OFFICE OF INSPECTOR GENERAL

The Village Of Pilger, Nebraska, Took Corrective Actions to Comply with Federal Grant Award Requirements

Homeland Security

August 2, 2016

OIG-16-114-D

DHS OIG HIGHLIGHTS

The Village Of Pilger, Nebraska, Took Corrective Actions to Comply with Federal Grant Award Requirements

August 2, 2016

Why We Did This Audit

The Village of Pilger, Nebraska (Village), received a $5.6 million Federal Emergency Management Agency (FEMA) award for damages resulting from severe storms, tornadoes, straight-line winds, and flooding in June 2014. We conducted this audit early in the grant process to identify areas where the Village may need additional technical assistance or monitoring to ensure compliance.

What We Recommend

FEMA should work with the Nebraska Emergency Management Agency (Nebraska) to improve its oversight of subgrantees to ensure they are aware of and comply with Federal requirements.

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 Village generally accounted for disaster costs correctly but did not follow all Federal procurement standards in awarding disaster related contracts. Specifically, the Village did not—

1. take specific affirmative steps to ensure the use of disadvantaged firms;
2. verify that contractors were not debarred or suspended; or
3. include required provisions in all contracts.

As a result, about $1.4 million of these contracting funds are at risk for disallowance. However, we are not questioning these costs because the Village—

1. awarded a large portion of disaster-related contracts to small businesses;
2. did not use debarred or suspended contractors; and
3. took corrective action to add required provisions to its current contracts.

Nebraska, as FEMA's grantee, is responsible for ensuring that Village officials are aware of and follow Federal regulations. Doing so will provide FEMA reasonable assurance that the Village will avoid improperly spending about $1.4 million in Federal funds that are at risk.

FEMA Response

FEMA officials agreed with our findings and recommendations (see FEMA's written response in appendix C). We are requesting FEMA provide additional corrective action plan information within 90 days.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

August 2, 2016

MEMORANDUM FOR: Beth A. Freeman
Regional Administrator, Region VII
Federal Emergency Management Agency

Thomas M. Salmon

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

SUBJECT: *The Village of Pilger, Nebraska, Took Corrective Actions to Comply with Federal Grant Award Requirements*
Report Number OIG-16-114-D

We audited Public Assistance grant funds awarded to the Village of Pilger, Pilger, Nebraska (Village). The Nebraska Emergency Management Agency (Nebraska), a Federal Emergency Management Agency (FEMA) grantee, awarded the Village $5.6 million ($4.8 million net award after insurance reductions) for damages resulting from severe storms, tornadoes, straight-line winds, and flooding that occurred June 14–21, 2014. The award provided 75 percent Federal funding for eligible work.

We audited eight projects totaling almost $5.4 million, or 95 percent of the total gross award (see appendix A, table 1). As of April 12, 2016, the cutoff date of our audit, the Village had closed one large project and completed work on one large and three small projects. However, the Village had not completed work on most projects and, therefore, had not submitted a final claim to Nebraska for project expenditures.

We conducted this audit earlier in the Public Assistance process to identify areas where the Village may need additional technical assistance or monitoring to ensure compliance. In addition, by undergoing an audit earlier in the grant cycle, grant recipients have the opportunity to correct noncompliance with Federal regulations before they spend a majority of their funding. It also allows them to supplement deficient documentation before too much time elapses.

Background

On June 16, 2014, an EF-4 tornado struck the Village of Pilger, a small rural farming community covering less than a half square mile.[1] The tornado caused two fatalities, injured dozens of residents, destroyed or damaged more than 100 structures, and uprooted more than 300 trees.

Figure 1: Village of Pilger Tornado Damages

Source: Village of Pilger

The Village evacuated residents until it was safe to return. During this time, Nebraska registered and tracked more than 4,400 volunteers who assisted with the disaster response. The value of the work performed by these volunteers, documented in the Village's donated resource award, will help reduce the Village's overall disaster costs.[2] The Village also participated in FEMA's Alternative Procedures Pilot Programs for debris removal and for permanent recovery work, which provide flexibility to Public Assistance projects.[3] The President declared a major disaster on July 24, 2014.

