OFFICE OF INSPECTOR GENERAL

Audit Tips for Managing Disaster-Related Project Costs

Homeland Security

OIG-15-100-D

June 8, 2015

DHS OIG
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Why We Did This

We prepared this report to assist recipients and subrecipients (grantees and subgrantees) of Federal Emergency Management Agency (FEMA) disaster assistance grants. We have updated this guide to include information on FEMA's alternative procedures under the *Sandy Recovery Improvement Act of 2013* (P.L. 113-2). We also added information about Title 2 CFR Part 200: *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, which applies to all FEMA awards made on or after December 26, 2014.

For Further Information:
Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

Who Needs This?

More than 100,000 recipients and subrecipients of FEMA disaster assistance grants are currently working on about 600,000 open projects worth over $50 billion. Under the Public Assistance Program, FEMA provides grants to state, tribal, and local governments, and private nonprofit organizations so that communities can quickly respond to and recover from major disasters. FEMA's Hazard Mitigation Grant Program provides funding to the same entities to implement long-term measures to prevent damages from future disasters.

Using this report will assist Disaster Assistance applicants—

- **document and account for disaster-related costs;**
- **minimize the loss of FEMA disaster assistance funds;**
- **maximize financial recovery; and**
- **prevent fraud, waste, and abuse of disaster funds.**

06-08-2015

MEMORANDUM FOR: All Recipients and Subrecipients of Disaster Grant Awards from the Federal Emergency Management Agency

FROM: John V. Kelly
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Audit Tips for Managing Disaster-Related Project Costs*
Report Number OIG-15-100-D

The Department of Homeland Security (DHS), Office of Inspector General (OIG), Office of Emergency Management Oversight (EMO) prepared this report to provide recipients and subrecipients (grantees and subgrantees) of Federal Emergency Management Agency (FEMA) Public Assistance and Hazard Mitigation grant funds examples of previous audit findings. The purpose of this report was not to audit FEMA or its grant recipients and subrecipients. Therefore, we did not prepare it in accordance with generally accepted government auditing standards.

Rather, this report provides an overview of OIG responsibilities; applicable disaster assistance Federal statutes, regulations, and guidelines; the audit process and frequent audit findings; and key points to remember when administering FEMA grants. Using this report should assist disaster assistance applicants—

- document and account for disaster-related costs;
- minimize the loss of FEMA disaster assistance program funds;
- maximize financial recovery; and
- prevent fraud, waste, and abuse of disaster funds.

Background

Each year, OIG audit reports reveal significant issues representing millions of dollars of Federal funds allocated for disaster assistance and recovery efforts. These reports also contain recommendations to protect the integrity of and improve FEMA's disaster assistance operations.

The majority of our audits focus on FEMA's Public Assistance and Hazard Mitigation grant programs, funded from the Disaster Relief Fund. Under the Public Assistance Program, FEMA provides grants to state, tribal and local governments, and certain types of private nonprofit organizations so that communities can quickly respond to and recover from major disasters. FEMA's

Hazard Mitigation Grant Program provides funding to the same entities to implement long-term measures to prevent damages from future disasters.

Overview of the Office of Inspector General

The *Homeland Security Act of 2002* established the OIG in DHS by amendment to the *Inspector General Act of 1978* (P.L. 95-452). The OIG serves as an independent office to promote economy, efficiency, and effectiveness; to prevent waste, fraud, and abuse; and to keep Congress and the Secretary of DHS fully informed of problems in DHS programs and operations. The principal functions of the OIG are to:

- perform or oversee audit and investigative functions relating to programs and operations of DHS;
- inspect Department activities to identify actual or potential fraud, waste, abuse, or mismanagement, and to develop recommendations for corrective action; and
- investigate allegations of illegal, unethical, or other activities that may lead to civil or criminal liability on the part of DHS or its employees, contractors, or program participants.

