

**Aransas County, Texas,
Needs Continued Assistance
and Monitoring to Ensure
Proper Management of Its
FEMA Grant**





DHS OIG HIGHLIGHTS

Aransas County, Texas, Needs Continued Assistance and Monitoring to Ensure Proper Management of Its FEMA Grant

February 18, 2020

Why We Did This Audit

We conducted this 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. The County estimated it sustained about \$84 million in damages, including approximately \$32.5 million in permanent work contracting costs, resulting from Hurricane Harvey.

What We Recommend

FEMA should require Texas to continue providing additional technical assistance and monitoring to the County, and provide documentation to show how FEMA will ensure Texas is properly managing and administering the County's subgrant.

For Further Information:

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

What We Found

Aransas County, Texas (County), needs additional technical assistance and monitoring to ensure compliance with Federal procurement regulations. The County's procurement policies and procedures are not adequate to meet minimum Federal procurement regulations or address key procurement elements despite guidance and contacts with the Texas Department of Public Safety, Texas Division of Emergency Management (Texas). Specifically, the County is not:

- providing sufficient opportunities for disadvantaged firms to compete for federally funded work;
- performing cost or price analyses;
- including required contract provisions; and
- protecting against conflicts of interest.

This occurred because the County did not have written procurement procedures and County officials were not fully aware of all applicable Federal regulations.

It is imperative that Texas continue to provide the County with additional technical assistance and monitoring. Doing so should provide Federal Emergency Management Agency (FEMA) reasonable, though not absolute, assurance the County will follow Federal procurement regulations when spending roughly \$32.5 million in disaster-related contracting funds.

FEMA Response

FEMA officials agreed with both recommendations. Appendix A includes FEMA's written response in its entirety. Prior to final issuance of this report, FEMA took action to resolve and close both recommendations.




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Department of Homeland Security

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

February 18, 2020

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

FROM: Sondra F. McCauley 
Assistant Inspector General for Audits

SUBJECT: *Aransas County, Texas, Needs Continued Assistance
and Monitoring to Ensure Proper Management of Its
FEMA Grant*

Attached is our final report, *Aransas County, Texas, Needs Continued Assistance and Monitoring to Ensure Proper Management of Its FEMA Grant*. We incorporated the formal comments provided by your office.

The report contains two recommendations. Your office concurred with both recommendations. Based on information provided in your responses to the draft report, we consider all recommendations resolved and closed. No further action is required.

Consistent with our responsibility under the *Inspector General Act*, we provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We also 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

Aransas County (County), located in southeast Texas along the Gulf of Mexico, is the second smallest county in the state, with a population of approximately 25,700 residents. On August 25, 2017, Hurricane Harvey made landfall as a Category 4 hurricane with sustained winds of more than 130 miles per hour. The storm caused catastrophic flooding and widespread destruction along much of Texas' Gulf Coast. Some counties, including Aransas County, received as much as 25 inches of rainfall within a 72-hour period. The President declared a major disaster on August 25, 2017.



Figure 1: Aerial view of Key Allegro, Aransas County, Texas

Source: Aransas County, Texas

As of December 13, 2017, the Federal Emergency Management Agency (FEMA) had obligated \$6.4 million for two expedited project worksheets¹ for disaster-related emergency work but had not yet obligated any funding or completed developing permanent work project worksheets for damages resulting from Hurricane Harvey, which began August 23, 2017, and continued through September 15, 2017. The County estimated it had sustained approximately \$84 million in disaster-related damages, including \$32.5 million

¹ A Project Worksheet is the primary form used to document the location, damage description and dimensions, scope of work, and cost estimate for each project (*Public Assistance Program and Policy Guide*, April 2018, p. 163). It is the basis for a subgrant and Public Assistance grant funding (SOP9570.14, Dec. 2013, p. 4 of 32).



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in permanent work contracting costs. The grant 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 thereafter. As of December 13, 2017, the County had been paid \$5.1 million for its projects.

Results of Audit

Grant Management Requirements

According to the Code of Federal Regulations (CFR) (2 CFR 200.331(d)), U.S. states, as recipients, are responsible for the proper administration of grants. For example, recipients are responsible for monitoring the operations of grant and subgrant supported activities. In addition, recipients must ensure subrecipients are aware of and comply with Federal regulations in order to ensure compliance with applicable Federal requirements and achievement of performance goals.

