

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

Costs Claimed by the Port of Los Angeles Under
Port Security Grant Number 2009-PU-R1-0176



American Recovery and Reinvestment Act of 2009

OIG-13-46

February 2013



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

FEB 28 2013

MEMORANDUM FOR: David J. Kaufman
Acting Assistant Administrator
Grant Programs Directorate
Federal Emergency Management Agency

FROM: Anne L. Richards 
Assistant Inspector General for Audits

SUBJECT: *Costs Claimed by the Port of Los Angeles Under
Port Security Grant Number 2009-PU-R1-0176*

Attached for your information is our final letter report, *Costs Claimed by the Port of Los Angeles Under Port Security Grant Number 2009-PU-R1-0176*. We incorporated the formal comments from the Associate Administrator for Policy, Program Analysis and International Affairs in the report.

The report contains one recommendation to resolve the questioned costs. The Associate Administrator concurred with the recommendation. As prescribed by the Department of Homeland Security Directive 077-01, Follow-Up and Resolution for Office of Inspector General Report 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 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 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 Roger LaRouche, Audit Director; Robert Leonard, Audit Manager; Nick Jather, Auditor; and Stephen Doran, Report Referencer.

Attachment



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Background

The *American Recovery and Reinvestment Act of 2009*, as amended (Recovery Act) appropriated \$610 million to the Federal Emergency Management Agency (FEMA) for emergency food and shelter programs, and grants for public transit, port security assistance, and non-Federal fire station construction. FEMA awarded \$150 million of that amount in port security grants to 214 ports, port authorities, ferry systems, and other eligible entities.

The purposes of the FEMA port security grants are to support increased port-wide risk management; enhance domain awareness; and increase capabilities to prevent, detect, respond to, and recover from attacks involving improvised explosive devices, weapons of mass destruction, and other nonconventional weapons.

On September 29, 2009, FEMA awarded a \$6 million grant (number 2009-PU-R1-0176) to the Port of Los Angeles (port) for a port-wide fiber optics project.¹ Reimbursement for eligible project costs is based on the grant agreement; Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*; and FEMA guidance.² As of August 10, 2012, the Port had claimed project costs totaling \$5,703,711. The costs covered the period from September 1, 2009, through June 30, 2012.

The FEMA grant agreement also requires the port to comply with Recovery Act provisions to submit quarterly recipient reports to the Federal Government; pay prevailing wages as determined by the Secretary of Labor; and use steel, iron, and manufactured goods produced in the United States.

Results of Audit

We questioned \$174,060 of the \$5,703,711 claimed by the port. The questioned costs represent costs incurred at the Cabrillo Way Marina (marina) that were transferred to the Port of Los Angeles FEMA grant project. The port could not support the basis for the

¹ The Port of Los Angeles is a proprietary department of the City of Los Angeles and was created by the City Charter to promote and develop a deepwater port facility. It is governed by a five-member Board of Harbor Commissioners, which has the duty to provide for the needs of commerce, navigation, and fisheries for the citizens of California. It operates similar to a private business and is substantially autonomous from the city.

² The Department of Homeland Security's *American Recovery and Reinvestment Act of 2009, Port Security Grant Program, Guidance and Application Kit* of May 2009 contains FEMA guidance for the port security grant program.



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transfer. We also determined that the port fulfilled the requirements for submitting quarterly reports, paying prevailing wages, and complying with the requirement to use manufactured goods produced in the United States. Furthermore, we concluded that the quarterly reports contained adequately supported expenditure and jobs data.

Unsupported Costs – \$174,060

In June 2010, the port paid a contractor \$6,284,867 for work at the marina project. Included in that amount was \$174,060 that the port determined was for homeland security infrastructure. The port issued a journal voucher transferring the \$174,060 from the marina project to the Port of Los Angeles project in January 2011. However, the journal voucher did not indicate why the costs should be funded by the FEMA grant for the Port of Los Angeles.

According to the guidelines in OMB Circular A-87, to be allowable, a cost must be properly documented and be allocable to the Federal award. Also according to the circular, “a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.”

