

**Cache County, Utah,
Needs Additional
Assistance and Monitoring
to Ensure Proper
Management of Its
FEMA Grant**





DHS OIG HIGHLIGHTS

Cache County, Utah, Needs Additional Assistance and Monitoring to Ensure Proper Management of Its FEMA Grant

May 11, 2018

Why We Did This Audit

The County estimated that it had sustained \$2.7 million in damages from severe storms and flooding in February 2017. We conducted the audit early in the grant process to identify areas in which the County may need additional technical assistance and monitoring to ensure compliance with Federal requirements.

What We Recommend

FEMA should direct Utah to provide additional technical assistance and increase its monitoring of the County to ensure it complies with applicable Federal procurement standards.

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

The accounting policies, procedures, and business practices for Cache County, Utah (County) appear adequate to account for grant funds according to Federal regulations and Federal Emergency Management Agency (FEMA) guidelines. However, the County does not have adequate procurement policies, procedures, and business practices that comply fully with all Federal standards for its planned procurements, totaling approximately \$500,000.

This exists primarily because the State of Utah, Department of Public Safety, Division of Emergency Management (Utah), as a FEMA recipient, did not ensure the County was fully aware of Federal procurement standards. In addition, FEMA needs to improve monitoring of Utah's grant management activities to ensure compliance with Federal regulations, FEMA's policies, and the FEMA-State Agreement.

At the time of our fieldwork, FEMA had not completed project worksheets to define the scope of disaster work. At this early stage in the grant process, Utah needs to provide the County with additional technical assistance and increased monitoring. Doing so should provide FEMA reasonable, but not absolute, assurance that the County will spend the \$2.7 million in total estimated disaster-related costs according to Federal requirements.

FEMA Response

FEMA officials agreed with our findings and recommendations. FEMA's written response is included in appendix A.



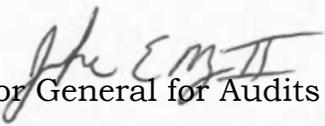
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Department of Homeland Security

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

MAY 11 2018

MEMORANDUM FOR: Lee K. dePalo
Regional Administrator, Region VIII
Federal Emergency Management Agency

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

SUBJECT: *Cache County, Utah, Needs Additional Assistance
and Monitoring to Ensure Proper Management of Its
FEMA Grant*

Attached for your action is our final report, *Cache County, Utah, Needs Additional Assistance and Monitoring to Ensure Proper Management of Its FEMA Grant*.

The report contains two recommendations. Your office concurred with both recommendations. Based on FEMA's proposed actions, we consider recommendation 1 resolved and open with a target completion date of June 1, 2018. Once your office has fully implemented this recommendation, please submit a formal closeout letter to us within 30 days so that we may close the recommendation. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and the disposition of any monetary amounts. Recommendation 2 is closed with no further action required from FEMA. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

We audited the capability of Cache County, Utah (County), to manage Federal Emergency Management Agency (FEMA) Public Assistance grant funds. We conducted the audit early in the Public Assistance process to identify areas in which the County may need additional technical assistance or monitoring to ensure compliance with Federal regulations and FEMA guidelines. In addition, by undergoing an audit early in the grant cycle, grant recipients have the opportunity to correct noncompliance before they spend the majority of their grant funding. It also allows them the opportunity to supplement deficient documentation or locate missing records before too much time elapses.

At the time of our fieldwork, the State of Utah's Department of Public Safety, Division of Emergency Management (Utah), a FEMA grant recipient, had not yet awarded any of the \$2.7 million in damages the County estimated it sustained from severe winter storms and flooding in February 2017. The award will



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provide 75 percent Federal funding for debris removal, emergency protective measures, and permanent work. The disaster did not cause damage to insurable facilities. Therefore, the County did not receive any insurance proceeds for damages resulting from the disaster, nor did it need to obtain insurance to cover similar damages in future disasters. During our fieldwork, FEMA had not obligated funds or completed project worksheets to define the scope of work, nor had the County completed most of its disaster-related work or filed claims for reimbursement.

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

Background

The County is located in northern Utah, near the Idaho border and encompasses the Bear River Mountains and Cache Valley. It is home to more than 120,000 residents. From February 7 to 27, 2017, severe winter storms, including heavy rains and melting snow, caused flooding that damaged many of the County’s roads and ditches. The President approved a Major Disaster Declaration (4311-DR-UT) on April 21, 2017.

