

**OFFICE OF INSPECTOR GENERAL**

# **Lessons Learned from Prior Reports on Disaster-related Procurement and Contracting**



Homeland  
Security

**December 5, 2017  
OIG-18-29**



# DHS OIG HIGHLIGHTS

## *Lessons Learned from Prior Reports on Disaster-related Procurement and Contracting*

**December 5, 2017**

### **Why We Did This Report**

This is a Department of Homeland Security Office of the Inspector General (OIG) special report on Federal Emergency Management Agency (FEMA) and FEMA recipient and subrecipient disaster-related procurements. This report describes lessons learned regarding disaster-related procurements based on issues and observations from previous DHS OIG reports.

### **What We Recommend**

This report contains no recommendations.

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

### **What We Found**

FEMA is currently responding to some of the most catastrophic disasters in U.S. history — Hurricanes Harvey, Irma, Maria, and the October 2017, California wildfires. Because of the massive scale of damage and the large number and high-dollar contracts that will likely be awarded, there is a significant risk that billions of taxpayer dollars may be exposed to waste, fraud, and abuse.

The issues and observations we have described in our previous reports clearly point to FEMA's ongoing failures to oversee its grant recipients (grantees). FEMA is responsible for monitoring recipients to ensure they are performing proper grant administration. Grant recipients, in turn, must manage subrecipients to ensure grant fund expenditures comply with Federal procurement requirements. Noncompliance can result in high-risk contracts that may lead to excessive and ineligible costs. In addition, failure to follow these requirements can hinder many of the socioeconomic goals Congress intended.

During the initial recovery phase of these disasters, it is imperative that FEMA ensures that grant recipients (states and tribal governments) effectively manage their disaster relief grants. In doing so, the states must also ensure that their subrecipients have adequate procurement policies and procedures and fully comply with Federal procurement requirements. These measures should provide reasonable, but not absolute, assurance that the grant funds are spent properly and mitigate the risk of taxpayers bearing ineligible and excessive costs.



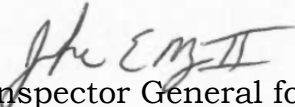
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Washington, D.C. 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

DEC 5 2017

MEMORANDUM FOR: Jeffrey Byard  
Associate Administrator  
Office of Response and Recovery  
Federal Emergency Management Agency

FROM: John E. McCoy II   
Acting Assistant Inspector General for Audits

SUBJECT: *Lessons Learned from Prior Reports on  
Disaster-related Procurement and Contracting*

Attached is our final report, *Lessons Learned from Prior Reports on Disaster-related Procurement and Contracting*. This report was prepared under the *Inspector General Act of 1978*, as amended, and more specifically, Section 2-2, to provide leadership and coordination and recommend policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in, such programs and operations.

This report is based on issues and observations described in previous Department of Homeland Security Office of Inspector General (OIG) audits of subrecipients' procurement performance since 2015. We are providing this report to reemphasize to Federal Emergency Management Agency (FEMA) leadership the potential procurement challenges that will likely arise during the recovery phases of Hurricanes Harvey, Irma, Maria, and the October 2017, California wildfires. It contains no recommendations but highlights the need for FEMA to maintain and, where necessary, implement effective controls to ensure grant recipients effectively manage their disaster relief grants. FEMA is responsible for monitoring grant recipients to ensure they are performing proper grant administration. Grant recipients, in turn, must manage subrecipients to ensure grant fund expenditures comply with Federal procurement requirements.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of this 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.

Please call me with any questions, or your staff may contact Paul Wood, Acting Deputy Assistant Inspector General for Audits, at (202) 254-4100 or Paige Hamrick, Director, Disaster and Immigration, at (214) 436-5200.



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### Background

The Federal Emergency Management Agency (FEMA) is currently responding to Hurricanes Harvey, Irma, Maria, and the October 2017, California wildfires which are considered to be some of the most catastrophic disasters in U.S. history. On August 25, 2017, Hurricane Harvey made landfall in the Gulf Coast portion of Texas as a Category 4 hurricane. It caused catastrophic flooding and widespread destruction. Two weeks later, Hurricane Irma devastated the Caribbean region as a Category 5 hurricane, before making landfall in Florida as a Category 4 hurricane. Shortly thereafter, Hurricane Maria hit Puerto Rico as a Category 4 hurricane, leaving 100 percent of the territory without power. Many lives have been lost to these disasters and hundreds of thousands have been displaced from their homes.

