

Department of Homeland Security Office of Inspector General

**FEMA Should Recover \$764,968 of Public Assistance
Program Grant Funds Awarded to the University of
Hawaii, Honolulu, Hawaii**





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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MEMORANDUM FOR: Karen Armes
Acting Regional Administrator, Region IX
Federal Emergency Management Agency

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

SUBJECT: *FEMA Should Recover \$764,968 of Public Assistance Program Grant Funds Awarded to the University of Hawaii, Honolulu, Hawaii*
FEMA Disaster Number 1575-DR-HI
Audit Report Number OIG-14-104-D

We audited Federal Emergency Management Agency (FEMA) Public Assistance Program grant funds awarded to the University of Hawaii, Manoa Campus, Honolulu, Hawaii, (University), Public Assistance Number 000-U8URU-00. Our audit objective was to determine whether the University accounted for and expended FEMA funds according to Federal regulations and FEMA guidelines.

The Hawaii State Civil Defense (State), a FEMA grantee, awarded the University \$22,488,551 for costs resulting from severe floods and flash flooding on October 30, 2004. The award provided 75 percent FEMA funding for 32 large projects and 51 small projects.¹ Our audit covered the period from October 2004 to December 2011, the date FEMA closed the University's subgrant application. We audited eight large projects, with total costs of \$24,595,158 (\$16,772,672 after insurance reductions).² We decided to audit this grant, in part, due to the significant amount of funds associated with the grant; the delay from when the disaster occurred to its declaration; and other issues that came to our attention pertaining to the University's accounting and procurement practices.

We conducted this performance audit between June 2013 and February 2014, pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. Except as noted in this report, we believe that the evidence

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$55,500.

² University officials submitted their final claimed costs of \$22,488,551 to the State on August 31, 2011. We based our audit on these claimed costs.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA, State, and University officials; reviewed judgmentally selected project costs (generally based on dollar value), and performed other procedures considered necessary to accomplish our objective. We also notified the Recovery Accountability and Transparency Board of all contracts the subgrantee awarded under the grant to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. We did not assess the adequacy of the University’s internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. However, we did gain an understanding of the University’s method of accounting for disaster related costs and its procurement policies and procedures.

BACKGROUND

The University of Hawaii is a public system of higher education that includes 10 campuses and various educational, training, and research centers across the Hawaiian Islands. The University’s Manoa Campus is its largest and oldest campus, located in a residential valley above Waikiki, Honolulu, Oahu, Hawaii.

In October 2004, thunderstorms over the southern portion of the Koolau Mountains produced heavy rainfall within a short amount of time. This resulted in the Manoa Stream overflowing its banks and causing flooding in the Manoa Valley, including the University’s Manoa Campus. The President declared a major disaster on February 1, 2005, 3 months after the disaster occurred. The University completed the last project associated with this disaster in 2011, and the entire Public Assistance application is closed.³ Table 1 shows the gross and net award amounts before and after reductions for insurance.

Table 1. Gross and Net Awarded and Audited Amounts Before and After Insurance			
Category	Gross Award Amount	Insurance Reductions	Net Award Amount
All Projects	\$47,488,551	(\$25,000,000)	\$22,488,551
Audit Scope	\$24,595,158	(\$7,822,486)	\$16,772,672

Source: FEMA Project Documentation, University Closeout Records, and OIG Analyses

³ FEMA officials closed the DR-1575-DR-HI Public Assistance application for the University of Hawaii on December 16, 2011 (albeit with a temporary reopening of the application to process a project correction).



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Department of Homeland Security

RESULTS OF AUDIT

The University did not account for or expend \$764,968 in claimed costs, which represents 3.1 percent of the \$24,595,158 we audited, according to Federal regulations and FEMA guidelines (see table 2). University officials claimed ineligible and excessive engineering costs, ineligible project improvement costs, duplicate costs, and costs for work that FEMA did not authorize.

Finding	Subject	Costs Questioned
A	Ineligible and Excessive Engineering Costs	354,686
B	Ineligible Project Improvement Costs	321,003
C	Duplicate Costs	73,906
D	Costs Unrelated to the Disaster	15,373
Total		\$764,968

Source: OIG Analyses

Finding A: Ineligible and Excessive Engineering Costs

University officials claimed \$354,686 in ineligible (\$36,909) and excessive (\$317,777) costs for Project 3 (see Exhibit, Schedule of Projects Audited and Costs Questioned) for construction management and architectural and engineering (A&E) services for the first floor of its Biomedical Building. We analyzed these costs to determine eligibility and reasonableness and determined that the University made improvements to the building (i.e., reconstructing the entire first floor of the building, rather than repairing it to its pre-disaster condition) and improperly claimed A&E costs associated with those improvements to the FEMA grant.