Applicable Federal Statutes, Regulations, and Guidelines

Federal grant recipients and subrecipients are responsible for understanding and complying with a large amount of criteria applicable to FEMA disaster grants, which include those for public assistance and hazard mitigation. Some help in responding to and recovering from a disaster, and others help in receiving and managing Federal funds. One of the most important criteria is Title 44 Code of Federal Regulations (CFR), which contains policies and procedures for implementing the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended (*Stafford Act*). These basic policies and procedures govern disaster relief operations. Title 44 CFR is available at the following website: http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.

Another very important criterion is Title 2 CFR Part 200: *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("Super Circular" or "Omni Circular"). These regulations supersede 44 CFR Part 13, and Office of Management and Budget (OMB) Circulars A-102, A-110, A-87, A-21, A-122, and A-133 **for all FEMA awards made on or after December 26, 2014**. Title 2 CFR Part 200 is available at the following website: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl.

For all FEMA awards made before December 26, 2014, the following OMB circulars apply (http://www.whitehouse.gov/omb/circulars_default/):

- OMB Circular A-102, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*. [FEMA codified these requirements, also referred to as the "Common Rule," at 44 CFR Part 13.]

- OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*. Relocated to 2 CFR, Part 215.

- OMB Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*. Relocated to 2 CFR, Part 225.

- OMB Circular A-21, *Cost Principles for Educational Institutions*. Relocated to 2 CFR, Part 220.

- OMB Circular A-122, *Cost Principles for Non-Profit Organizations* (excludes hospitals). Relocated to 2 CFR, Part 230. [According to 2 CFR 215.27, the allowability of costs that hospitals incur "is determined in accordance with the provisions of Appendix E of 45 CFR part 74, *Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals*."]

- OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*.

In addition, FEMA has several program-specific policy documents that will assist recipients and subrecipients in understanding all aspects of the Public Assistance and Hazard Mitigation Grant Programs, including the following:

- FEMA 321, *Public Assistance Policy Digest* (January 2008)
- FEMA 322, *Public Assistance Guide* (June 2007)
- FEMA 323, *Public Assistance Applicant Handbook* (March 2010)
- FEMA 325, *Public Assistance Debris Management Guide* (July 2007)
- FEMA 327, *Debris Monitoring Guide* (October 2010)
- FEMA 329, *Debris Estimating Field Guide* (September 2010)
- FEMA Disaster Assistance Policy (9500 series policy statements)
- Hazard Mitigation Assistance (HMA) Unified Guidance

The following websites provide access to a number of FEMA resources: http://www.fema.gov/public-assistance-policy-and-guidance and https://www.fema.gov/hazard-mitigation-assistance

The *Sandy Recovery Improvement Act of 2013* (P.L. 113-2) amended Title IV of the *Stafford Act*. Specifically, the law adds section 428, which authorizes alternative procedures for the Public Assistance (PA) Program under sections 403(a)(3)(A), 406, 407, and 502(a)(5) of the *Stafford Act*. It also authorizes FEMA to implement the alternative procedures through a pilot program. The program will remain in place until FEMA promulgates and adopts revised regulations that reflect the program changes the law authorizes. Information is available at the following website: https://www.fema.gov/alternative-procedures.

The Audit Process and Frequent Audit Findings

The OIG considers several factors to determine which activities to audit. These factors include:

- the risk of fraud, waste, and abuse of Federal funds;
- statutory and regulatory requirements;
- current or potential dollar magnitude;
- requests from congressional, FEMA, or State officials; and
- reports/allegations of impropriety or problems in implementing FEMA programs.