Figure 1: Cache County Road Damage



Source: Cache County, Utah



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Results of Audit

The County's accounting policies, procedures, and business practices appear adequate to account for FEMA grant funds according to Federal regulations and FEMA guidelines. The County should be able to accurately account for disaster-related costs and maintain documentation sufficient to support disaster costs. However, during our fieldwork, the County did not have adequate procurement policies, procedures, and business practices in place to comply fully with all Federal standards. Therefore, FEMA should direct Utah to provide the County with additional technical assistance and increased monitoring to ensure the County follows Federal procurement standards in spending the \$2.7 million in total estimated disaster-related work. Doing so should provide FEMA with reasonable, but not absolute, assurance that the County will spend the \$500,000 in estimated costs according to Federal procurement standards.

Grant Management

Utah is eligible to receive about \$150,000 of Federal grant management funding to support its FEMA grant management activities for all applicants, including the County, under disaster 4311-DR-UT. Utah may also be eligible to claim Direct Administrative Costs that it tracks, charges, and accounts for directly to specific projects.¹ It is therefore incumbent on Utah to ensure that the County fully understands and complies with Federal procurement standards.

For this subaward, FEMA did not ensure Utah effectively performed its grant management responsibilities, as Federal regulations and the FEMA-State Agreement require. Federal regulations at 2 Code of Federal Regulations (CFR) 200.331(d) require recipients to monitor their subrecipient's activities to ensure a subaward is "... in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved." In addition, the FEMA-State Agreement (FSA-FEMA-4311-DR-UT, p. 2) requires Utah to comply with, and to require all subrecipients to comply with, the requirements of all applicable laws and regulations, including the *Stafford Act*² and applicable FEMA policies and guidance.

The Federal regulatory requirements form the foundation for an oversight process to detect and prevent noncompliance issues. For this process to be effective, recipients must continually monitor subrecipients and should

¹ The rate for management costs on major disaster declarations is 3.34 percent of the Federal share of assistance granted (44 CFR 207.5(b)(4)(i)). The \$150,000 in management costs is 3.34 percent of the Federal share of the \$5.9 million total estimated damages for disaster 4311-DR-UT based on FEMA and Utah preliminary damage assessments.

² *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.* (*Stafford Act*).



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conduct site visits to assess compliance with Federal requirements. The procurement finding we identified indicates Utah — the recipient — did not ensure that the County fully understood the Federal procurement requirements. The County estimates it will incur \$500,000 in contract costs. If the recipient does not manage the day-to-day operations, the County is at risk of losing its Federal funding. In addition, there is an increased risk the County might spend taxpayer money on unreasonable costs or on ineligible activities. Therefore, Utah should provide additional technical assistance and day-to-day management to the County to ensure it complies with Federal procurement requirements. Doing so should provide FEMA with reasonable, but not absolute, assurance that the County will spend the \$500,000 in estimated contract costs according to Federal procurement standards.

Policies, Procedures, and Business Practices

Project Cost Accounting

The County's accounting policies, procedures, and business practices appear adequate to account for FEMA grant funds according to Federal regulations and FEMA guidelines. The County should be able to accurately account for and support the disaster-related costs on a project-by project basis, as the following Federal regulation and FEMA guidelines require:

- Subrecipients must maintain accounting records that adequately identify the source and application of Federal funds and maintain source documentation to support those accounting records (2 CFR 200.302(b)(3)).
- Applicants must maintain all source documentation supporting project costs. In addition, applicants should file all supporting documentation by project to facilitate closeout and audits (*Public Assistance Program and Policy Guide*, FP 104-009-2, April 2017, p. 141).

The County established a unique cost code to designate all disaster-related expenses, which also included the location of the specific disaster-related activity, and that will enable it to account for all costs by project. We assessed the adequacy of the County's policies and procedures to account for contract costs and for its own force account labor, equipment, and materials. We determined that if the County follows its accounting policies and procedures, it could properly segregate costs by project and maintain sufficient detailed documentation to support its disaster-related costs.