[1] Based on the Enhanced Fujita (EF) scale, an EF-4 tornado includes wind speeds from 166 to 200 miles per hour.
[2] According to FEMA Recovery Policy RP9525.2, donated work essential to meeting immediate threats to life and property may be credited toward the non-Federal share of category A (debris removal) and category B (emergency protective measures) projects.
[3] *Sandy Recovery Improvement Act of 2013* amended Title IV of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* to add Section 428, authorizing FEMA to develop and implement alternative procedures pilot programs for Public Assistance.

Results of Audit

The Village accounted for disaster-related costs on a project-by-project basis and maintained supporting documentation as Federal regulations require. However, the Village did not follow all Federal procurement standards in awarding $1.7 million in disaster-related contracts. The Village did not—

1. take specific affirmative steps to ensure the use of disadvantaged firms when possible;
2. verify that contractors were not debarred or suspended from Federal assistance programs before awarding contracts; or
3. include required Federal provisions in all contracts.

As a result, approximately $1.4 million of contracting funds are at risk for potential disallowance. However, we are not questioning any contract costs because the Village—

1. awarded a large portion of disaster-related contracts to small businesses;
2. did not use debarred or suspended contractors; and
3. took corrective actions to add required Federal provisions to its current contracts.

The problems we identified occurred, in part, because Nebraska did not adequately monitor the Village's subgrant activities to ensure compliance with Federal procurement and contracting requirements. Nebraska, as FEMA's grantee, is responsible for ensuring subgrantees are aware of and comply with these requirements, as well as for providing technical assistance and monitoring grant activities. Nebraska officials said they are aware of the deficiency and are seeking ways to improve. FEMA officials said they would work with Nebraska to improve its grant management procedures to ensure that subgrantees are aware of and follow Federal requirements.

Finding A: Improper Procurement

The Village used its existing procurement process and standard American Institute of Architects contract templates to award contracts for disaster-related work. However, this process did not meet minimum Federal requirements. The Village awarded disaster-related contracts totaling $1.7 million but did not comply with the following three Federal procurement standards requiring subgrantees to—

1. take specific affirmative steps to ensure the use of small and minority firms, women's business enterprises, and labor surplus area firms when possible (44 Code of Federal Regulations (CFR) 13.36(e)(1));[4]
2. ensure no award of contracts to any party debarred or suspended from Federal assistance programs (44 CFR 13.35); and
3. include required Federal provisions in all contracts (44 CFR 13.36(i)).

As a result, approximately $1,381,560 of contracting funds ($940,752 in contract awards and $440,808 in planned contracting for the Village fire station) are at risk for potential disallowance. However, we are not questioning any contract costs because the Village—

1. awarded a large portion of disaster-related contracts to small businesses;
2. did not use debarred or suspended contractors; and
3. took corrective actions to add required Federal provisions to its current contracts.

Affirmative Steps — The Village did not take the required affirmative steps to ensure the use of small and minority firms, women's business enterprises, and labor surplus area firms whenever possible. These steps include placing small, minority-owned, and women's businesses on solicitation lists; using services and requesting assistance from the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and requiring prime contractors to take affirmative steps when subcontracting.

Although the Village did not take the specific affirmative steps required, the Village did solicit and contract with small businesses on disaster-related work. The Village awarded 72 percent of its contracts, or $1.2 million of $1.7 million to small businesses. Village officials did publicize all contract work, but they did not know about the affirmative steps. However, the Village retroactively requested contractors to self-certify their status, contacted the Small Business Administration for guidance, and modified its procurement procedures to include taking the required affirmative steps for future contract solicitations.