Specifically, the University claimed a total of \$452,109 in A&E costs, of which \$36,909 were related to unauthorized improvements. Of the remaining \$415,200, we determined that \$317,777 was excessive and may likewise be unreasonable and relate to ineligible improvements:

- University officials claimed \$36,909 in unauthorized (ineligible) A&E costs for Project 3 that did not relate to the FEMA-approved scope of work. The University claimed these A&E costs under various change orders for unapproved work, such as improving mechanical systems in the Biomedical Building, relocating the fire alarm control station, and replacing and relocating an existing fume hood fan.
- University officials also claimed excessive A&E costs that may not be reasonable. FEMA’s criteria established that, for a project of this size, University officials could incur approximately 7.2 percent of the project’s construction costs (or actual *reasonable*



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

costs) for A&E costs, or about \$97,423.⁴ We based this estimate on FEMA's reasonableness guidelines for engineering costs for projects of above-average complexity.⁵ However, the University charged 30.7 percent of its construction costs of \$1,353,095 (net of \$15,373 in ineligible project costs), or \$415,200, for A&E services. These costs amounted to \$317,777 *more* than \$97,423—the amount authorized by FEMA's criteria.⁶

Federal rules and FEMA guidelines stipulate that a cost is eligible and reasonable if the cost:

- Is required as the result of the major disaster event; (44 CFR 206.223(a)(1))
- Corresponds directly to the cause of damage and derives from the project's FEMA-approved scope; (*Public Assistance Guide*, FEMA 322, October 1999, pp. 73 and 115–116; and *Applicant Handbook*, FEMA 323, September 1999, pp. 21–22, 32, and 52)
- Is related to the nature of the goods or services acquired or applied, and the amount involved therefore reflects the action that a prudent person would have taken under the circumstances prevailing at the time the person made the decision to incur the cost; (OMB, Circular A-21; *Principles for Determining Costs Applicable to Grants, Contracts, and Other Agreements with Educational Institutions*, May 2004, Section C.3)
- Is both fair and equitable for the type of work being performed; (*Public Assistance Guide*, FEMA 322, October 1999, p. 34)
- Can be established through the use of historical documentation for similar work and average costs for similar work in the area. (*Public Assistance Guide*, FEMA 322, October 1999, p. 34)

Therefore, we question \$354,686 in ineligible (\$36,909) and excessive (\$317,777) A&E costs.

⁴ FEMA derives these percentages from its *Engineering and Design Services Cost Curves*. These curves, which FEMA bases on data developed by the American Society of Civil Engineers, show a correlation between engineering costs and total construction costs.

⁵ Although FEMA used criteria for projects of 'above-average' complexity rather than average complexity, we would categorize much of the University's construction work (such as painting and carpeting) to be of average complexity. We nonetheless accepted the use of these criteria to be conservative in questioning costs.

⁶ To calculate the excessive engineering costs, we adjusted (i.e., subtracted) the University's total construction costs claimed of \$1,368,468 by the amount of \$15,373, the ineligible project costs we questioned in Finding D. We made this adjustment to be reasonable; so as not to calculate excessive costs on those costs that we have already questioned elsewhere.



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State and University officials did not comment on this overall finding, but agreed that the \$36,909 in costs that we determined were ineligible did in fact pertain to the University's project improvements. FEMA officials are withholding comment until after we issue our final report.

Finding B: Ineligible Project Improvement Costs

The University claimed \$321,003 in ineligible costs for Project 4 (see Exhibit, Schedule of Projects Audited and Questioned Costs) as a result of performing project improvements that FEMA did not authorize in its scope of work. FEMA initially estimated \$4,230,271 in costs for Project 4 related to damage of the electric transformers, switch gear systems, and air cooling system on the ground and first floor of the University's Hamilton Library. At project closeout, however, FEMA ultimately funded \$4,551,274 of what became an over \$30 million improved project. The improved project included construction of a new building to house chillers and transformers, reconfiguring the library's basement, and moving the University's server room. However, University officials did not seek—nor did FEMA provide—approval for an improved project. Therefore, FEMA should have capped the costs at the project's original estimated amount.

Federal regulations and FEMA guidelines stipulate the following:

- “To be eligible for financial assistance, an item of work must ... [b]e required as the result of the major disaster event.” (44 CFR 206.223(a)(1))
- FEMA and the State (as the grantee) must approve an improved project before construction.⁷ This, in part, ensures that FEMA can complete the appropriate environmental and/or historic preservation review when the improved project results in a significant change from the pre-disaster configuration (such as a different location, footprint, function, or size). (44 CFR 206.203(d)(1); and *Public Assistance Guide*, FEMA 322, October 1999, p. 85)
- FEMA limits funding for improved projects to the Federal share of the costs it estimates for restoring the damaged facility to its pre-disaster design. (44 CFR 206.203(d)(1); and *Public Assistance Guide*, FEMA 322, October 1999, p. 85)

University officials did not comply with these requirements because they performed work outside FEMA's authorized scope, and did not obtain State and FEMA approval (as an improved project) before initiating construction. Consequently, the University is not eligible for those costs associated with the project improvements. However, we are not recommending

⁷ An improved project is any project where the applicant (subgrantee) chooses to make additional improvements to the facility beyond restoring the facility to its pre-disaster design.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

the disallowance of all costs—even though we could not determine the full extent of those costs specifically related to FEMA-eligible work versus improvements. Rather, in accordance with the rules for improved projects, we are questioning only \$321,003, which is the difference between FEMA’s original estimate (\$4,230,271) and the total amount the University claimed (\$4,551,274).

