

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

**FEMA Should Recover \$302,775 of Public Assistance
Funds Awarded to the City of Oakland, California**



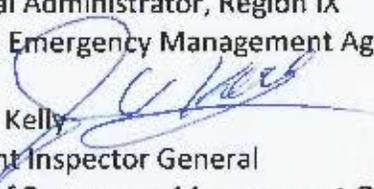


OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

JAN 29 2014

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: *FEMA Should Recover \$302,775 of Public Assistance Funds
Awarded to the City of Oakland, California*
FEMA Disaster Number 1628-DR-CA
Audit Report Number OIG-14-28-D

We audited Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to the City of Oakland, California (City), Public Assistance Identification Number 001-53000-00. 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 (State), a FEMA grantee, awarded the City \$1.58 million for damages resulting from severe storms, flooding, mudslides, and landslides from December 17, 2005, through January 3, 2006. The award provided 75 percent FEMA funding for nine large projects and three small projects.¹ The audit covered the period December 17, 2005, to July 19, 2010. We audited seven large and three small projects totaling \$1,529,120 (see exhibit). As of the date of this report, the State was starting the process of reviewing the City's final grant claim.

We conducted this performance audit between May and November 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.

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$57,500.



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Department of Homeland Security

We interviewed FEMA, State, 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. However, we did gain an understanding of the City's method of accounting for disaster-related costs and its procurement policies and procedures. We selected this grant for audit because of the potential risk that issues we identified in previous Office of Inspector General (OIG) reports may also exist in the City's accounting and expending of FEMA funds for Disaster 1628. These OIG reports identified that the City's reimbursement requests for direct project costs included unallowable administrative costs, unauthorized changes to approved scopes of work, and unsupported costs.²

BACKGROUND

The City of Oakland, incorporated in 1852, is the third largest city in the San Francisco Bay Area and serves as a major transportation hub and trade center for the entire Bay Area Region known as the East Bay. The City maintains approximately 806 miles of city streets and 225 pedestrian pathways, and has 80 miles of designated bikeways. The 2005 disaster caused significant damage to public infrastructure, including slide damage to roadways and storm drainage systems. In addition, landslide sites throughout the City required mitigation to prevent further damage to public infrastructure and to stabilize roadways and drainage systems.

RESULTS OF AUDIT

The City accounted for FEMA Public Assistance grant funds on a project-by-project basis, as Federal regulations require. However, the City did not always follow Federal regulations and FEMA guidelines in spending the funds. Specifically, the City's claim included the following unsupported or ineligible costs:

- \$194,037 of unsupported labor costs,
- \$67,173 for three small projects that the City did not complete, and
- \$34,010 for miscellaneous ineligible costs.

Therefore, FEMA should disallow \$295,220 of unsupported or ineligible costs. FEMA should also deobligate \$7,555 of unused funds and put them to better use. In addition, the State should improve its grant management procedures to (1) ensure that

² See OIG reports DS-06-04 (January 2004), and DS-09-14 (September 2009).



OFFICE OF INSPECTOR GENERAL

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subgrantees comply with Federal regulations and FEMA guidelines, and (2) review costs that subgrantees claim more promptly.

Finding A: Unsupported Labor Costs

The City could not provide adequate documentation to support \$194,037 in labor costs it claimed for seven large projects. Cost principles at 2 CFR 225, Appendix A, section (C)(1)(j), stipulate that a cost must be adequately documented to be allowable under Federal awards. Also, 44 CFR 13.20(b)(6) requires subgrantees to support costs with adequate documentation including cancelled checks, paid bills, payroll detail, and time and attendance records.

The City's support for its labor costs consisted of a single line item in its costs summary labeled as "Salary" and a few journal voucher entries with no other detail. The City's supporting documentation did not identify the name of the employee(s) who performed the disaster work, when they completed the work, or the number of hours they worked. As a result, the City could not ensure the accuracy of the costs it claimed for labor. Therefore, we question \$194,037 the City claimed under seven large projects.

City officials explained that because of other priorities they did not provide labor costs records to the State and the OIG. They also explained that the records were available, and were either located in an offsite City storage facility or converted to electronic media. City officials said that they would locate the records and make them available for the State's final grant closeout review.

FEMA and State officials said that they would review the records for eligibility during final review of the City's claim.

Finding B: Ineligible Small Projects

The City received \$67,173 for three small projects—two that it completed outside the FEMA approved scope of work and one that it abandoned. According to 44 CFR 206.205(a), failure to complete small projects in accordance with FEMA's approved scope of work may require the subgrantee to refund Federal payments for the projects. Therefore, FEMA should disallow \$67,173 for the three small projects.

City officials agreed that they had performed repairs outside the FEMA approved scope of work for two small projects. They stated that, during project formulation, the City informed FEMA that it could not follow the approved scope of work. City officials also agreed that, for the third small project, the City abandoned the work after learning that the damaged element was not its responsibility. They said that they would refund FEMA the \$67,173 when the State initiates the grant closeout process.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

State and FEMA officials also concurred with this finding.