Traditionally, the OIG conducted most of its disaster grant audits after communities completed the majority or all of the work to determine whether they had accounted for and expended FEMA funds according to Federal requirements. However, in 2012, the OIG implemented a more proactive approach to auditing to place greater emphasis on prevention and early detection. This approach considers the entire life cycle of grant awards. Currently, at least half of OIG's disaster grant audits consist of (1) "capacity" audits that start usually within a year of the disaster; or (2) "early warning" audits that start before communities have begun work on most permanent projects. These audits identify areas where grant recipients may need additional technical assistance or monitoring to ensure compliance with Federal requirements. In addition, by undergoing an audit early in the grant cycle, grant recipients have the opportunity to correct noncompliance before they spend the majority of their grant funding. It also allows them the opportunity to supplement deficient documentation or locate missing records before too much time elapses.

Frequent Audit Findings (examples)

A. Poor Contracting Practices

Criteria: According to Federal regulations (2 CFR 200.318 to .326), all non-Federal entities (other than states) must comply with the following procurement standards:[1]

- Conduct all procurement transactions in a manner providing full and open competition consistent with the standards of this section (2 CFR 200.319(a)). Noncompetitive procurement may be used under certain circumstances, one of which is when the public exigency or emergency will not permit a delay resulting from competitive solicitation (2 CFR 200.320(f)).

- Take all necessary affirmative steps to assure the use of minority businesses, women's business enterprises, and labor surplus area firms when possible (2 CFR 200.321)).

- Maintain oversight to ensure contractors perform according to the terms, conditions, and specifications of their contracts or purchase orders (2 CFR 200.318(b)).

- Maintain written standards of conduct covering conflicts of interest and governing the performance of its employees who engage in the selection, award, and administration of contracts (2 CFR 200.318(c)(1)).

- Maintain records sufficient to detail the history of the procurement. These records will include, but are not limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (2 CFR 200.318(i)).

- Use time-and-material-type (T&M) contracts only after determining that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of (1) the actual cost of materials; and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit (2 CFR 200.218(j)(1)).

- Perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications (2 CFR 200.323(a)).

[1] States must follow the same policies and procedures they use for procurements using non-Federal funds (2 CFR 200.317).

- Negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed (2 CFR 200.323(b)).

- Do not use cost-plus-a-percentage-of-cost and percentage-of-construction-cost methods of contracting (2 CFR 200.323(d)).

- Include required provisions in all contracts awarded (2 CFR 200.326).

Finding 1. The subrecipient awarded four debris contracts totaling $44.6 million without competition. As a result, full and open competition did not occur and FEMA had no assurance that costs were reasonable. The subrecipient also did not adequately monitor its contracts. Contract monitoring includes comparing staff and equipment hours invoiced to actual observations of work performed. The audit identified instances where the subrecipient paid contractor invoices that did not agree with the contractor's time and attendance, and equipment usage records. Because the subrecipient did not effectively monitor the contract, FEMA had no assurance that the hours the contractor charged on invoices were for actual time worked. Therefore, the OIG questioned $44.6 million because the subrecipient did not follow Federal procurement standards.

Finding 2. The subrecipient used a T&M contract, which is not appropriate for most construction work, and did not include a cost ceiling. The contract also included prohibited markups based on a percentage of costs. By definition, T&M contracts provide for acquiring supplies or services on the basis of (1) direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit and (2) materials at cost, including, if appropriate, material handling costs. The T&M rates in the contract already included profit and overhead, yet the contractor charged markups of 15 to 33 percent on top of its T&M rates. Additionally, the subrecipient did not perform any cost or price analysis for the contract and did not negotiate a cost ceiling or "not-to-exceed" contract provision with its contractor. As a result, the contractor had no incentive to contain project costs. In fact, markups as a percentage of costs provide contractors a disincentive to save costs because higher costs lead to higher profits. Therefore, the OIG questioned $1,243,850 in T&M contract costs because the subrecipient did not follow Federal procurement standards.

