

Department of Homeland Security **Office of Inspector General**

Ottawa Illinois Elementary School District Should
Obtain Required Flood Insurance or FEMA Should
Disallow \$14 Million in Public Assistance Grant Funds



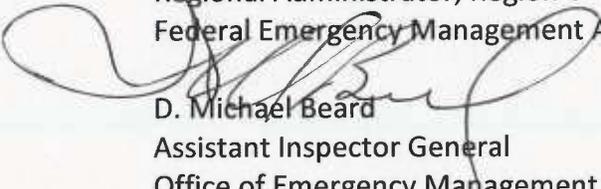


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Department of Homeland Security

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

January 4, 2013

MEMORANDUM FOR: Andrew Velasquez III
Regional Administrator, Region V
Federal Emergency Management Agency

FROM: 
D. Michael Beard
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Ottawa Illinois Elementary School District Should Obtain
Required Flood Insurance or FEMA Should Disallow
\$14 Million in Public Assistance Grant Funds
FEMA Disaster Number 1800-DR-IL
Audit Report Number DD-13-03*

We audited Public Assistance grant funds awarded to Ottawa Elementary School District #141 (Ottawa) in Ottawa, Illinois (Public Assistance Identification Number 099-U0195-00). Our audit objective was to determine whether Ottawa accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

The Illinois Emergency Management Agency (IEMA), a FEMA grantee, awarded Ottawa \$16.3 million for damages resulting from severe storms and flooding that occurred September 13 through October 5, 2008. The award provided 75 percent funding for four large and four small projects.¹ The audit covered the period September 13, 2008, through May 16, 2012, the cutoff date of our audit, and included a review of three large projects and one small project totaling \$16.2 million, or 99 percent of the total award. As of our cutoff date, none of the large projects were closed.

We conducted this performance audit between May and October 2012 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit according to the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$64,200.



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We interviewed FEMA, IEMA, and Ottawa officials; reviewed judgmentally selected project costs (generally based on dollar value); and performed other procedures considered necessary to accomplish our objective. We did not assess the adequacy of Ottawa's internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of Ottawa's method of accounting for disaster-related costs and its procurement policies and procedures.

BACKGROUND

Ottawa Elementary School District #141 operates five schools for approximately 2,100 students. The Central School serves students in grades five and six and, at the time of the disaster, sat at the confluence of the Fox and Illinois Rivers. In September 2008, the remnants of Hurricane Ike dumped more than 10 inches of rain throughout the Midwest, causing the Illinois River to swell to 8 feet above flood level. The heavy rains flooded the Central School's first floor and crawl space and ultimately resulted in its condemnation for health and safety concerns.

RESULTS OF AUDIT

Ottawa accounted for FEMA grant funds on a project-by-project basis according to Federal regulations and FEMA guidelines. However, Ottawa did not obtain flood insurance required as a condition for receiving Federal disaster assistance for damages to its Central School. Therefore, FEMA should disallow \$13,958,266 as ineligible unless Ottawa obtains and maintains the required amount of flood insurance coverage or obtains a waiver for the requirement.

Finding A: Flood Insurance

Ottawa did not obtain flood insurance required as a condition for receiving Federal disaster assistance. As a result, Ottawa may not have adequate insurance coverage the next time disaster strikes. Section 311(a)(1) of the *Robert T. Stafford Disaster Relief and Emergency Act*, Public Law 93-288, 42 U.S.C. §5154, as amended (Stafford Act) requires recipients of disaster assistance to obtain and maintain such types and extent of insurance "as may be reasonably available, adequate, and necessary, to protect against future loss" to any property to be "replaced, restored, repaired, or constructed with such assistance." FEMA 322 Public Assistance Guide, June 2007, p. 123, states, "As a condition for receiving Public Assistance for permanent work, an applicant must obtain and maintain insurance to cover that facility for the hazard that caused the damage. Such coverage must, at a minimum, be in the amount of the estimated eligible damages for that structure prior to any reduction."

Section 311 (a)(2) of the Stafford Act states that, "In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require



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greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance. In addition, FEMA 322 Public Assistance Guide, June 2007, p. 123, states, "An applicant is exempt from this requirement for facilities for which, in the determination of the State insurance commissioner, the type and/or extent of insurance being required by FEMA is not reasonable." However, Ottawa has not applied for or obtained such an exemption.

FEMA awarded Ottawa an improved project to construct a new Central School outside of the floodplain. FEMA capped eligible Federal funding for the improved project at \$13,958,266, which represented the \$15,947,786 estimated for eligible repairs reduced by \$1,989,520 in anticipated insurance proceeds. Therefore, Ottawa should have obtained flood insurance coverage in the amount of \$15,947,786 because the amount of insurance required is based on the amount of the estimated eligible damages for the structure before any reduction for insurance. However, as of August 2012, 8 months after the newly constructed Central School opened, Ottawa had not obtained the required flood insurance.

