describes the process FEMA will use to validate applicants' requests for reimbursement.

If you have any questions about this Fact Sheet, please contact Amanda Brown, Public Assistance Division, via email at Amanda.Brown@dhs.gov, facsimile (202) 646-3288, or phone (202) 646-3869.

Attachment:

**FEMA****DISASTER ASSISTANCE****FACT SHEET****DAP
9580.204**

Documenting and Validating Hazardous Trees, Limbs, and Stumps

Overview

Removal of hazardous trees, limbs, and stumps that present immediate threats to lives, public health and safety, or improved property and meet other eligibility criteria specified in the *Debris Management Guide, FEMA 325*, may be eligible for Public Assistance grant funding. The regulations governing FEMA's Public Assistance Program (Code of Federal Regulations, Title 44: Emergency Management and Assistance, Part 206, Subparts G (Public Assistance Project Administration) and H (Public Assistance Eligibility)) require States and local government applicants to provide documentation of costs and work performed to support requests for reimbursement from FEMA (44 CFR §206.202(b) (4), Application procedures, *Grantee*). The regulations also require States to monitor grant and subgrant supported activities such as debris removal and disposal operations. 44 CFR §206.205(b)(1), Payment of claim, *Large projects*, states: "The Grantee shall make an accounting to the RD [Regional Director, now Regional Administrator] of eligible costs for each approved large project. In submitting the accounting the Grantee shall certify that reported costs were incurred in the performance of eligible work... [and] that the approved work was completed." Additionally, 44 CFR §206.205(b)(2) states: "The RD shall review the accounting to determine the eligible amount of reimbursement for each large project and approve eligible costs. If a discrepancy between reported costs and approved funding exists, the RD may conduct field reviews to gather additional information."

This Fact Sheet provides guidance on the documentation applicants should provide in their requests for Public Assistance funding for removing hazardous trees, limbs, and stumps. It also describes the process FEMA will use in coordination with States and local government applicants to validate that eligible work was completed when a discrepancy between reported costs and eligible funding arises.

DISASTER ASSISTANCE FACT SHEET DAP9580.204**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS****Documenting Hazardous Trees, Limbs, and Stumps*****General***

Applicants should provide documentation that directly supports their requests for Public Assistance funding and certification that they performed the work in accordance with FEMA eligibility criteria. The documentation may include photographs, maps, and other documents that show the location of the work on public rights-of-way, evidence of the immediate threat, and details of the work performed to remove the threat. If applicants perform the work, they should submit documentation of labor and equipment charges required to do the work, such as payroll records, applicant-owned equipment usage records, and equipment rental invoices. If applicants hire contractors to perform the work, the applicants should submit the contract and invoices to FEMA.

Applicants should separate costs for the removal of hazardous trees, limbs, and stumps from debris removal paid on a cubic yard or ton basis to avoid double payment, unless they can clearly show that costs for cutting are separate from costs to remove and dispose of the debris.

Specific eligibility criteria and documentation requirements for each item of work are provided below. Failure to provide sufficient documentation may jeopardize the applicant's request for Public Assistance funding.

Hazardous Trees

Eligibility Criteria: Trees that are leaning such that they are in an imminent state of falling over and trees with broken canopies may pose an immediate threat to life, public health, safety, and improved property. Trees should be six inches or larger in diameter, measured 4.5 feet above ground level.

Documentation: Applicants should submit a spreadsheet showing the number of trees cut and the size and location of each tree. The location should include the street/road name and GPS coordinates of each tree removed along public rights-of-way, and the property address and GPS coordinates of each tree removed from private property. Applicants may also provide photographs of the flush-cut trees and certify that the trees were six inches or larger in diameter, measured 4.5 feet above the ground.

DISASTER ASSISTANCE FACT SHEET DAP9580.204

**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS*****Hazardous Limbs***

Eligibility Criteria: Broken limbs two inches or larger in diameter measured at the point of break that pose an immediate threat to life, public health, or safety, or pose an immediate threat of significant damage to improved property, are eligible for removal.

Documentation: Applicants should submit a spreadsheet containing the location of the trees, the number of limbs cut on each tree, and a certification that the limbs were two inches or larger in diameter. The location should include the name of the street/road and GPS coordinates for each tree or cluster of trees along public rights-of-way, and the street address or parcel number for hazardous limbs cut on private property. Applicants may also submit photographs to document the number of hazardous limbs cut. If the applicants contracted for the removal of hazardous limbs on a per-tree basis, the number of limbs cut per tree is not necessary.

Hazardous Stumps

Eligibility Criteria: Stumps that are 24 inches or larger in diameter measured 24 inches above the ground and have 50 percent or more of their root ball exposed are eligible for removal on a per-stump basis. Reimbursement for the removal of stumps measuring less than 24 inches in diameter will be based on the reasonable cubic yard prices for vegetative debris. Please see Disaster Assistance Policy DAP9523.11, *Hazardous Stump Extraction and Removal Eligibility*, for additional information on the estimated volume of various size stumps.

Documentation: Applicants should complete a *Hazardous Stump Worksheet*, found in Disaster Assistance Policy DAP9523.11. The Worksheet captures information on the number of hazardous stumps removed, hazardous stump location and size, and the quantity of fill material required to fill the resultant hole. Applicants that request reimbursement for force account labor and equipment should provide all of the above information except the sizes of the stumps removed.

The documentation requirements stated above only apply when applicants are collecting, hauling, and disposing of the debris. They do not apply during the emergency debris clearance phase when crews clear roads to provide emergency access to critical facilities.

Additional information on the eligibility of hazardous trees, limbs, and stumps can be found in Part I of FEMA's *Debris Management Guide, FEMA 325*, and in Disaster Assistance Policies DAP9523.11, *Hazardous Stump Extraction and Removal Eligibility*, and DAP9523.13, *Debris Removal from Private Property*.

DISASTER ASSISTANCE FACT SHEET DAP9580.204**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS****Validating Eligible Work**

FEMA, in coordination with the State and the applicant, may select a small sample of hazardous trees, limbs, and/or stumps to validate eligible scopes of work and eligible project funding if a discrepancy between documentation, work performed, and eligible funding exists. The validation process will include field visits to verify that the applicant performed work in accordance with FEMA eligibility criteria. FEMA will use the results of the validation process to determine eligible project funding.

FEMA, State, and Applicant Validation Team

The validation of work to remove hazardous trees, limbs, and stumps should be a coordinated and collective effort between FEMA, the State, and the applicant. Validation teams performing physical inspections should be comprised of representatives from FEMA, the State, and the applicant who are familiar with debris removal operations, FEMA policy and debris removal eligibility, and debris monitoring documentation practices. The validation teams should meet prior to conducting validations to identify expectations and objectives, and hold meetings as necessary to resolve issues. The validation teams should work to achieve consensus on validation determinations.

Validation Samples

FEMA, the State, and the applicant should select a sample of at least 500 work items to validate the applicant's request(s) for reimbursement. Separate validations should be conducted for hazardous trees, limbs, and stumps and for work performed on public and private property. Only one validation should be conducted for each scope of work selected for validation.

Interim Validations

FEMA may conduct interim validations before the completion of the debris removal operation as a quality control measure and to establish Public Assistance grant amounts for the applicable scope of work. The decision on whether or not to conduct an interim validation should be a joint decision between FEMA, the State, and the applicant. Interim validations should include a sample of at least 500 work items completed up to the date of validation. The results from any validation should apply exclusively to the scope of work that the applicant completed before FEMA conducted the validation. For example, an interim validation may occur 30 days after the applicant initiates a debris removal operation and focus on work performed during the first 30 days. FEMA may conduct a final validation for the remainder of the work after the applicant completes the debris removal operation. The final validation should include a sample of at least 500 work items completed after the date of the interim validation. The results from the first validation will be used to determine the eligible scope of work for

DISASTER ASSISTANCE FACT SHEET DAP9580.201

**DOCUMENTING AND VALIDATING HAZARDOUS TREES,
LIMBS, AND STUMPS**

work and costs claimed during the first 30 days, and the final validation results will be applied to determine the eligible scope of work for the remaining work and associated costs claimed.

Documentation Requirements

The documentation for the validation process should include:

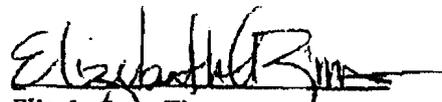
- names and affiliations of validation team members;
- date and locations of inspections;
- the number of hazardous trees, limbs, and stumps selected for validation;
- the debris removal load tickets or invoices for the hazardous trees, limbs, and stumps selected for validation;
- the validation results;
- name of the debris removal contractor that performed the work (if applicable);
- name of the applicant's debris monitor that provided oversight for the work claimed (if applicable); and
- rights of entries and indemnification agreements when the applicant performed work on private property.

Applying Validation Percentages to Determine Eligibility

FEMA will apply the percentage of the debris removal work that it validated to the applicant's total claim for reimbursement. However, FEMA will approve 100 percent funding for the applicable scope of work if it validates at least 80 percent of the sample of work items. Eligible funding for scopes of work validated at less than 80 percent will be based on the actual percentage of validated work.

Timeframe

FEMA should validate the removal of hazardous trees, limbs, and stumps within 45 days of project completion.


