OFFICE OF INSPECTOR GENERAL

FEMA Should Recover $3 Million of Ineligible Costs and $4.3 Million of Unneeded Funds from the Columbus Regional Hospital

Homeland Security

October 8, 2014

OIG-15-02-D

HIGHLIGHTS

FEMA Should Recover $3 Million of Ineligible Costs And $4.3 Million of Unneeded Funds from the Columbus Regional Hospital

October 08, 2014

Why We Did This

The Hospital received an award of $110 million from the Indiana Department of Homeland Security, a FEMA grantee, for damages caused by severe storms and flooding that occurred May 30, through June 27, 2008.

Our objective of the audit was to determine whether the Hospital accounted for and expended FEMA grant funds according to federal regulations and FEMA guidelines.

What We Recommend

We make five recommendations to the Regional Administrator, FEMA Region V. Three of our recommendations are directed at the Hospital; our other two recommendations are directed at Indiana's oversight of the grant.

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

What We Found

Columbus Regional Hospital, Columbus Indiana, (Hospital) generally accounted for FEMA projects on a project-by-project basis as Federal regulations and FEMA guidelines require. However, the Hospital's claim included ineligible costs. As a result, we question $2,993,504 consisting of $2,272,675 in ineligible direct administrative costs and $720,829 in ineligible duplicate benefits.

In addition, FEMA should de-obligate $4.3 million of unused Federal funds and put those funds to better use. These findings occurred because the State did not ensure that the Hospital was aware of and followed Federal requirements and did not carefully review costs the Hospital claimed.

FEMA Response

FEMA generally agreed with our findings and recommendations but will review further. FEMA's written response to us for this report is due in 90 days.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

October 8, 2014

MEMORANDUM FOR: Andrew Velasquez III
Regional Administrator, Region V
Federal Emergency Management Agency

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

SUBJECT: *FEMA Should Recover $3 Million of Ineligible Costs and $4.3 Million of Unneeded Funds from the $110 Million in Grant Funds Awarded to Columbus Regional Hospital, Columbus, Indiana*
FEMA Disaster Number 1766-DR-IN
Audit Report Number OIG-15-02-D

We audited Public Assistance grant funds awarded to Columbus Regional Hospital (Hospital) in Columbus, Indiana (Public Assistance Identification Number 005-U0FZF-00). Our audit objective was to determine whether the Hospital accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

The Indiana Department of Homeland Security (Indiana), a FEMA grantee, awarded the Hospital $110.3 million ($94.4 million after insurance reduction) for damages resulting from severe storms and flooding that occurred May 30, through June 27, 2008. The award provided funding for 133 large and 119 small projects at a 75 percent Federal share, except that FEMA funded Category B (Emergency Protective Measures) projects at 90 percent Federal share through June 23, 2008.[1] As of April 3, 2014, the cut-off date of this phase of our audit, the Hospital claimed $94.4 million ($71.4 million Federal share), and Indiana disbursed $63.7 million of the Federal share.

Table 1 shows the gross and net award amounts before and after reductions for insurance for all projects and for those in our audit scope.

[1]Federal regulations in effect at the time of the disaster set the large project threshold at $60,900.

Table 1. Gross and Net Award Amounts

	Gross Award Amount	Insurance Reductions	Net Award Amount
252 Projects	$110,286,824	($15,913,494)	$94,373,330
Audit Scope	$107,608,325	($15,165,359)	$92,442,966

Source: FEMA Project Worksheets and Office of Inspector General (OIG) analysis

Because of the size of the award and the number of projects, we divided the audit into two phases. In the first phase, we reviewed and reported on the methodology the Hospital used to award $74.7 million for 11 disaster-related contracts.[2] In this second phase, we reviewed the support and eligibility of specific costs the Hospital claimed for 12 large projects and 8 small projects. We also reviewed direct administrative costs for another 121 large projects for a total review of $92,442,967, or 98 percent of the total net award amount (see exhibit A). At the time of our audit, the Hospital had completed work on 122 large projects and 130 small projects and had submitted final claims totaling $71,381,541 for 114 large projects and 129 small projects. Indiana has not provided final closeout information to FEMA as of June 2014. FEMA has closed 243 projects totaling $63,677,205.