As FEMA responded to three major hurricanes on the east coast, on the west, the most destructive wildfires in California's history devastated northern California. During October 2017, wildfires that ignited in California destroyed more than 245,000 acres, an estimated 8,400 structures, and resulted in the loss of 42 lives. In response to the hurricanes and wildfires, the President signed seven major disaster declarations, providing Individual Assistance, Public Assistance, and Hazard Mitigation to affected communities within the designated areas.

Because of the massive scale of damage and the large number and high-dollar contracts that will likely be awarded, there is a significant risk that billions of taxpayer dollars may be exposed to waste, fraud, and abuse. Each year, our audit reports identify significant procurement-related issues representing millions of dollars of Federal funds. These reports also contain recommendations to assist FEMA in addressing the issues identified and improving related controls. The majority of our audits focus on grants under FEMA's Public Assistance (PA) program and Hazard Mitigation Grant Program (HMGP), both funded from the Disaster Relief Fund.<sup>1</sup>

To assist in the recovery from major disasters such as Hurricanes Harvey, Irma, Maria, and the California wildfires, FEMA provides grants to states, tribal and local governments, and certain types of private nonprofit organizations. Our audit reports have continually identified significant procurement-related issues that stem from failures by grant recipients to provide adequate guidance and grant management to subrecipients on following Federal requirements.

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<sup>1</sup> The Disaster Relief Fund (DRF) is an appropriation against which FEMA can direct, coordinate, manage, and fund eligible response and recovery efforts associated with domestic major disasters and emergencies that overwhelm state resources pursuant to the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, Public Law 93-288, as amended, 42 United States Code (U.S.C.) 5121 *et seq.*





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Recurrent Improper Procurement-Related Issues

During fiscal years 2015 through June 2017, we questioned more than \$256 million in ineligible contract costs because subrecipients did not follow Federal procurement regulations (see table 1). Additionally, we identified more than \$191 million in ineligible costs that subrecipients may have incurred had we not identified the procurement problems before FEMA obligated disaster assistance grant funds. Our reports clearly point to ongoing failures by subrecipients to comply with Federal procurement requirements. We also noted that grant recipients (grantees) failed to provide subrecipients with adequate guidance and grant management. These findings highlight that FEMA does not effectively monitor grant recipients or effectively enforce procurement rules.<sup>2</sup>

**Table 1: FY 2015–2017 Questioned Costs and Cost Avoidance**

<b>Fiscal Year</b>	<b>Questioned Costs</b>	<b>Cost Avoidance</b>
<b>2015</b>	\$ 130,262,235	\$ 50,510,883
<b>2016</b>	86,182,478	121,703,365
<b>2017</b>	40,505,093	19,148,472
<b>Totals</b>	<b>\$256,949,806</b>	<b>\$191,362,720</b>

Source: Office of Inspector General (OIG) compilation and analysis of issued reports

These questioned and avoided costs resulted from multiple procurement-related failures, including but not limited to the following:

- Failure to provide full and open competition (2 Code of Federal Regulation (CFR) 200.319(a)) —
  - As a result, FEMA had no assurance that incurred costs were reasonable, and there was an increased risk for fraud, waste, and abuse.
- Failure to take all affirmative steps to assure the use of disadvantaged businesses when possible (2 CFR 200.321) —
  - As a result, small and minority firms, women’s business enterprises, and labor surplus area firms may not have received sufficient opportunities to bid on federally funded work.
- Failure to include all required contract provisions (2 CFR 200.326) —
  - As a result, there was an increasing risk of misinterpretations, errors in pricing, scopes of work, and contract disputes.
- Failure to verify whether contractors were suspended, debarred, or otherwise excluded or ineligible (2 CFR 200.213) —

<sup>2</sup> For example, over the 6-year period ended September 30, 2014, our audits questioned \$352.3 million in PA grant costs for noncompliance. FEMA officials subsequently ruled that \$321.7 million, or 91.3 percent, of those costs were eligible. We questioned those costs because subrecipients did not follow Federal procurement rules when awarding contracts (see *FEMA Can Do More to Improve Public Assistance Grantees’ and Subgrantees’ Compliance with Federal Procurement Rules*, OIG-16-126-D).