Procurement Practices

During our audit fieldwork, the County's procurement policies, procedures, and business practices did not meet all Federal procurement standards.



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Federal procurement standards 2 CFR 200.317 through 2 CFR 200.326 require that subrecipients —

1. perform procurement transactions in a manner providing full and open competition (2 CFR 200.319(a));
2. take all necessary affirmative steps to assure the use of small and minority firms, women’s business enterprises, and labor surplus area firms when possible (2 CFR 200.321(a));
3. include required provisions in all their contracts (2 CFR 200.326); and
4. maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts (2 CFR 200.318(c)(1)).

Because the County’s policies did not include these four requirements, it awarded one architect and engineering (A/E) contract and had incurred approximately \$55,000 in contract costs that did not comply with Federal requirements. Compliance is essential to ensure full and open competition, which decreases the risk of unreasonable prices, fraud, waste, and abuse; and disadvantaged firms — small and minority firms, women’s business enterprises, and labor surplus area firms — have sufficient opportunities to compete for federally funded work. Additionally, compliance decreases the risk of misinterpretations and disputes relating to contracts; and ensures that contracts are not awarded under biased circumstances. Therefore, FEMA should not fund \$55,000 of ineligible contract costs incurred because the County did not comply with Federal procurement requirements.

To evaluate the County’s procurement practices, we reviewed its policies and procedures in effect at the time of the disaster and discussed them with the County’s contracting officials. As of July 10, 2017, the County had awarded one A/E contract and County officials said they planned to award another five contracts totaling \$500,000 for disaster-related work.

Although the County did not follow all Federal procurement standards, it did have policies, procedures, and business practices in place to verify contractors are not debarred, suspended, or otherwise excluded or ineligible from receiving federally funded contracts. In addition, the County conducted cost or price analyses; met the appropriate bonding requirements; and monitored its vendors to ensure they adhere to the terms, conditions, and specifications of their contracts.

Full and Open Competition — Although the County’s procurement policy requires competition for contracts exceeding \$150,000, it also permits the County to use alternative publication procedures that include soliciting bids directly from potential vendors by mail or email. These alternative procedures effectively allow the County to bypass the requirement to publicly solicit (formally advertise) its disaster-related contracts.



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Without full and open competition, FEMA has little assurance that contract costs are reasonable. 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. It also allows greater opportunity for small businesses, minority firms, and women's business enterprises to compete for federally funded work. Full and open competition also helps discourage and prevent favoritism, collusion, fraud, waste, and abuse.

Disadvantaged Firms — The County's procurement policy, procedures, and business practices do not include taking required affirmative steps to ensure the use of small and minority firms, women's business enterprises, and labor surplus area firms when possible. The required steps include placing qualified disadvantaged firms on solicitation lists; and dividing total requirements, when economically feasible, into smaller tasks or quantities. The steps also include using the services and assistance of organizations like the Small Business Administration and the Minority Business Development Agency of the Department of Commerce to solicit and use disadvantaged firms. Although familiar with the need to solicit these types of disadvantaged firms, County officials were uncertain of the extent of action required to meet the affirmative requirements.

Required Contract Provisions — Federal regulations require specific provisions for contracts and subcontracts, including remedies and termination clauses, compliance with labor and environmental laws, and prohibitions of "kickbacks." These provisions describe the rights and responsibilities of the parties and minimize the risk of misinterpretations and disputes. County officials said they were not fully aware of the required contract provisions for Federal grants and relied on the County's attorney for compliance with contracting requirements. Nonetheless, the professional engineering contract we reviewed did not include all the required Federal provisions.

Conflict of Interest — The County's procurement policy does not include written standards of conduct covering conflicts of interest or govern the actions of its employees engaged in the selection, award, and administration of contracts. Even though the County's procurement policy requires its contractors to state they have no conflicts of interest, this does not comply with Federal regulations. Standards of conduct help to ensure officers, employees, and agents of the non-Federal entity do not accept gratuities, favors, or anything else of monetary value from contractors or parties to subcontracts.

As a result of our audit, County officials said they re-bid their A/E contract and that they will follow Federal procurement standards when awarding the other disaster-related contracts. In addition, the County has supplemented its procurement policy to include a checklist of FEMA's Public Assistance procurement requirements. According to County officials, the checklist will include all required Federal provisions including fully competing contracts and



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taking the necessary affirmative steps to assure the use of small and minority businesses, women's business enterprises, and labor surplus area firms when possible.

