

**Refugio County, Texas,
Has Implemented
Adequate Procurement
Policies, Procedures,
and Business Practices to
Manage Its FEMA Grant**





DHS OIG HIGHLIGHTS

Refugio County, Texas, Has Implemented Adequate Procurement Policies, Procedures, and Business Practices to Manage Its FEMA Grant

December 11, 2019

Why We Did This Audit

The County estimated it sustained about \$70 million in disaster-related damages from Hurricane Harvey in 2017. Our objective was to determine whether the County's procurement policies, procedures, and business practices are adequate to expend FEMA grant funds according to Federal procurement regulations and FEMA guidelines.

We conducted the audit early in the grant process to identify areas in which the County may need additional technical assistance or monitoring to ensure compliance with Federal procurement regulations.

What We Recommend

This report contains no recommendations.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

We verified that Refugio County, Texas, awarded contracts that complied with Federal procurement regulations and Federal Emergency Management Agency (FEMA) guidelines. Initially, the County did not have written procurement policies to comply with Federal procurement regulations. Instead, for purchases and contracting, County officials said they followed Texas Local Government Code, Chapter 262. In response to our audit, the County adopted written procurement procedures and County officials said they planned to hire a consulting firm familiar with Federal procurement requirements. If the County follows its newly adopted procedures, FEMA should have reasonable assurance that the County will properly manage its estimated \$70 million Federal grant.

FEMA Response

FEMA did not submit a formal response to our draft report, but informally replied that it did not identify any issues requiring further action by FEMA.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

December 11, 2019

MEMORANDUM FOR: George A. Robinson
Regional Administrator, Region VI
Federal Emergency Management Agency

FROM: Sondra F. McCauley 
Assistant Inspector General for Audits

SUBJECT: *Refugio County, Texas, Has Implemented Adequate
Procurement Policies, Procedures, and Business
Practices to Manage Its FEMA Grant*

For your information is our final report, *Refugio County, Texas, Has Implemented Adequate Procurement Policies, Procedures, and Business Practices to Manage Its FEMA Grant*. We did not receive any formal comments to our draft report from your office.

This report contains no recommendations; and as such, we consider this audit closed.

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 final report on our website for public dissemination.

Please call me with any questions, or your staff may contact Katherine Trimble, Deputy Assistant Inspector General for Audits, at (202) 981-6000.



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Background

Refugio County, Texas (County) is near the southern Gulf Coast of Texas and has about 7,300 residents. Beginning August 23, 2017, and continuing through September 15, 2017, severe wind and rain from Hurricane Harvey caused significant damage to the County's buildings and infrastructure. The President declared a major disaster on August 25, 2017.

The County estimated it sustained approximately \$70 million in disaster-related damages. The Federal Emergency Management Agency (FEMA) grant award will provide 100 percent Federal funding for emergency protective measures within the first 30 days of the initial disaster declaration, and 90 percent Federal funding for debris removal, emergency protective measures, and permanent work for large and small projects thereafter.¹

The County Awarded Contracts in Compliance with Federal Procurement Regulations and FEMA Guidelines

As of January 25, 2018, FEMA had obligated \$5.4 million for three expedited project worksheets² for disaster-related debris removal and emergency protective measures. However, FEMA had not yet completed development of the project worksheets for disaster-related permanent work. The Texas Department of Public Safety, Texas Division of Emergency Management (Texas) paid the County \$4.4 million for its projects. At the time of our fieldwork, the County had awarded three contracts after exigent circumstances had ended.³ We reviewed the County's contracts and verified the County awarded the contracts in compliance with Federal procurement regulations and FEMA guidelines. The County complied with Federal guidelines for use of full and open competition, required contract provisions, cost/price analyses, and affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.⁴

¹ Federal regulations 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. 70434, 70435 (Oct 12, 2016)].

² A Project Worksheet is a tool used to document the details of an award recipient's project and costs claimed. Details include location, damage description and dimensions, scope of work, and cost estimate for each project (*Public Assistance Program and Policy Guide*, April 2018 (PAPPG), p. 38, 163). It is the basis for a subgrant and the Public Assistance grant funding (*PA Program Management and Grant Closeout Standard Operating Procedure*, SOP9570.14, Dec. 2013, p. 4 of 32).

³ Emergency/exigent circumstances are those that may include the existence of a threat to public health or public safety, or other unique circumstances that warrant immediate action (PAPPG p. 159).

⁴ 2 CFR 200.319(a), 2 CFR 200.326, 2 CFR 200.323(a), and 2 CFR 200.321(a); PAPPG, pp. 30-33.