We conducted this performance audit between November 2013 and June 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. We believe that the evidence 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, Indiana, and Hospital officials; reviewed contracting and support documents; reviewed judgmentally selected project costs (generally based on dollar value); and performed other procedures considered necessary to accomplish our objective. As part of our standard auditing procedures, we also notified the Recovery Accountability and Transparency Board of all contracts the Hospital 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 Hospital's internal controls applicable to grant activities because it was not necessary to accomplish our audit objective.

[2]OIG-14-12-D, *FEMA Should Recover $10.9 Million of Improper Contracting Costs from Grant Funds Awarded to Columbus Regional Hospital, Columbus, Indiana*, issued December 5, 2013.

However, we did gain an understanding of the Hospital's method of accounting for disaster-related costs and its procurement policies and procedures.

BACKGROUND

Columbus Regional Hospital, a branch of Bartholomew County, is a county nonprofit regional healthcare facility providing healthcare services to residents of multiple counties in southeastern Indiana. On June 7, 2008, floodwaters inundated the entire basement of the Hospital, which contained much of the Hospital's medical and lab equipment. Additionally, standing contaminated water and mud heavily damaged the first floor. Hospital officials closed the facility because of the flood and partially reopened it in October 2008. We determined that exigent circumstances existed until April 2009, when the Hospital returned to the same level of service and standards it had before the flood.

RESULTS OF AUDIT

The Hospital accounted for FEMA funds on a project-by-project basis as Federal regulations and FEMA guidelines require. However, FEMA should recover $7.3 million in ineligible costs or unneeded funds from the $110 million in grant funds awarded to the hospital. Specifically, the Hospital claimed $2,272,675 for direct administrative costs that were, in reality, ineligible indirect costs (finding A). The Hospital also claimed $720,829 in ineligible duplicate benefits (finding B). Therefore, we question $2,993,504 as ineligible.

Of particular note is that Federal regulations prohibit subgrantees from *separately* claiming any management or indirect costs, but allow grantees to reimburse subgrantees for such costs by sharing part of the management costs that FEMA pays grantees. Therefore, Indiana, as the grantee, may reimburse the Hospital for the $2,272,675 in indirect costs it claimed, but the Hospital cannot claim these costs to FEMA for reimbursement.

In addition, FEMA should deobligate $4.3 million of unused Federal funds from Project 2066 and put those funds to better use (finding C). These findings occurred because Indiana did not ensure that the Hospital was aware of and followed Federal requirements and did not promptly and carefully review costs the Hospital claimed (finding D). Therefore, FEMA should require Indiana to improve its grant management

procedures, finish reviews of the Hospital's completed large projects, and submit an accounting of eligible costs to FEMA in a timely manner.

Finding A: Indirect Costs Claimed as Direct Administrative Costs

The Hospital claimed $2,272,675 as direct administrative costs, including $2,211,469 for contractors and $61,206 for Hospital personnel. However, these costs are all ineligible because they are indirect costs. The Hospital used a contractor on a time and material basis to perform most of its project administration, but could not track administrative costs separately to specific projects. According to Hospital officials, this occurred because FEMA and Indiana agreed to allow the Hospital to allocate its administrative costs over all the projects. Although allocating administrative costs over all the projects may have been acceptable for project formulation and/or to expedite the funding process, it is not acceptable for claiming direct administrative costs.

In March 2008, FEMA issued Disaster Policy 9525.9, *Management Costs and Direct Administrative Costs* (Policy) (see exhibit B). The Policy identifies "section 324 management costs," and other grant management and administrative costs that are eligible under the Public Assistance Program.[3] It also clarifies the process through which grantees and subgrantees 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 incurs that can be identified separately and assigned to a specific project. (*See* 44 Code of Federal Regulations (CFR) 207.6(c))
- *Indirect Costs* are costs a grantee or subgrantee incurs for a common or joint purpose benefiting more than one cost objective that are not readily assignable to the cost objectives specifically benefited. (*See* 44 CFR 207.2)
- *Management Costs* are any indirect costs, administrative expenses, and any other expenses that a grantee or subgrantee reasonably incurs in administering and managing the Public Assistance grant that are not directly chargeable to a specific project. (*See* 44 CFR 207.2)
- *Pass-through funds* are the percentage or amount of management costs that the grantee determines it will make available to subgrantees. (*See* 44 CFR 206.207(b)(1)(iii)(K))

[3] "Section 324 management costs" refers to section 324 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (*Stafford Act*), 42 U.S.C. 5165b. The *Disaster Mitigation Act of 2000* (P.L. 106-390) amended the *Stafford Act* by adding section 324 *Management Costs*.

