

**OIG Deployment Activities at  
FEMA's Joint Field Office in  
Charleston, West Virginia -  
Yeager Airport**





# DHS OIG Highlights

## ***OIG Deployment Activities at FEMA's Joint Field Office in Charleston, West Virginia – Yeager Airport***

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**September 15, 2015**

### **Why We Did This**

The Federal Emergency Management Agency (FEMA) Region III and the West Virginia Division of Homeland Security and Emergency Management (West Virginia) requested our assistance at FEMA's Joint Field Office in Charleston, West Virginia to provide assurance that FEMA is complying with Public Assistance and Federal grant requirements regarding the eligibility of damages to the runway safety area at Yeager Airport in Charleston, West Virginia. FEMA opened the Joint Field Office in response to a disaster declaration for severe winter storms, flooding, landslides, and mudslides that occurred in March 2015.

### **What We Recommend**

The report contains no recommendations.

#### **For Further Information:**

Contact our Office of Public Affairs at (202) 254-4100, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

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### **What We Found**

FEMA should take reasonable steps to determine whether the damage to the runway safety area (i.e., the Engineered Arresting structure) at Yeager Airport is the direct result of the disaster, and, if so, that a duplication of benefits does not occur. Further, FEMA should fully document such determinations in the agency's official disaster records.

This action should provide reasonable assurance that FEMA obligates Public Assistance funding only for eligible work, thus preventing future large deobligations or recoveries for work that FEMA or an audit may later determine to be ineligible.

### **FEMA Response**

Because FEMA and West Virginia officials were still deliberating an appropriate response for damages to the airport, this report does not require a response from FEMA.

OIG 15-145-D



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Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

SEP 15 2015

MEMORANDUM FOR: Mary Ann Tierney  
Regional Administrator, Region III  
Federal Emergency Management Agency

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

SUBJECT: *OIG Deployment Activities at FEMA's Joint Field Office  
in Charleston, West Virginia – Yeager Airport  
Report Number OIG-15-145-D*

At the request of Federal Emergency Management Agency (FEMA) Region III and the West Virginia Division of Homeland Security and Emergency Management (West Virginia), we deployed staff to FEMA's Joint Field Office in Charleston, West Virginia, during April 22–24, 2015.<sup>1</sup> The purpose of the deployment was to discuss with FEMA staff engaged in disaster recovery activities their compliance with FEMA policies and procedures governing disaster financial assistance. Specifically, FEMA and West Virginia requested our assistance early in the Public Assistance process to ensure compliance with Public Assistance and Federal grant requirements regarding the eligibility of damages to the runway safety area at Yeager Airport in Charleston, West Virginia.

### Background

On March 12, 2015, a massive landslide below Yeager Airport in Charleston, West Virginia, impacted the runway safety area, technically known as the Engineered Materials Arresting System–Mechanically Stabilized Earth (Engineered Arresting) structure.

The Central West Virginia Regional Airport Authority (Airport Authority) completed the Engineered Arresting structure in 2007. The structure, which

<sup>1</sup> FEMA set up the Joint Field Office to facilitate disaster recovery activities resulting from a severe winter storm, flooding, landslides, and mudslides that occurred in March 2015 (FEMA Disaster 4210-DR-WV).





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the Federal Aviation Administration (FAA) required, extends the runway as an emergency airplane takeoff/landing arresting measure and consists of the runway safety area and a manmade slope. The manmade slope extended the length of the mountain upon which the Airport Authority built the original runway to enable construction of the emergency arresting system. The Airport Authority contracted to build the structure at a cost of approximately \$20 million using mechanically stabilized earth, traditional fill, and geogrids. FAA funded its construction through a grant to the Airport Authority, the owner and operator of Yeager Airport. As of the time of our deployment, the runway remained safe for landing and takeoff because the safety area of the structure was still stable and long enough to operate according to its intended function and current FAA requirements. Figure 1 shows the damage to the structure.

**Figure 1: Damage to the Engineered Arresting Structure at Yeager Airport**



Source: FEMA

At the time of our deployment, FEMA had not determined the cost to repair the damaged structure because the landslide remained active and unstable. However, media reports indicated that repairing the structure may cost



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between \$40 and \$100 million. As of the end of our field work, the Airport Authority had not requested FEMA financial assistance to cover damages to the structure.

The disaster's initial incident period was from March 3–6, 2015. However, on May 8, 2015, FEMA extended the incident period to March 14, 2015, at the request of West Virginia's Governor. The amended incident period covers the landslide that occurred on March 12, 2015.

### **Results of Deployment**

FEMA should take reasonable steps to determine whether the damage to the Engineered Arresting structure at Yeager Airport is the direct result of the disaster, and, if so, that a duplication of benefits does not occur. Further, FEMA should fully document such determinations in the agency's official disaster records.

#### Work Eligibility

At the time of our deployment, questions remained about whether the declared disaster caused the damages to the Engineered Arresting structure. Federal regulation 44 Code of Federal Regulation (CFR) 206.223 states that an item of work must be the result of the disaster event to be eligible for FEMA Public Assistance.

