

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

**The City of Pacifica, California,
Generally Followed Regulations for Spending
FEMA Public Assistance Funds**





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Department of Homeland Security

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SEP 20 2013

MEMORANDUM FOR: Nancy Ward
Regional Administrator, Region IX
Federal Emergency Management Agency

FROM: John V. Kelly
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *The City of Pacifica, California, Generally Followed
Regulations for Spending FEMA Public Assistance Funds*
FEMA Disaster Number 1628-DR-CA
Audit Report Number DS-13-13

We audited Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to the City of Pacifica, California (City), Public Assistance Identification Number 081-54806-00. Our audit objective was to determine whether the City accounted for and expended FEMA grant funds according to Federal regulations and FEMA guidelines.

The California Governor's Office of Emergency Services (Cal OES), a FEMA grantee, awarded the City \$2,925,240 for costs resulting from severe storms, flooding, mudslides, and landslides from December 17, 2005, through and including January 3, 2006.¹ The award provided 75 percent FEMA funding for 7 large projects and 10 small projects.² Our audit covered the period from December 17, 2005, to June 10, 2013. We audited \$2,772,687, including six large projects totaling \$2,599,005,³ and two small projects totaling \$173,682 (see exhibit).⁴

¹ At the time of this disaster, the grantee's name was the Governor's Office of Emergency Services (OES). However, OES became part of Cal EMA from January 1, 2009, to June 30, 2013—including during the time of our fieldwork. As of July 1, 2013, Cal EMA transitioned back to the California Governor's Office of Emergency Services (Cal OES).

² Federal regulations in effect at the time of the disaster set the large project threshold at \$57,500.

³ City officials submitted their final claimed costs of \$2,925,240 on June 22, 2012, to Cal OES, as represented by their Final Inspection letter with the FEMA Project Listing and Completion and Certification Report. Consequently, we based our audit on these claimed costs as of our audit cut-off date of December 19, 2012 (see Exhibit, Schedule of Projects Audited and Questioned Costs).

⁴ One small project, funded for \$148,982, represented a net small project overrun. Per 44 CFR 206.204 (e)(1), FEMA will not normally review an overrun for an individual small project. See exhibit for more information.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

We conducted this performance audit between June 2012 and June 2013, 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 by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA, Cal OES, and City 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 the City's internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the City's method of accounting for disaster-related costs and its procurement policies and procedures.

RESULTS OF AUDIT

Generally, the City accounted for and expended FEMA grant funds according to Federal regulations and FEMA guidelines. However, the City claimed \$101,335 for disaster costs that were either ineligible or unsupported, which represents less than 4 percent of the \$2,772,687 we audited. Table 1 summarizes our questioned costs by finding.

Table 1: Summary of Questioned Costs by Finding		
Finding	Subject	Questioned Costs
A	Costs Not Part of the FEMA-Approved Scope of Work	\$ 57,058
B	Unsupported Project Costs	27,096
C	Ineligible Contract Costs	11,388
D	Ineligible Regular Time Force Account Labor Costs	3,897
E	Duplicate Costs	1,896
Total		\$101,335



Finding A: Costs Not Part of the FEMA-Approved Scope of Work

City officials claimed \$57,058 in ineligible costs for Projects 3436 (\$32,091) and 3449 (\$24,967) that were not part of the FEMA-approved scope of work. The costs incurred for these projects related to either (1) pre-disaster work, (2) improvements that FEMA did not authorize, or (3) work not eligible under the FEMA Public Assistance Program.