The grant, grant application, and investment justification for the Port of Los Angeles project did not mention any work at the marina. In addition, the construction contract for the work at the FEMA-supported Port of Los Angeles involved the installation of infrastructure by directional drilling across the Main Channel, Consolidated Channel, and Cerritos Channel. The contract did not reference any construction at the marina.

The port’s FEMA grant construction manager told us that he was not sure why the transfer took place. The port’s engineering associate said that she believed the work performed at the marina was allowable under the FEMA grant because the work involved a fiber optics network that would eventually connect to the three channel sites at the Port of Los Angeles. However, without support or adequate justification for the transfer, we were unable to determine whether the \$174,060 of marina costs was applicable to the FEMA grant, and therefore, we questioned the costs.

Recommendation

We recommend that FEMA’s Contracting Officer resolve the \$174,060 of unsupported grant costs.



Management Comments and OIG Analysis

FEMA Comments to the Recommendation

FEMA Concur: To resolve the question of \$174,060 costs pertaining to the fiber infrastructure hardening at the Cabrillo Way marina, FEMA will request that the Port of Los Angeles submit an updated Investment Justification/Project Plan outlining the details of the expansion of the fiber optic communications network in question.

After the Grants Program Directorate's further consideration, FEMA has determined that the expansion of the fiber optic communications network to the Cabrillo Way Marina would be an eligible cost. This expansion aligns with the project's primary purpose of providing a high-speed system that will link the security agencies in charge of protecting the port and, as a result, will provide adequate communications necessary for daily operations, as well as emergency events. Furthermore, this activity clearly aligns with the goals outlined in Port Security Grant Program guidance by providing emergency response organizations with the tools and resources necessary to effectively protect the port area. If the updated proposal submitted by the Port of Los Angeles is acceptable, FEMA will amend its grant to deem the charges for the network expansion an eligible cost.

OIG Analysis

FEMA's proposed corrective action is responsive to the recommendation. However, the recommendation will remain open and unresolved until final implementation of the proposed corrective actions.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

The objectives of this audit were to determine whether costs claimed by the port were allowable, allocable, and reasonable according to the funding agreement and applicable Federal requirements. We also wanted to determine whether the data on expenditure and jobs in the most recent quarterly recipient reports was adequately supported. Our audit covered claimed costs of \$5,703,711 for the period from September 1, 2009, to June 30, 2012. This represents the total amount claimed as of August 10, 2012.

Our tests and procedures included the following:

- Reviewing the Recovery Act, FEMA and OMB guidelines, the FEMA grant, and the port's grant application and investment justification;
- Interviewing FEMA officials to obtain an understanding of the port security grant program;
- Interviewing port officials to obtain an understanding of the grant, grant accounting, and claims for reimbursement;
- Examining port accounting records and supporting documents for the amounts charged to the grant;
- Reviewing the eligibility of the amounts claimed for reimbursement and discussing our findings with port officials;
- Inspecting the project; and
- Reviewing the audit working papers of the certified public accounting firm that performed the single audit of the port for the fiscal year ending June 30, 2011.

The single audit of the port was performed by KPMG LLP and included Recovery Act-funded FEMA grant costs totaling \$287,724 (about 5 percent of claimed costs). The single audit report classified the FEMA grant as a major program subject to financial and compliance testing. The single audit report did not identify any questionable costs related to the grant or any deficiencies in internal controls over financial reporting and compliance with applicable Federal requirements. However, the single audit disclosed two instances of noncompliance with the requirements of OMB Circular A-133. According to the report, (1) the vendor contract files did not have certifications of nonsuspension and debarment and (2) the amount of grant expenditures in the



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December 31, 2010, quarterly report was understated. We determined that the port took corrective action to resolve these two compliance issues.

We limited the scope of our audit of the port's internal controls over grant management based on our review of work performed by the single audit. In providing us access to its audit working papers, KPMG wrote, in part, "... our audit, based on the concept of selective testing, is subject to the inherent risk that material errors or fraud, if they exist, would not be detected.... Also, our use of professional judgment and the assessment of materiality for the purpose of our audit means that matters may have existed that would have been assessed differently by you." Based on issues identified during our preliminary work, we included the costs covered by the single audit in our audit tests.