Elizabeth A. Zimmerman
Assistant Administrator
Disaster Assistance Directorate

8.2.09
Date



PROFESSIONAL ENGINEERING CONSULTANTS CORPORATION

7600 GSRI Avenue • Baton Rouge, LA 70820

Phone: 225.769.2810 • Fax: 225.769.2882

March 22, 2010

Mr. Daryl G. Purpera, CPA
Temporary Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, LA 70804-9397

HAND DELIVERED

RE: Draft Compliance Audit Report Response
Hurricane Gustav – Hazardous Limb and Tree Removal
Livingston Parish, Louisiana

Dear Mr. Purpera:

In response to the Louisiana Legislative Auditor (LLA) Draft Compliance Audit Report (copy attached under Appendix A), we herewith present information which we strongly feel should be incorporated into the Final Audit Report prior to publication. We are available to discuss this information at your convenience.

The Parish is currently appealing FEMA's findings which concluded Leaner and Hanger eligibility is only 34 and 16 percent respectively. This low percentage eligibility was principally based on photographic documentation solely. Basing eligibility on photographic documentation alone does not agree with FEMA's own regulations which takes into account all information, including Daily Hazardous Tree Monitoring Reports (Tickets), resident inspector monitoring reports, and photos to determine eligibility. Basically, if there was not a photo clearly showing the hangers in the tree, then the work was determined ineligible. This method of judging eligibility is totally incorrect and grossly misleading. It appears in this Draft Legislative Auditor Report, this general assessment method (only photographic evidence) was principally followed. This method basically assumes that the trained individuals (monitors and supervisors) who met daily and the Contractor crews themselves went out and selected ineligible work 66% and 84% of the time. Additionally, it assumes GOHSEP and FEMA representatives who were present periodically during the operations did not bring out any concerns although a majority of allegedly ineligible work was taking place. It is also important to note that GOHSEP analyzed Livingston Parish's Appeal and agreed with the appeal. The GOHSEP document is attached under Appendix B in its entirety, however an excerpt is provided below:

"All of the items listed above have been provided. The policy does not specify that an applicant must have photos. The applicant's attached documents meet all of the other requirements of the FEMA policy. FEMA has not during this storm or previous events held other applicants to the standard of a picture for every cut claimed. It is simply discriminatory to hold this applicant to a standard higher than others."

The above clearly agrees with the Parish's Appeal. It is important to note that since the LLA report was begun, all the documentation and invoices have been reviewed by PEC and approximately 89% of the work was determined to meet FEMA's eligibility criteria. This is reasonable based on the fact that some items will not be eligible due to the following:

- Poor estimate of size of a hanger (ie. too small – when measured on the ground; it does not meet 2-inch criteria.) Not surprising due to estimating during operations and the nature of the operation itself.

- Errors – Prestorm dead limbs and/or “nubs” or non-hangers cut. An extremely small percentage of this occurred. In one instance a crew which cut ineligible limbs was removed from the project as well as the monitor to that crew.

Again, trained monitors, trained monitor supervisors, and an experienced Contractor made concerted efforts to only perform eligible work. It is also very important to note that Parish, FEMA, and GOHSEP representatives were on the ground, observed work, as well as attended weekly meetings.

The comments below generally follow the report chronologically (Excerpts from the Draft Audit Report are in “blue” italics for ease of review.)

Paragraph 1:

“Background

On September 8, 2008, Mr. Grimmer signed a contract with PEC for debris removal monitoring. PEC was to coordinate all debris related activities between Livingston Parish, State and Federal Agencies, and the debris removal contractor. In addition, PEC was to assure that the FEMA emergency plan and debris removal contract requirements are met by monitoring the debris removal from public roads, rights of way, and other public property, monitoring the debris management sites and providing roving debris monitors to ensure that the debris management plan and contract were effectively and efficiently implemented. PEC was to provide loading site monitors, debris management site monitors, and debris management consulting services to perform these tasks. The contract called for PEC personnel to be paid at hourly rates which varied by job function. The contract did not contain a cost limit as required by FEMA guidance¹. ”

It is correct in that the Monitoring Contract does not contain a cost limit – Due to an unknown total scope (ie. amount of debris to be removed), it was impossible to estimate a total cost for monitoring. Note that the Contract was reviewed by FEMA and GOHSEP and this “cost limit issue” was not brought up. The Contract, however can be amended to add a limit.

Paragraph 2:

“According to Mr. Brian Fairburn, former Livingston Parish OEP Director, representatives from the Parish, IED, PEC, Federal Emergency Management Agency (FEMA), and Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) held weekly debris meetings to resolve any issues and to discuss progress made on the debris removal. Although meetings were held by the Parish to monitor the work performed, the Parish did not receive invoices on a timely basis, and therefore could not review the documentation to ensure only eligible work was performed by its contractors. As of May 2009, the Parish had received \$2,751,966 of invoices of the PEC estimated \$58,689,141 of debris removal work performed. In May of 2009, eight months after work had started, Mr. Grimmer issued a cease work order to IED. ”

At the weekly Debris Meetings work-to-date (and therefore the associated costs) were discussed with representatives of the Parish, FEMA, GOHSEP and the Contractor (IED). (Emails referring to these information transmittals is attached under Appendix C.) The actual invoices for review were delivered to PEC on the following dates; February 16, 17 and 18th and May 8th of 2009 (months after the work was completed in the field). Typically, a Contractor bills on a monthly basis and due to the large volume of associated work in this project, it is not uncommon to receive these invoices at later dates. There was no expectation that any significant amount of this work would be deemed ineligible, hence urgency to quickly bill (therefore raising the chance of billing errors)

was not justified. Remember, at the time the work was performed, FEMA and GOHSEP had representatives in the field to ensure that PEC (for the applicant) sufficiently monitored the debris removal operation, and notified PEC of any grant compliance issues, which PEC immediately corrected. During the performance of the work, all responsibilities, duties, and tasks outlined for all parties: monitor, monitoring firm, Applicant (Livingston Parish), State (GOHSEP), and FEMA were performed in accordance with FEMA Fact Sheet DAP9580.203.

The last sentence in this paragraph is misleading in that it uses the estimated total of \$58,689,141 and does not clarify that only \$16,626,340 was associated with leaners and hangers and this amount is the focus of this audit report.

Paragraph 3:

"Hazardous Limb and Tree Removal

Hazardous limb and tree removal, also known as leaners and hangers, are leaning trees and hanging limbs which may pose a threat to public areas. The FEMA debris guide² outlines specific requirements for leaners and hangers to be considered eligible for FEMA funding and the documentation that is required to demonstrate eligibility. The documentation must include a description of the immediate threat, e.g. photos of hanging limbs or leaning trees; clearly defined scope of work to remove the immediate threat; specification of improved property by recording nearest building address or GPS location; and denoting the date, labor, and equipment used to perform the work."

The above paragraph infers documentation "must" include photos whereas PEC, the Parish as Appealed, and GOHSEP contend the photos are only one piece of information among many which are suggested. Updated FEMA regulations issued on August 2, 2009 clarify that "Applicants may also submit photographs to document the number of hazardous limbs cut", as stated on Page 3 of 5 of Fact Sheet DAP9580.204 attached in Appendix D. In fact, work without any photos has been approved by FEMA in other instances as noted in the GOHSEP appeal review under Appendix B. The summary of GOHSEP's appeal again is as follows:

"After careful review, the State concludes that FEMA's method of verifying eligible trees and limbs by only looking at a photograph is fatally flawed as well as discriminatory towards this applicant. The State also concludes that the "Project" was approved as a project when the first Project Worksheet was written. Therefore the State urges that after analyzing all of the enclosed documentation a new version be written accurately reflecting all eligible work and obligated at the 95% reimbursement level of the PA Pilot Program."

Paragraphs 4, 5 and 6:

"At the beginning of the debris removal process, a damage assessment was conducted and routes were assigned to work crews. Each work crew consisted of an IED debris removal crew and a monitor from PEC. The crews went to their assigned routes and located trees which met FEMA's criteria. As cuts were made, the monitors took pictures, completed reports of work performed, and issued load tickets. The load tickets included the date, time, address or GPS location of the tree, the size of the eligible cut made, and the corresponding pictures. PEC's contract stated that their primary function was to issue debris load tickets for eligible debris cleared and to provide documentation as required by FEMA. IED received a copy of the load ticket at the site and used the PEC load tickets to prepare their invoices to the Parish."

During the course of our fieldwork, FEMA requested sample documentation from PEC of the leaner and hanger debris removal performed. PEC provided a sample of their documentation for \$3,341,265 of leaner and hanger charges. FEMA reviewed the documentation and concluded that 16% (\$543,320) of the charges contained in the sample was eligible for FEMA reimbursement.

We also examined PEC's documentation of leaners and hangers removal and reviewed charges where there was a large volume of leaners and hangers at one given GPS location. We examined charges totaling \$45,900 to determine if the documentation, was consistent with FEMA criteria². Our analysis is summarized in the chart below.

<i>LLA Sample* of Leaner and Hanger Charges</i>		
<i>In Compliance with FEMA Guidelines</i>	<i>7%</i>	<i>\$3,060</i>
<i>No Documentation</i>	<i>47%</i>	<i>\$21,590</i>
<i>No Description of Immediate Threat</i>	<i>43%</i>	<i>\$19,975</i>
<i>Other Issues**</i>	<i>3%</i>	<i>\$1,275</i>
<i>TOTAL SAMPLE</i>	<i>100%</i>	<i>\$45,900</i>

**This is a judgmental sample which may not be representative of the entire population of leaner and hanger charges.*

***Other issues included limbs which were not cut, a cut that was measured incorrectly and did not meet the minimum FEMA size criteria, or a hanger which was cut from leaner (FEMA will not pay for both charges)."*

The LLA's office took one small sample where it concluded there was a problem and produced the table above. The report then basically draws conclusions based on a flawed analysis of this data. This sampling represents 0.28 percent of the total work performed. Although there is a small footnote, "This is a judgmental sample which may not be representative of the entire population of leaner and hanger charges", publishing the table which has the lead in "Our analysis is summarized in the chart below", basically tells readers this conclusion can be applied to the entire project, again based on a 0.28% sample. We asked for and were provided the LLA analysis which the above table was based on. A copy of the exact data provided is attached as well as a comparison spreadsheet (See Appendix E). We compared our invoice validation results with the LLA analysis for these tickets. A copy of the validated tickets and associated photos are included in Appendix F. The attached spreadsheet compares in detail the LLA conclusions and PEC's validation. The LLA information was presented verbatim in red and their self created eligibility criteria (in the form of letters) is also included.