Federal regulations and FEMA guidelines stipulate that—

- To be eligible, an item of work must result from the disaster. (44 CFR 206.223)
- A subgrantee must obtain prior approval from FEMA when it anticipates revisions to a project scope or project objective (regardless of whether there is an associated budget revision that requires prior approval). (44 CFR 13.30(d)(1))
- For the restoration of damaged facilities to be eligible, standards must be reasonable, in writing, and formally adopted and implemented on or before the disaster declaration date, and must apply uniformly to all similar types of facilities within the jurisdiction of the owner of the facility... (44 CFR 206.226(d)(3)(i) and (4))
- FEMA may provide assistance to repair or replace privately owned access routes, [including] driveways under the Individuals and Households Program. (44 CFR 206.117(c)(vi) and *Assistance for Privately Owned Access Routes*, FEMA RP9445.1, April 6, 2010)
- Subgrantees can perform improvements while still restoring the pre-disaster function of a damaged facility, if the grantee approves the improvements before construction. Governing criteria limit Federal funding for improved projects to the Federal share of the estimated costs and to the time limits associated with repairing the damaged facility to its pre-disaster design. The balance of the funds is a non-Federal responsibility. FEMA shall limit the Federal funding for such improved projects to the Federal share of the approved estimate of eligible costs. (44 CFR 206.203(d)(1)) Work performed must derive from the project's FEMA-approved scope to be eligible for Federal funding. (FEMA *Public Assistance Guide*, FEMA 322, October 1999, pp. 73 and 115–116 and FEMA *Applicant Handbook*, FEMA 323, September 1999, pp. 21–22, 32, and 52)
- Eligible items for roads (paved, gravel, and dirt) include surfaces, bases, and shoulders. Only repairs to disaster-related damage are eligible. (FEMA *Public Assistance Guide*, FEMA 322, October 1999, p. 53)



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

City officials did not always comply with these criteria. City officials claimed \$57,058 in costs beyond the approved scope for the projects. These costs consisted of—

- \$21,500 for project 3436 in unauthorized roadwork and improvements that the City performed after completing the FEMA-approved work. FEMA identified disaster-related damage on Beach Boulevard and authorized damage repairs to the roadway, asphalt walkway, and handrail. However, City officials performed additional work, including installing 2-inch asphalt concrete overlay pavement and 3-foot strip around west and south edges, removing strip, raising utility boxes, and raising grade for positive drainage.
- \$10,591 for project 3436 in (additional) unauthorized roadwork, including the removal and replacement of paving at Promenade, an unapproved site.
- \$21,430 for project 3449 in storm drain repairs not related to the disaster. Before the disaster event, the City budgeted and started the repair work. The storm drain repair charges that the City has submitted for Federal reimbursement included—
 - \$14,300 in non-disaster-related storm drain repair costs that City officials scheduled before the disaster; and
 - \$7,130 in non-disaster-related storm drain excavation costs that the City incurred before the disaster.
- \$3,537 for project 3449 in unauthorized costs for work the City performed on the driveways of private residences, including—⁵
 - \$2,254 in force account labor; and
 - \$1,283 in force account equipment.

⁵ Federal criteria specify that funding for eligible private driveways, should it be provided, will be granted through the FEMA Individuals and Households Program (and not the FEMA Public Assistance Program, under which this grant was awarded).



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Table 2 summarizes the ineligible costs by project.

Table 2: Scopes of Work and Ineligible Costs by Project				
Project Number	FEMA-Approved Scope of Work by Site	Examples of Ineligible Work Performed	Basis of Ineligibility: Outside of the FEMA-Approved Scope of Work	Questioned Costs
3436	Beach Boulevard: Damage Repairs to Road, Asphalt Walkway, and Handrail	Beach Boulevard: Raising Utility Boxes and Grade	Unauthorized Roadwork and Improvements	\$21,500
		Promenade: Removal and Replacement of Paving	Unauthorized Site and Improvements	10,591
3449	Grand Avenue and Headlands Trail: Damage Repairs to Road (Excavation, Compaction, and Repaving)	Pre-Disaster Storm Drain Repair	Project Unrelated to Disaster	21,430
		Repair Work on Driveways of Private Residences	Work Performed Not Eligible Under FEMA Public Assistance	3,537
Total				\$57,058

Therefore, we question \$57,058 as ineligible for Projects 3436 (\$32,091) and 3449 (\$24,967) because the City claimed (unauthorized) costs outside of the FEMA-approved scope of work.