University and State officials agreed this was an improved project, but stated that FEMA provided implied approval of an improved project designation. FEMA officials are withholding comment until after we issue our final report.

Finding C: Duplicate Costs

University officials erroneously claimed \$73,906 twice for the relocation of temporary generators for Project 2 (see Exhibit, Schedule of Projects Audited and Questioned Costs). FEMA cannot provide financial assistance twice for the same loss from a major disaster or emergency (according to *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, Section 312, Duplication of Benefits). Therefore, we question \$73,906 as duplicate (ineligible) costs. University and State officials concurred with this finding. FEMA officials are withholding comment until after we issue our final report.

Finding D: Costs Unrelated to the Disaster

For Project 3, University officials claimed a total of \$15,373 in unauthorized (ineligible) costs that were not part of the FEMA-approved scope of work. FEMA’s authorized scope of work for Project 3 addressed flood damage to the University’s Biomedical Sciences Building’s first floor labs and function rooms. However, the University claimed various costs for the project that FEMA did not authorize.

Federal regulations stipulate, “[t]o be eligible for financial assistance, an item of work must ... [b]e required as the result of the major disaster event.” (44 CFR 206.223(a)(1))

University officials did not comply with this criterion because they improperly claimed \$15,373 for unauthorized repair work. The work included installing a new resin countertop, installing two additional outlets, and repairing drywall and a door. The work was required because of a break in and not the disaster.

Therefore, we question \$15,373 in unauthorized, ineligible project improvement costs the University claimed under Project 3. University and State officials agreed with this finding. FEMA officials are withholding comment until after we issue our final report.



OFFICE OF INSPECTOR GENERAL

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RECOMMENDATIONS

We recommend that the Acting Regional Administrator, FEMA Region IX:

Recommendation #1: Disallow \$36,909 (\$27,682 Federal share) in ineligible engineering costs for Project 3 (finding A).

Recommendation #2: Disallow \$317,777 (\$238,333 Federal share) in excessive engineering costs for Project 3, unless FEMA can establish and document the eligibility and reasonableness of these costs (finding A).

Recommendation #3: Disallow \$321,003 (\$240,752 Federal share) in ineligible project improvement costs for Project 4 (finding B).

Recommendation #4: Disallow \$73,906 (\$55,430 Federal share) in ineligible, duplicate costs the University claimed for Project 2 (finding C).

Recommendation #5: Disallow \$15,373 (\$11,530 Federal share) in ineligible costs for Project 3 that were unrelated to the disaster (finding D).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed these results with the University officials during the course of this audit and included their comments in this report, as appropriate. We also provided a written summary of our findings and recommendations in advance to FEMA on January 13, 2014, and to University and State officials on January 23, 2014. We discussed the findings and recommendations at an exit conference with FEMA officials on January 22, 2014, and University and State officials on February 5, 2014. University and State officials requested additional time to accumulate and provide us additional documentation to address our findings, and did so by February 20, 2014. We reviewed the considerable amount of additional documentation provided to us by the University and the State and adjusted our findings accordingly.

Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include the contact information of responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendations. Until we receive and evaluate your response, we will consider the recommendations open and unresolved.



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Major contributors to this report are Humberto Melara, Director; Devin Polster, Audit Manager; Ravinder Anand, Auditor-in-Charge; and Paul Sibal, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Humberto Melara, Director, Western Regional Office, at (510) 637-1463.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Exhibit

Schedule of Projects Audited and Costs Questioned

Project / FEMA Category of Work	Amounts Awarded and Claimed	Questioned Costs				Totals
		Ineligible and Excessive Engineering Costs (Finding A)	Ineligible Project Improvement Costs (Finding B)	Duplicate Costs (Finding C)	Costs Unrelated to the Disaster (Finding D)	
1/B	\$ 3,247,473					
2/B	5,984,185			\$73,906		\$73,906
3/E	919,508	\$354,686			\$15,373	370,059
4/E	4,551,274		\$321,003			321,003
21/E	555,278					
44/E	623,674					
62/E	464,049					
71/E	427,231					
Totals	\$16,772,672	\$354,686	\$321,003	\$73,906	\$15,373	\$764,968

Source: FEMA Project Documentation, University Closeout Records, and OIG Analyses



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