Recommendations

Recommendation 1: We recommend the Regional Administrator, FEMA Region VIII, direct Utah to provide additional technical assistance and increase its monitoring of the County to ensure it complies with Federal procurement regulations for awarding disaster contracts; and to prevent the potential improper spending of approximately \$500,000 (\$375,000 Federal share) in procurements.

Recommendation 2: We recommend the Regional Administrator, FEMA Region VIII, not fund \$55,000 (\$41,250 Federal share) of ineligible contract costs unless FEMA grants an exception for all or part of the costs as 2 CFR 200.102(b) allows and determines the costs are reasonable.³

Discussions with Management and Audit Follow-up

We discussed the results of our audit with FEMA, Utah, and County officials during our audit. We considered their comments in developing our final report and incorporated their comments as appropriate. We also provided a notice of findings and recommendations in advance to these officials and discussed it at exit conferences with FEMA officials on February 5, 2018, and with Utah and County officials on February 5, 2018, and February 8, 2018, respectively.

FEMA Region VIII officials provided a written response to a report draft on March 20, 2018, and concurred with our recommendations (see appendix A). In their response, FEMA officials provided descriptions of their action plans and estimated completion date. In addition, FEMA requested that recommendation 2 be considered closed. FEMA's response was sufficient to resolve both recommendations in this report. For recommendation 1, FEMA acknowledged the importance of State recipients providing technical assistance and monitoring to their subrecipients and described actions to promote enhanced compliance through further direction to the State. For recommendation 2, FEMA's response describing its review and disposition of the subject contract costs were sufficient to achieve the audit recommendation. Therefore, we consider recommendation 2 closed with no further action required from FEMA.

Office of Audits major contributors to this report were Paige Hamrick, Director; David B. Fox, Audit Manager; John Polledo, Audit Manager; Dana Smith,

³ Because FEMA had not yet obligated these costs, we classify them as cost avoidance.



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Auditor-in-Charge; Newton Hagos, Auditor; James Diaz, Independent Reference Reviewer; and Kevin Dolloson, Communications Analyst.

Objective, Scope, and Methodology

We audited the capability of Cache County, Utah (County), Public Assistance Identification Number 005-99005-00, to manage Federal Emergency Management Agency (FEMA) Public Assistance grant funds. Our audit objective was to determine whether the County's policies, procedures, and business practices are adequate to account for and expend FEMA grant funds according to Federal regulations and FEMA guidelines for FEMA Disaster Number 4311-DR-UT. As of July 10, 2017, the cutoff date of our audit, FEMA had not yet obligated any funding or completed its development of project worksheets for damages resulting from severe storms and flooding occurring February 7–27, 2017. The County estimated it had sustained approximately \$2.7 million of disaster-related damages. The award will provide 75 percent Federal funding for debris removal, emergency work, and permanent work for large and small projects.⁴

We interviewed FEMA, Utah, and County officials; and assessed the adequacy of the policies, procedures, and business practices the County uses and plans to use to account for and expend Federal grant funds and to procure and monitor contracts for disaster work. However, we did not perform a detailed assessment of the County's internal controls over its grant activities because it was not necessary to accomplish our audit objective. We also reviewed applicable Federal regulations and FEMA guidelines, and performed other procedures considered necessary to accomplish our objective.

We conducted this performance audit between June 2017 and February 2018, 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 the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. In conducting this audit, we applied the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

⁴ Federal requirements in effect at the time of the disaster set the large project threshold at greater than \$123,100 [*Notice of Adjustment of Disaster Grant Amounts*, Vol. 81, No. 197, Fed. Reg. 70,434 (Oct. 12, 2016)] and provided 75 percent Federal funding [Utah; Major Disaster and Related Determinations 82 Fed. Reg. 22152 (May 12, 2017)].