City officials partially concurred with our findings—

- City officials did not concur with our findings for Project 3436. They incorrectly believed that FEMA had approved the overlay applied to the entire Promenade. They noted that FEMA officials (1) authorized the roadwork at Beach Boulevard and the asphalt walkway; and (2) referenced the asphalt walkway (throughout the project documentation), which implied the Promenade in its entirety, thereby authorizing the City to apply the asphalt concrete overlay pavement to the entire Promenade.
- City officials concurred that \$19,062 of the \$21,430 in questioned costs for Project 3449 are attributable to the City’s non-disaster-related storm drain repair project. The City stated that it incurred the remaining amount of \$2,368 for rental costs for equipment the contractors used to perform FEMA-eligible work.
- City officials do not concur with our finding for Project 3449 that the repair work the City performed on driveways of private residences is ineligible. They



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

explained that although the City erroneously recorded the tasks on their work orders as excavating, grading, and installing driveways, the City crew installed only concrete “curb cuts.” They stated that the FEMA scope of work authorized the re-build of the road to current standards, which created a misalignment with the pre-disaster private residence curb cuts. The City’s work provided new curb cuts aligned with the replacement road, and City officials believe that FEMA authorized the repairs because the completed scope of work included paving all entrances and backfilling curbs.

We maintain that City officials performed ineligible work, outside of the FEMA-authorized scope—

- Project 3436: The City performed unauthorized roadwork, including the removal and replacement of paving at Promenade, which was not disaster-related. FEMA identified the specific disaster damages to the asphalt walkway, which refutes the assertion that the *entire* Promenade qualified for FEMA-funded asphalt concrete overlay pavement.⁶ FEMA already covered the costs of the repairs to Beach Boulevard and the asphalt walkway under a separate project.⁷ Therefore, City officials exceeded the authorized scope of work for Project 3436 by performing this *additional* (improvement) work on Beach Boulevard and the Promenade, respectively costing \$21,500 and \$10,591, which was unrelated to the disaster.
- Project 3449: The City did not provide documented evidence supporting the eligibility of the \$2,368 in rental equipment costs.
- Project 3449: The City performed ineligible work on driveways of private residences. FEMA’s approved scope of work authorized erosion repairs to a pre-disaster road surface that consisted of a “built up” bituminous material and did not include curb cuts. We requested that City officials provide documented evidence showing that the completed work was the City’s responsibility (and therefore complied with Federal requirements (44 CFR 206.226(d)(3)(i) and (4)). City officials did not respond to our request. However, we identified an instance where the City provided work on an unimproved road and the homeowners’

⁶ According to FEMA documentation, damages attributed to waves overtopping the seawall consisted of two large areas (the largest being 75 cubic feet) and over a dozen other small areas averaging a cubic foot each, with a total approximate effected area of 36,727 square feet.

⁷ Damage along the northern end of Beach Boulevard and asphalt walkway occurred due to waves overtopping the revetment and eroding the asphalt and pavement. Additional (post-disaster) damages were incurred from heavy equipment traffic and boulders used in the revetment repair. The City used FEMA Project 2926 to repair both disaster and eligible post-disaster repair damages.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

contractor(s)—not the City—installed lower cost asphalt berms instead of concrete curbs.

Cal OES officials did not comment on this finding.

FEMA officials told us that they will review all pertinent documentation for Projects 3436 and 3449 and make a final determination upon closeout and after we issue our final report. For Project 3436, FEMA officials (including their staff engineer) said that the City may have improperly claimed costs for ineligible project improvements regarding the asphalt concrete overlay on Beach Boulevard.

Finding B: Unsupported Project Costs

City officials did not provide sufficient documentation to support \$27,096 in costs it claimed for Projects 3422 (\$12,556), 3436 (\$1,890), and 3449 (\$12,650).

Federal regulations and FEMA guidelines predicate eligibility on sufficient documentary support, specifying that subgrantees must—

- Adequately document costs for those costs to be allowable under a Federal award. (2 CFR, Part 225, *Cost Principles for State, Local and Indian Tribal Governments*, Appendix A; Section C(1)(j))
- Establish and maintain accurate records of events and expenditures related to disaster recovery work. (*FEMA Public Assistance Guide*, FEMA 322, October 1999, pp. 113–114)
- Perform work that is derived from the project’s FEMA-approved scope, in order to be eligible for Federal funding. (*FEMA Public Assistance Guide*, FEMA 322, October 1999, pp. 73 and 115–116 and *FEMA Applicant Handbook*, FEMA 323, September 1999, pp. 21–22, 32, and 52)
- Claim costs for work required as a result of the disaster. (44 CFR 206.223)
- Have fiscal controls and accounting procedures that permit the tracing of funds, and must maintain records that adequately identify the source and application of funds provided for financially-assisted activities. (44 CFR 13.20(a)(2))
- Support their accounting records with source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, and contract and subgrant award documents. (44 CFR 13.20(b)(6))



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

City officials did not always comply with these criteria. Instead, their project accounting improperly attributed to FEMA \$27,096 in costs not incurred on the designated FEMA-eligible projects—

- City officials claimed \$35,515 in professional services costs for Projects 3422 and 3436, of which \$14,446 they could not support with sufficient documentation.