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- As a result, U.S. taxpayers were not protected from potential financial risks posed by such contractors.

In recent years, FEMA implemented a Procurement Disaster Assistance Team to provide procurement-specific training to its grant recipients (grantees) as well as offer other procurement-related resources such as a contracting checklist. However, we continue to identify instances in which the states, as grant recipients, failed to ensure that their subrecipients comply with the Federal procurement requirements. These failures can result in high-risk contracts that, in turn, may lead to excessive and ineligible costs. In addition, failure to follow Federal procurement requirements hinders many of the socioeconomic goals intended by Congress to provide disadvantaged firms with sufficient opportunities to compete for federally funded work.

Without full and open competition, the risk of favoritism, collusion, fraud, waste, and abuse are increased. Therefore, it is critical that FEMA ensure its grant recipients and subrecipients are fully aware of, and comply with, all Federal procurement requirements during all disaster-related events, particularly Hurricanes Harvey, Irma, Maria, and the California wildfires.

#### *Subrecipients Should Be Made Aware of Federal Procurement Requirements Before Contracting*

It is imperative that FEMA ensure grant recipients provide subrecipients with timely, accurate, and complete procurement guidance. Furthermore, grant recipients must ensure subrecipients are fully aware of all Federal procurement requirements before subrecipients award contracts for disaster-related work. Compliance with Federal procurement requirements is especially important during the early days of disaster recovery.

Procurement practices that do not comply with Federal requirements can lead to high-risk contracts that can result in U.S. taxpayers bearing excessive and ineligible costs. We repeatedly identify procurement-related issues in which the subrecipient fails to fully and openly solicit from all qualified bidders, including small and minority businesses and women's business enterprises. However, when we have questioned costs for noncompliance with Federal standards, FEMA has ruled the costs to be eligible – 91.3 percent (\$327.1 million) for the 6 years ended September 30, 2014.

For example, in January 2017, we recommended FEMA disallow more than \$31.7 million awarded to a subrecipient who failed to follow the Federal procurement requirements. FEMA officials agreed with our recommendation because they would not have assurance that the costs were reasonable or that the subrecipient had selected the most qualified contractors to perform the disaster-related work. These issues resulted, in part, from failures by the grant



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recipient to provide the subrecipient with adequate guidance and grant management.

This lack of compliance with Federal regulations increases the risk of favoritism, collusion, fraud, waste, and abuse. Therefore, it is imperative that FEMA ensure its recipients and subrecipients are made fully aware of all Federal requirements before they procure for these and all disaster-related services; and that they closely monitor its recipients' grant management activities.

### **Conclusion**

During the initial recovery phases of Hurricanes Harvey, Irma, Maria, and the California wildfires, it is imperative that FEMA ensure its grant recipients provide subrecipients with timely, accurate, and complete procurement guidance and ensure they are made fully aware of all Federal procurement requirements. Subrecipients must have adequate procurement policies and procedures in place to reduce the risk of losing Federal funding due to improperly procured contracts. FEMA must closely monitor its recipients' grant management activities. Doing so should provide reasonable, but not absolute, assurance that Federal disaster assistance grant funds are spent properly and that the risk of ineligible and excessive costs borne by taxpayers is mitigated.

The Office of Audit major contributors to this report are: Paige Hamrick, Director; John Polledo, Audit Manager; David B. Fox, Audit Manager; Dana Smith, Auditor-in-Charge; Josh Welborn, Auditor; Evette Fontana, Auditor; Victor Du, Independent Reference Reviewer; and Kevin Dolloson, Communications Analyst.



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### **Appendix A**

#### **Objective, Scope, and Methodology**

Our objective of this special review was to proactively remind FEMA of the potential procurement challenges that will likely arise during the recovery phases of Hurricanes Harvey, Irma, Maria, and the California wildfires. To accomplish our objective, we compiled and summarized disaster assistance reports issued in fiscal years 2015 through 2017; analyzed findings and recommendations in those reports; identified and quantified types of frequently reported procurement findings in grant reports; quantified the potential monetary benefits of report findings related to non-compliance with Federal procurement regulations; and performed other procedures we considered necessary to accomplish our objective. In addition, we reviewed:

- DHS' *Summary and Key Findings of Fiscal Year 2015 FEMA Disaster Grant and Program Audits*, issued November 29, 2016; and
- DHS' *Summary and Key Findings of Fiscal Year 2016 FEMA Disaster Grant and Program Audits*, [draft].