Our review of the LLA analysis is as follows:

- 1.) LLA chose 12 work tickets with a value of \$45,900 out of a total of 3,800 tickets valued at \$16,613,845.
- 2.) Of the 12 tickets chosen, 6 tickets had no photos, all of which LLA found ineligible.
- 3.) Of the 6 tickets reviewed by LLA with photos, only partial information was used from 5 of the tickets, and only 16% of the information was used from these tickets.
- 4.) There are photo numbers listed on the LLA report that do not exist on any of the work tickets.

Summarized, our review of the table found the following: The LLA concluded approximately 90% was ineligible due to lack of photographic documentation, this conclusion is similar to the FEMA stance under appeal which again PEC, the Parish, and GOHSEP dispute and is currently under appeal.

Based on our validation, approximately 90% of the LLA representative sample should have been eligible.

Paragraph 7:

"We discussed the exceptions to FEMA criteria with PEC representatives. PEC's contract states "The primary function of the Loading Site Monitors is to use debris load tickets for eligible debris cleared and to provide documentation as required by FEMA reimbursement requirements." In a letter to the LLA dated November 3, 2009, Mr. Tony Arikol, President of PEC, wrote that "Our field monitors were to document all work performed by the Contractor, and to make notation to what appeared to be eligible or ineligible in accordance with FEMA eligibility criteria..." However, this interpretation of their contractual responsibilities is different than the requirements of the contract terms. We examined our sample documentation provided by PEC and found no evidence that PEC's debris monitors recorded eligibility determinations."

It is very important to stress that the PEC monitors, PEC monitoring supervisors, IED, FEMA, GOHSEP and the Parish all strived to insure eligibility of the work, both daily and during the program as a whole. The overwhelming majority of the work done was eligible and any ineligible work done was only a result of the inexact nature of the work and a very limited number of errors. The project consisted of work on approximately 10,000 trees, hence it is unreasonable to expect that all work would be eligible. What is neither fair nor reasonable and certainly not within FEMA's own guidelines is to assume that unless exact precise photographic evidence is available, all parties principally performed ineligible work (which was overseen by FEMA and GOHSEP) and the only method to prove it was eligible is to have a detailed photograph of every hanger hanging in the tree. Additionally, when photographs for the work performed are unavailable or inconclusive, validation is to be accomplished from the Hazardous Tree Monitor Reports specifying address of the improved property location, GPS coordinates and if necessary field verification visually validating the number of cuts to the tree. The monitors documented everything – no effort was made to not document any work whether eligible or ineligible, but the vast majority and everyone's intent was to do eligible work only. Basically the monitors and crews worked diligently to perform only eligible work and provided documentation for all work in accordance with FEMA DAP9580.203. The monitors did not specifically record eligibility (eligible vs. ineligible) since to the best of their ability they were recording eligible work. (Several affidavits to this fact are attached in Appendix H.) Based upon our final review of all leaners and hangers, 89% of the work was determined to meet FEMA's criteria for eligibility.

Paragraphs 8 and 9:

"Finally, Mr. Arikol stated that when the monitor's documentation was processed in PEC's office and compared to IED's invoices, the questionable items regarding eligibility would be discussed with FEMA and only eligible costs would be submitted to the Parish for payment. In a letter dated November 2, 2009, PEC has reviewed 9 IED invoices and recommended that the Parish pay \$2,631,175, 87% of the invoice total, for leaner and hanger operations although FEMA's percentage of eligible charges was substantially lower."

"Mr. Wendell Anthony, arborist for IED, stated that the monitors and the crews would decide on which trees needed to be cut, but it was the responsibility of the monitor (PEC) to only document the eligible debris. IED's contract with the parish stated "Debris to be removed by the Contractor will be designated by an Owner's official or inspector or other personnel approved by the Owner". According to PEC's contract, Mr. Grimmer, and Mr. Fairburn, PEC was the parish's representative regarding debris removal. Mr. Smith Day, Internal Counsel for IED stated that IED received a copy of the load ticket from PEC as part of the debris removal process and relied upon those load tickets for invoicing the parish."

In the field, the majority of the work performed was eligible, and as a result of in-house audit/validation, approximately 11 percent was discounted as ineligible. To date, PEC has reviewed all leaner and hanger invoices and has validated that approximately 89% of the work (\$14,716,645 of the \$16,613,845) is eligible. Mr. Wendell Anthony was a subcontractor to IED, whose pay is dependent on IED's payment for their work. Nearly every morning before work began, representatives from IED (including Mr. Anthony) met with PEC representatives to discuss what work was to be performed, where it would be performed, and how it would be performed. Discussions that only work that met FEMA's eligibility criteria was to be done were held as evidenced by the attached meeting notes from Mike Pritchard, PEC Monitor Supervisor (various dates from 9-23-08 to 11-4-08 under Appendix I). In regards to PEC providing IED with copies of load tickets, it is customary for the debris contractor to get copies of all load tickets, whether or not the work is eligible for payment. It allows the contractor to address any discrepancies in the office with office personnel while the work in the field proceeded uninterrupted and without conflict.

Paragraph 10:

"IED has provided invoices totaling \$16,626,340, based on PEC-written load tickets, for leaner and hanger removal. Based on FEMA's error rate from their previous work, a total of \$13,922,746 may not be reimbursable to Livingston Parish. As of the report date, FEMA has not determined an exact amount which will be considered reimbursable to Livingston Parish. Because the Parish did not receive invoices on a timely basis, it could not review the documentation to ensure only eligible work was performed by its contractors."

Invoices were not received until February and May of 2009, however, running totals were provided during the course of the work. It was everyone's belief (and still is) that for the most part only eligible work was being performed, including the FEMA and GOHSEP representatives.

Paragraph 11:

"The issuance of a load ticket allows the debris to be loaded and transported to a debris site for disposal. IED invoices these services on a cubic yard basis, for the loading and hauling of debris to a temporary debris site, site management, debris reduction, and the loading and hauling of debris reduction by-products. Because PEC issued load tickets for all debris, regardless of the eligibility, the additional charges for the transportation and disposal of ineligible debris may not be reimbursable to the parish. Since the transportation and disposal charges are billed on a cubic yard basis, we were unable to quantify the amount of the transportation and disposal charges that relate to the leaner and hanger debris removal charges discussed in this report."

All cut debris must be removed from the right of way for safety reasons regardless of eligibility. Again, the issuance of load tickets for all debris allows the contractor and monitoring firm a management tool to resolve conflicts in the office and not to interfere with the work performed in the field. Hangers declared ineligible are often eligible debris but are ineligible as hangers, making the actual volume of potentially ineligible debris being handled negligible.

In summary, we strongly feel this report incorrectly concludes the following:

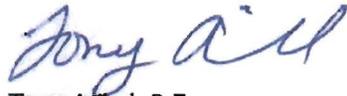
- The amount of ineligible debris is 93%. This is based on LLA interpretation that photographic documentation is the "be all and end all" for eligibility determination; this stance completely discounts the efforts and written documentation provided by trained monitors and monitoring supervisors, conflicts with FEMA's own guidance documents, and GOHSEP's analysis of the Parish's Appeal. Further, the suggestion that 93% of the work suggests that FEMA (and its contractor(s)) and GOHSEP (and its contractor(s)) also were negligent in the performance of their work. Also, it asserts that for the majority of the hangers claimed, the monitor completed the load ticket fraudulently, and then took a picture of the tree to document his fraudulent maneuver. The invoice validation performed by PEC (based on location of the tree, the number of cuts logged by the monitor, and certification by the monitor that the limb was hanging in the right-of-way and greater than 2 inches by completing and signing the load ticket) resulted in an 89% eligibility rate. This effort involved thousands of manhours of additional work. A thorough effort was taken in PEC's part to analyze the data in its entirety rather than apply a small "representative" sample. This is exemplified by the attached load tickets in Appendix F and the corrected IED invoices correlating to the tickets used in the LLA analysis in Appendix G.
- A 0.28% sampling is representative of the project as a whole. Although language discounting that this "may not be a representative sample" by virtue of the analysis summary table being included, infers these numbers should be applied across the entire project. Twelve tickets (and only partial portions of five of these) out of a total of 3,800 tickets were used and conclusions drawn.
- Invoices were not received by PEC until February and May of 2009 (months after the work took place). Typically, a Contractor bills on a monthly basis and due to the large volume of associated work, it is not uncommon to receive these invoices at later dates. There was no expectation that a significant amount of this work would be deemed ineligible, hence urgency to quickly bill (therefore raising the chance of billing errors) was not justified. Weekly meetings took place during the work where progress was discussed. No one including the Parish, FEMA and GOHSEP representatives felt there were any issues with eligibility of the Leaners and Hangers work at that time. As noted above, eligibility issues identified in the field were addressed immediately in the field. We still feel strongly that the majority of this work is eligible and will ultimately be determined so.
- PEC is unaware that the draft audit report provided to PEC was the complete audit report prepared by the LLA. In our meeting with the LLA, the LLA stated that PEC would be provided only the portion of the LLA report that pertained to PEC. However, in the supposed portion of the report provided to PEC by the LLA, "PEC was to coordinate all debris related activities between Livingston Parish, State and Federal Agencies, and the debris removal contractor. In addition, PEC was to assure that the FEMA emergency plan and debris removal contract requirements are met...". With the inherent responsibilities contracted to PEC for the project, PEC should be privy to all aspects of the LLA's report.

