

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

**Rural Electric Cooperative, Lindsay, Oklahoma,
Generally Accounted for and Expended FEMA Public
Assistance Grant Funds Correctly**






OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

February 5, 2014

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

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

SUBJECT: *Rural Electric Cooperative, Lindsay, Oklahoma, Generally
Accounted for and Expended FEMA Public Assistance Grant
Funds Correctly*
FEMA Disaster Number 1883-DR-OK
Audit Report Number OIG-14-30-D

We audited Public Assistance grant funds awarded to Rural Electric Cooperative (Cooperative) in Lindsay, Oklahoma (Public Assistance Identification Number 000-UGFU7-00). Our audit objective was to determine whether the Cooperative accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

The Oklahoma Department of Emergency Management (State), a FEMA grantee, awarded the Cooperative \$3.76 million for damages resulting from severe winter storms from January 28 through 30, 2010. The award provided 75 percent funding for two large projects and one small project.¹ The audit covered the period January 28, 2010, through March 28, 2011, the cutoff date of our audit, and included a review of two large projects totaling \$3.75 million (see Exhibit, Schedule of Projects Audited). As of our cutoff date, the Cooperative had completed and FEMA had closed all projects.

We conducted this performance audit between March 2013 and September 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 \$63,200.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

We interviewed FEMA, State, and Cooperative 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 Cooperative'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 Cooperative's method of accounting for disaster-related costs and its procurement policies and procedures.

BACKGROUND

The Cooperative, located in south central Oklahoma, is a non-profit organization that provides electrical service to citizens in six counties. The Cooperative's power distribution system has 2,851 miles of overhead distribution lines and serves 10,704 active meters. During the incident period from January 28 through 30, 2010, a severe winter storm with freezing rain and snow swept across southwestern Oklahoma. Ice buildup on the distribution wires along with high winds caused extensive damage to the Cooperative's electric distribution system in five counties.

RESULTS OF AUDIT

The Cooperative generally accounted for and expended FEMA funds according to Federal regulations and FEMA guidelines. However, the Cooperative did not always follow Federal regulations in awarding contracts for disaster work because it was not aware of all procurement standards that apply to Federal grants. Specifically, the Cooperative did not take the required steps to promote participation by small and minority- and women-owned businesses and did not include all required provisions in its contracts. We are not questioning the costs associated with these contracts because the Cooperative (1) incurred most of the contract costs under exigent circumstances to restore electrical power to its customers, (2) awarded contracts for permanent work after soliciting competitive bids, (3) awarded the majority of its disaster work to women- or minority-owned businesses, and (4) used standard Rural Utilities Service contracts



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

that it obtained from a Federal agency.² The standard contracts included some, but not all federally-required provisions.

Grantees are responsible for ensuring that subgrantees are aware of and follow Federal regulations. Therefore, FEMA should direct the Department of Oklahoma Emergency Management to develop policies and procedures for future disasters to ensure that subgrantees are aware of and follow all Federal procurement standards for federally-funded disaster work.

Procurement for Disaster Work

The Cooperative used its own labor, mutual aid agreements, and emergency contracts during the exigent period until it restored full power to its customers on February 17, 2010. Subsequently, the Cooperative used its own employees and competitively-awarded contracts to complete permanent work. In all, the Cooperative awarded contracts totaling \$1,060,000 for disaster work—\$851,640 for emergency work to restore power and \$208,360 for permanent work. However, the Cooperative did not take the required steps to promote participation by small and minority- and women-owned businesses and did not include all required provisions in its contracts.

Steps To Ensure Participation of Small and Minority- and Women-owned Businesses

Federal regulation 2 CFR 215.44(b) requires subgrantees to take specific steps to ensure the use of small businesses, minority-owned firms, and women's business enterprises whenever possible. These steps include using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce to solicit and use these firms.

The managing engineer of the Cooperative said that they did not take these specific steps because they were not aware of the requirement. However, the Cooperative did award the majority of its disaster contract work to women- and minority-owned businesses. Of the \$1,060,000 the Cooperative claimed for contract costs, \$750,180, or

² The Rural Utilities Service (RUS) is an agency within the U.S. Department of Agriculture charged with providing public utilities (electricity, telephone, water, and sewer) to rural areas in the United States via public-private partnerships. RUS Electric Programs provide leadership and capital to upgrade, expand, maintain, and replace America's vast rural electric infrastructure. Under the authority of the Rural Electrification Act of 1936, the RUS Electric Programs make direct loans and loan guarantees to electric utilities to serve customers in rural areas.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

71 percent, was for contract work it awarded to women- and minority-owned businesses.

Contract Provisions

Federal regulations require subgrantees to include specific provisions in their contracts (2 CFR 215.48 and Appendix A). These contract provisions document the rights and responsibilities of the parties and minimize the risk of contract misinterpretations and disputes. For example, the termination provision (2 CFR 215.48(b)) requires the subgrantee to include a provision in all contracts providing the right to end an agreement with a contractor; and the access to records provision (2 CFR 215.48(d)) requires a provision granting the subgrantee, the Federal awarding agency and the Comptroller General of the United States, or any of their duly authorized representatives, the right to examine the contractor's records.

Cooperative officials said that they did not include all of the required provisions in their contracts because they were not aware of the Federal requirement. The Cooperative used standard Rural Utilities Service (RUS) contracts and assumed the contracts met Federal standards because the Cooperative obtained them from a Federal agency. The RUS contracts did include some provisions similar to those that 2 CFR 215.48 requires to help protect the interests of subgrantees and the Federal Government. For example, the standard RUS contract includes provisions for compliance with the Federal Water Pollution Control Act and aspects of equal employment opportunity and remedies for instances when contractors violate or breach contracts. However, it does not include several other important provisions that 2 CFR 215.48 requires, such as those for access to books and records, work hours and safety standards, and prohibition from hiring contractors debarred and suspended from work on Federal Government contracts.

Grant Management

Cooperative officials stated that they did not always follow Federal procurement regulations because they were not aware of them. According to 44 CFR 13.37(a)(2), the grantee is required to ensure that subgrantees are aware of requirements that Federal regulations impose on them; and 44 CFR 13.40(a) requires the grantee to manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable Federal requirements. Therefore, FEMA should direct the Oklahoma Department of Emergency Management to develop policies and procedures for future disasters to ensure that subgrantees are aware of and follow all Federal procurement standards for federally-funded disaster work.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

RECOMMENDATION

We recommend that the Regional Administrator, FEMA Region VI, direct the Oklahoma Department of Emergency Management to develop policies and procedures for future disasters to ensure that subgrantees are aware of and follow all Federal procurement standards for federally-funded disaster work.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with Cooperative officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, State, and Cooperative officials and discussed it at exit conferences held with FEMA on September 30, and October 29, 2013, with the State on October 29, 2013, and with the Cooperative on October 30, 2013.

Following the exit conference, FEMA Region VI directed the Oklahoma Department of Emergency Management to develop policies and procedures for future disasters to ensure that subgrantees are aware of and follow all Federal procurement standards for federally-funded disaster work. Therefore, we consider this report and its recommendation closed upon issuance and requires no further actions from FEMA.

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 Christopher Dodd, Acting Director; and Douglas Denson, Auditor-in-Charge.

Please call me with any questions at (202) 254-4100, or your staff may call Christopher Dodd, Acting Director, Central Regional Office, at (214) 436-5200.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Exhibit

Schedule of Projects Audited

Project Number	Project Category	Gross Award Amount
PW 236	B	\$ 785,419.00
PW 234	F	<u>2,964,636.00</u>
Totals		<u><u>\$3,750,055.00</u></u>



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Subgrantee

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