Project	Professional Service	Costs Claimed	Costs Questioned
3422	Contracted Engineering and Design	\$11,306	\$7,681
3422	Construction Management	19,379	4,875
3436	Contracted Inspections	4,830	1,890
Total		\$35,515	\$14,446

City officials (1) acknowledged instances where the costs they claimed could not be attributed to the specific worksite designated in the approved scope of work; (2) comingled professional services costs for work performed on two distinct projects—approved under separate Federal disaster declarations (DR 1628-DR-CA and DR 1646-DR-CA)—on the contractor’s invoiced billings for these sites; and (3) allocated a percentage of total costs to each project, rather than documenting and tracing specific costs on a per-project basis.

- City officials claimed \$38,211 in force account labor and equipment costs for Project 3449 of which \$12,650 related to work that the City performed on non-eligible sites and tasks (see table 4).

Project	Force Account Type	Claimed Costs	Costs Questioned
3449	Labor	\$24,104	\$7,187
	Equipment	14,107	5,463
Total		\$38,211	\$12,650



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

The City work orders described up to 15 different work sites in addition to Grand Avenue (the scope of work for Project 3449). Work orders included names such as Belfast, Olympian Way, San Pedro Road, Calera, Corp Yard, Linda Mar Boulevard, and Green Room.

We could not reconcile City documentation in support of the disaster-related charges to the work on eligible sites, because the City—

- Comingled \$7,187 in labor work order costs for multiple sites. City officials recorded labor work order sites that were not included in the FEMA-approved scope.
- Comingled \$4,831 in equipment work order costs for multiple sites. City officials recorded equipment work order sites that were not included in the FEMA-approved scope.
- Claimed \$632 in excessive equipment costs, where the sum of the hours City officials claimed for operating multiple pieces of equipment on a given day exceeded the hours worked by the single operator.

Generally, City officials used work order forms to document force account labor project charges they submitted to FEMA. These work orders typically (1) documented only the estimated, rather than actual, hours employees required to perform the stated tasks; and (2) lacked the employees' signatures and did not always include the necessary supervisory authorization signatures on the approval lines. City officials also used an untitled form to document overtime hours worked, which reflected many of the same shortcomings we noted for the work orders.

Therefore, we question \$27,096 for Projects 3422 (\$12,556), 3436 (\$1,890), and 3449 (\$12,650) that the City claimed, but could not support with sufficient documentation. City officials partially concurred with our findings—

- For Projects 3422 and 3436, City officials concurred with our finding that the line items we questioned on invoices reflect engineering services performed jointly on two (approved) projects, in some instances under separate Federal disaster declarations, and that City officials allocated costs based upon a proration to each project rather than claiming actual costs on a project-by-project basis, as required. The City prepared for us a schedule to support and explain its cost allocation methodology.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

- For Project 3449, City officials agreed that they documented costs using work orders and an untitled form to document overtime hours. However, they contended that only \$1,110 of the \$12,650 we questioned should be disallowed (based on work that occurred at unauthorized sites on three days, which City officials acknowledged), and did not concur that costs claimed included charges for multiple sites or lacked adequate support. City officials stated that they used various sites, named in the work orders, as staging areas for City or contractor vehicles, equipment, tools, and materials in repairing Grand Avenue damages.

We maintain that our findings are valid—

- Regarding Projects 3422 and 3436, the City's source documents for costs it incurred do not provide evidence that the costs relate to the scope of work FEMA approved for the two projects. Thus, we cannot reconcile the costs to the allocation schedule City officials provided us.
- Regarding Project 3449, the City explained that the multiple site designations were all part of the Grand Avenue disaster repair project. The City, however, did not provide documentation showing the (1) name of the employee, (2) period of time worked, and (3) task performed. Such documentation is especially relevant because, as we noted in finding A, the City agreed that its claimed costs for Project 3449 included costs for ineligible storm-drain repairs. Without adequate support for the costs claimed, we cannot conclude that the charges pertain to FEMA eligible work.