Only grantees are eligible to apply to FEMA for management cost funding (44 CFR 207.3). For major disaster declarations, FEMA will reimburse grantees (Indiana, in this case) for management costs up to 3.34 percent of the Federal share of projected eligible program costs. The Policy allows a grantee to pass through part of its 3.34 percent to subgrantees (the Hospital, in this case) for management or administrative costs they incur that are not directly chargeable to a specific project. However, subgrantees may not separately claim any management or indirect costs. Both grantees and subgrantees may claim direct administrative costs.

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 PW [project worksheet]. Direct costs are limited to actual reasonable costs incurred for a specific project. Such costs will be considered project costs." The $2,272,675 the Hospital claimed for administrative costs does not meet the definition of direct costs. The costs are indirect costs, which the Policy includes within the definition of management costs. Therefore, Indiana may reimburse the Hospital for these costs by sharing part of its 3.34 percent "324 management costs." However, the Hospital may not claim these costs to FEMA for reimbursement.

We initially requested the Hospital provide evidence to verify the eligibility of direct administrative costs it claimed for six large projects. After repeated requests, the Hospital did not provide us the evidence we requested for those specific projects. Subsequently, we increased the scope of our audit to include a review of $2,272,675 in direct administrative costs the Hospital claimed for all large projects. Again, the Hospital did not provide the type of evidence we needed to verify the eligibility of the direct administrative costs it claimed.

To estimate direct administrative costs, FEMA listed the contractor's and Hospital's labor hours related to administrative work directly on the project worksheets based on summary sheets the Hospital's project administration contractor provided. However, the Hospital could not provide documentation that tied the labor hours to specific projects to support the summary sheets. Further, the Hospital's contractor was unable to explain why it could not produce documentation to tie the hours it billed by project. Further, Hospital officials admitted that they allocated costs among projects instead of charging costs directly to projects as FEMA policy requires.

According to Hospital and contractor representatives, neither FEMA nor Indiana told the Hospital to track costs on a project specific basis until April 2009, 10 months after the disaster occurred. Hospital officials asserted that FEMA and Indiana agreed to allow

them to record direct administrative costs over all the projects. To substantiate their assertion, Hospital officials provided a listing of allocated direct administrative costs that FEMA and Indiana signed. Though there was no signed formal agreement to use an allocation methodology to assign costs, the allocation listing along with approved project worksheets indicates FEMA was aware of the allocation.

FEMA issued its Policy related to direct administrative costs in March 2008, only a few months before the disaster occurred. Therefore, FEMA personnel may not have been fully aware of the new policy or fully understood it at the time they were administrating the grant with the Hospital. Nonetheless, allocating administrative costs to projects and then calling them direct costs is not acceptable.

The Hospital's claim for direct administrative costs also included $144,212 in travel expenses. Travel expenses for contractor personnel's travel to and from home, lodging, per diem, and rental cars are not direct administrative costs unless they relate to a specific project. FEMA's Policy and Federal cost principles define such costs as indirect costs because they are for a common or joint purpose that benefits more than one cost objective and are not readily assignable to a specific cost objective (45 CFR Part 74, Appendix E, V.A.).[4] In fact, the allocation methodology that the Hospital used to assign these travel expenses to projects specifically identified the costs as indirect rather than direct costs.

In addition to being ineligible as direct costs, the costs the Hospital claimed as direct administrative costs were also unreasonable and excessive. Federal cost principles require allowable costs to be reasonable (45 CFR Part 74, Appendix E, III.B.1). As we discussed in our previous report on the Hospital (OIG-14-12-D), the Hospital's contractor charged unreasonably high hourly rates for its administrative services (ranging from $300 for staff and $460 for senior managers and up to $550 for a partner). The Hospital's invoices indicated that the work was for insurance claim services. Those rates might be reasonable for the Hospital's litigation against FEMA over the allocation of insurance proceeds between lost business and property damage. However, they were unreasonable for basic direct administrative work.

