



# Homeland Security

June 10, 2004

## MEMORANDUM

TO: Kenneth L. Horak  
Acting Regional Director, FEMA Region I

FROM: Gary J. Barard  
Field Office Director

SUBJECT: Massachusetts Bay Transit Authority  
FEMA Disaster 1142-DR-MA  
Audit Report No. DA-28-04

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The Office of Inspector General (OIG) audited public assistance funds awarded to the Massachusetts Bay Transit Authority. The objective of the audit was to determine whether the Authority accounted for and expended FEMA funds according to federal regulations and FEMA guidelines.

The Authority received an award of \$31.8 million from the Massachusetts Emergency Management Agency, a FEMA grantee, to remove debris, pump water from the subway system, and repair the electrical and signal systems damaged as a result of a flood in October 1996. The awarded provided 75 percent FEMA funding for 18 large projects. (see Exhibit).

The audit covered the period October 1996 to July 2003. During this period, the Authority expended \$23,857,226 of FEMA funds.

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The OIG performed the audit under the authority of the Inspector General Act of 1978, as amended, and according to generally accepted government auditing standards. The audit included tests of the Authority's accounting records, a judgmental sample of expenditures, and other auditing procedures considered necessary under the circumstances.

## RESULTS OF AUDIT

The Authority's claim included \$623,938 (FEMA share \$467,954) of charges that the OIG found to be unauthorized or unrelated to the project charged, unsupported, duplicative, and for work not implemented.

- A. Unauthorized and Ineligible Project Charges. The Authority's claim contained \$405,800 of charges that the OIG determined was not authorized or allocable to the FEMA projects.

The Authority claimed \$334,800 under Project 13719 for the installation of two new 25-Hertz frequency converters at Newbury Substation. The converters were installed to provide a backup power source for sections of the Green Line signal system in case of power default. The Authority requested the backup converters in their initial assessment of needs. However, FEMA inspectors determined that a back-up system did not exist prior to the disaster and specifically excluded such items from the approved scope of work.

During the audit exit conference, Authority officials stated that a backup power system did exist at the time of the disaster. However, this assertion is contrary to FEMA's November 1996 determination that no such system existed. This determination was never appealed by the Authority.

The Authority also claimed \$71,000 under Project 13716 for 20,000 feet of conduit, a material used to house electrical wire or cable. However, according to Authority officials, the material was not used under the project.

Federal regulation (44 CFR § 206.223) states that to be eligible for FEMA funding, an item of work must be required as a result of the disaster. Additionally, U. S. Office of Management and Budget, Circular A-87, states that costs must be necessary, reasonable, and allocable to the project. Accordingly, the OIG questions the charges of \$405,800.

- B. Unsupported Costs. Federal regulation (44 CFR §13.20) requires subgrantees to maintain supporting documentation (i.e. invoices, checks, purchase orders, etc) for charges under FEMA projects. However, the Authority's claim contained \$136,809 of charges that the OIG found were not supported, as follows:

- The Authority claimed \$177,173 of contract costs under Project 57871 but had records to support only \$126,433, or \$50,740 less than the amount claimed.
- The Authority claimed \$229,772 for materials under Project 13714 but had records to support only \$219,309, or \$10,463 less than the amount claimed.
- The Authority claimed \$81,563 of engineering costs under Project 13729 but had records to support only \$41,563, or \$40,000 less than the amount claimed.
- The Authority claimed \$1,891,257 under Project 13714 for contract services. However, the Authority's records show that actual contract costs were \$1,871,257, or \$20,000 less than the amount claimed.
- Under Project 13714, a contractor billed the Authority \$29,974 for use of equipment on November 3, 1996. However, the contractor's equipment records for that day showed actual costs of \$14,368, or \$15,606 less than the amount claimed.

In view of these conditions, the OIG questions the unsupported charges of \$136,809.

C. Duplicate Cost. The Authority's claim contained \$70,085 of charges that the OIG determined to be duplicative, as follows:

- Under the Stafford Act, the Authority is entitled to an administrative allowance based on a statutory formula to cover the costs associated with requesting, obtaining and administering FEMA grants. Federal regulation (44 CFR § 206.228) limits funding of administrative costs to that allowance. However, under Project 13710, approved for repairing the Kenmore substation, the Authority claimed \$37,301 for consultants that assisted the Authority in obtaining approval of FEMA projects.

Authority officials believed that these costs were eligible because they were for system surveys conducted to quantify damages and determine eligible work. However, costs incurred for identifying damages and determining project eligibility are covered by the statutory administrative allowance. Accordingly, the OIG questions \$37,301.

- The Authority's force account labor claim under permanent repair Project 56818 included \$32,784 of fringe benefit costs twice. The Authority claimed \$186,022 of regular-time fringe benefit costs based on a fringe benefit rate of 51.33 percent. This rate included an allowance for annual, sick, and other leave. However, the Authority again charged the project with \$32,784 of annual, sick, and other leave costs as a separate charge under the project. Accordingly, the OIG questions the duplicate charge of \$32,784.

D. Work Not Implemented. The Authority claimed \$11,244 under Project 57876 to complete electrical work at Copley Station. However, the OIG questions these charges because this work was never implemented.

#### RECOMMENDATION

The OIG recommends that the Regional Director, in coordination with the grantee, disallow the \$623,938 of questioned costs.

#### DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW UP

The audit results were discussed with Authority and FEMA officials on February 6, 2004. Authority officials agreed with Findings B and D, but disagreed, in part, with Findings A and C. Their comments, where appropriate, are included in the body of the report.

Please advise the Atlanta Field Office, Audit Division, by August 10, 2004 of the actions taken to implement the OIG recommendation. Should you have any questions concerning this report, please contact me or David Kimble at (770) 220-5242.

Massachusetts Bay Transit Authority  
FEMA Disaster No. 1142-DR-MA  
Schedule of Claimed and Questioned Costs

<u>Project Number</u>	<u>Award Awarded</u>	<u>Amount Claimed</u>	<u>Amount Questioned</u>
13719	\$11,097,409	\$11,097,409	\$ 334,800
13724	1,579,078	1,579,078	
13723	81,739	81,739	
13725	527,805	527,805	
56818	1,378,887	1,378,887	32,784
13710	8,125,096	8,125,096	37,301
13729	1,226,328	1,226,328	40,000
57871	177,173	177,178	50,740
57876	345,473	345,473	11,244
13795	258,182	258,182	
56977	190,547	190,547	
56994	242,014	242,014	
13717	401,850	401,850	
50104	369,862	369,862	
12808	234,108	234,108	
13714	3,460,182	3,460,182	46,069
13715	662,467	662,467	
13716	<u>1,451,430</u>	<u>1,451,430</u>	<u>71,000</u>
Total	<u>\$31,809,630</u>	<u>\$31,809,630</u>	<u>\$623,938</u>