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The County Took Corrective Actions to Establish Written Procurement Procedures to Comply with Federal Requirements

The County initially did not have written policies for procurement transactions. The Code of Federal Regulations (CFR) requires subrecipients to establish and maintain effective internal control over Federal awards.⁵ The CFR also requires subrecipients to comply with Federal statutes, regulations, and the terms and conditions of the Federal award, as well as take prompt action when instances of noncompliance are identified in audit findings.⁶

County officials said they do not often make large purchases. The officials explained they relied on Texas Local Government Code, Chapter 262, *Purchasing and Contracting Authority of Counties* (Code), for procurement of contracts. However, the Code does not always comply with Federal procurement requirements in the CFR.⁷ For instance, it does not —

- ensure non-Federal entities use small and minority businesses, women’s business enterprises, and labor-surplus area firms whenever possible;
- include a requirement to perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold;⁸
- include specific provisions for contracts and subcontracts, such as remedies and termination clauses, compliance with labor laws, and prohibitions of “kickbacks”; or
- provide standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.⁹

As a result, disadvantaged businesses, such as minority firms and women’s business enterprises may not have sufficient opportunities to bid on federally funded work, and contract costs may be unreasonable. Further, the risk of misinterpretations and disputes relating to contracts may increase. Finally, standards of conduct help ensure officers, employees, and agents of the non-

⁵ 2 CFR 200.101(b)(1), 200.303(a).

⁶ 2 CFR 200.303(b) and (d).

⁷ 2 CFR 200.318 – 200.326.

⁸ The Simplified Acquisition Threshold (SAT) is the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. At the time of the disaster declaration, the SAT was \$150,000 (2 CFR 200.88).

⁹ 2 CFR 200.321(a), 2 CFR 200.323(a), 2 CFR 200.326, and 2 CFR 318(c)(1).



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Federal entity do not accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

In response to our audit, the County adopted written procurement procedures to comply with Federal requirements. We reviewed the County's new procurement procedures and determined they contain Federal requirements for the use of disadvantaged firms, performing cost or price analyses, inclusion of required contract provisions, and addressing conflicts of interest. The County's written procedures will help ensure it follows Federal regulations through personnel changes and will assist in training personnel.

County officials also said they planned to hire a consulting firm familiar with Federal procurement regulations to help them acquire contracts for disaster-related permanent work. If the County follows its newly adopted procurement procedures, FEMA should have reasonable, but not absolute assurance, the County will comply with Federal procurement standards in awarding disaster-related contracts for its estimated \$70 million Federal grant.

Management Comments and OIG Analysis

We discussed the results of our audit with FEMA, Texas, and County officials during our audit. We considered their comments in developing our draft report and incorporated their comments as appropriate. We also provided a draft Notice of Preliminary Finding and Causes in advance to these officials and discussed it at exit conferences with FEMA officials on July 3, 2018, and with County and Texas officials on July 11 and July 12, 2018, respectively. FEMA, Texas, and County officials generally agreed with our finding.

FEMA did not submit a formal response to our draft report, but informally replied that it did not identify any issues requiring further action by FEMA. We concur and consider this audit closed.

Objective, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We audited the capability of Refugio County, Texas (County), Public Assistance Identification Number 391-99391-00, to manage FEMA Public Assistance grant funds. Our objective was to determine whether the County's procurement policies, procedures, and business practices are adequate to expend FEMA grant funds for FEMA Disaster Number 4332-DR-TX (Hurricane Harvey from August 23, 2017, through September 15, 2017) according to Federal



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procurement regulations and FEMA guidelines. We limited the scope of our audit to include only those procurements for disaster-related permanent work (i.e., Categories C through G).¹⁰

We conducted this 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 procurement regulations and FEMA guidelines. An audit early in the grant cycle provides grant recipients the opportunity to correct noncompliance before they spend the majority of their grant funding. It also allows them to supplement deficient documentation or locate missing records before too much time elapses.

To accomplish our objective, we interviewed FEMA, Texas, and County officials, and assessed the adequacy of the procurement policies, procedures, and business practices the County uses and plans to use to expend Federal grant funds and to procure for and monitor disaster work. We also reviewed contracting documents, reviewed applicable Federal regulations and FEMA guidelines, and performed other procedures considered necessary to accomplish our objective.

To evaluate the County's procurement practices, we reviewed its policies and procedures in effect at the time of the disaster and reviewed the methodology it used to award contracts. We also discussed procurement practices with the County's contracting officials. More specifically, we reviewed three contracts the County awarded after exigent circumstances ended for compliance with Federal procurement regulations and FEMA guidelines. We did not place any significant reliance on or test data from FEMA's computerized information system (EMMIE), but deemed it sufficient to meet our audit objective. An evaluation of information systems and controls was not necessary to achieve the audit objective.

This audit is part of a body of public assistance grant audits conducted by our office early in the public assistance process to identify areas where the grantee or subgrantee may need additional technical assistance or monitoring to ensure compliance with Federal regulations and FEMA guidelines. Audit planning, risk assessment, and internal control assessment were limited to the extent necessary to address our audit objective. We conducted our review under the authority of the Inspector General Act of 1978, as amended, between January and July 2018, and followed generally accepted government auditing standards (GAGAS) with the exceptions noted above. GAGAS require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit

¹⁰ FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).



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objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Unless stated otherwise in this report, to conduct this audit, we applied the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

Office of Audits Major Contributors to this report are Paige Hamrick, Director (Ret); Brooke Bebow, Director; David B. Fox, Audit Manager; Evette Fontana, Auditor-in-Charge; Josh Welborn, Auditor-in-Charge; Willard (Bill) Stark, Independent Reference Reviewer; and Deborah Mouton-Miller, Communications Analyst.



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