The Hospital did not provide evidence that its administrative costs related to any specific projects. Instead, the Hospital allocated these costs to its various projects. This methodology is not only contrary to FEMA's Policy, it is contrary to the very definition of *direct costs*. These costs were indirect costs because the hospital could not tie them

[4]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*."

directly to projects. Therefore, we question as ineligible the $2,272,675 the Hospital claimed as direct administrative costs. As we state earlier, Indiana, as the grantee, may reimburse the Hospital for these indirect costs, but the Hospital cannot claim them to FEMA for reimbursement.

Finding B: Duplicate Benefits

The Hospital's claim included $720,829 for ineligible duplicate benefits. While closed for repairs, the Hospital claimed $847,254 under Project 2355 to restore its information technology infrastructure. However, for the same work, the Hospital received $720,829 from a U.S. Department of Health and Human Services' Social Services Block Grant. Hospital officials agreed with this finding. They said this occurred because the U.S. Department of Health and Human Services requested additional documentation after the Hospital's first reimbursement claim. Subsequently, a Hospital official, who had not worked on the first claim, inadvertently included the Hospital's Information Systems Department costs as part of its Social Services Block Grant funding request.

Section 312 of the *Stafford Act*, *Duplication of Benefits*, states that an entity cannot receive Federal financial assistance for any loss for which it already has received financial assistance from any other program, insurance, or any other source. Therefore, we question $720,829 as ineligible duplicate benefits.

Finding C: Unused Federal Funds

FEMA should deobligate $4.3 million in unused funds from the Hospital's largest project, Project 2066, and put those funds to better use. The Hospital completed this project by June 2012, but the project remains open because of a contract dispute over the staining on the limestone base of a floodwall. FEMA obligated $62.3 million for Project 2066 and the Hospital recently reported to Indiana a revised claim for $58.0 million, or $4.3 million less than the original estimate. Although the Hospital completed Project 2066 almost 2 years ago, it did not provide, and Indiana did not request, an updated cost reconciliation for the project. As a result, a project cost underrun of $4.3 million remained unidentified and over obligated on FEMA's budgetary records.

Federal appropriations laws and the Statement of Federal Financial Accounting Standards (SFFAS) require Federal agencies to record obligations in the accounting records on a factual and consistent basis throughout the government.[5] The over recording and the under recording of obligations are equally improper. Both practices

[5]U.S. General Accounting Office's (GAO) *Principles of Federal Appropriations Law*, 3rd edition, volume II, February 2006, chapter 7, section B: *Criteria for Recording Obligations* (31 U.S.C. § 1501).

make it impossible to determine the precise status of Federal appropriations. When the precise amount is not known at the time that the obligation is incurred, agencies appropriately record an obligation based on the best estimate at the time. Agencies, however, must periodically adjust that obligation as more precise data on the liability become available. That is, the agency must increase or decrease obligated funds when probable and measurable information becomes known. Agencies must document both the initial recordings and the adjustments to recorded obligations.

Finding D: Grant Management Issues

Generally, the findings in this report occurred because Indiana did not fulfill its responsibilities as the grantee. Federal regulations at 44 CFR 13.37(a)(2) require grantees to ensure that subgrantees are aware of requirements that Federal regulations impose on them. Further, 44 CFR 13.40(a), requires grantees to manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable Federal requirements.

If Indiana had adequately reviewed the Hospital's claimed costs, it would have detected and questioned the same ineligible costs we identified. Also, because Indiana did not properly reconcile and close out projects timely, unused Federal funds remain obligated as a liability against FEMA's appropriated funds, which can limit FEMA's ability to authorize other disaster assistance projects. Indiana has not performed closeouts on eight large projects the Hospital completed more than a year ago. According to 44 CFR 206.205(b), the grantee shall submit an accounting for each large project to FEMA as soon as practicable after the subgrantee has completed the approved work and requested payment. Additionally, in its Policy 9570.14, *Public Assistance Program Management and Grant Closeout Standard Operating Procedure*, dated December 2009 and updated in 2013, FEMA states that grantees should reconcile costs and close projects within 90 days of the date the subgrantee completes each large project to comply with 44 CFR 206.205(b).[6]

Therefore, FEMA should require Indiana to (1) improve its grant management procedures to ensure subgrantees are aware of and follow Federal requirements, and (2) complete reviews of the Hospital's completed large projects and submit an accounting of eligible costs to FEMA in a timely manner.