Cal OES officials did not comment on this finding. FEMA officials elected to withhold comments until after we issue our final report.



Finding C: Ineligible Contract Costs

City officials claimed \$11,388 in ineligible contract landscaping costs for Projects 3450 (\$7,379) and 3664 (\$4,009). Federal criteria stipulate that—

- Trees, shrubs, and other plantings, with the specific exception of grass and sod where needed to stabilize slopes and to minimize sediment runoff, will no longer be eligible under Section 406 of Public Law 93-288, as amended, for all disaster declarations beginning with FEMA-1152-DR-WA (declared January 7, 1997). This policy applies equally to recreational and non-recreational areas and facilities; and the policy applies to any measure taken with respect to trees, shrubs, and other plantings not limited to replacement, and remedial actions taken to abate disaster damage. (FEMA Response and Recovery Policy #4511.300, *Trees, Shrubs, and Other Plantings Associated with Facilities*, November 25, 1997)
- Golf courses' non-structural portions (e.g., sandtraps, drainage, etc.) are eligible. The replacement of trees, shrubs, and other ground cover for a golf course, however, is ineligible; with the specific exception for grass and sod when necessary to stabilize slopes and minimize sediment runoff. (FEMA *Public Assistance Guide*, FEMA 322, October 1999, pp. 16 and 58–60)⁸

City officials did not comply with these criteria when claiming—

- \$7,379 for contracted replanting and landscaping costs on a public golf course for Project 3450 that was not performed to stabilize a slope.⁹
- \$4,009 for labor and materials to install 170 plants and willow cuttings (i.e., trees, shrubs, or bushes) on a slope for Project 3664 that was not limited to the installation of sod and grass.

We therefore question as ineligible \$11,388 in costs for Projects 3450 (\$7,379) and 3664 (\$4,009).

⁸ The 2007 *FEMA Public Assistance Guide*, Page 87, retained the same limitation as the 1999 version—namely, that only grass and sod would be eligible to stabilize slopes referenced—and specified that, "this restriction also applies to instances where ground is disturbed due to movement of heavy equipment performing eligible work, such as when repairing underground utilities within landscaped areas."

⁹ The City of San Francisco owns, operates, and maintains the Sharp Park Golf Course. Documentation for Project 3450 notes that the rupture of an underground sewage line that the City of Pacifica owns caused the damage to the public golf course, thereby making the City of Pacifica responsible for addressing the damage.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

City officials did not concur with our findings—

- City officials did not concur with our finding for Project 3450. They stated that the disaster repairs stabilized a slope and were eligible for FEMA funding. They provided us with three recent photographs of the golf course (figure 1) and noted that the contour of the golf course elevated by the golf cart path is a slope that required stabilization and erosion control.
- City officials did not provide a formal response to our finding for Project 3664.

The City’s explanation and photographs do not support that the work performed represented stabilizing a slope failure (which, under specific conditions, is eligible for FEMA reimbursement under FEMA Policy 9524, *Landslides and Slope Failures*). As figure 1 shows, the areas related to Project 3450 are relatively flat. We therefore maintain our finding. The costs the City claimed for Project 3450 are ineligible because FEMA’s policy specifically disallows landscape costs even when damages (1) are caused by the disaster event; and (2) result from equipment used in the repair process. (As noted in footnote eight, one of the criteria cited is, fittingly, surface restoration work performed on an underground utility in a recreational area.) Likewise, FEMA’s criteria provide specific guidelines as to what constitutes slope stabilization: “emergency protective measures to stabilize slopes and hills that were damaged by the disaster may be eligible only if necessary to eliminate or lessen immediate threats to life, public health, safety, or significant additional damage to improved public or private property.”¹⁰



Figure 1: Project 3450, City-Performed Landscaping; Golf Cart Path; Lack of Slope
Source: City of Pacifica

