



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 12, 2025

CBCA 8356-FEMA

In the Matter of TAYLOR COUNTY SCHOOL DISTRICT

Wendy H. Ellard of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Jackson, MS, counsel for Applicant; and Shanna Dodimead, Risk Manager and Benefits Coordinator, Taylor County School District, Perry, FL, appearing for Applicant.

Kelly Ann Kennedy, Deputy General Counsel, and Caleb Keller, Senior Attorney, Florida Division of Emergency Management, Tallahassee, FL, counsel for Grantee; and Cassie Sykes, Recovery Appeals Officer, and Melody Cantrell, Recovery Legal Liaison, Florida Division of Emergency Management, Tallahassee, FL, appearing for Grantee.

Alecia Frye, Office of Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC, counsel for Federal Emergency Management Agency.

Before the Arbitration Panel consisting of Board Judges **O'ROURKE**, **KANG**, and **VOLK**.

VOLK, Board Judge, writing for the Panel.

Applicant, Taylor County School District, seeks \$333,721.23 in public assistance (PA) funding for projects to repair damage caused by Hurricane Idalia, which made landfall in Florida on August 27, 2023.¹ We find that the projects at issue are ineligible for PA funding because they were not timely reported to the Federal Emergency Management Agency

¹ FEMA does not dispute that Taylor County, Florida, is a rural area for purposes of 42 U.S.C. § 5189a(d)(4) (2018).

(FEMA) and the school district has not demonstrated that the delay was the result of extenuating circumstances beyond its control.

Background

On August 31, 2023, the President declared Hurricane Idalia a major disaster in Florida. On September 14, 2023, Taylor County School District submitted a PA request to FEMA. FEMA held its first substantive meeting with the school district regarding that PA request in October 2023.² That meeting triggered a December 2023 deadline for the school district to identify and report the damage to its facilities to FEMA. 44 CFR 206.202(d)(1)(ii) (2023) (“The applicant will have 60 days following its first substantive meeting with us to identify and to report damage to us.”). On December 6, 2023, the school district timely submitted its damage inventory to FEMA.

To coordinate repairs from the hurricane, the school district relied on a program offered by the Florida School Boards Insurance Trust called the Emergency Advantage Insurance Managed Repair Program (EA IMRP). On November 1, 2023, the EA IMRP provided a report to the school district titled “FEMA Report - Emergency Services Cost Summary - Taylor.” For each damaged building, the report included fields for “Total Emergency Services Vendor Cost,” “Named Storm Building Deductible,” and “Total FEMA Eligible Amount.” In preparing the December 6, 2023, damage inventory that it submitted to FEMA, the school district relied heavily on the November 1, 2023, EA IMRP report.

In its December 6, 2023, damage inventory, the school district identified both emergency stabilization work, recoverable under FEMA’s “Category B,” and permanent repair work, which was recoverable under FEMA’s “Category E.” If the cost of Category B emergency work for a given facility, as reported in the November 1, 2023, EA IMRP report, satisfied the school district’s insurance deductible for that facility, the school district omitted the projected costs of permanent repair work for that facility from its December 6, 2023, damage inventory because it expected that the permanent work would be fully covered by

² FEMA states that the meeting occurred on October 12, 2023, although several documents, including the school district’s request for arbitration, state that it occurred on October 23, 2023. *See* FEMA Response at 7 n.30. Whether the meeting occurred on October 12, 2023, or October 23, 2023, is not of any consequence in this arbitration.

insurance and, therefore, not recoverable from FEMA.³ See Applicant's Request for Arbitration at 4-5.

In April 2024, after an audit by its insurer, the school district became aware that the costs for Category B emergency work for several of its facilities were less than had been reported in the November 1, 2023, EA IMRP report. For several facilities, the audited Category B costs no longer reached the school district's deductible, meaning that the school district would be responsible for a portion of the cost of the permanent repair work for those facilities.

In an April 16, 2024, letter to FEMA, the school district requested approval to submit late damage inventories to capture its uninsured loss for Category E permanent work for eighteen facilities. FEMA denied the request, reasoning that the school district's justification for the requested late submission did not qualify as extenuating circumstances under FEMA's regulations. FEMA denied the school district's first appeal on the same basis, and the school district timely requested arbitration before the Board.

Discussion

In this arbitration, the school district argues that (1) extenuating circumstances beyond its control justified a late damage inventory submission, and (2) alternatively, no late submission was necessary because the facilities at issue were listed within the portions of its December 6, 2023, damage inventory, which described the Category B emergency work. We disagree with both arguments.

FEMA may extend the sixty-day time limit established by 44 CFR 206.202(d)(1)(ii) for identifying and reporting damage "when the recipient justifies and makes a request in writing." 44 CFR 206.202(f)(2). However, "[t]he justification must be based on extenuating circumstances *beyond the recipient's or subrecipient's control*." *Id.* (emphasis added). FEMA guidance provides an example of extenuating circumstances beyond an applicant's control: "if a site is inaccessible, FEMA may extend the deadline for that site." PAPPG at 60.

³ FEMA does not prohibit applicants from seeking funding for work that is or may be covered by insurance. Rather, FEMA requires applicants to disclose insurance proceeds, and FEMA reduces eligible costs by the amount of insurance proceeds received to prevent duplication of benefits. Public Assistance Program and Policy Guide (PAPPG) (June 2020) at 93-94.

The school district has not presented extenuating circumstances beyond its control. The decision regarding which facilities to include in its inventory of damage requiring permanent repairs under Category E, as well as the decisions to coordinate work through the EA IMRP, and whether to rely on the amounts stated in the November 1, 2023, EA IMRP report, were all made by the school district. Although it is unfortunate that the school district apparently did not realize that the amounts in the November 1, 2023, report were subject to change, that error is not a circumstance beyond the school district's control. FEMA correctly denied the school district's extension request because the school district did not present extenuating circumstances beyond its control.

We also disagree with the school district's alternative argument that the extension was unnecessary because the facilities were identified in its original December 6, 2023, damage inventory. Although the same buildings were listed in that inventory, they were listed only with respect to emergency stabilization work under Category B. The damage for which the school district now seeks PA funding to make permanent repairs under Category E was not timely identified or reported to FEMA.

Decision

The \$333,721.23 in costs at issue in this arbitration are ineligible for PA funding.

Daniel B. Volk

DANIEL B. VOLK
Board Judge

Kathleen J. O'Rourke

KATHLEEN J. O'ROURKE
Board Judge

Jonathan L. Kang

JONATHAN L. KANG
Board Judge