[6]FEMA issued Policy 9570.14 after this disaster, but we cite it because it includes FEMA's expectation for project closeout.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region V:

Recommendation #1: Disallow as ineligible $2,272,675 ($1,720,315 Federal share[7]) the Hospital claimed as direct administrative costs, if FEMA does not disallow the Hospital's entire direct administrative costs claim of $2,265,570[8] that we questioned for contracting violations in our previously issued report (OIG-14-12-D) (finding A).

Recommendation #2: Disallow as ineligible $720,829 ($540,622 Federal share) in duplicate benefits (finding B).

Recommendation #3: Deobligate $4.3 million ($3.2 million Federal share) of unused Federal funds from Project 2066, and put those funds to better use (finding C).

Recommendation #4: Require Indiana to improve its grant management procedures to ensure subgrantees are aware of and follow Federal requirements (finding D).

Recommendation #5: Require Indiana to reconcile remaining project balances, complete reviews of the Hospital's completed large projects, and submit an accounting of eligible costs to FEMA in a timely manner (finding D).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with Hospital officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, Indiana, and Hospital officials and discussed it at exit conferences with FEMA officials on May 28, 2014, and with Indiana and Hospital officials on June 5, 2014. FEMA generally agreed with our findings and recommendations but wanted to review findings A and C further. Indiana also generally agreed with our findings and recommendations but wanted to review finding A further.

The Hospital disagreed with finding A and agreed with findings B and C. We did not discuss finding D with the Hospital because it pertained to Indiana's grant management.

[7]The Federal share for Recommendation #1 is greater than 75 percent because FEMA funded Category B (Emergency Protective Measures) projects at 90 percent Federal share through June 23, 2008.
[8]In our previous report (OIG-14-12-D), we recommended that FEMA disallow $3,584,720 in ineligible and unreasonable contracting costs, which we later adjusted downward to $2,265,570 during the audit follow-up process.

Hospital officials contend that the direct administrative costs are eligible and that they are preparing the necessary support by project to justify their claim if FEMA accepts our recommendation. They also reiterated that FEMA and Indiana officials gave them approval to allocate direct administration costs over the projects because of the exigency of formulating project worksheets to obtain grant funding. As we stated in the report, the allocation of direct administrative costs may have been acceptable for project formulation and expediting the funding process. However, in claiming final costs, applicants must have supporting documentation that ties direct administrative costs separately to specific projects.

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 recommendation. Until we receive and evaluate your response, we will consider the recommendations open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report are Christopher Dodd, Acting Director; Moises Dugan and Trudi Powell, Audit Managers; William Lough, Senior Auditor-in-Charge; Sharon Snedeker, Senior Auditor; and Doug Denson, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Christopher Dodd, Acting Director, Central Regional Office, at (214) 436-5200.

Exhibit A

Schedule of Projects Audited and Questioned Costs

Project Number	Category of Work	Net Award Amount	Questioned Direct Admin. Costs (Finding A)	Questioned Duplicate Benefits (Finding B)	Funds Put to Better Use (Finding C)
2066	E	$62,278,273	$ 928,170	$ 0	$4,283,968
2014	B	3,123,960	84,339	0	0
2013	B	3,092,243	113,479	0	0
1530	B	2,846,394	77,488	0	0
1904	B	946,997	26,872	0	0
2355	E	847,254	24,180	720,829	0
2346	E	301,978	11,333	0	0
1529	E	294,952	10,917	0	0
440	E	253,867	7,216	0	0
261	E	220,208	8,245	0	0
2282	E	16,425	16,425	0	0
2286	E	15,006	15,006	0	0
8 Small Projects	B and E	302,150	0	0	0
121 Large Projects	B and E	17,903,259	949,005	0	0
Totals		$92,442,966	$2,272,675[9]	$720,829	$4,283,968

Source: FEMA Project Worksheets and OIG Analysis

[9]We questioned the Hospital's direct administrative costs claim of $2,265,570 in our previous report (OIG-14-12-D) because the Hospital did not follow Federal procurement regulations and because the Hospital's project management contract included unreasonable prices. If FEMA implements our recommendation to disallow these costs then FEMA will need to disallow an additional $79,847 that we question as the Hospital's ineligible direct administrative costs in this report.