Mr. Daryl G. Purpera, CPA
March 22, 2010
Page 8

We request the report be amended to include the information presented herein, and we are available to discuss any of the items at your convenience.

Very truly yours,

PROFESSIONAL ENGINEERING
CONSULTANTS CORPORATION



Tony Ankol, P.E.
President

cc: Mr. Mike Grimmer, Livingston Parish President (w/encl.)
Mr. Don Wheat, Livingston Parish Council President (w/encl.)
A. Shelby Easterly, III, Appeals Attorney, Livingston Parish (w/encl.)
Mr. Jeff Bonura, BBEC (w/encl.)

PEC's response was not included in its entirety due to its size. A copy of PEC's entire response is on file for inspection at our office.



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March 26, 2010

Via U.S. Mail

Mr. Daryl G. Purpera, CPA
Temporary Legislative Auditor
Office of Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Draft Audit Report for Livingston Parish Debris Removal

Dear Mr. Purpera:

On behalf of International Equipment Distributors, Inc. ("IED"), I would like to respond to the portion of the draft report that you shared with us concerning Livingston Parish debris removal. We appreciate the courtesy and consideration that your team has shown, and we thank you for the opportunity to review and respond to this part of your report.

We believe that the Legislative Auditor's team has worked hard to understand and present the facts, and they have done a good job sorting through some of the information and misinformation with which they have been presented. However, we believe that their report would more accurately reflect the events that have occurred if it were corrected in certain respects. Our concerns relate to that section entitled *Hazardous Limb and Tree Removal*.

Timeliness of Invoices

The report contains the statement that "*Because the Parish did not receive invoices on a timely basis, it could not review the documentation to insure only eligible work was performed by its contractors.*" This statement relates to work involving the removal of hazardous hanging limbs, or "hangers," and hazardous trees, called "leaners." The statement is not accurate, for a number of reasons:

- (1) The IED contract with Livingston Parish did not contain time requirements for the submission of invoices; consequently one can reach no conclusions about what would have been "timely."
- (2) The report implies that IED had complete control over the timing of invoice submission, which is misleading. The timing of invoice submission by IED

largely depended upon the work of the monitoring firm, Professional Engineering Consultants, Corporation (“PEC”).

- (3) Most importantly, earlier submission of invoices would have done nothing to help the Parish “insure only eligible work was performed by its contractors.” The invoices contained no information that would have helped the Parish in that regard, and in fact contained no information that the Parish, through its monitors, did not already have. The information on the invoices actually originated with the monitors, who acted as the Parish’s representatives in determining eligibility. All the invoices did was to communicate back to the Parish – through the monitors – what the monitors first communicated on behalf of the Parish to IED.

The first of these three points requires little elaboration. Your office has the contract between the Parish and IED. You can see that it had no deadlines or other time requirements for invoice submission.

To understand the second and third points one must understand the procedures used on this project. These procedures are typical of those used in the industry.

The PEC monitors supervised the work of IED and its subcontractors. The PEC monitors recorded the work they deemed eligible on tree tickets, formally titled “Daily Hazardous Tree Monitor Report.” For illustration, I am transmitting with this letter a set of tree tickets that PEC used to record the eligible work performed by the crew on one truck on one day, September 28, 2008. They are labeled “Exhibit 1.”

As implied by the name, these “Daily Hazardous Tree Monitor Reports” were generated by PEC on a daily basis, based on eyewitness observations in the field. These reports did not just record what was done in a day, they recorded what the crew did on a minute by minute basis.

The reports recorded detailed information on every eligible limb and every eligible tree that IED cut, providing precise GPS locations and exact dimensions on every piece of wood involved. The monitor on the report correlated the limbs and trees cut to the photographs the monitors at the same time took of the work performed. When the crew moved to a different tree, the report recorded the precise time of day this occurred. By the time the monitor generated his or her report at the end of the day, the Parish had all of the information related to eligibility that it would ever have.

IED received copies of these tree tickets from the PEC monitors. PEC retained its own set of tickets and compiled the information they contained into its own database.

IED accounting personnel extracted from IED’s copies of the tree tickets the information they contained, and compiled that data into spreadsheets. IED then transmitted these spreadsheets back to PEC for PEC’s review. IED requested that PEC agree with or correct its data based on PEC’s own records. IED did not generate invoices until PEC reconciled IED’s records of the eligible work performed with PEC’s records. In this way, IED tried to insure that the invoices that it ultimately issued would be approved by PEC rather than contested.

Under the procedures established to insure accurate invoicing, IED could not issue invoices until PEC concluded its reconciliation of IED’s records with its own. IED withheld its invoices for significant periods while PEC performed this reconciliation. IED had no control

over how long PEC took to perform its reconciliation. However, the Parish always had the data that the invoices would have reflected, because the invoices simply communicated back to the Parish the information that its monitors had already compiled. The data on the invoices started with and ended with PEC.

IED is not in a position to know what PEC communicated to individual Parish officials concerning leaners and hangers at any point in the process. However, any Parish official should have been able to call PEC on daily basis, had anyone been interested, and obtain a report on the status of the work. In fact, the firm that monitored the drainage debris removal in the Gravity Drainage Districts, Alvin Fairburn and Associates, maintained a secure website that Parish officials could access with a running total of the debris removal quantities in those districts. PEC could have provided a similar service to provide almost real time information on leaners and hangers.

An IED invoice contained no information related to eligibility that the Parish did not have from the very day the work was done. In fact, they contained significantly less information in that regard than did the “Daily Hazardous Tree Monitor Reports.” IED’s invoices simply told the Parish that IED had removed certain numbers of leaners and hangers of particular sizes during a particular period, and applied the contract prices to those quantities. To state or even to imply that the Parish needed these invoices to “*insure only eligible work was performed*” is simply wrong.

Confusion of “Load Tickets” with “Tree Tickets”

The draft report seemed to confuse “load tickets” with “tree tickets,” *i.e.*, the “Daily Hazardous Tree Monitor Reports.” For example, in discussing the documentation PEC generated to record eligible hangers that IED cut, the report says the following: “As cuts were made, the monitors took pictures, completed reports of work performed, and issued *load tickets*. The *load tickets* included the date, time, address or GPS location of the tree, the size of the eligible cut made, and the corresponding pictures.”

This language describes the creation of the “Daily Hazardous Tree Monitor Reports,” not “load tickets.” The term “load tickets” generally refers to the *separate* documents created by the monitors to record the eligible debris that trucks hauled away from public property to the temporary debris staging and reduction sites.

Incorrect Standard of Documentation of Eligibility

The report appears to contain a serious error regarding documentation of eligibility. The Legislative Auditor’s team supposedly examined a small sample of the documentation that PEC maintained in support of the leaner and hanger work. According to the report, only 7% of the documentation was “*in compliance with FEMA guidance*.” The report itself does not describe in detail what documentation the team examined, nor what the team thought the documentation lacked. Based on our interview with the audit team and our knowledge of the PEC documentation on the project in general, we believe the report reflects a misunderstanding and misapplication of FEMA guidance. It also conflicts with the official position taken by the State of Louisiana on this very issue.

As the tree tickets we have supplied with this letter show, and as the report states, the “Daily Hazardous Tree Monitor Reports” (erroneously referred to as “load tickets”) “included the date, time, address or GPS location of the tree, the size of the eligible cut made, and the corresponding pictures.” In most cases, but not always, PEC also provided photographs to show the limbs or trees removed. The “Daily Hazardous Tree Monitor Reports,” by themselves, adequately documented eligibility under the FEMA criteria. Indeed, the “Daily Hazardous Tree Monitor Reports” used on this project exceeded the level of documentation customary on FEMA-funded debris projects.

FEMA’s Public Assistance Debris Management Guide, FEMA P-325, says that for its removal to be eligible for reimbursement, a limb must be:

- Located on public property;
- Greater than two inches in diameter at the point of breakage; and
- Still hanging in a tree and threatening a public-use area, e.g. trails, sidewalks, golf cart paths.¹

That publication goes on to describe the “[d]ocumentation required for Public Assistance grant consideration” as:

- Describe the immediate threat, e.g. photos of hanging limbs or leaning trees;
- Clearly define the scope of work to remove the immediate threat;
- Specify the improved public property location by recording the nearest building address and/or GPS location; and
- Denote date, labor (force account or contract), and equipment used to perform the work.²

When we discussed the criteria the Legislative Auditor’s team applied in evaluating hanger documentation, we were told that the team looked for photographs. When we pointed out that FEMA P-325 does not require photographs, the response was that, in lieu of a photograph, “some sort of narrative” was needed. With all due respect, FEMA P-325 contains no such requirement, and it would be totally impractical and inordinately expensive for monitors to write or dictate narrative reports on every piece of wood cut on a massive debris removal project like the one under consideration. A devastated parish such as Livingston could not complete such a project if that were required, and recovery would not occur.

Even without photographs, the “Daily Hazardous Tree Monitor Reports” supplied all of the information required by FEMA P-325. The reports documented each of the eligibility criteria: (1) “located on public property” – covered by GPS location; (2) “greater than two inches in diameter at point of breakage” – the reports gave the size of every single broken limb; (3) “still hanging in a tree and threatening a public-use area” – PEC recorded them as “hazardous *hanging limbs*,” and they documented their location on public rights of way via the GPS coordinates given for each. A broken limb hanging in a tree over a publicly accessed area quite obviously is an “immediate threat.”