It is FEMA's responsibility to monitor Texas to ensure it is performing proper grant administration. Federal regulation requires the Governor of Texas — acting for Texas — and the FEMA Regional Administrator to execute a FEMA-State Agreement.² The FEMA-State Agreement outlines the understandings, commitments, and conditions under which Federal disaster assistance is provided. Federal regulation also requires Texas to develop a State Administration Plan outlining actions Texas will take to fulfill its duties to FEMA.³ Accordingly, FEMA is responsible for holding Texas accountable to the terms and conditions of both the FEMA-State Agreement and the State Administration Plan.

In its FEMA-State Agreement,⁴ Texas agreed to comply with, and require subrecipients to comply with, all applicable laws and regulations, including the *Stafford Act*⁵ and applicable FEMA policies and guidance. Federal regulation requires recipients to monitor the subrecipients' activities to ensure the subaward is in "compliance with Federal statutes, regulations, and the terms and conditions of the subaward."⁶

² 44 CFR 206.44(a).

³ 44 CFR 206.207.

⁴ FSA-4332-FEMA-DR-TX, p. 2.

⁵ *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended (*Stafford Act*), 42 United States Code (U.S.C.) §§ 5121–5207.

⁶ 2 CFR 200.331(d).



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Aransas County Did Not Comply with Federal Requirements

The County needs additional technical assistance and monitoring to ensure compliance with Federal procurement regulations. The County's procurement policies and procedures are not adequate to meet minimum Federal procurement regulations or address key procurement elements, despite guidance and contacts with the Texas Department of Public Safety, Texas Division of Emergency Management (Texas).

For example, during our fieldwork, the County did not have its own written procedures for procurement transactions. County officials said they rely on the Texas Local Government Code, Chapter 262, *Purchasing and Contracting Authority of Counties*, for procuring contracts. The CFR requires subrecipients to establish and maintain effective internal control over the Federal award.⁷ Additionally, the CFR requires subrecipients to comply with Federal statutes, regulations, and the terms and conditions of the Federal award, as well as take prompt action for instances of noncompliance identified in audit findings.⁸ Even assuming the County complied with Chapter 262 of the Texas Local Code,⁹ we found several additional Federal requirements imposed by the CFR that are unmet.¹⁰

Insufficient Opportunities for Disadvantaged Firms

During our fieldwork, the County did not have policies, procedures, and business practices in place to ensure the use of small and minority businesses, women's business enterprises, and labor surplus area firms, whenever possible. Federal regulations require non-Federal entities take affirmative steps to assure the use of minority businesses, women's business enterprises, and labor surplus area firms when possible.¹¹ These steps include:

- placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- assuring such business enterprises are solicited whenever they are potential sources;
- using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

⁷ 2 CFR 200.303(a).

⁸ 2 CFR 200.303(b) and (d).

⁹ We did not determine whether the County complied with Chapter 262 of the Texas Local Government Code, as this was outside the scope our audit.

¹⁰ E.g., 2 CFR 200.318–.326; see *FEMA Public Assistance Program and Policy Guide*, FP-104-009-2/April 2018, pp. 30–33.

¹¹ 2 CFR 200.321(a).



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- requiring the prime contractor, if subcontractors are used, to take the affirmative steps as well.¹²

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.

Absence of Cost or Price Analyses

The County does not have policies, procedures, and business practices in place to ensure applicable procurements include a cost or price analysis. Federal regulation requires a cost or price analysis with every procurement action in excess of the Simplified Acquisition Threshold,¹³ including contract modifications.¹⁴ As a starting point, the County must make independent estimates before receiving bids or proposals. County officials said they were not aware of the requirement to complete a cost or price analysis. The absence of a cost or price analysis increases the risk of unreasonable contract costs.

Absence of Required Contract Provisions

The County does not have adequate policies, procedures, and business practices in place to ensure its contracts include all required provisions. Federal regulation requires non-Federal entities to include specific provisions within their contracts and subcontracts, including remedies and termination clauses; non-discrimination; compliance with labor laws; and a specific provision to ensure "kickbacks" are not accepted.¹⁵ These provisions describe the rights and responsibilities of the parties and minimize the risk of misinterpretations and disputes.

Absence of Written Standards of Conduct

The County did not have written standards of conduct covering conflicts of interest, and County officials said they were unaware of their requirement to maintain written standards. Federal regulation requires non-Federal entities to maintain written standards of conduct covering conflicts of interest that govern the actions of their employees in the selection, award, and administration of

¹² 2 CFR 200.321(b).

