

**Minneapolis Park and Recreation
Board, Minneapolis, Minnesota,
Generally Accounted For and
Expended FEMA Grant Funds
Properly**





DHS OIG HIGHLIGHTS

Minneapolis Park and Recreation Board, Minneapolis, Minnesota, Generally Accounted For and Expended FEMA Grant Funds Properly

July 7, 2016

Why We Did This Audit

The Minneapolis Park and Recreation Board (Board) received a \$2.4 million award in Federal Emergency Management Agency (FEMA) grant funds for damages in Minneapolis, Minnesota, from severe storms, straight-line winds, and flooding in June 2013. Our audit objective was to determine whether the Board accounted for and expended FEMA funds according to Federal regulations and FEMA guidelines.

What We Recommend

The report contains no recommendations.

For Further Information:

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

What We Found

The Board accounted for disaster-related costs on a project-by-project basis and accurately accounted for \$985,134 of its own labor costs. However, the Board did not always follow Federal procurement standards in awarding contracts for disaster work totaling \$1.2 million. As a result, FEMA has no assurance that disadvantaged firms had sufficient opportunities to bid on federally funded work. Also, the Board's contracts did not contain required clauses that document the rights and responsibilities of the parties and minimize the risk of contract misinterpretations and disputes.

However, we did not question any of the contract costs for noncompliance because the Board's contractors performed most of the work under exigent circumstances to clear roadways and walkways of debris and uprooted tree stumps. In addition, the Board awarded contracts and completed most disaster work before the President declared the disaster on July 25, 2013.

FEMA and its grantees (Minnesota in this case) are not responsible for advising communities about disaster grant requirements until after the Federal declaration. Therefore, many communities are not aware of Federal grant requirements until after they have spent significant amounts of their own funds on disaster response.

FEMA Response

Because the audit contains no recommendations requiring further action from FEMA Region V, we consider this audit closed.



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Department of Homeland Security

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

July 7, 2016

MEMORANDUM FOR: Andrew Velasquez, III
Regional Administrator, Region V
Federal Emergency Management Agency
Thomas M. Salmon

FROM: Thomas M. Salmon
Acting Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Minneapolis Park and Recreation Board, Minneapolis,
Minnesota, Generally Accounted For and Expended
FEMA Grant Funds Properly*
Audit Report Number OIG-16-110-D

We audited Public Assistance grant funds awarded to Minneapolis Park and Recreation Board in Minneapolis, Minnesota (Board). The Minnesota Department of Public Safety, Division of Homeland Security and Emergency Management (Minnesota), a Federal Emergency Management Agency (FEMA) grantee, awarded the Board \$2.4 million for damages resulting from severe storms and flooding in June 2013. The award provided 75 percent Federal funding. We audited seven projects totaling \$2.4 million, or 100 percent of the total award (see table 2 in appendix A). The disaster did not cause damage to the Board's insurable facilities except for minor damage to one insured vehicle that did not exceed the deductible. Therefore, the Board did not receive any insurance proceeds or need to obtain insurance to cover damages resulting from this disaster. As of January 5, 2016, the cut-off date of our audit, the Board had completed all projects and claimed \$2.4 million in disaster-related costs.

Background

The Board's purpose is to establish, acquire, develop, and maintain parks, wildlife sanctuaries, forests, and playgrounds in the City of Minneapolis (City). In addition, the Board provides public access to and maintains historic sites, lakes, rivers, streams, and other natural habitat. The Board is a semi-autonomous political subdivision of the City.

The Board is responsible for managing the maintenance of trees and tree debris throughout the City. From June 20, to 26, 2013, severe storms, flooding, and straight-line winds tore down 1,747 trees and created 77,364 cubic yards of wood debris and logs. The President declared the major disaster about a month later on July 25, 2013.



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Figure 1: Minneapolis, MN storm damage



Source: Minneapolis Park and Recreation Board

Results of Audit

The Board accounted for disaster-related costs on a project-by-project basis and accurately accounted for \$985,134 of its own labor costs. However, the Board did not always comply with Federal procurement standards in awarding all of its 12 contracts for disaster work totaling \$1.2 million. We did not question any of the contract costs for noncompliance because the Board's contractors performed most of the work under exigent circumstances to clear roadways and walkways of debris and uprooted tree stumps. In addition, the Board awarded contracts and completed most disaster work before the President declared the disaster on July 25, 2013.