In our review of documents related to the structure's damages (compiled and provided by FEMA External Affairs personnel) and in discussions with Joint Field Office and United States Army Corps of Engineers (USACE) officials, we noted that media reports as early as 2011 indicated the presence of gaps in the structure.<sup>2</sup> Furthermore, in July 2013, airport workers reported slope movement during their annual maintenance work on the structure's tiles. At that time, the engineering firm that designed the structure told the Airport Authority that the slope movement was normal settlement of the two different fills (traditional and mechanically stabilized earth) used in construction of the structure. However, in late February/early March 2015, an airport inspection revealed significant movement and cracks in the structure. On March 12, 2015, the landslide occurred, damaging the structure.

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<sup>2</sup> The FAA required airport personnel to self-inspect the Arresting System twice daily, once in the morning and once in the evening. The airport also conducted weekly and monthly inspections on the structure, which were more thorough and detailed than the daily inspections.



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We discussed with FEMA Joint Field Office officials the importance of determining the probable cause of the damage because, to comply with 44 CFR 206.223, the declared disaster must have caused the damage for the repair work to be eligible for Public Assistance funding. In this regard, we discussed with FEMA the possibility of retaining a technical assistance contractor – geo-technical specialist to conduct an independent study to determine the probable cause for the structure’s failure before obligating any Public Assistance funding for the project. This action should provide reasonable assurance that FEMA obligates Public Assistance funding only for eligible work, thus preventing future large deobligations or recoveries for work that FEMA or an audit may later determine to be ineligible.

However, on May 22, 2015, subsequent to our deployment, the Airport Authority filed a civil lawsuit against the engineering and construction firms that designed and constructed the Engineered Arresting structure, their insurers, and other related parties. The lawsuit alleges negligence, breach of implied warranty, and breach of contract. We do not know the basis of the lawsuit or what, if any, engineering or inspection reports the Airport Authority used to support its allegations or whether the Airport Authority will prevail. Furthermore, its outcome may take years to decide. Therefore, FEMA should consider not obligating any funding for the damages to the structure until the litigation process has concluded and the court has made a final determination on whether the defendants’ actions contributed to the structure’s damages.

#### Duplication of Benefits

Insurance and other funding may cover some or all of the damages to the Engineered Arresting structure. Therefore, FEMA should take reasonable steps to ensure that a duplication of benefits does not occur in the event that FEMA determines that the declared disaster caused the landslide and the Airport Authority applies for disaster assistance. Section 312 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, states that no entity will receive assistance for any loss for which it has received financial assistance from any other program, insurance, or from any other source.

The Airport Authority carries general and liability insurance policies. Therefore, the Airport Authority’s insurance policy may cover some of the damages to the structure. Further, early in the disaster, an FAA representative told FEMA that the FAA will not provide disaster recovery funding for the damages. However, we discussed with FEMA Joint Field Office officials the benefits of obtaining a formal, written decision from FAA on this matter to document the decision in the project’s files.



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Finally, the results of the lawsuit we discuss earlier in this report may indicate that third parties bear some or all the responsibility for these damages and any legal judgment or settlement awarded to the Airport Authority may constitute a duplication of benefits under the program.

### **Discussion with Management**

We discussed our observations and concerns with FEMA and West Virginia officials during our visit to the Joint Field Office on April 22–24, 2015. We also provided our draft report to these officials and discussed it with them on August 5, 2015. FEMA and West Virginia officials generally concurred with our observations and conclusions. FEMA officials said that there are four potential applicants related to the March 12 landslide and that FEMA is reviewing their eligibility for FEMA financial assistance. They also said that USACE had recently provided the agency with an engineering report under a mission assignment indicating that the likely cause of the structure’s damage was pre-disaster conditions. However, the report results are preliminary, so FEMA will need additional forensic analysis to determine the specific cause of damage. Additionally, they said that they had brought in an insurance expert to review the Airport Authority’s insurance policy and that the expert’s preliminary insurance review indicates that the insurance may not cover the damages to the structure. Finally, they said that the Airport Authority had not requested any FEMA reimbursement for damages to the structure.

Because FEMA and West Virginia officials were still deliberating an appropriate response for damages to the airport, this report does not contain any recommendations and no response from FEMA is required.

The Office of Emergency Management Oversight major contributors to this report are David Kimble, Director; William Johnson, Director; Carlos Aviles, Auditor-in-Charge; and Kim Lemon, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact David Kimble, Director, Eastern Regional Office - South, at (404) 347-6702.





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### Appendix A

#### Objective and Methodology

We deployed staff to FEMA's Joint Field Office in Charleston, West Virginia, during April 22–24, 2015. The objective of our deployment was to—

- (1) gain an understanding of the sequence of events, extent of damages, and related issues impacting the Engineered Arresting structure at Yeager Airport; and
- (2) discuss with FEMA staff engaged in disaster recovery activities for FEMA Disaster 4210-DR-WV their compliance with FEMA policies and procedures governing disaster financial assistance.

We met with and had discussions with officials from FEMA, West Virginia Division of Homeland Security and Emergency Management (West Virginia), and the United States Army Corps of Engineers (USACE). We also reviewed relevant documents associated with the Engineered Arresting structure, reviewed applicable Federal regulations and FEMA guidelines, and performed other procedures we considered necessary to accomplish our deployment objective. Finally, we observed the airport landslide area on April 23, 2015.

We conducted our work pursuant to the *Inspector General Act of 1978*, as amended, in April 2015. The objective of our work was not to audit FEMA or its grant recipients and subrecipients. Therefore, we did not conduct our work or prepare this report in accordance with generally accepted government auditing standards.





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**Appendix B**

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