¹³ The Simplified Acquisition Threshold is the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. As of January 1, 2017, the simplified acquisition threshold was \$150,000 (2 CFR 200.88).

¹⁴ 2 CFR 200.323(a).

¹⁵ 2 CFR 200.326; 2 CFR Pt. 200, Appx. II. According to the *Copeland 'Anti-Kickback' Act*, kickbacks are when contractors or subrecipients "induc[e], by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled" (2 CFR Pt. 200, Appx. II).



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contracts.¹⁶ Standards of conduct help ensure officers, employees, and agents of the non-Federal entity do not — among other things — “accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.”¹⁷

The County’s Corrective Actions

In response to this audit, the County, on April 23, 2018, adopted written procurement policies to comply with Federal regulations. We reviewed the County’s new procurement policies 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.

Conclusion

FEMA should require Texas to continue providing additional technical assistance and monitoring of the County to ensure compliance with Federal procurement regulations. If Texas provides additional assistance and monitoring and the County follows its new procurement policies and procedures, FEMA should have reasonable, though not absolute, assurance the County will spend its roughly \$32.5 million in disaster-related permanent work contracting funds according to Federal procurement regulations and FEMA guidelines.¹⁸

Recommendations

Recommendation 1: We recommend the Regional Administrator, FEMA Region VI, require Texas to continue providing additional technical assistance and monitoring to the County to:

- ensure it complies with Federal procurement regulations for awarding disaster-related contracts, and
- prevent potentially improper spending of approximately \$32.5 million (\$29.3 million Federal share) in procurements.

Recommendation 2: We recommend the Regional Administrator, FEMA Region VI, provide to Department of Homeland Security Office of Inspector

¹⁶ 2 CFR 200.318(c)(1).

¹⁷ 2 CFR 200.318(c)(1)

¹⁸ The County estimated it had sustained approximately \$84 million of disaster-related damages. However, during our fieldwork, the County had not yet solicited any contracts for its estimated \$32.5 million of disaster-related permanent work.



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General (OIG), documentation supporting how FEMA will ensure Texas is providing additional assistance and monitoring to properly manage and administer the County's subgrant, as the FEMA-State Agreement and State Administrative Plan require.

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 them as appropriate. We also provided a draft Notice of Preliminary Findings, Causes, and Recommendations in advance to these officials and discussed it at exit conferences with FEMA officials on July 26, 2018; and with Texas and County officials on July 30, 2018, and August 6, 2018, respectively. FEMA, Texas, and County officials generally agreed with our findings.

In response to our draft report, FEMA Region VI officials provided written comments dated November 19, 2019, which are included in their entirety in appendix A. FEMA concurred with our recommendations. Subsequent to transmitting the written comments, FEMA took action to resolve and close both recommendations, and provided additional information and supporting documentation.

FEMA Comments to Recommendation 1: FEMA concurred with the recommendation, and on December 19, 2019, instructed Texas to provide the County with continued technical assistance and monitoring to ensure the County met minimum Federal procurement regulations.

OIG Analysis of FEMA's Response: FEMA's corrective action instructing Texas to continue providing the County with additional technical assistance and monitoring is sufficient to resolve and close the recommendation. No further action is required.

FEMA Comments to Recommendation 2: FEMA concurred with the recommendation, and on December 31, 2019, provided DHS OIG with examples of how it is ensuring Texas is providing additional assistance and monitoring, including completing a follow-up meeting with the County (March 28, 2018), facilitating 44 bi-weekly meetings (most recently on October 9, 2019), engaging the Procurement Disaster Assistance Team (PDAT) to review the County's Request for Qualifications for architectural services, and conducting a Texas site-visit (June 24, 2019).

OIG Analysis of FEMA's Response: FEMA's corrective actions including the facilitation of 44 bi-weekly meetings, engaging the PDAT, and conducting a



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Texas site-visits are sufficient to resolve and close the recommendation. No further action is required.

Objective, Scope, and Methodology

Department of Homeland Security Office of Inspector General 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 Aransas County, Texas (County), Public Assistance Identification Number 007-99007-00, to manage FEMA Public Assistance grant funds. Our audit 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 DR-4332-TX, according to Federal 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.¹⁹

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. We assessed the adequacy of the procurement policies, procedures, and business practices (internal controls over compliance) the County uses and plans to use to expend Federal grant funds and to procure for and monitor disaster work. We reviewed contracting documents; 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 uses to award contracts. We also discussed procurement practices with the County's contracting officials. We did not rely solely on information system data. We did not compare it to other systems or collaborate with other source documents. An evaluation of information systems and controls was not necessary to answer the audit objective.