Debarred/Suspended Contractors — The Village did not have a process to verify whether contractors were debarred or suspended from Federal assistance programs. Although the Village's procedures did not include this requirement, we verified that the Village did not award any disaster-related contracts to debarred or suspended contractors. To avoid this problem in future

[4] In December 2014, FEMA adopted 2 CFR Part 200, or the "Super Circular," for disasters declared on or after December 26, 2014. For disaster declarations before December 26, 2014, 44 CFR Part 13 continues to apply to state and local governments.

contracting, Village officials modified their procurement procedures to include verification to ensure contractors are not debarred or suspended.

Required Contract Provisions — The Village did not include all federally required provisions in contracts awarded for disaster-related work. These provisions ensure that contractors comply with applicable Federal requirements, policies, and mandates pertaining to employment, labor laws, the environment, and energy efficiency. These provisions also document the rights and responsibilities of the parties, and minimize the risk of misinterpretations and disputes.

Village officials used American Institute of Architects contract templates that did not include all Federal provisions to award disaster-related work. Village officials said they were not aware they were required to include the specific Federal provisions. However, the Village amended its current contracts to include required Federal provisions and modified its procurement policies to ensure all Federal provisions are included in future contracts.

Finding B: Grant Management

The problems we identified in this report occurred in part because Nebraska, as grantee, did not adequately manage and monitor subgrant activities to ensure compliance with Federal procurement requirements. 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 imposed on them, (2) manage the operations of subgrant activity, and (3) monitor subgrant activity to ensure compliance.

Nebraska officials said they did not review the Village's contracting procedures or contracts for compliance with Federal regulations. Nebraska officials said this occurred because they lacked sufficient resources to reach out to every subgrantee, and relied on subgrantees to initiate contact for additional assistance. FEMA officials said they understood Nebraska's challenge because limited resources also require FEMA to selectively conduct reviews and monitoring based on risk. Nevertheless, as agreed upon in the FEMA-State Agreement, Nebraska is responsible for ensuring that subgrantees comply with Federal regulations and FEMA guidelines. Therefore, we recommend that FEMA direct Nebraska to develop and implement grant management and monitoring procedures and processes to help ensure that subgrantees are aware of and comply with Federal procurement requirements. By following these new grant management and monitoring procedures and processes, Nebraska can provide FEMA reasonable assurance that the Village will avoid improperly spending the $1,381,560 in Federal funds that are at risk.

Nebraska officials said they are aware of the deficiency and are seeking ways to improve management. FEMA officials said they would work with Nebraska to improve its grant management procedures. To assist Nebraska officials in identifying typical problems with grant management, we provided them with two of our reports: *Capping Report: FY 2013 FEMA Public Assistance and Hazard Mitigation Grant and Subgrant Audits* (OIG-14-102-D, issued June 10, 2014); and *Audit Tips for Managing Disaster-Related Project Costs* (OIG-15-100-D, issued June 8, 2015).

Recommendations

We recommend that the Regional Administrator, FEMA Region VII:

Recommendation 1: Direct Nebraska to ensure the Village revises its policies to comply with all Federal grant procurement requirements. We consider this recommendation to be resolved and closed because the Village revised its procurement policy to comply with Federal requirements (finding A).

Recommendation 2: Direct Nebraska to develop and implement grant management and monitoring procedures and processes to help ensure that subgrantees are aware of and comply with Federal procurement requirements (finding B). By following these new grant management and monitoring procedures and processes, Nebraska can provide FEMA reasonable assurance that the Village will avoid improperly spending the $1,381,560 (Federal share $1,036,170) in Federal funds at risk.

Discussion with Management and Audit Follow-up

We discussed the results of our audit with FEMA, Nebraska, and Village officials during and after our audit. We also provided a draft report in advance to these officials and discussed it at exit conferences with FEMA on June 20, 2016, Nebraska on June 7, 2016, and the Village on June 6, 2016. We considered their comments in developing our final report, and incorporated their comments as appropriate. Village, Nebraska, and FEMA officials agreed with our findings and recommendations. We received FEMA's written response to this report on July 18, 2016 (see appendix C).