Finding 3. The subrecipient did not openly compete a contract totaling $4.1 million for the replacement/repair of pump stations and electrical components. Instead, the subrecipient used a contractor with which it had an existing business relationship before the disaster. In addition, the subrecipient accepted the contractor's proposed prices without performing an independent analysis of the prices to ensure reasonableness. Finally, the subrecipient did not take the required steps to assure the use of small businesses, minority owned firms, women's business enterprises, and labor-surplus area firms when possible.

Therefore, FEMA has no assurance that these types of firms had adequate opportunities to bid on federally funded work as Congress intended. Therefore, the OIG questioned $4.1 million because the procurement did not comply with Federal requirements.

B. __Unsupported Costs__

Criteria: Federal cost principles (2 CFR 200.403(g)) require recipients and subrecipients to adequately document costs they claim under Federal programs.

Finding 1. The subrecipient claimed $150,000 for contract labor but had invoices and canceled checks to support only $100,000. The OIG questioned the unsupported difference of $50,000.

Finding 2. The subrecipient's claim included $300,000 for force account labor. However, the subrecipient provided time sheets and payroll registers to support only $275,000. The OIG questioned the unsupported difference of $25,000.

Finding 3. The subrecipient claimed $1 million for materials withdrawn from its existing inventory to repair its electrical distribution system. The subrecipient had a listing of material items reportedly used for repairs and a listing of the value of such items. However, records reflecting the withdrawal of items from the inventory did not support the listing. Therefore, the OIG allowed the material costs associated with the actual repairs but questioned the $1 million in materials the subrecipient claimed to have taken from its existing inventory.

C. __Poor Project Accounting__

Criteria: Federal regulations (2 CFR 200.302 and 44 CFR 206.205) require recipients and subrecipients to maintain a system that accounts for FEMA funds on a project-by-project basis. The system must disclose the financial results for all FEMA-funded activities accurately, currently, and completely. It must identify funds received and disbursed, and reference source documentation (i.e., canceled checks, invoices, payroll, time and attendance records, contracts, etc.).

Finding 1. The subrecipient did not account separately for the costs of each project. The subrecipient had five distinct FEMA-funded projects but accounted for project expenditures under one cost center. As a result, the OIG could not verify the subrecipient's claim by project.

Finding 2. The subrecipient's journal of project expenditures did not contain references to payroll or daily activity reports that supported the payroll expenditures charged to the FEMA project. Therefore, the OIG could not systematically trace expenditures for labor to supporting documents nor verify the claimed costs.

D. Duplication of Benefits

Criterion: Section 312 of the *Stafford Act* prohibits duplication of benefits. In other words, a subrecipient cannot receive disaster funding for activities covered by insurance benefits, other Federal programs, or any other source.

Finding 1. The subrecipient claimed and received $200,000 to repair a fence, replace dirt, and construct a retaining wall at a baseball park facility. However, the subrecipient had insurance coverage that it had not disclosed to FEMA, and received $220,000 from its insurance carrier for the same damages. Therefore, the OIG questioned the $200,000 of FEMA funding received for damages that insurance covered.

Finding 2. The subrecipient claimed and received $100,000 of FEMA funds for road repairs and the replacement of a chain link fence at a Head Start facility. However, the subrecipient also received funds from the U.S. Department of Housing and Urban Development and the U.S. Department of Health and Human Services to carry out the same activities. Therefore, the OIG questioned the $100,000 of FEMA funds received for activities that other Federal programs covered.

E. Excessive Equipment Charges (applicability may vary with hazard mitigation projects)

Criterion: Federal regulations (44 CFR 206.228) require that subrecipients use the FEMA schedule of equipment rates or their local rates, whichever are lower. Subrecipients that do not have local established rates must use the FEMA equipment rates when claiming costs under a FEMA project.

Finding. The subrecipient claimed $78,348 for the use of bucket trucks based on the FEMA rate of $24 per hour (3,264.5 hours x $24 per hour). However, the subrecipient's local equipment rate for bucket trucks was $16 per hour, or $8 less than the FEMA rate. Therefore, the OIG questioned $26,116 (3,264.5 hours x $8) of excess charges.