¹ FEMA P-325, p. 24.

² *Id.*, p. 25.

The fact is, this documentation equals or exceeds that provided by most applicants that successfully obtain reimbursement from FEMA. For example, the City of Denham Springs, Louisiana had hangers removed after Hurricane Gustav too, and FEMA reimbursed all of that cost. The vast majority of this work had no photographic documentation. Instead, the documentation consisted of tree tickets generated by the monitors. I have enclosed with this letter an example, labeled "Exhibit 2." As you can see, these tickets provided less information than did the "Daily Hazardous Tree Monitor Reports" that Livingston Parish used.

The Town of Livingston, Louisiana also had hangers removed after Hurricane Gustav, and FEMA also reimbursed all of that cost. Livingston did not document individual hanger cuts with photographs. As is customary in this industry, the documentation again consisted of tree tickets generated by the monitors. I have enclosed with this letter an example from the Town of Livingston, labeled "Exhibit 3." Once again, these tickets provided less information than the "Daily Hazardous Tree Monitor Reports" that Livingston Parish used.

After Hurricane Katrina, the Louisiana Department of Transportation and Development had its contractor remove leaners and hangers from the affected highway rights of way. DOTD supplied no photographic documentation. In fact, DOTD's documentation solely consisted of tree tickets, illustrated by the attached "Exhibit 4."

As you can see by examining Exhibit 4, DOTD's documentation fell far short of that supplied by Livingston Parish. DOTD's monitors did not record GPS locations – they simply recorded the name of the highway and the name of the parish where the work was done. DOTD's monitors did not record limb sizes – they simply tallied the number of "cuts." Yet FEMA paid based on this documentation.

We would also point out that the report as written would conflict with the position taken by the Governor's Office of Homeland Security and Emergency Preparedness ("GOHSEP"). As the report observed, FEMA has preliminarily decided to withhold funding for some of the hanger work. However, the report omits the fact that FEMA initially offered reimbursement to the Parish for this work, but reconsidered only after the Parish President declined the money. The Parish has now asked that FEMA review the situation at a higher level, and GOHSEP has supported that request.

The official position of the State of Louisiana on these issues is contained in the enclosed "GOHSEP Appeal Analysis," labeled "Exhibit 5." According to the Governor's Office, "all of the items" required by FEMA's official policy "have been provided" in the Livingston Parish documentation. The Governor's Office goes on to say the following, which would apply as well to the position taken in the draft report:

The applicant's attached documents meet all of the other requirements of FEMA policy. FEMA has not during this storm or previous events held other applicants to the standard of a picture for every cut claimed. *It is simply discriminatory to hold this applicant to a standard higher than others.*

It would be both unfair and potentially very damaging to Livingston Parish for the Legislative Auditor to release this report in its current form. The draft report unfairly criticizes the Parish and its monitors for failing to meet a standard that is neither required by the FEMA guidance documents nor applied by FEMA in the real world. Moreover, FEMA needs little

March 26, 2010
Page 6

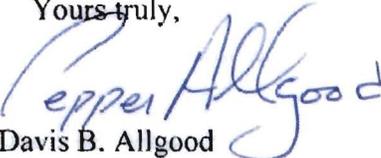
excuse to deny funding to applicants, and FEMA reads the newspapers. Livingston Parish has not yet received full reimbursement for its hanger work. A report issued by Louisiana's own Legislative Auditor advocating an artificially and inappropriately high standard for Livingston Parish could do serious damage to the Parish's efforts to obtain the reimbursement it badly needs and deserves.

Conclusion

We believe that the Legislative Auditor's team has put forth a conscientious effort to compile, comprehend and analyze a great deal of data from various sources. They have worked hard, and we think you and they have tried to do the right thing for Louisiana and Livingston Parish. Without having seen the majority of the draft report, we suspect that it represents a noteworthy and commendable effort. However, we do believe that it errs in the ways that we have outlined above.

We do not believe that the report in its current form would be accurate, and we do not believe that it would be a responsible act to release it in its current form. We respectfully suggest that the report should be revised as outlined above.

Yours truly,



Davis B. Allgood

DAB/sp
Enclosures

cc: Mr. Kevin Kelley via U.S. Mail and E-mail (kkelley@lla.state.la.us)
Ms. Jodie Carter via U.S. Mail and E-mail (jcarter@lla.state.la.us)
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April 9, 2010

Via U.S. Mail

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Temporary Legislative Auditor
Office of Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Draft Audit Report for Livingston Parish Debris Removal

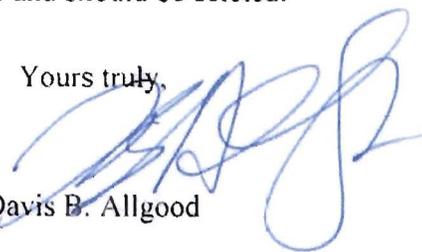
Dear Mr. Purpera:

On behalf of International Equipment Distributors, Inc. ("IED"), I would like to respond to the addendum that you provided on March 29, 2010 to your draft report on Livingston Parish debris removal. Thank you again for the opportunity to review and respond to this part of your report.

The information in the part of your draft report that we received provides no basis for the suggestion that there might have been ethics violations by anyone involved in the project. IED's subcontractors on the Livingston Parish debris removal project were independent contractors responsible for their own hiring decisions. Neither the Livingston Parish Council nor IED had any role in supervising the hiring decisions made by those contractors. You, or at least your staff, should be aware of this.

The responsibility of your office should include due regard for the lives and reputations of the persons affected by your actions. That responsibility would counsel that you not make public statements that imply wrongdoing where you lack both evidence and legal authority to conclude that there has been any wrongdoing. The statement that transactions described in the addendum "may constitute a violation of the Louisiana Code of Governmental Ethics" is not supported by the information you provide and should be deleted.

Yours truly,


Davis B. Allgood

DAB/sp

{B0653994.1}

JONES, WALKER, WAECHTER, POITEVENT, CARRÈRE & DENÈGRE L.L.P.

8555 UNITED PLAZA BOULEVARD • BATON ROUGE, LOUISIANA 70809-7000 • 225-248-2000 • FAX 225-248-2010 • E-MAIL info@joneswalker.com • www.joneswalker.com 33

ALABAMA ARIZONA DISTRICT OF COLUMBIA FLORIDA GEORGIA LOUISIANA TEXAS

April 9, 2010
Page 2

cc: Mr. Kevin Kelley via U.S. Mail and E-mail (kkelley@lla.state.la.us)
Ms. Jodie Carter via U.S. Mail and E-mail (jcarter@lla.state.la.us)
Ms. Jenifer Schaye via U.S. Mail and E-mail (schaye@lla.la.gov)

IED, INC.

Daily Hazardous Tree Monitor Report

P. O. Box 1886, Foley, AL, 36536

Disaster Number DR1786LA

No. 08169

Client Livingston Parish (Port Vincent)

URG Rep

Truck Co. Name Wendell Anthony / B9

State Insp

Truck Driver Name Steven Gay

Client Rep Aron Dennis

Date 9/26

Truck Number BT104

Federal Insp

Time	Location Address	GPS	Debris Classification: Vegetative - Tree				Hazardous Leaner			Hazardous Hanger			Zone	Photo No.
			6°-12.99°	13°-24.99°	25°-47.99°	>48°	2°-4.99°	5°-11.99°	>12°					
1 8:30am	Corner of LA16 + LA447	N 21.374 W 50.973								2"			154-155	
2 8:32am										2"			156-157	
3 8:45am	LA-16	N 21.273 W 50.873				21"							158-160	
4 8:55am										2.5"			161-162	
5 8:57am										4.5"			163	
6 8:59am										3.5"			164	
7 9:06am		N 21.252 W 50.852				28"							165-167	
8 9:18am										4.5"			168-169	
9 9:23am										3.25"			170	
10 9:25am										3.5"			171-172	
11 9:31am		N 21.194 W 50.787								2.25"			173-174	
12 9:35am										2.75"			175	
13 9:39am										3"			176	
14 9:44am										3.75"			177	
15 9:49am										3"			178	
16 9:52am										3.75"			179	
17 1:55am											5"		180-181	
18 10:00am		N 21.177 W 50.776				14"							182-184	
19 10:10am	LA-16					28"							185-187	
20 10:13am		N 21.187 W 50.751								2.5"			188-189	
21 10:16am										2.25"			190	
22 10:19am										4"			191	
23 10:21am										2.25"			192	
24 10:25am										2.25"			193	
25 10:28am	LA-16									2.5"			194	
Totals						2	2			20	1			

Exhibit 1

IED, INC.