We consider recommendation 1 to be resolved and closed because the Village modified its procurement policy to comply with Federal requirements. However, we could not resolve or close recommendation 2 as FEMA requested because FEMA's corrective action plan did not include a target completion date or specify implementation requirements to accomplish the plan.

Within 90 days of the date of this memorandum, please provide our office with a written response that includes (1) target completion date and (2) implementation requirements to accomplish the corrective action plan for recommendation 2. Also, please include the contact information for responsible parties and any other supporting documentation necessary to inform us about the status of the recommendation. Please email a signed pdf copy of all responses and closeout request to Christopher.Dodd@oig.dhs.gov. Until we receive your response, we consider recommendation 2 unresolved and open.

The Office of Emergency Management Oversight major contributors to this report are Christopher Dodd, Director; Kathleen Hughes, Audit Manager; Tai Cheung, Auditor-in-Charge; and Patricia Epperly, Auditor.

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

Appendix A
Objective, Scope, and Methodology

We audited FEMA Public Assistance grant funds awarded to the Village of Pilger, Nebraska, Public Assistance Identification Number 167-39135-00. Our audit objective was to determine whether the Village accounted for and expended FEMA Public Assistance grant funds according to Federal regulations and FEMA guidelines for FEMA Disaster Number 4183-DR-NE. Nebraska awarded the Village $5.6 million ($4.8 million net award) for damages resulting from severe storms, tornadoes, straight-line winds, and flooding that occurred June 14–21, 2014. The award provided 75 percent funding for five large and eight small projects. We audited five large and three small projects totaling $5.4 million or 95 percent of the total gross award.[5] The audit covered the period June 14, 2014, through April 12, 2016, the cutoff date of our audit. Table 1 describes the projects we audited.

Table 1: Projects Audited

Project Number	Category of Work *	Gross Award	Insurance Reductions	Net Award
49	A	$ 872,089	$ 0	$ 872,089
81	C	109,595	0	109,595
84	B	2,111,982	0	2,111,982
118	E	700,482	200,956	499,526
123	C	685,120	12,346	672,774
127	E	776,279	335,471	440,808
135	F	45,340	0	45,340
137	E	66,742	21,884	44,858
Total		**$5,367,629**	**$ 570,657**	**$4,796,972**

Source: FEMA project worksheets, Village records, and Office of Inspector General (OIG) analysis

*FEMA identifies types of work by category: A for debris removal, B for emergency protective measures, and C–G for permanent work.

[5] Federal regulations in effect at the time of the disaster set the large project threshold at $120,000 [Amendment to the Public Assistance Program's Simplified Procedures Project Thresholds 79 Fed. Reg. 10,686 (Feb. 26, 2014)].

Appendix A (continued)

We interviewed FEMA, Nebraska, and Village officials; gained an understanding of the Village method of accounting for disaster-related costs and its procurement policies and procedures; reviewed the Village disaster-related contracts awarded and supporting documents; judgmentally selected and reviewed (generally based on dollar amounts) project costs and procurement transactions; 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 Village internal controls over its grant activities, because it was not necessary to accomplish our audit objective.

We conducted this performance audit between January 2016 and June 2016 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing requirements. Those requirements 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.

Appendix B
Summary of Potential Monetary Benefits

Table 2: Summary of Potential Monetary Benefits

Type Potential Monetary Benefit	Amount	Federal Share
Questioned Costs – Ineligible	$ 0	$ 0
Questioned Costs – Unsupported	0	0
Funds Put to Better Use – (Cost Avoidance as a result of corrective actions) *	1,381,560	1,036,170
Total	**$1,381,560**	**$1,036,170**

Source: OIG analysis of findings in this report

***** The cost avoidance amount consists of $940,752 in contract awards that the Village corrected, and $440,808, the net award to replace the Village fire station (Project 127).