Finding C: Miscellaneous Ineligible Costs

The City's claim under five projects included \$34,010 of miscellaneous ineligible costs consisting of—

- \$26,400 under Projects 2470, 2814, 2948, 2959, and 3694 for welding inspections and payroll services, including—
 - \$19,800 for welding inspections. FEMA disallowed these costs during project formulation because the overall allowance for engineering and design services covered these inspections. FEMA approved the allowance applying Curve B, which is for projects of average complexity (FEMA's *Public Assistance Guide*, FEMA 322, 1999, pp. 75–80). Therefore, FEMA should again disallow these costs.
 - \$6,600 for payroll services. FEMA, during project formulation, specifically disallowed the \$6,600 noting that the administrative allowance covered these services. Before November 2007, FEMA provided subgrantees with a statutory administrative allowance that covered the necessary costs of requesting, obtaining, and administering disaster assistance grants (44 CFR 206.228(a)(2)(ii)). Therefore, FEMA should again disallow these ineligible costs.
- \$7,110 under Projects 2550 (\$1,648), 2814 (\$3,781), and 2948 (\$1,681) for professional services. These costs are not disaster related because the City incurred them between February and July 2007, or 4 to 9 months after it completed its disaster-related work in October 2006. According to 44 CFR 206.205(b)(1), eligible costs must relate to the performance of eligible disaster work. Therefore, FEMA should disallow these costs as ineligible.
- \$500 under Project 2550 to replace a private fence. Federal regulation 44 CFR 206.223(a)(3) requires the City to be legally responsible for an item of work to qualify for disaster assistance. Therefore, the costs are ineligible because the City is not legally responsible for a privately owned fence.

City officials concurred with the finding and said that they will review the costs for eligibility and revise their final claimed costs accordingly. FEMA and the State also concurred with the finding.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Finding D: Unused Funds

The City completed two large projects and claimed \$327,999, which is \$7,555 less than the total amount that FEMA estimated and approved for the projects (2550 and 2959). The City completed the work by 2007 and did not plan to claim any additional costs. Therefore, FEMA should deobligate the unneeded funds and put them to better use.

City, State, and FEMA officials concurred with the finding.

Finding E: Grant Management

Based on the findings in this report, we conclude that the State needs to improve its grant management procedures for reviewing subgrantees' closeout documentation. Federal regulations at 44 CFR 13.37(a)(2) require States to ensure that subgrantees are aware of requirements that Federal regulations impose on them. Further, 44 CFR 13.40(a) requires grantees to manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable Federal requirements.

In addition, the State's Administrative Plan for DR-1628-CA requires it to conduct the subgrantee's closeout as soon as practicable. The City submitted its closeout documentation for the Public Assistance grant in July 2010. However, as of November 6, 2013, the date of our exit conference (more than 3 years after the City's submission), the State had not completed its review of the City's closeout records. According to FEMA Standard Operating Procedure 9570.14, Section 9.2.1, the State must reconcile costs within 90 days from the date the City completes its projects; the State did not meet this FEMA guideline. Therefore, it needs to review closeout documentation from subgrantees promptly to ensure adherence with FEMA guidelines.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region IX:

Recommendation #1: Disallow \$194,037 (Federal share \$145,528) for Projects 941, 2470, 2550, 2814, 2948, 2959, and 3694 as unsupported unless the City provides adequate documentation to support these costs (finding A).

Recommendation #2: Disallow \$67,173 (Federal share \$50,380) as ineligible for three small projects (2866, 2998, and 3158) that the City either did not perform or did not complete according to the approved scope of work (finding B).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendation #3: Disallow \$34,010 (Federal share \$25,508) for Projects 2470, 2550, 2814, 2948, and 2959 as ineligible work (finding C).

Recommendation #4: Deobligate \$7,555 (Federal share \$5,666) in unused funding from Projects 2550 and 2959 and put those funds to better use (finding D).

Recommendation #5: Direct the State to review subgrantee closeout documentation promptly to ensure adherence with FEMA guidelines (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 provided a discussion draft to City and State officials on November 6, 2013, and to FEMA officials on October 31, 2013. We discussed the draft at an exit conference with City and State officials on November 14, 2013, and with FEMA officials on November 6, 2013. All officials generally agreed with the findings and recommendations.

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 the contact information of responsible parties and any other supporting documentation necessary to inform us about the status of the recommendations. Until we receive and evaluate your response, we will consider the recommendations 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; Louis Ochoa, Audit Manager; Willard Stark, Auditor in Charge; and Montul Long, Auditor.

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



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Exhibit

Schedule of Projects Audited, Questioned Costs, and Unused Funding

Project Number	FEMA Category of Work	Project Award Amount	Costs Claimed/ Audited	Questioned Costs			Unused Funds (Finding D)
				Unsupported Labor Costs (Finding A)	Small Project Work Not Completed (Finding B)	Miscellaneous Ineligible Costs (Finding C)	
Large Projects							
941	A	\$ 376,521	\$ 376,521	\$ 2,661	\$ 0	\$ 0	\$ 0
2470	C	114,888	221,243	17,288	0	2,700	0
2550	D	68,031	67,628	7,617	0	2,148	403
2814	C	176,119	192,642	25,969	0	14,281	0
2948	C	207,503	226,138	24,139	0	12,181	0
2959	C	267,523	260,371	30,984	0	2,700	7,152
3694	C	135,950	184,577	85,379	0		0
Small Projects							
2866	D	43,749	0	0	43,749	0	0
2998	C	5,150	0	0	5,150	0	0
3158	D	18,274	0	0	18,274	0	0
Total		\$1,413,708	\$1,529,120	\$194,037	\$67,173	\$34,010	\$7,555



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