Daily Hazardous Tree Monitor Report

P. O. Box 1888, Foley, AL 36536

Disaster Number DR1786LA

No. 08170

Client Livingston Parish (Port Vincent)

URG Rep _____

Truck Co. Name Woodell Anthony / 89

State Insp _____

Truck Driver Name Steven Gay

Client Rep Aaron Dennis

Date _____
Truck Number BT 1041

Federal Insp _____

Time	Location Address	GPS	Hazardous Leaner				Hazardous Hanger			Zone	Photo No.
			6"-12.99"	13"-24.99"	25"-47.99"	>48"	2"-4.99"	5"-11.99"	>12"		
1 10:30am	LA-16						2.5"			195-196	
2 10:35am							4"			197-198	
3 10:40am							2"			199-200	
4 10:45am		N 21.114 W 50.744			23.5"					201-203	
5 10:55am		N 21.181 W 50.728	9"							204-206	
6 11:00am		N 21.088 W 50.738					2.75"			207-208	
7 11:01am							3.5"			209	
8 11:06am							2"			210-211	
9 11:15am		N 21.088 W 50.730						9.75"		212-213	
10 11:21am							2"			214	
11 11:28am							2"			215-216	
12 11:36am		N 21.060 W 50.714					4"			217-219	
13 12:40pm	Gourdon LN	N 20.714 W 50.734					4"			220-221	
14 12:43pm							3"			222	
15 12:49pm							3"			223	
16 12:52pm							4.5"			224-225	
17 12:55pm							2"			226-227	
18 12:58pm							2"			228	
19 1:00pm								6"		229- 230	
20 1:04pm								7"		230	
21 1:05pm								6"		231	
22 1:06pm								5"		232-233	
23 1:09pm			8"							234-236	
24 1:12pm		N 20.707					2.5"			237-238	
25 1:14pm	Gourdon LN						2.5"			239	
Totals							2"			290	

Totals

2

1

18

5

IED, INC.

Daily Hazardous Tree Monitor Report

P. O. Box 1886, Foley, AL 36536

Disaster Number DR1786 LA

No. 06191

Client Livingston Parish (Part Vencent)

URG Rep _____

Truck Co. Name Wendell Anthony / B9

State Insp _____

Truck Driver Name Steven Gay

Client Rep Aaron Dennis

Date	Truck Number	Debris Classification: Vegetative - Tree		Hazardous Leaner				Hazardous Hanger			Zone	Photo No.
		Location Address	GPS	6"-12.00"	13"-24.00"	25"-47.00"	>48"	2"-4.00"	5"-11.00"	>12"		
1 1:18pm	Gouidon LN							2.5"			241	
2 1:20pm								3"			242	
3 1:22pm								2.5"			243	
4 1:23pm								2.5"			244	
5 1:25pm									5"		245	
6 1:29pm								2"			246-247	
7 1:31pm								3"			248-249	
8 1:33pm								4.5"			250	
9 1:35pm								3"			251	
10 1:39pm								2"			252	
11 1:41pm								3"			253	
12 1:44pm									5"		254	
13 1:48pm									7"		255-256	
14 2:00pm				N 10.749 W 50.630					3"		257-258	
15 2:01pm									3"		259	
16 2:02pm									2"		260	
17 2:03pm									2.5"		261	
18 2:05pm										5"	262-263	
19 2:09pm				N 20.805 W 50.636					2.5"		264-265	
20 2:11pm									2"		266	
21 2:13pm										6.5"	267	
22 2:16pm										8"	268	
23 2:18pm										5"	269-270	
24 2:21pm									2"		271-272	
25 2:31pm		Gouidon LN							2.75"		273	
Totals								3"		274-275		

Totals

19 7

IED, INC.

Daily Hazardous Tree Monitor Report

P. O. Box 1886, Foley, AL 36536

Disaster Number DRI786 LA

No. 06192

Client Livingston Parish (Port Vencer)

URG Rep _____

Truck Co. Name Wendell Anthony / B9

State Insp _____

Truck Driver Name Steven Gay

Client Rep Archie Dennis

Federal Insp _____

Date	Truck Number	Debris Classification: Vegetative - Tree		Hazardous Leaner		Hazardous Hanger		Zone	Photo No.
		Location Address	GPS	5°-12.99"	13°-24.99"	25°-47.99"	>48"		
1		<u>Goudeon LN</u>						<u>7"</u>	<u>276-277</u>
2	<u>2:51pm</u>						<u>3.25"</u>		<u>278</u>
3	<u>2:55pm</u>							<u>5.5"</u>	<u>279-280</u>
4	<u>2:58pm</u>		<u>N 20.813 W 50.615</u>					<u>7"</u>	<u>281-282</u>
5	<u>3:00pm</u>						<u>3.5"</u>		<u>283</u>
6	<u>3:05pm</u>							<u>9"</u>	<u>284</u>
7	<u>3:08pm</u>						<u>3"</u>		<u>285-286</u>
8	<u>3:10pm</u>							<u>5.5"</u>	<u>286</u>
9	<u>3:12pm</u>							<u>6"</u>	<u>287-288</u>
10	<u>3:24pm</u>		<u>N 20.826 W 50.605</u>				<u>3"</u>		<u>289-290</u>
11	<u>3:30pm</u>						<u>2"</u>		<u>291</u>
12	<u>3:35pm</u>							<u>6"</u>	<u>292</u>
13	<u>3:40pm</u>							<u>7.5</u>	<u>293-294</u>
14	<u>5:20pm</u>		<u>N 20.840 W 50.577</u>		<u>42.5"</u>				<u>295-297</u>
15	<u>5:40pm</u>						<u>4.5"</u>		<u>298-299</u>
16	<u>5:45pm</u>						<u>2"</u>		<u>300</u>
17	<u>5:50pm</u>	<u>Goudeon LN</u>						<u>9"</u>	<u>301-302</u>
18									
19									
20									
21									
22									
23									
24									
25									
Totals					<u>1</u>		<u>7</u>	<u>9</u>	



ALVIN FAIRBURN & ASSOCIATES, LLC.

**Hurricane Relief
LOAD TICKET**

D/S
10100

Contracting Agency: AFA		No.:	Date: 9/30/08
Subcontractor: MLA			
Truck No.: 208-0014		Max Load Capacity: _____	
Load Site: (Street or Intersection, City, County) River Rd. D/S			
Load Classification: (check one)			
<input type="checkbox"/> Stumps:	<input checked="" type="checkbox"/> Leaners:	<input type="checkbox"/> Hangers:	
6"-12" _____	6"-12" <u>1</u>	6"-12" _____	
12"-24" _____	12"-24" <u>2</u>	12"-24" _____	
24"-36" _____	24"-36" _____	24"-36" _____	
37"-48" _____	37"-48" _____	37"-48" _____	
over 48" _____	over 48" _____	over 48" _____	
Driver's Name: (print) McKlean		ID #: _____	
Loading Site Departure Time: 4:45		Odometer: 25022	
Agency Loading Site Monitor:			
Signature: AR & Blanc		ID #: _____	

Notes:
 12"-24" - 2 (Leaner)
 6"-12" - 1 (Leaner)
 No. Allowed

Note Trip Miles and/or Tolls if applicable

AFA 225-665-1515

White - Agency Canary & Blue - AFA Pink - Sub. Green - Driver Gold - Loading Site
PLEASE PRESS HARD



ALVIN FAIRBURN & ASSOCIATES, LLC.

Hurricane Relief

LOAD TICKET

D.S.

10101

No.

Contracting Agency: AFA		Date: 9-15-08
Subcontractor: MLU		
Truck No.: G08-0014	Max Load Capacity: Bucket	
Load Site: (Street or Intersection, City, County) TRUCK		
1246 River Rd		
Load Classification (check one)		
<input type="checkbox"/> Stumps:	<input checked="" type="checkbox"/> Leaners:	<input checked="" type="checkbox"/> Hangers:
6"-12" _____	6"-12" 2	6"-12" _____
12"-24" _____	12"-24" 2	12"-24" 2
24"-36" _____	24"-36" _____	24"-36" _____
37"-48" _____	37"-48" _____	37"-48" _____
over 48" _____	over 48" _____	over 48" _____
Driver's Name: (print) William Ulin		ID #: _____
Loading Site Departure Time: 9:45 AM		Odometer: 24773
Agency Loading Site Monitor:		
Signature: Daron Barrion		ID #: _____

Notes

Note Trip Miles and/or Tons if applicable

AFA 225-665-1515

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site
PLEASE PRESS HARD



ALVIN FAIRBURN & ASSOCIATES, LLC.

**Hurricane Relief
LOAD TICKET**

D.S.

10102

Contracting Agency: AFA		No. _____
		Date: 7-15-08
Subcontractor: MLU		
Truck No.: G08-0014	Max Load Capacity: Bucket	
Load Site: (Street or Intersection, City, County) -1156 River Rd. TRUCK		
Load Classification: (check one)		
<input type="checkbox"/> Stumps:	<input checked="" type="checkbox"/> Leainers: 2	<input checked="" type="checkbox"/> Hangers: 3
6"-12" _____	6"-12" _____	6"-12" _____
12"-24" _____	12"-24" _____	12"-24" _____
24"-36" _____	24"-36" _____	24"-36" _____
37"-48" _____	37"-48" _____	37"-48" _____
over 48" _____	over 48" _____	over 48" _____
Driver's Name: (print) William Wilm		ID #: _____
Loading Site Departure Time: 10:32 AM		Odometer: 24743
Agency Loading Site Monitor:		
Signature: Naam Carrier		ID #: _____

Notes:

Note Trip Miles and/or Tons if applicable

AFA 225-665-1515

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site

PLEASE PRESS HARD



ALVIN FAIRBURN & ASSOCIATES, LLC.

**Hurricane Relief
LOAD TICKET**

D.S.

10103

No.