This report was prepared under *the Inspector General Act of 1978*, as amended, and more specifically, Section 2-2, to provide leadership and coordination and recommend policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in, such programs and operations. The work performed in this review does not constitute an audit in accordance with generally accepted government auditing standards.





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**Appendix B**  
**Fiscal Years 2015 to 2017 Disaster Grant and Subgrant Reports**

<b>Fiscal Year Issued</b>	<b>Report Number</b>	<b>Questioned Amount</b>	<b>Cost Avoidance</b>
FY 2015	OIG-15-03-D	\$ 0	\$ 13,768,371
FY 2015	OIG-15-30-D	0	13,477,236
FY 2015	OIG-15-34-D	0	22,540,761
FY 2015	OIG-15-35-D	3,597,189	0
FY 2015	OIG-15-48-D	395,032	0
FY 2015	OIG-15-65-D	82,360,247	0
FY 2015	OIG-15-101-D	3,749,440	0
FY 2015	OIG-15-106-D	21,740	0
FY 2015	OIG-15-111-D	4,845,106	0
FY 2015	OIG-15-113-D	4,010,222	0
FY 2015	OIG-15-119-D	0	724,515
FY 2015	OIG-15-123-D	353,154	0
FY 2015	OIG-15-126-D	994,224	0
FY 2015	OIG-15-131-D	21,711,231	0
FY 2015	OIG-15-132-D	1,551,884	0
FY 2015	OIG-15-135-D	973,778	0
FY 2015	OIG-15-141-D	1,496,131	0
FY 2015	OIG-15-148-D	4,202,857	0
<b>FY 2015 Subtotal</b>		<b>\$130,262,235</b>	<b>\$50,510,883</b>



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**Appendix B (Continued)**  
**FY 2015 to 2017 Disaster Grant and Subgrant Reports**

<b>Fiscal Year Issued</b>	<b>Report Number</b>	<b>Questioned Amount</b>	<b>Cost Avoidance</b>
FY 2016	OIG-16-09-D	\$ 2,072	\$ 0
FY 2016	OIG-16-21-D	0	40,247,846
FY 2016	OIG-16-24-D	874,055	0
FY 2016	OIG-16-38-D	0	0
FY 2016	OIG-16-52-D	312,117	0
FY 2016	OIG-16-66-D	1,284,600	0
FY 2016	OIG-16-67-D	0	26,627,208
FY 2016	OIG-16-78-D	2,898,831	7,230,911
FY 2016	OIG-16-97-D	51,174,297	0
FY 2016	OIG-16-99-D	0	8,367,654
FY 2016	OIG-16-103-D	0	16,506,222
FY 2016	OIG-16-114-D	0	1,381,560
FY 2016	OIG-16-118-D	0	2,626,623
FY 2016	OIG-16-116-D	0	3,300,000
FY 2016	OIG-16-120-D	130,089	55,000
FY 2016	OIG-16-125-D	668,430	0
FY 2016	OIG-16-133-D	0	3,722,500
FY 2016	OIG-16-136-D	0	10,846,666
FY 2016	OIG-16-140-D	4,894,551	791,175
FY 2016	OIG-16-143-D	23,943,436	0
<b>FY 2016 Subtotal</b>		<b>\$ 86,182,478</b>	<b>\$121,703,365</b>
FY 2017	OIG-17-06-D	\$ 1,563,780	\$ 0
FY 2017	OIG-17-18-D	967,963	0
FY 2017	OIG-17-25-D	31,713,569	0
FY 2017	OIG-17-34-D	0	2,009,971
FY 2017	OIG-17-46-D	4,786,736	0
FY 2017	OIG-17-48-D	0	3,240,646
FY 2017	OIG-17-57-D	0	458,150
FY 2017	OIG-17-77-D	1,473,045	0
FY 2017	OIG-17-62-D	0	12,854,705
FY 2017	OIG-17-83-D	0	585,000
<b>FY 2017 Subtotal</b>		<b>\$ 40,505,093</b>	<b>\$ 19,148,472</b>
<b>Total</b>		<b>\$256,949,806</b>	<b>\$191,362,720</b>

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