Exhibit B

DAP9525.9

FEMA
DISASTER ASSISTANCE POLICY

I. TITLE: **Section 324 Management Costs and Direct Administrative Costs**

II. DATE: MAR 12 2008

III. PURPOSE:

The purpose of this policy is to identify section 324 management costs and other grant management and administrative costs that are eligible under the Public Assistance (PA) Program and to clarify the process through which grantees and subgrantees can request reimbursement for these costs.

IV. SCOPE AND AUDIENCE:

The policy is applicable to all major disasters and emergencies declared on or after November 13, 2007. It is intended for personnel involved in the administration of the PA Program.

V. AUTHORITY:

Section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5165b, and 44 Code of Federal Regulations (CFR) Part 13, §206.207, §206.228, and Part 207.

VI. BACKGROUND:

The Disaster Mitigation Act of 2000 (P.L. 106-390) amended the Stafford Act by adding section 324 "*Management Costs*." In that section, Congress directed the Federal Emergency Management Agency (FEMA) to promulgate regulations that establish management cost rates and require that until the management cost regulation is published the associated expense percentages in section 406(f) of the Stafford Act apply to management costs. On October 11, 2007, FEMA published the *Management Costs* interim final rule (72 FR 57869) that established the management costs rates for emergencies and major disasters. The interim final rule went into effect on November 13, 2007. With publication of the interim final rule, section 406(f) of the Stafford Act, *Associated Expenses*, does not apply to disasters and emergencies declared on or after November 13, 2007.

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DAP9525.9

FEMA
DISASTER ASSISTANCE POLICY

VII. POLICY:

A. Definitions:

1. *Chief Financial Officer (CFO)* is the senior financial FEMA representative.

2. *Direct Administrative Costs* are costs incurred by the grantee or subgrantee that can be identified separately and assigned to a specific project. (*See* 44 CFR §207.6(c)) In accordance with OMB Circular No. A-87, treatment of direct costs must be consistent across all Federal awards and other activities of the grantee or subgrantee. Such costs can include staff's time to conduct an initial inspection, prepare and submit a Project Worksheet (PW), and make interim and final inspections of the project.

3. *Indirect Costs* are costs a grantee or subgrantee incurs for a common or joint purpose benefiting more than one cost objective that are not readily assignable to the cost objectives specifically benefited. (*See* 44 CFR §207.2)

4. *Lock-in* is the amount of management cost funds available to a grantee for a particular major disaster or emergency. (*See* 44 CFR §207.2)

5. *Management Costs* are any indirect costs, administrative expenses, and any other expenses that a grantee or subgrantee reasonably incurs in administering and managing the PA grant that are not directly chargeable to a specific project. (*See* 44 CFR §207.2)

6. *Pass-through funds* are the percentage or amount of management costs that the grantee determines it will make available to subgrantees. (*See* 44 CFR §206.207(b)(1)(iii)(K))

B. Eligibility:

1. Only PA grantees with PA grants awarded pursuant to major disasters and emergencies declared by the President on or after November 13, 2007, are eligible to apply to FEMA for section 324 management costs.

2. FEMA will reimburse section 324 management costs on a category Z PW in an amount not to exceed 3.34 percent of the Federal share of projected eligible program costs, not including direct Federal assistance, for major disaster declarations and 3.90 percent of the Federal share of projected eligible program costs, not including direct Federal assistance, for emergency declarations. The amount of funding available for section 324 management costs cannot exceed the amount as calculated in accordance with 44 CFR §207.5(b)(4).

3. Requests for and documentation of section 324 management costs must comply with 44 CFR Part 207 and be addressed in the grantee's approved State Administrative Plan for PA. (*See* 44 CFR §206.207(b))

4. In addition to section 324 management costs, FEMA will reimburse direct administrative costs incurred by grantees and subgrantees that are properly documented and directly chargeable on a PW for a specific project. Actual costs must be reasonable for the work performed and accounted for in accordance with 44 CFR §13.22 – *Allowable Costs*. (*See* 44 CFR §207.6(a) and (c)) A cost cannot be assigned to a PA project as a direct administrative cost if similar costs incurred for the same purpose in like circumstances have been allocated to indirect costs.