F. Excessive Labor and Fringe Benefit Charges

Criteria: According to Federal cost principles (2 CFR 200.403(c)), allowable costs must be consistent with policies and procedures that apply uniformly to both Federal awards and other activities of the non-Federal entity. Additionally, according to 44 CFR 206.228, straight or regular-time salaries and benefits of permanent employees engaged in emergency work (emergency protective measures and debris removal) are not eligible for FEMA Public Assistance funding.

Finding 1. The subrecipient claimed $50,000 for overtime fringe benefits based on a fringe benefit rate of 23.55 percent. However, the rate included the cost of worker's compensation, which is not applicable to overtime. The subrecipient should have based its claim on a rate of 10 percent, which would have resulted in charges of $21,231. Therefore, the OIG questioned $28,769 that the subrecipient received, but to which it was not entitled.

Finding 2. The subrecipient claimed $10,000 for fringe benefits for personnel that a temporary personnel agency supplied. However, the subrecipient did not provide fringe benefits to the workers or pay the personnel agency for the costs claimed. Therefore, the OIG questioned the inappropriate charges of $10,000.

Finding 3. The subrecipient charged a debris-removal project $250,000 for regular time ($150,000) and overtime ($100,000) labor costs of permanent employees. Because regular-time salaries and benefits of a subrecipient's permanent employees engaged in debris removal work are not eligible for FEMA assistance, the OIG questioned the $150,000 claimed for regular-time labor.

G. Unrelated Project Charges

Criteria: According to Federal cost principles (2 CFR 200.403(a)), charges to Federal grants must be necessary and reasonable for the performance of the Federal award. In addition, to be eligible for FEMA funds, an item of work must be required because of the major disaster event (44 CFR 206.223). Therefore, the subrecipient must substantiate that its claimed costs directly relate to the disaster. The subrecipient must also establish a clear relationship between claimed costs and the scope of work recorded on a project worksheet.

Finding 1. The subrecipient's claim for repairs to its local electrical distribution system included $10,000 in ineligible costs for meals provided to the subrecipient's vice presidents, car washes, and a VCR. The OIG questioned these costs because they were for activities that did not benefit the project.

Finding 2. The subrecipient claimed and received $500,000 under a FEMA project to repair Road XYZ. However, the subrecipient's claim included $250,000 for heavy equipment and material charges for Road ABC. The OIG questioned the $250,000 for Road ABC because the road was not included under the project's approved scope of work.

H. Unapplied Credits

Criterion: According to Federal cost principles (2 CFR 200.406), credits accruing to or received by a non-Federal entity that relate to allowable costs must be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

Finding 1. FEMA awarded funds to repair a subrecipient's electrical distribution system. The subrecipient received $15,000 from the sale of scrap material related to the FEMA project, but did not credit the FEMA project with the sale proceeds. Therefore, the OIG questioned $15,000 as unapplied credits.

Finding 2. The subrecipient received credit discounts totaling $7,000 under a FEMA project for early payments to a contractor, but did not credit the FEMA project for the discounts. Therefore, the OIG questioned $7,000 because the subrecipient should have reduced its claim by that amount.

I. Direct Administrative Costs

Criteria: 44 CFR 207 and FEMA Disaster Policy 9525.9, *Management Costs and Direct Administrative Costs* (Policy), identify "section 324 management costs," and other grant management and administrative costs that are eligible under the Public Assistance Program. The Policy also clarifies the process through which grantees and subgrantees (recipients and subrecipients) can request reimbursement for these costs. Section VII.A of the Policy provides the following definitions:

- *Direct Administrative Costs* are costs the grantee or subgrantee (recipient and subrecipient) incurs that can be identified separately and assigned to a specific project (44 CFR 207.6(c)).
- *Indirect Costs* are costs a grantee (recipient) incurs for a common or joint purpose benefiting more than one cost objective that are not readily assignable to the cost objectives specifically benefited (44 CFR 207.2).
- *Management Costs* are any indirect costs, administrative expenses, and any other expenses that a grantee or subgrantee (recipient or subrecipient) reasonably incurs in administering and managing the Public Assistance grant that are not directly chargeable to a specific project (44 CFR 207.2).
- *Pass-through funds* are the percentage or amount of management costs that the grantee (recipient) determines it will make available to subgrantees (subrecipients) (44 CFR 206.207(b)(1)(iii)(K)).