One Cal OES official stated that Cal OES always considers the types of costs we questioned in this finding for Project 3450 as eligible. FEMA officials (including a FEMA engineer) agreed with our conclusion and expressed that, based on available documentation, the area in question does not constitute a slope per FEMA disaster

¹⁰ FEMA’s *Landslide Policy Related to Public Facilities* (Policy #9524.2), August 1999, provides examples of eligible emergency protective measures: excavation at the head of the sliding mass to reduce the driving force; filling or buttressing at the toe of the potential sliding mass (for example, gabions, rock toes, cribwalls, binwalls); and, construction of subsurface drainage to lessen the pore-water pressure along the potential sliding surface.



assistance criteria, nor would it require stabilization. However, they stated that they will review all pertinent documentation and make a final determination upon closeout, after we issue our final report.

Finding D: Ineligible Regular Time Force Account Labor Costs

City officials claimed \$3,897 in ineligible, emergency-oriented force account regular time labor costs for Project 3450—a permanent work project. Federal regulations and FEMA guidelines stipulate that—

- The straight- or regular-time salaries and benefits of a subgrantee's permanently employed personnel are not eligible in calculating the cost of eligible work under sections 403, *Essential Assistance*, and 407, *Debris Removal*, of the *Stafford Act*. (44 CFR 206.228(a)(2), *Force Account Labor Costs*)
- For emergency work, only overtime labor is eligible for permanent employees. (FEMA *Public Assistance Policy Digest*, FEMA 321, October 2001, p. 73)
- The subgrantee generally should not combine emergency work (Categories A and B) with permanent work (Categories C through G) unless the emergency work is incidental to the permanent repair, and regardless, FEMA eligibility criteria still apply as is appropriate to the type of work/costs performed. (FEMA *Applicant Handbook*, FEMA 323, September 1999, p. 16)

The City did not always comply with these criteria. City officials claimed \$6,933 in force account labor regular time costs for Project 3450, a permanent work project.¹¹ Of these charges, \$3,897 related to emergency work on a leak in the force main water line.¹² The City performed the work soon after the disaster, and the efforts included emergency-oriented tasks, such as—

- Containing overflow and redirecting the material back into the system.
- Checking on the force main leak through the day.
- Digging to inspect the leak and backfill area with asphalt.

Therefore, we question \$3,897 in ineligible regular time force account labor charges for Project 3450. City officials did not provide a formal response to this finding, Cal OES

¹¹ As aforementioned in the criteria we presented, FEMA designates emergency-oriented projects as either Category A (Debris Removal) or B (Emergency Protective Measures). FEMA assigned Project 3450 as Category F (Public Utilities).

¹² The City claimed \$4,609 in overtime force account labor for Project 3450.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

officials did not comment on it, and FEMA officials elected to withhold comments until after we issue our final report.

Finding E: Duplicate Costs

City officials erroneously claimed \$1,896 twice for advertising costs for Project 3436. Therefore, we question \$1,896 as duplicate (ineligible) costs. City officials agreed with our finding and said that they would notify Cal OES officials of the required adjustment.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IX:

Recommendation #1: Disallow \$57,058 (\$42,794 Federal share) in ineligible costs for Projects 3436 (\$32,091) and 3449 (\$24,967) as unauthorized work performed beyond the approved scope of work (finding A).

Recommendation #2: Disallow \$27,096 (\$20,322 Federal share) in unsupported costs for Projects 3422 (\$12,556), 3436 (\$1,890), and 3449 (\$12,650), unless City officials provide adequate documentation consistent with FEMA criteria to support them, or can properly allocate costs—in coordination with grantee and FEMA officials—to the specific projects (and Federally-declared disaster(s)) to which they relate (finding B).

Recommendation #3: Instruct the Grantee (State)—who must likewise inform its subgrantees—on the requirement to comply with Federal regulations and FEMA guidelines on maintaining accurate records as a post-award condition for FEMA disaster assistance grant funding, including criteria presented in both (1) 44 CFR 13.20, *Standards for Financial Management Systems*; and (2) *FEMA Public Assistance Guide*, FEMA 322, October 1999, pp. 113–114 (finding B).

Recommendation #4: Disallow \$11,388 (\$8,540 Federal share) in ineligible landscaping costs for Projects 3450 (\$7,379) and 3664 (\$4,009) (finding C).