5. Although grantees and subgrantees are responsible for the grant management and administrative requirements in 44 CFR parts 13, 206, and 207, grantees and subgrantees are not required to request section 324 management costs, nor are they required to seek reimbursement for direct administrative costs.

C. Section 324 Management Costs:

1. An approved State Administrative Plan must be on file with FEMA before PA grants will be approved. (*See* 44 CFR §206.207(b)(3))

2. The grantee must amend its State Administrative Plan to include procedures for determining the reasonable amount or percentage of section 324 management costs that it will pass-through to the subgrantee, as well as closeout and audit procedures before FEMA will obligate any section 324 management costs. (*See* 44 CFR §207.4(c) and §207.7(b)) It is entirely up to the State to determine how much if any management costs it will pass-through to the subgrantee. FEMA has not established any minimum or maximum for what constitutes a reasonable amount.

3. If a State and Native American Tribe both serve as grantees, then each is eligible for section 324 management costs. (*See* 44 CFR §207.2)

4. The CFO determines the lock-in amount for section 324 management costs at 30-35 days (preliminary lock-in), six months (interim lock-in), and 12 months (final lock-in) from the date of the declaration. (*See* 44 CFR §207.5(b))

a. The lock-in amount is 100 percent Federally funded.

b. The lock-in amount is capped at $20 million for a single declaration, unless the CFO approves an exception. (*See* 44 CFR §207.2 and §207.5(d))

c. The CFO informs the Regional Office of the lock-in amount and the Regional Office informs the grantee of the lock-in amount.

5. In order to receive section 324 management costs funding, the grantee must request it upon notification of the preliminary lock-in (initial funding request) and upon notification of the final lock-in (final funding request). (*See* 44 CFR §207.7(c) and (f)) The grantee may request interim funding upon notification of the interim lock-in (interim funding request). (*See* 44 CFR §207.7(e))

6. The grantee will submit its initial section 324 management costs funding request to the Regional Administrator using a PA PW. Upon receipt of the PW and in accordance with 44 CFR §207.7(b) and (c), the Regional Office will obligate 25 percent of the estimated lock-in amount. (*See* 44 CFR §207.5(b)(1) and 44 CFR §207.6(c)) To simplify processing and tracking, *Standard Project 853- Section 324 Management Costs* has been established in the National Emergency Information Management System (NEMIS) and the Emergency Management Mission Integrated Environment (EMMIE). The PW will be processed under category Z.

7. The grantee must abide by the requirements of 44 CFR §207.7(d). The grantee must submit documentation no later than 120 days after the date of the declaration to support costs and activities for which the projected lock-in amount will be used.

a. The documentation must include:

i. A description of activities, personnel requirements, and other costs for which the grantee will use section 324 management costs funding throughout the disaster;

ii. The grantee's plan for expending and monitoring the funds provided and ensuring sufficient funds are budgeted for grant closeout; and

iii. An estimate of the reasonable percentage or amount of pass-through funds the grantee will make available to subgrantees, including the basis, criteria, or formula for determination.

b. In extraordinary circumstances, the grantee may request to submit the required documentation after 120 days. The request for additional time must be made to the Regional Administrator within the 120-day period. The Regional Administrator will respond to the time extension request within 30 days.

c. The Regional Office will approve or reject the documentation for eligible costs and activities within 30 days of receiving it.

d. If documentation is rejected, the grantee will have 30 days from the date of the rejection letter to resubmit it for reconsideration and approval. The Regional Office will not obligate the balance of the section 324 management costs lock-in until the grantee's documentation is approved.

8. If the grantee can justify a bona-fide need for an interim obligation at six months, the grantee may submit a request to the Regional Administrator. An interim obligation will not exceed 10 percent of the six-month lock-in amount. The grantee will submit written justification, including a version/amendment of the section 324 management costs PW, to the Regional Administrator. The Regional Administrator will forward his/her recommendation to the CFO for approval. (*See* 44 CFR §207.5(d) and §207.7(e))

9. After notification of the final lock-in amount, the grantee must submit a final section 324 management costs request, including a version/amendment of the section 324 management costs PW, to the Regional Administrator. The Regional Office will make the final obligation of the remaining lock-in funding. (*See* 44 CFR §207.7(f)) The grantee should drawdown these funds in accordance with 44 CFR §13.21 - *Payment*.