Appendix C
FEMA Region VII Audit Response

U.S. Department of Homeland Security
Region VII
9221 Ward Parkway, Suite 300
Kansas City, MO 64114-3372

FEMA

July 18, 2016

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

FROM: Beth Freeman
Regional Administrator, Region VII
Federal Emergency Management Agency

BETH A FREEMAN

SUBJECT: *The Village of Pilger, Nebraska, Took Corrective Actions to Comply with Federal Grant Award Requirements*
Report Number OIG-16-XXX-D

Thank you for the opportunity to review and comment on this draft report. The Federal Emergency Management Agency (FEMA) Region VII appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report. Region VII recognizes the proactive nature of conducting an audit early in the Public Assistance program process and appreciates the audit teams efforts in working with our office on improvements related to sharing documents and coordination.

The draft report contained two recommendations which FEMA Region VII agrees with. Recommendation 1 is considered resolved and closed. Recommendation 2 advises FEMA direct the Nebraska Emergency Management Agency (NEMA) to develop and implement grant management and monitoring procedures and processes to help ensure that subgrantees are aware of and comply with Federal procurement and contracting requirements. To that end, we have issued correspondence to NEMA directing those actions and providing how we will assist. The correspondence is attached. We believe the steps taken are reasonable and sufficient to close the recommendation.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Attachment

Appendix C (continued)

U.S. Department of Homeland Security
FEMA Region VII
9221 Ward Parkway, Ste. 300
Kansas City, MO 64114-3323

FEMA

July 14, 2016

Mr. Bryan Tuma, Assistant Director
Nebraska Emergency Management Agency
2433 Northwest 24th Street
Lincoln, Nebraska 68524-1801

Re: Grants Management & Monitoring

Dear Mr. Tuma:

This correspondence is being provided to share Region VII's lessons learned with regard to implementing the provisions of 2 CFR 200; and to provide insight relating to the actions directed and planned in support of 2 CFR 200.

Most recently, Region VII provided your office with *OIG-16-109-0 Audit Tips for Managing Disaster-Related Project Costs*, July 1, 2016 edition. The Inspector General prepared this guide to assist Disaster Assistance recipients with documenting and accounting for costs, minimizing the loss of FEMA disaster assistance funds, maximizing financial recovery, and preventing fraud, waste and abuse of disaster funds. Please share these tips within your office and with your existing sub-recipients and potential sub-applicants for implementation.

In addition, existing sub-award documents and sub-recipient monitoring documents have been reviewed in consideration of 2 CFR 200. The results of those reviews have provided an opportunity to revise and enhance those documents and practices. Please examine NEMA non-disaster sub-award packages and disaster sub-award packages to ensure all procurement compliance requirements are contained in either category of assistance program. In addition, please examine NEMA non-disaster and disaster sub-recipient monitoring plans and ensure all pass-through monitoring requirements are addressed in both categories of assistance programs.

In order to facilitate the actions outlined and to address the need for compliance with 2 CFR 200, Region VII Grants Business Management teams will be initiating several activities designed to lessen any potential burden on your office. The Award Administration Team will conduct a technical assistance session to discuss minimum requirements, avenues to supplement resources, and any additional concerns. In addition, the Monitoring Section Team will be visiting your office early next year to gauge implementation of the NEMA grants management and monitoring processes and procedures.

Appendix C (continued)

Page Two –
Grants Management & Monitoring

As always, we are available by phone or email, and your team is welcome to visit our office as well. Thank you in advance for your cooperation. Should you have any questions or concerns, don't hesitate to contact me or the Grants Division.

Sincerely,

BETH A FREEMAN

Beth Freeman
Regional Administrator

cc: R7-GD-GB
R7-DA-PA
R7-FIMA-HM

Appendix D
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