Recommendation #5: Disallow \$3,897 (\$2,923 Federal share) in ineligible force account labor costs for Project 3436 as a result of regular-time salaries emergency work being comingled with permanent work (finding D).

Recommendation #6: Disallow \$1,896 (\$1,422 Federal share) in ineligible, duplicate costs for Project 3436 (finding E).



DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with City officials during our audit and included their comments in this report, as appropriate. We also added details and criteria to our findings to address the City's comments.

We provided a written summary of our findings and recommendations in advance to FEMA on December 19, 2012, and provided a discussion draft to FEMA, Cal OES, and City officials on April 11, 2013. We discussed our findings and recommendations at an exit conference with Cal OES and City officials on April 24, 2013. At this meeting, City officials requested additional time to provide documentation to resolve the findings before we issue our final report. City officials explained that they did not honor our various requests for information during the course of our fieldwork because they sometimes overlooked the requests or because we requested information via email, rather than on official OIG letterhead.

We held two post-exit conferences—on April 30, 2013, and June 10, 2013—and, during the interim, allowed the City to submit additional documentation to support its position on the findings. We reviewed and considered the additional documents the City provided. Further, we met with officials from FEMA's infrastructure staff on May 21, 2013, to specifically discuss our audit results for findings A and C.

We have summarized the City's formal response(s) within each finding of this report. We generally concluded that the additional documentation the City provided following our fieldwork—mostly narratives that City officials provided, rather than source documentation—does not satisfy applicable criteria that would allow us to modify our findings and recommendations. We have provided Cal OES copies of the documents that support our findings. We also provided Cal OES copies of the additional documents the City submitted to us as of June 10, 2013.

City officials, in a June 13, 2013 letter to Cal OES, said that they will respond to the findings after we issue our final report.

We have postponed issuing our audit report and have provided City officials multiple opportunities to provide the requested documentation, which they have not done. We therefore encourage Cal OES and FEMA officials to review carefully any additional documentation the City provides and ensure that claimed costs comply with Federal regulations and are eligible for reimbursement under FEMA's Public Assistance Program.

FEMA officials declined an exit conference and elected to withhold formal comments until after we issue our final report.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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 recommendations. Until we receive and evaluate your response, we will consider the recommendations to be open and unresolved.

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

Major contributors to this report are Humberto Melara, Director; Devin Polster, Audit Manager; Curtis Johnson, Senior Auditor; and Jeffrey Flynn, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may call Humberto Melara, Director, Western Regional Office, at (510) 637-1463.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Exhibit

Schedule of Projects Audited and Questioned Costs

Project/ FEMA Category of Work	Project Award Amount	Claimed Costs	Questioned Costs					Total
			Costs Not Part of the FEMA Approved Scope of Work (Finding A)	Unsupported Project Costs (Finding B)	Ineligible Contract Costs (Finding C)	Ineligible Regular Time Force Account Labor Costs (Finding D)	Duplicative Costs (Finding E)	
3422/B	\$184,949	\$184,949		\$12,556				\$12,556
3436/D	976,009	976,009	\$32,091	1,890			\$1,896	35,877
3441/D	380,573	380,573						
3449/C	241,987	241,987	24,967	12,650				37,617
3450/F	252,750	252,750			\$7,379	3,897		11,276
3664/B	562,737	562,737			4,009			4,009
3683*/B	24,700	24,700						
3853*/G	148,982	148,982						
Totals	\$2,772,687	\$2,772,687	\$57,058	\$27,096	\$11,388	\$3,897	\$1,896	\$101,335

* Note: These two projects are small projects. FEMA bases funding for large projects on actual costs to complete the eligible scope of work (as adjusted after all work is complete). FEMA bases funding for small projects, however, on the Federal share (usually 75 percent) of the approved estimate of eligible work. If the applicant spends less than the amount FEMA approved, the Federal share will not be reduced to match actual costs. However, if the applicant incurs costs significantly greater than the total amount approved for all small projects (in the aggregate), the applicant may appeal for additional funding. This opportunity applies only to a net cost overrun for all small projects combined, not to an overrun for an individual project. Project 3853 represents a Federal obligation for the City's net small project overrun.



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**Appendix
(continued)**

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