10. Final payment of section 324 management costs is based on actual costs incurred.

11. The grantee can submit a written request to the Regional Administrator to change the amount of the lock-in or the cap, or the time at which lock-in amount is determined. The Regional Administrator will forward his/her recommendation to the CFO for approval. (*See* 44 CFR §207.5(d))

12. The grantee can expend section 324 management costs funds for allowable costs for a maximum time of (See 44 CFR §207.8(b)(1) and (2)):

a. Eight years from the date of a major declaration, or 180 days after the latest performance period of a non-management cost PA PW, whichever is sooner.

b. Two years from the date of an emergency declaration, or 180 days after the latest performance period of a non-management cost PA PW, whichever is sooner.

13. The grantee can submit a written justification for an extension on the period of availability to the Regional Administrator. The Regional Administrator will forward his/her recommendation to the CFO for approval. The additional time is limited to no more than 180 days after the expiration of any performance period extensions granted under PA for project completion of a non-management cost PA PW. (*See* 44 CFR §207.8(b)(3))

14. FEMA will de-obligate any funds not liquidated by the grantee in accordance with 44 CFR §13.23. (*See* 44 CFR §207.8(b)(3))

15. The grantee must provide section 324 management cost quarterly progress reports to the Regional Administrator. (*See* 44 CFR §207.8(c))

D. Direct Administrative Costs:

1. 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 PW. Direct costs are limited to actual reasonable costs incurred for a specific project. Such costs will be considered project costs.

2. **A grantee or subgrantee cannot direct charge costs to a PA project that are considered indirect costs for any other Federal award or activity of the grantee or subgrantee or if similar costs incurred for the same purpose in like circumstances have been allocated to indirect costs. (*See* OMB Circular No. A-87, Attachment A.) Indirect costs are considered to be eligible section 324 management costs.**

3. If a project is completed when the PW is prepared, actual direct administrative costs (labor, equipment, or other expenses) will be included in the PW for the subgrantee and the grantee's direct administrative costs will be included in separate category Z PW (see D.7). The summary of the actual costs will be attached to the PW.

4. If a project is not completed when the PW is prepared, an estimate of direct administrative costs that can be separately identified to the project will be included in the PW. An estimate of direct administrative costs, such as labor and equipment costs and other expenses, will be attached to the PW. These estimated costs cannot be based on a percentage of project costs.

5. Direct administrative costs are cost-shared at the prevailing cost-share rate for the declaration. They are cost-shared because they are part of a specific project.

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6. Subgrantee:

a. The following text should be entered into each project's scope of work to describe the subgrantee's direct administrative costs:

"The subgrantee is requesting direct administrative costs that are directly chargeable to this specific project. Associated eligible work is related to administration of this PA project only and in accordance with 44 CFR §13.22. These costs are treated consistently and uniformly as direct costs in all Federal awards and other subgrantee activities and are not included in any approved indirect cost rates."

b. The following **line item cost code** should be entered in the project cost: *"9901 - DIRECT ADMINISTRATIVE COSTS (SUBGRANTEE)"*

c. Final payment of direct administrative costs on large projects will be based on actual costs incurred, in accordance with 44 CFR §206.205(b).

d. Final payment of direct administrative costs on small projects will be paid to the grantee upon approval, in accordance with 44 CFR §206.205(a).

7. Grantee:

a. The grantee may document its direct administrative costs on a separate category Z PW for each project. The grantee will not claim direct administrative costs for multiple individual projects on a single category Z PW.

b. Each direct administrative cost category Z PW will use the **Standard Project** *854-Direct Administrative Costs (Grantee).*

c. The scope of work should include the subgrantee's name, PA ID number, and cross-reference to the associated work project PW.

d. The following text should be entered into the project's scope of work:

"The grantee is requesting direct administrative costs that are directly chargeable to this specific project. Associated eligible work is related to administration of this PA project only and in accordance with 44 CFR §13.22. These costs are treated consistently and uniformly as direct costs in all Federal awards and other grantee activities and are not included in any approved indirect cost rates."

e. The following **line item cost code** should be entered in the project cost as a lump sum costs: *"9902 - DIRECT ADMINISTRATIVE COSTS (GRANTEE)"*

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Appendix

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