FEMA and its grantees (Minnesota in this case) are not responsible for advising communities about disaster grant requirements until after the Federal declaration. Therefore, many communities are not aware of Federal grant requirements until after they have spent significant amounts of their own funds on disaster response.



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Finding A: Improper Procurement

The Board used its own employees and contractors to remove debris and uprooted tree stumps. However, the Board did not follow all Federal procurement standards in awarding its 12 disaster-related contracts totaling \$1.2 million. As a result, the Board decreased the opportunities for small businesses, minority-owned firms, and women's business enterprises to compete for federally funded work and increased the risk of misinterpretations and disputes relating to the contracts.

Federal regulations at 44 Code of Federal Regulations (CFR) 13, in part, require that subgrantees—

1. conduct procurement transactions in a manner providing full and open competition except under certain circumstances. One acceptable circumstance is when the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (13.36(c) and (d)(4)(i));
2. include required provisions in all their contracts (44 CFR 13.36(i)); and
3. take all necessary affirmative steps to assure the use of minority firms, women's business enterprises, and labor surplus area firms when possible (44 CFR 13.36(e)).

Table 1 summarizes the 12 contracts the Board awarded and identifies whether each contract complied with the 3 procurement standards listed previously.



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Table 1: Noncompliance with Procurement Standards 1-3 Listed Previously

Contract and Scope of Work	Number of Contracts	Contract Award Amount	Amount Questioned	Noncompliance with Procurement Standards 1-3		
				1	2	3
Pre-disaster Competitive Contracts Used for Exigent and Non-exigent Work						
Debris Removal (Small Purchase) ¹	9	\$ 552,275	\$0		X	X
Debris Removal	1	227,753	0		X	X
Subtotal: Competitive		<u>780,028</u>	<u>0</u>			
Non-competitive Contracts Used for Exigent Work						
Stump Removal	1	210,813	0	*	X	X
Debris Removal	<u>1</u>	198,896	<u>0</u>	*	X	X
Subtotal: Non-competitive		<u>409,709</u>	<u>0</u>			
Total Contracts	<u>12</u>	<u>\$1,189,737</u>	<u>\$0</u>			

Source: Board procurement records and Office of Inspector General (OIG) analysis

*The Board awarded these two contracts without competition; however, regulations allow an exception to competition under exigent circumstances.

Small, Minority, and Women-Owned Businesses — The Board did not take the required affirmative steps to ensure the use of small and minority firms, and women’s business enterprises whenever possible for any of the 12 contracts it awarded. Although the Board did not actively consider these types of businesses, it did award eight contracts totaling \$494,180 to small and minority firms and women’s business enterprises. Federal regulations require subgrantees to take affirmative steps to solicit these types of businesses when procuring goods and services under federally funded work (44 CFR 13.36(e)). The required steps include placing qualified small and minority businesses and women’s business enterprises on solicitation lists and using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce to solicit and use these firms (44 CFR 13.36(e)(2)(i) and (v)). Board and City procurement officials said they were unaware of all the Federal requirements for contracting.

Contract Provisions — The Board did not include all required provisions in any of the 12 contracts it awarded. Federal regulations require specific provisions for contracts and subcontracts, including remedies and termination

¹ For procurements less than the simplified acquisition threshold (\$150,000 at the time of the disaster), subgrantees must obtain price or rate quotes from an adequate number of qualified sources (44 CFR 13.36(d)(1)). See 75 Fed. Reg. 53,129; 53,130 (2010), as authorized under the *Ronald Reagan National Defense Authorization Act* for fiscal year 2005, Pub. L. No. 108-375, § 807, *modifying* 41 U.S.C. § 403(11).



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clauses, non-discrimination, compliance with labor laws, and prohibitions of “kickbacks” (44 CFR 13.36(i)). These provisions describe the rights and responsibilities of the parties and minimize the risk of misinterpretations and disputes.