According to section VII.D.1 of the Policy, "Direct administrative costs include costs that can be tracked, charged, and accounted for directly to a specific project, such as staff time to complete field inspection and preparation of a project worksheet. Direct costs are limited to actual reasonable costs incurred for a specific project. Such costs will be considered project costs."

Finding. The subgrantee (subrecipient) claimed $2,272,675 as direct administrative costs, but could not track the costs separately to specific projects. The subgrantee (subrecipient) allocated its administrative costs over all the projects. The OIG questioned the $2,272,675 because the costs could not be traced directly to specific projects; therefore, the costs were indirect costs, which are unallowable. Although allocating administrative costs over all the projects may have been acceptable for project formulation (initial estimation of project cost) and/or to expedite the funding process, it is not acceptable for claiming direct administrative costs.

Key Points to Remember When Administering FEMA Grants

1. Designate a person to coordinate the accumulation of records.

2. Establish a separate and distinct account for recording revenue and expenditures, and a separate identifier for each distinct FEMA project.

3. Ensure that the final claim for each project is supported by amounts recorded in the accounting system.

4. Ensure that each expenditure is recorded in the accounting books and is referenced to supporting source documentation (checks, invoices, etc.) that can be readily retrieved.

5. Research insurance coverage and seek reimbursement for the maximum amount. Credit the appropriate FEMA project with that amount.

6. Check with your Federal Grant Program Coordinator about the availability of funding under other Federal programs (Federal Highway, Housing and Urban Development, etc.) and ensure that the final project claim does not include costs that another Federal agency funded or should have funded.

7. Ensure that materials taken from existing inventories for use under FEMA projects are documented by inventory withdrawal and usage records.

8. Ensure that expenditures claimed under the FEMA project are reasonable and necessary, are authorized under the scope of work, and directly benefit the project.

Disaster Fraud Hotline

The DHS OIG not only conducts audits, but also aggressively investigates allegations of fraud, waste, and abuse. Below are a few of the more common allegations reported through our Hotline.

- Disaster assistance applicants use false names and/or fictitious addresses.
- Disaster assistance applicants claim losses that they did not incur or were not entitled to claim.
- Private individuals claim to be FEMA employees.
- Disaster fund recipients are victimized by contractors who inflate repair fees and/or fail to properly complete repairs.
- Disaster fund recipients damage their own properties to receive disaster assistance.
- Recipients do not use FEMA funds for the purpose intended.

If you have knowledge of fraud, waste, or abuse, or allegations of mismanagement involving disaster relief operations, you can:

- Call the Disaster Fraud Hotline at 1-866-720-5721
- Fax the Disaster Fraud Hotline at 1-225-334-4707
- Email: disaster@leo.gov
- Or write: National Center for Disaster Fraud
Baton Rouge, LA 70821-4909

Calls can be made anonymously and confidentially.

ADDITIONAL INFORMATION AND COPIES

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For further information or questions, please contact Office of Inspector General Public Affairs at: DHS-OIG.OfficePublicAffairs@oig.dhs.gov. Follow us on Twitter at: @dhsoig.

OIG HOTLINE

To report fraud, waste, or abuse, visit our website at www.oig.dhs.gov and click on the red "Hotline" tab. If you cannot access our website, call our hotline at (800) 323-8603, fax our hotline at (202) 254-4297, or write to us at:

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