¹⁹ 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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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 in which the grantee or subgrantee may need additional technical assistance and 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 December 2017 and July 2018, and followed generally accepted government auditing standards (GAGAS) with the exceptions just noted. GAGAS requires 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. Unless stated otherwise in this report, in conducting this limited scope 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; Rodney Johnson, Auditor-in-Charge; Newton Hagos, Auditor; John Jadick, Independent Reference Reviewer; and Kevin Dolloson, Communications Analyst.



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Appendix A
FEMA Region VI Comments

U.S. Department of Homeland Security
FEMA Region 6
800 N. Loop 288
Denton, TX 76209



FEMA

November 19, 2019

MEMORANDUM FOR: Sondra F. McCauley
Assistant Inspector General for Audits
Office of Inspector General

FROM: George A. Robinson *George A. Robinson*
Regional Administrator
FEMA Region 6

SUBJECT: Management Response to Draft Report: *"Aransas County, Texas Needs Continued Assistance and Monitoring to Ensure Proper Management of Its FEMA Grant"*
Project No. 18-021(b)-AUD-FEMA

Thank you for the opportunity to review and comment on this 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 report.

FEMA leadership are concerned that the OIG took almost 2 years after this audit was announced on December 21, 2017 to issue this draft report. Particularly concerning is the fact that the draft report was not released for management comment until 15 months after OIG's fieldwork was completed, with no explanation for the delay provided in the report. U.S. Government Accountability Office promulgated Generally Accepted Government Auditing Standards state that reports must be timely to be of maximum use to report users.

However, FEMA is pleased to note OIG's positive recognition that Aransas County adopted written procurement policies complying with Federal regulations in response to this audit for the future use of Public Assistance funds. The draft report contained two recommendations, with which FEMA concurs. Attached find our detailed response to each recommendation. FEMA previously submitted technical comments under a separate cover.

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 again in the future.

Attachment

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Attachment: FEMA Management Response to Recommendations Contained in 18-021(b)-AUD-FEMA

OIG recommended that the Regional Administrator, FEMA Region 6:

Recommendation 1: Require Texas to continue providing additional technical assistance and monitoring to the County to:

- ensure it complies with Federal procurement regulations for awarding disaster-related contracts, and
- prevent potentially improper spending of approximately \$32.5 million (\$29.3 million Federal share) in procurements.

Response: Concur. In response to this audit, Aransas County has adopted an internal written procurement policy on April 23, 2018 to solve common procurement issues related to Federal funded projects. The FEMA Region 6 Administrator will reiterate in writing to the Texas Division of Emergency Management (TDEM) that the State provide continued assistance and monitoring to the County to ensure compliance with Federal procurement regulations.

Estimated Completion Date (ECD): December 31, 2019

Recommendation 2: Provide to DHS OIG, documentation supporting how FEMA will ensure Texas is providing additional assistance and monitoring to properly manage and administer the County's subgrant, as the FEMA-State Agreement and State Administrative Plan require.

Response: Concur. The FEMA Region 6 Administrator will reiterate in writing to TDEM the requirement to provide additional technical assistance and monitoring to the County in compliance with the FEMA-State Agreement and the State Administrative Plan.

ECD: December 31, 2019



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Appendix B
Potential Monetary Benefits

Table 1: Cost Avoidance (Permanent Work Only)

FEMA Category of Work	Type of Work	Estimated Cost to Repair	Cost Avoidance
C	Contract	\$ 800,000	\$ 800,000
D	Contract	220,000	220,000
E	Contract	28,815,500	28,815,500
F	Contract	2,000,000	2,000,000
G	Contract	650,000	650,000
Totals		\$32,485,500	\$32,485,500

Source: FEMA's Preliminary Damage Assessment and Office of Inspector General (OIG) analysis

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

** FEMA has not obligated the estimated \$32,485,500 to the projects on which the County expects to expend disaster-related contracting funds; therefore, we classify these costs as cost avoidance.

Table 2: Summary of Potential Monetary Benefits

Rec No.	Type of Potential Monetary Benefit	Amount	Federal Share
	Questioned Costs - Ineligible	\$ 0	\$ 0
	Questioned Costs - Unsupported	0	0
1	Funds Put to Better Use (Cost Avoidance)	32,485,500	29,236,950
	Totals	\$32,485,500	\$29,236,950

Source: OIG analysis of report findings



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Appendix C
Report Distribution

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