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Appendix A
FEMA Region VIII Comments to the Draft Report

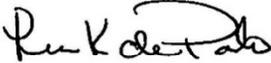
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Region VIII
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Denver, CO 80225-0267



FEMA

MAR 20 2018

MEMORANDUM FOR: John E. McCoy II
Assistant Inspector General for Audits
Office of Inspector General

FROM: Lee K. dePalo 
Regional Administrator
FEMA Region VIII

SUBJECT: Response to OIG Draft Report, *Cache County, Utah, Needs Additional Assistance and Monitoring to Ensure Proper Management of Its Federal Grant* (Job Code: G-17-032-EMO-FEMA)

Thank you for the opportunity to review and comment on the subject Draft Report. The Federal Emergency Management Agency (FEMA) appreciates the Office of Inspector General's (OIG) work in planning and conducting its review and issuing this Draft Report.

FEMA Region VIII is pleased to note the OIG recognized that Cache County (County) modified its procurement practice early in the disaster recovery operation to ensure compliance with Federal procurement standards as a result of the audit. This is important because both recipients and subrecipients are responsible for complying with Federal grant management guidelines.

The Draft Report contains two recommendations with which FEMA concurs. Attached please find our detailed response to each recommendation.

Again, thank you for the opportunity to review and comment on the subject Draft Report. Please contact Tom Bush at (303) 235-4860 should you have questions or need additional information. We look forward to working with you in the future.

Attachment

www.fema.gov



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Appendix A (continued)
FEMA Region VIII Comments to the Draft Report

MAR 20 2018

**Attachment: Management Response to Recommendations
Contained in G-17-032-EMO-FEMA Draft Report**

Recommendation 1: The Regional Administrator, FEMA Region VIII, direct Utah to provide additional technical assistance and increase its monitoring of the County to ensure it complies with Federal procurement regulations for awarding disaster contracts; and to prevent the potential improper spending of approximately \$500,000 (\$375,000 Federal share) in procurements.

Response: Concur. FEMA Region VIII agrees with the importance and value of the State providing technical assistance and monitoring its subrecipients. In June 2017, the County's Emergency Manager attended a FEMA-sponsored Procurement Disaster Assistance Team (PDAT) training workshop. To promote enhanced compliance with future procurement and contracting, FEMA will remind the State to continue to reinforce the importance of proper procurement. FEMA will also direct the State to work with the County to encourage a proactive review of all future contracting efforts.

Estimated Completion Date: May 1, 2018

Recommendation 2: The Regional Administrator, FEMA Region VIII, not fund \$55,000 (\$41,250 Federal share) of ineligible contract costs unless FEMA grants an exception for all or part of the costs as 2 C.F.R. § 100.102(b) allows and determines the costs are reasonable.

Response: Concur. FEMA has not funded the \$55,000 (\$41,250 Federal share) in question. The County has advised FEMA that it understands these costs are not eligible under the Public Assistance (PA) program because it did not comply with Federal procurement regulations and, subsequently, does not intend to request funding for those costs. As the report indicates, the County re-bid the A/E contract that was not in compliance and ensured all contracts for disaster work complied with the Federal procurement standards. The County then implemented a checklist of FEMA's PA procurement requirements as part of its procurement policy. The checklist includes all required Federal provisions, including; requiring full and open competition; ensuring opportunity for disadvantaged firms; requiring contract provisions (e.g. remedies and termination clauses; compliance with labor and environmental laws, and prohibitions of kickbacks); and, ensuring conflicts of interest are avoided. FEMA requests that Recommendation 2 be considered resolved and closed.



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Appendix B Potential Monetary Benefits

Table 1: Potential Cost Avoidance

Type of Work	Estimated Cost to Repair	Cost Avoidance*
Contract (Estimated)	\$ 500,000	\$ 500,000
Contract (Incurred)	55,000	55,000
Force Account	2,115,750	0
Totals	\$2,670,750	\$555,000

Source: Office of Inspector General (OIG) analysis

* FEMA had not yet obligated the estimated \$2,670,750 of damages to the projects on which the County expects to expend disaster-related costs; therefore, we classify these costs as cost avoidance.

Table 2: Summary of Potential Monetary Benefits

Type of Potential Monetary Benefit	Amount	Federal Share
Questioned Costs – Ineligible	\$ 0	\$ 0
Questioned Costs – Unsupported	0	0
Funds Put to Better Use (Cost Avoidance)	555,000	416,250
Totals	\$555,000	\$416,250

Source: OIG analysis of report findings



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Appendix C
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