Ottawa officials said they have obtained commercial property insurance for the replacement value of the new school but have not obtained the required flood insurance coverage. On September 10, 2010, IEMA informed Ottawa that it was required to obtain and maintain flood insurance on the facility for at least the amount of assistance provided. In September 2012, Ottawa officials said that the cost is prohibitive, and they questioned the need for flood-specific insurance because the new school was built outside of the floodplain. Ottawa officials said that they may obtain a waiver to the requirement. If Ottawa is unable to obtain the waiver or does not obtain flood insurance in the amount of \$15,947,786, FEMA should disallow the \$13,958,266 funded for the project as ineligible costs.

This finding occurred because IEMA, as the grantee, did not ensure that Ottawa obtained either the required flood insurance or a waiver for the requirement. Federal regulations at 44 CFR 13.40(a) require the grantee to manage the day-to-day operations of subgrant-supported activities. Further, according to 44 CFR 13.37(a)(2), the grantee is required to ensure that subgrantees are aware of the requirements imposed on them by Federal regulations. IEMA officials said that they did not believe it was their responsibility to ensure that insurance requirements were met.

IEMA insists that it fulfilled its responsibility, as grantee, by informing Ottawa of the insurance requirement and attempting to work with Ottawa to comply with the requirement. IEMA believes that FEMA is ultimately responsible for ensuring compliance with the insurance requirement because FEMA, not IEMA, has the authority to deobligate funding.

IEMA said that it has a small staff of only three people but it manages day-to-day operations through regular interaction with the applicant, reporting, payment requests, and site visits. IEMA said that it provides detailed information about insurance requirements and a Public



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Assistance Applicant Handbook, which specifically identifies the requirement to obtain and maintain insurance on restored facilities.

In addition, IEMA said that it obtains Public Assistance Grant Agreements from its subgrantees that include the insurance rule and a requirement that applicants possess the capability to manage their grant. IEMA does not believe that it can manage applicants' subgrants for them; instead it believes that it is IEMA's responsibility to provide applicants with extensive information on program requirements and advise them as necessary in an effort to meet the requirements. IEMA said that if the applicant fails to comply with a requirement, is not responsive to IEMA's advice, and continues to be noncompliant, then IEMA consults with FEMA to determine the appropriate corrective action to be taken.

We disagree with IEMA's position that it is not the grantee's responsibility to ensure that subgrantees meet Federal insurance requirements. According to 44 CFR 13.40(a), "Grantees must monitor grant and subgrant supported activities to **assure compliance** [emphasis added] with applicable Federal requirements" We agree that IEMA appears to have adequately informed Ottawa of Federal insurance requirements; however, we do not agree that it is FEMA's responsibility to ensure that subgrantees comply with insurance requirements. Although FEMA has the authority to obligate and deobligate Federal funds, all Public Assistance funds flow through the grantee to the subgrantee. Therefore, the grantee controls Federal funds paid to or recovered from its subgrantees.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region V:

Recommendation #1: Disallow \$13,958,266 (\$10,468,699 Federal share) as ineligible unless Ottawa either obtains and maintains flood insurance coverage in the amount of \$15,947,786 or obtains a waiver for the requirement (finding A).

Recommendation #2: Require IEMA to develop and implement procedures to ensure that subgrantees comply with Federal requirements for insurance (finding A).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with Ottawa officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, IEMA, and Ottawa officials and discussed it at exit conferences held on October 30, 2012. FEMA, IEMA, and Ottawa officials generally agreed with our finding and recommendations.



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Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our 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. Significant contributors to this report were Tonda Hadley, Christopher Dodd, DeAnna Fox, and Brandon Landry.

Should you have questions concerning this report, please contact me at (202) 254-4100 or Tonda Hadley, Director, Central Regional Office, at (214) 436-5200.



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EXHIBIT A

**Schedule of Audited and Questioned Costs
September 13, 2008, to May 16, 2012
Ottawa Elementary School District #141, Ottawa, Illinois
FEMA Disaster Number 1800-DR-IL**

Project Number	Gross Award Amount	Insurance Reductions	Net Award Amount	Questioned Costs
608	\$15,947,786	\$(1,989,520)	\$13,958,266	\$13,958,266
583	1,343,039	(32,307)	1,310,732	0
850	1,176,310	(250,000)	926,310	0
834	<u>13,119</u>	<u>0</u>	<u>13,119</u>	<u>0</u>
Totals	<u>\$18,480,254</u>	<u>\$2,271,827</u>	<u>\$16,208,427</u>	<u>\$13,958,266</u>



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EXHIBIT B

Report Distribution List
Ottawa Elementary School District #141, Ottawa, Illinois
FEMA Disaster Number 1800-DR-IL

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Under Secretary for Management
Audit Liaison, DHS
Acting Chief Privacy Officer

Federal Emergency Management Agency

Administrator
Chief of Staff
Acting Chief Financial Officer
Chief Counsel
Director, Risk Management and Compliance
Audit Liaison, FEMA Region V
Audit Liaison, FEMA (Job Code G-12-028)

Grantee

Manager, Mitigation and Infrastructure Section, Bureau of Disaster Assistance & Preparedness,
Illinois Emergency Management Agency

State

Illinois Auditor General

Subgrantee

Superintendent, Ottawa Elementary School District #141
Business Coordinator, Ottawa Elementary School District #141

ADDITIONAL INFORMATION AND COPIES

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