Full and Open Competition — The Board used 10 contracts totaling \$780,028 for exigent and non-exigent work that it or the City of Minneapolis procured with full and open competition or with an adequate number of quotes. The Board relied on the City of Minneapolis for the procurement of its pre-positioned equipment-with-operator contracts. At the beginning of each year, the City competitively awards equipment-with-operator contracts. The Board used these existing contracts for a portion of the disaster-related work. However, because the Board needed additional assistance to remove debris and stumps, it awarded two noncompetitive contracts totaling \$409,709 (\$210,813 for stump removal and \$198,896 for debris removal). We did not question any of the costs for the two noncompetitive contracts because contractors worked under exigent circumstances to clear roadways and walkways of debris and uprooted tree stumps. Further, the Board’s contractors performed the majority of the work before the Federal declaration of the disaster. Full and open competition usually increases the number of bids received and thereby increases the opportunity for obtaining reasonable pricing from the most qualified contractors. However, Federal regulations allow an exception to the requirement for full and open competition when exigent circumstances exist; therefore, the Board complied with Federal requirements for competition. In addition, the Board performed a price analysis on the rates for each procurement action to ensure cost reasonableness.

Finding B: Grant Management

The Board could have benefited from additional technical advice from Minnesota before or immediately after the disaster. However, FEMA and its grantees are not responsible for advising communities about disaster grant requirements until after the Federal declaration. Therefore, many communities are not aware of Federal grant requirements until after they have spent significant amounts of their own funds on disaster response.

Federal regulations at 44 CFR 13.37(a)(2) and 13.40(a) require grantees to (1) ensure that subgrantees are aware of Federal regulations, (2) manage the operations of subgrant activity, and (3) monitor subgrant activity to ensure compliance. In report OIG-15-132-D, issued August 24, 2015, we recommended that FEMA educate Minnesota officials on Federal grant contracting requirements. Therefore, we are not recommending additional actions related to grant management because FEMA has already taken steps to ensure Minnesota improves its management of subgrantees.



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Discussion with Management and Audit Follow-up

We discussed the results of our audit with FEMA, Minnesota, and Board officials during and after our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, Minnesota, and Board officials and discussed it at exit conferences with FEMA officials May 12, 2016 and with Minnesota and Board officials on May 26, 2016. These officials agreed with our findings. Because this report contains no recommendations, we require no further action from FEMA and consider this report closed.

The Office of Emergency Management Oversight major contributors to this report were Paige Hamrick, Director; Kathleen Hughes, Audit Manager; Jeffrey Campora, Auditor-In Charge, and Raeshonda Keys, Auditor.

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



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Appendix A **Objective, Scope, and Methodology**

We audited FEMA Public Assistance grant funds awarded to the Board (Public Assistance Identification Number 053-43000-02). Our audit objective was to determine whether the Board accounted for and expended FEMA grant funds according to Federal regulations and FEMA guidelines. Minnesota awarded the Board \$2.4 million for damages resulting from severe storms and flooding during June 20, through June 26, 2013 (FEMA Disaster Number 4131-DR-MN). The audit covered the period June 20, 2013, through January 5, 2016, the cutoff date of our audit. The award provided 75 percent FEMA funding for four large and three small projects and the Board claimed \$2.4 million for the seven projects.²

We audited all 7 projects including \$1.2 million in 12 disaster-related contracts and \$985,134 in force account labor. Table 2 describes the seven projects we audited. Because of a subsequent disaster, the Board received an award for damages under FEMA Disaster Number 4182-DR-MN. We are also conducting an audit of that disaster, but will issue a separate report.

We interviewed FEMA, Minnesota, City, and Board officials; gained an understanding of the Board's method of accounting for disaster-related costs; reviewed the Board's procurement policies and procedures; judgmentally selected (generally based on dollar value) and reviewed project costs and procurement transactions for the projects in our scope; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our objective. We did not perform a detailed assessment of the Board's internal controls over its grant activities because it was not necessary to accomplish our audit objective.

² Federal regulations in effect at the time of the disaster set the large project threshold at greater than \$67,500 [*Notice of Adjustment of Disaster Grant Amounts*, 77 Fed. Reg. 61,423 (Oct. 9, 2012)].



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Appendix A (continued)

Table 2: Schedule of Projects Audited

Project Number	Category of Work*	Award Amount
408	E	\$ 5,149
471	A	708,196
473	G	16,575
474	A	371,935
498	A	212,382
500	A	65,654
502	A	991,399
Totals		\$2,371,290

Source: Project Worksheets and OIG analysis

*FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).

We conducted this performance audit between December 2015 and May 2016, 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.



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