We tested port records to determine compliance with OMB Circular A-87 and with other terms and conditions of the grant. We considered the port's internal controls over the administration of grant funds in determining our audit procedures.

Our audit was conducted without the benefit of a FEMA technical evaluation of the materials used in the construction of the project; therefore, our conclusions are qualified to the extent that a technical evaluation may affect the allowability of the claimed costs.

We conducted this performance audit between June and September 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 objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based upon our audit objectives.



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Appendix B
Management Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20472



FEMA

DEC 21 2012

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Audits
Office of Inspector General

FROM: David J. Kaufman 
Associate Administrator for
Policy, Program Analysis and International Affairs

SUBJECT: FEMA's Response to **OIG DRAFT REPORT: "Costs Claimed by Port of Los Angeles Under Port Security Grant Number 2009-PU-R1-0176-For Official Use Only"**
OIG Project No. 12-151-AUD-FEMA

The Federal Emergency Management Agency (FEMA) appreciates the opportunity to review and respond to the Office of Inspector General's (OIG) DRAFT REPORT: "Costs Claimed by Port of Los Angeles Under Port Security Grant Number 2009-PU-R1-0176-For Official Use Only": OIG Project No. 12-151-AUD-FEMA. As noted in our response to your recommendation below, FEMA is continuing to work to resolve the issues identified in the audit and we are putting in place a process to avoid similar challenges in the future.

OIG Recommendation 1: We recommend that FEMA's Contracting Officer resolve the \$174,060 of unsupported grant costs.

FEMA Response: Concur

FEMA concurs with the recommendation to resolve the questioned costs pertaining to the fiber infrastructure hardening at the Cabrillo Way Marina.

After further consideration by the Grants Program Directorate (GPD), FEMA has determined that the expansion of the fiber-optic communications network to the Cabrillo Way Marina is an eligible cost. This expansion aligns with the project's primary purpose of providing a high-speed system that will link the security agencies in charge of protecting the port, and as a result providing adequate communications necessary for daily operations as well as emergency events. Furthermore, this activity clearly aligns with the goals outlined within the Port Security Grant Program Guidance by providing emergency response organizations with the tools and resources necessary to effectively protect the port area.

On February 17, 2012, FEMA/GPD issued Information Bulletin No. 379, *Guidance to State Administrative Agencies to Expedite the Expenditure of Certain DHS/FEMA Grant Funding*. One of those provisions outlined within the IB allowed the reprioritization of grant funds, which included but not limited to meeting the following: A grantee may choose to reprogram and

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commit grant funds to an approved project to purchase equipment and/or incur costs that were not previously allowable under grant guidance but that are still within the scope of the previously awarded funds.

The FY 2009 ARRA Port Security Grant Program is administered by GPD concurrent with GPD's administration of the non-ARRA Port Security Grant Program (PSGP) grants. During the course of a typical grant life cycle, it is not uncommon for grantees to re-scope a project. Therefore, after a thorough review of the details associated with this activity, FEMA/GPD believes this action is consistent with current allowability policy and keeping within the spirit and intent of the IB to reprioritize and modify projects to accelerate the spending of FY07 – FY11 grant funding.

FEMA will request that the Port of Los Angeles submit an updated Investment Justification/Project Plan outlining the details expansion of the fiber-optic communications network in question (Cabrillo Way Marina) within 90 days of their receipt of the final report with the grantee notification memorandum. If the proposal is acceptable, FEMA will amend their grant to incur these charges and deem them as an eligible cost.

FEMA requests that this recommendation be considered resolved and open pending the grantee's implementation of this corrective action plan.

Again, we thank you for the opportunity to review and respond to OIG's draft report, which contains recommendations aimed at improving the efficiency of our agency. Should you have any further questions regarding our response, please do not hesitate to call Gary McKeon, FEMA Chief Audit Liaison, at 202-646-1308.



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Appendix C

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