Contracting Agency: AFA		Date: 9-15-08
Subcontractor: MLU		
Truck No.: G08-0014	Max Load Capacity: Bucket	
Load Site: (Street or Intersection, City, County) 1144 River Rd.		Truck
Load Classification: (check one)		
<input type="checkbox"/> Stumps:	<input checked="" type="checkbox"/> Leeners:	<input checked="" type="checkbox"/> Hangers:
6"-12" _____	6"-12" <u>1</u>	6"-12" <u>1</u>
12"-24" _____	12"-24" <u>1</u>	12"-24" <u>3</u>
24"-36" _____	24"-36" _____	24"-36" <u>1</u>
37"-48" _____	37"-48" _____	37"-48" _____
over 48" _____	over 48" _____	over 48" _____
Driver's Name: (print) William Ulm	ID #: _____	
Loading Site Departure Time: 1:00 pm	Odometer: 24974	
Agency Loading Site Monitor:		
Signature: Jason Carrier	ID #: _____	

Notes:

Note Trip Miles and/or Tons if applicable

AFA 225-665-1515

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site
PLEASE PRESS HARD

ALVIN FAIRBURN & ASSOCIATES, LLC.
Hurricane Relief
LOAD TICKET

D.S.
 10104

Contracting Agency: AFA		No. _____
		Date: 9-15-08
Subcontractor: MLU		
Truck No.: G08-0014	Max Load Capacity: Bucket	
Load Site: (Street or Intersection, City, County) 1126088 River Road		Truck
Load Classification: (check one)		
<input checked="" type="checkbox"/> Stumps:	<input checked="" type="checkbox"/> Leaners:	<input checked="" type="checkbox"/> Hangers:
6"-12" _____	6"-12" _____	6"-12" _____
12"-24" _____	12"-24" 7	12"-24" 1
24"-36" 1	24"-36" 1	24"-36" _____
37"-48" _____	37"-48" _____	37"-48" _____
over 48" _____	over 48" _____	over 48" _____
Driver's Name: (print) William Williams		ID #: _____
Loading Site Departure Time: 4:17pm		Odometer: 24744
Agency Loading Site Monitor:		
Signature: Jason Carter		ID #: _____

Notes:



ALVIN FAIRBURN & ASSOCIATES, LLC.

Hurricane Relief

LOAD TICKET

LIV

10003

Contracting Agency: AFA		No. 10003
Subcontractor: S Deuces		Date: 9/18/08
Truck No.:	Max Load Capacity:	
Load Site: (Street or Intersection, City, County) W. Railroad Hill		
Load Classification: (check one)		
<input type="checkbox"/> Stumps:	<input type="checkbox"/> Leaners:	<input checked="" type="checkbox"/> Hangers:
6"-12" _____	6"-12" _____	6"-12" <u>4</u>
12"-24" _____	12"-24" _____	12"-24" _____
24"-36" _____	24"-36" _____	24"-36" _____
37"-48" _____	37"-48" _____	37"-48" _____
over 48" _____	over 48" _____	over 48" _____
Driver's Name: (print) CHRIS J. ...		ID #: _____
Loading Site Departure Time: 1 PM		Odometer: _____
Agency Loading Site Monitor: Mandy Dite		
Signature: _____		ID #: _____

Notes:

Handwritten notes and tally marks in the notes section.

Note Trip Miles and/or Tons if applicable

AFA 225-665-1515

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site
PLEASE PRESS HARD

Exhibit 3



ALVIN FAIRBURN & ASSOCIATES, LLC.

**Hurricane Relief
LOAD TICKET**

LIV
10904

Contracting Agency: AFA		No. 10904	
Subcontractor: 3 Decks		Date: 9-11-07	
Truck No.:	Max Load Capacity:		
Load Site: (Street or Intersection, City, County) LIV			
Load Classification: (check one)			
<input type="checkbox"/> Stumps:	<input checked="" type="checkbox"/> Leaners:	<input checked="" type="checkbox"/> Hangers: 17	
6"-12" _____	6"-12" <u>0</u>	6"-12" _____	
12"-24" _____	12"-24" _____	12"-24" _____	
24"-36" _____	24"-36" _____	24"-36" _____	
37"-48" _____	37"-48" _____	37"-48" _____	
over 48" _____	over 48" _____	over 48" _____	
Driver's Name: (print) C. J. ...		ID #:	
Loading Site Departure Time: 2:00 PM		Odometer:	
Agency Loading Site Monitor: Signature: <i>Mary Duke</i> ID #:			

Notes:

Note Trip Miles and/or Tons if applicable

AFA 225-665-1515 (Revised 1/06)

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site

PLEASE PRESS HARD



ALVIN FAIRBURN & ASSOCIATES, LLC.

Hurricane Relief

LOAD TICKET

LIV

10005

Contracting Agency: <u>FEA</u>		No. _____	Date: <u>7-11-8</u>
Subcontractor: <u>DIRECTOR</u>			
Truck No.:		Max Load Capacity:	
Load Site: (Street or Intersection, City, County) <u>212 Ave LIV</u>			
Load Classification: (check one)			
<input type="checkbox"/> Stumps:	<input type="checkbox"/> Leaners:	<input checked="" type="checkbox"/> Hangers:	
6"-12" _____	6"-12" _____	6"-12" <u>5</u>	
12"-24" _____	12"-24" _____	12"-24" _____	
24"-36" _____	24"-36" _____	24"-36" _____	
37"-48" _____	37"-48" _____	37"-48" _____	
over 48" _____	over 48" _____	over 48" _____	
Driver's Name: (print) <u>CHRIS B...</u>		ID #: _____	
Loading Site Departure Time: <u>3:45</u>		Odometer: _____	
Agency Loading Site Monitor:			
Signature: <u>[Signature]</u>		ID #: _____	

Notes:

[Handwritten notes]

total Trip Miles and/or Tons if applicable

AFA 225-665-1515

(Revised 6/81)

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site
PLEASE PRESS HARD



ALVIN FAIRBURN & ASSOCIATES, LLC.
Hurricane Relief
LOAD TICKET

LIV
 10006

Contracting Agency: AFA		No. _____
Subcontractor: 3-Demos		Date: 9-11-08
Truck No.:	Max Load Capacity:	
Load Site: (Street or Intersection, City, County) Georgia St. LIV.		
Load Classification: (check one)		
<input type="checkbox"/> Stumps:	<input checked="" type="checkbox"/> Leapers:	<input checked="" type="checkbox"/> Hangers:
6"-12" _____	6"-12" _____	6"-12" _____
12"-24" _____	12"-24" _____	12"-24" _____
24"-36" _____	24"-36" _____	24"-36" _____
37"-48" _____	37"-48" _____	37"-48" _____
over 48" _____	over 48" _____	over 48" _____
Driver's Name: (print) Chad / Johnny P. Sanchez Jr.		ID #: _____
Loading Site Departure Time:		Odometer:
Agency Loading Site Monitor:		
Signature: <i>[Signature]</i>		ID #: _____
Notes: Leapers HT HT HT Hanger 		

Note Trip Miles and/or Tons if applicable

AFA 225-665-1515

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site

PLEASE PRESS HARD



ALVIN FAIRBURN & ASSOCIATES, LLC.

Hurricane Relief

LOAD TICKET

LV

10007

Contracting Agency: AFA		No. _____	Date: 9-11-08
Subcontractor: 3-DeWitts			
Truck No.:		Max Load Capacity:	
Load Site: (Street or Intersection, City, County) IDAHO ST LIV			
Load Classification: (check one)			
<input type="checkbox"/> Stumps:		<input checked="" type="checkbox"/> Leaners:	
6"-12" _____		6"-12" _____	
12"-24" _____		12"-24" _____	
24"-36" _____		24"-36" _____	
37"-48" _____		37"-48" _____	
over 48" _____		over 48" _____	
		<input checked="" type="checkbox"/> Hangers: 1	
		6"-12" _____	
		12"-24" _____	
		24"-36" _____	
		37"-48" _____	
		over 48" _____	
Driver's Name: (print) Chad / John P. Smith Jr			ID #: _____
Loading Site Departure Time: 11:45		Odometer: _____	
Agency Loading Site Monitor:			
Signature: Mandy Duke			ID #: _____
Notes: Leank 1 Hanger			
Note Trip Miles and/or Tons if applicable			

AFA 225-665-1515

White - Agency Canary & Blue - AFA Pink - Sub Green - Driver Gold - Loading Site
PLEASE PRESS HARD

DRC Emergency Services, LLC
LA DOTD CONTRACT

Daily Log Trimming & Cutting of Hanging
Limbs & Leaning Trees

FHWA

Date: 10-2-05

No 1438

Location: 62 Tangip. 445 (278-02)
(District) (Parish) (Reference Road)

Crew Number: # 3

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 51

Notes: 40 hangers, 11 leaners

LA DOTD
Chris Presni
Authorized Representative:

DRC Emergency Service, LLC
[Signature]
Authorized Representative:

DRC Emergency Services, LLC
LA DOTD CONTRACT

FEMA

Daily Log Trimming & Cutting of Hanging
Limbs & Leaning Trees

Date: 10/02/2005 No 0141

Location: 62 TANGIPAHOA LA-1057
(District) (Parish) (Reference Road)

Crew Number: BT 62-J (INTERNATIONAL)

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 49 853-02

Notes: Leaves 11111

LA DOTD

[Signature]
Authorized Representative:

DRC Emergency Service, LLC

[Signature]
Authorized Representative:

FEMA

DRC Emergency Services, LLC LA DOTD CONTRACT

Daily Log Trimming & Cutting of Hanging Limbs & Leaning Trees

Date: 10/02/2005 *SS* No 0140

Location: 62 Tangipahoa LA 1059
(District) (Parish) (Reference Road)

Crew Number: BT-63 (cont)

NUMBER OF CUTS:

①	②	③	④	⑤	⑥	⑦	⑧	⑨	⑩	⑪	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 11

Notes: 853-15

Hangers 1 | 1 | 1 | 1 | 1

Leaners 1 | 1 | 1

LA DOTD
Paul Vetter
Authorized Representative:

DRC Emergency Service, LLC
[Signature]
Authorized Representative:

DRC Emergency Services, LLC
LA DOTD CONTRACT

Daily Log Trimming & Cutting of Hanging
Limbs & Leaning Trees

FHWA

Date: ²10-~~8~~-05

No 1437

Location: 62 Tangiparola 445 (278-02)
(District) (Parish) (Reference Road)

Crew Number: # 5

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 26

Notes: 18 hangers, 9 leaners

LA DOTD

Chris P... ..
Authorized Representative:

DRC Emergency Service, LLC

Donna M Kelly
Authorized Representative:

Tangj.
 10/3/05 0-0
 853-04 44+
 34+
 78+
 FEMA ↓

DRC Emergency Services, LLC
LA DOTD CONTRACT

FEMA

Daily Log Trimming & Cutting of Hanging Limbs & Leaning Trees

Date: 10/3/05 No 0134

Location: 62 TANGI LA 1049 LA 440 →
 (District) (Parish) (Reference Road)

Crew Number: RIGGS TREE SERV # BT-50

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 44 Completed LA 440 to I-55

Notes: UNABLE TO CUT 1111* Leaners - Too tall or close to power lines
 * Call Power company to cut at 1012 LA 1049

L = LEANER

853-04

LA DOTD

DRC Emergency Service, LLC

Paul V...
 Authorized Representative:

...
 Authorized Representative:

Tangi, U.*
10/3/05 51+
853-02 64+
FGMA 115.*
↓ SR

DRC Emergency Services, LLC LA DOTD CONTRACT

Daily Log Trimming & Cutting of Hanging Limbs & Leaning Trees

FEMA

Date: 10-3-05 No 0113

Location: 62 Tangi LA 1057 (853-02)
(District) (Parish) (Reference Road)

Crew Number: # 3

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 51

Notes: 36 hangers, 15 leaners

LA DOTD

Chris Press
Authorized Representative:

DRC Emergency Service, LLC

[Signature]
Authorized Representative:

DRC Emergency Services, LLC
LA DOTD CONTRACT

Daily Log Trimming & Cutting of Hanging
Limbs & Leaning Trees

FEMA

Date: 10-3-05 No 0110

Location: 62 Tangiparona LA 1057 (853-02)
(District) (Parish) (Reference Road)

Crew Number: # 5

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 64

Notes: 53 hangers, 11 leaners

LA DOTD
Chris Press
Authorized Representative:

DRC Emergency Service, LLC
Don M Kelly
Authorized Representative:

**DRC Emergency Services, LLC
LA DOTD CONTRACT**

**Daily Log Trimming & Cutting of Hanging
Limbs & Leaning Trees**

FEMA

Date: 10-4-05

No 1725

Location: 62 Tangipahoa 1057 (853-02)
(District) (Parish) (Reference Road)

Crew Number: # 5

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 62

Notes: 57 hangers, 5 leaners

LA DOTD

Chi Pres
Authorized Representative:

DRC Emergency Service, LLC

[Signature]
Authorized Representative:

DRC Emergency Services, LLC
LA DOTD CONTRACT

Daily Log Trimming & Cutting of Hanging
Limbs & Leaning Trees

FEMA

Date: 10-4-05

No 0111

Location: 62
(District)

Tangit
(Parish)

1057 (853-02)
(Reference Road)

Crew Number: #3

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 26

Notes: 25, hangers, 1 leaner

LA DOTD

Chris Press

Authorized Representative:

DRC Emergency Service, LLC

[Signature]

Authorized Representative:

DRC Emergency Services, LLC
LA DOTD CONTRACT

**Daily Log Trimming & Cutting of Hanging
Limbs & Leaning Trees**

FEMA

Date: 10-4-05 No 0112

Location: 62 Tangit 1048 (853-37)
(District) (Parish) (Reference Road)

Crew Number: # 3

NUMBER OF CUTS:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100	101	102	103	104	105

Daily Total of Cuts: 30

Notes: 28 hangers, 2 loaders

LA DOTD

Chi Pres

DRC Emergency Service, LLC

Steve...

Authorized Representative

GOHSEP Appeal Analysis

Applicant: Parish of Livingston	PW and Version: 54-1
FEMA Decision Date: 9-13-09	State Receipt of Applicant
Monetary Figure in Dispute: \$19,000,000.00	Appeal: 12-14-09

Facts of this First Appeal :

Between August 27th and September 10th of 2008, heavy rain and severe wind from Hurri Gustav severely damaged and destroyed trees throughout the Parish of Livingston. T damages occurred in near proximity to city streets and major highways causing blockages for emergency personnel and residents. To eliminate possible hazards to life and a serious thre public health and safety the applicant contracted with IED on August 31, 2008 to haul debi several temporary disposal and reduction sites throughout Livingston Parish. A total of veget debris collected through 11/12/08 is 289,801.13cy.

On November 19 2008 FEMA wrote the first PW of what would become PW54. On Decembe 2008 FEMA wrote the revised PW54. On August 31, 2009 FEMA wrote PW54v1 which oblig roadside debris removal for only 16% of the 88,892(\$16,252,085.00) hangers and 34% o 1,349(\$396,100.00) leaners claimed by the parish. This obligation was based on a 20% sampli documents provided by the applicant's debris monitoring firm and site verification. The applican been informed by FEMA personnel that the determination was made based on an interpretati photographic evidence.

Furthermore FEMA has declared Livingston Parish to be no longer eligible for the FEMA PA program which provided 95% reimbursement of eligible costs as opposed to the current 90 eligible project costs. This error was based on FEMA using the obligation date of PW54-1 ve the original PW54 which was obligated prior to the December 31, 2008 deadline for participati the program.

Livingston Parish disagrees with FEMA's determination in the preceeding two issues and submit first appeal.

Issue #1 Whether in the instant case there is a rational justification upon which FEMA base the denial of 84% of right-of-way debris removal of hazardous hanging limbs and of the removal of hazardous and leaning trees?

In making this determination FEMA relied primarily on photographs which were merely illustrativ not all encompassing, nor required by any FEMA policy or guidance.

FEMA 325 clearly states:

Documentation required for Public Assistance grant consideration:

- Describe the immediate threat, e.g. photos of hanging limbs or leaning trees;
- Clearly define the scope of work to remove the immediate threat;
- Specify the improved public property location by recording the nearest

GOHSEP Appeal Analysis

building address and/or GPS location; and

- Denote the date, Labor and equipment used to perform the work.

Livingston Parish asserts that it has followed all of the requirements of FEMA. The applicant asserts that monitors were hired and trained in compliance with FEMA guidelines. Measurements were taken and documented. Removal locations were properly documented. The photos were simply taken to provide an example of why the work must be done, an illustration of the immediate danger. They were not taken to document every single cut made. It would be imprudent as well as cost prohibitive to prove eligibility of every limb cut with a clearly defined photograph. This would entail sending professionals up in a bucket truck to photograph the limb before it is ever cut. One could very well reason that the cost of taking pictures of the cuts would soon out measure cutting the limbs.

FEMA 325 provides that photographs are an example of one way to prove/support eligibility. FE Policy guide 9580.204 gives clear guidance on the burden of documentation on behalf of the applicant:

"Hazardous Trees

Documentation: Applicants should submit a spreadsheet showing the number of trees cut and the size and location of each tree. The location should include the street/road name and GPS coordinates of each tree removed along public rights-of-way, and the property address and GPS coordinates of each tree removed from private property. Applicants may also provide photographs of the flush-cut trees and certify that the trees were six inches or larger in diameter, measured 4.5 feet above the ground. (Emphasis added.)

Hazardous Limbs

Documentation: Applicants should submit a spreadsheet containing the location of the trees, the number of limbs cut on each tree, and a certification that the limbs were two inches or larger in diameter. The location should include the name of the street/road and GPS coordinates for each tree or cluster of trees along public rights-of-way, and the street address or parcel number for hazardous limbs cut on private property. Applicants may also submit photographs to document the number of hazardous limbs cut. If the applicants contracted for the removal of hazardous limbs on a per-tree basis, the number of limbs cut per tree is not necessary. (Emphasis added.)"

All of the items listed above have been provided. The policy does not specify that an applicant must have photos. The applicant's attached documents meet all of the other requirements of FEMA policy. FEMA has not during this storm or previous events held other applicants to the standard of a picture for every cut claimed. It is simply discriminatory to hold this applicant to a standard higher than others.

GOHSEP Appeal Analysis

Issue #2 FEMA's failure to acknowledge the applicants compliancy with the December 2008 deadline for participation into the FEMA's PA Pilot program.

Guidelines for the Pilot Program demand that the applicant have in place prior to the storm a preapproved debris management plan. In this case the applicant invested the man hours and money to put such a plan in place. The applicant must also have a project that is approved prior to December 31, 2008. Once again this applicant did have an approved project. The applicant contends that when FEMA constructed Project Worksheet 54v0 in November 2008 and then revised it in December 2008, FEMA approved the project. The State supports this contention. It is the same storm, the same applicant, the same debris. The only thing that changed was FEMA wrote a new version. FEMA writes versions and overwrites everyday. The applicant has no control over this. Using this logic FEMA could nullify the entire pilot program by simply writing a new version for every approved project under the plan. The applicant in this case has done their part. They faithfully followed the rules of the program. The applicant should not now be penalized due to FEMA's failure to produce an acceptable Project Worksheet the first time or on the fifteenth day after the storm takes that many.

Recommendations

After careful review, the State concludes that FEMA's method of verifying eligible trees and limits by only looking at a photograph is fatally flawed as well as discriminatory towards this applicant. The State also concludes that the "Project" was approved as a project when the first Project Worksheet was written. Therefore the State urges that after analyzing all of the enclosed documentation a new version be written accurately reflecting all eligible work and obligated at the 95% reimbursement level of the PA Pilot Program.