

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

Costs Claimed by Metropolitan Transportation Authority of New York Under Transit Security Grants



American Recovery and Reinvestment Act of 2009

OIG-13-83

April 2013

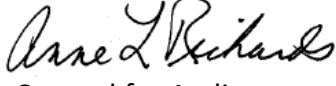


OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

APR 29 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 Metropolitan Transportation Authority of New York Under Transit Security Grants*

Attached for your information is our final letter report, *Costs Claimed by Metropolitan Transportation Authority of New York Under Transit Security Grants*. 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. Based on information provided in your response to the draft report, we consider the recommendation resolved and closed.

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; Karl Gallagher, Audit Manager; Jerome Fiely, Auditor; and Stephen Doran, Report Referencer.

Please call me with any questions, or your staff may contact John E. McCoy II, Deputy Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



Background

The *American Recovery and Reinvestment Act of 2009*, as amended (Recovery Act), appropriated \$610 million to the Federal Emergency Management Agency (FEMA). Of that amount, the Recovery Act allocated \$150 million for Public Transportation Security Assistance and Railroad Security Assistance (Transit Grants) under sections 1406 and 1513 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended (hereinafter referred to as Transit Security Grants).

In 2009, FEMA awarded two Transit Security Grants to the Metropolitan Transportation Authority of New York (Authority):

- Grant No. 2009-RA-R1-0103 for \$11,813,686 for installation of perimeter protection at railroad stations. As of June 30, 2012, the Authority had claimed project costs totaling \$6,755,539 for the period from September 1, 2009, through June 30, 2012.
- Grant No. 2009-RA-R1-0100 for \$35,904,000 to enhance the Nation's transit infrastructure. The Authority subgranted the funds to the New York City Police Department (NYPD) to finance antiterrorist teams. As of June 30, 2012, the Authority had claimed project costs totaling \$17,787,925 for the period from August 1, 2009, through June 30, 2012.

Reimbursement for eligible project costs is based on the grant agreement; Office of Management and Budget (OMB) Circular A-87, Revised, *Cost Principles for State, Local and Indian Tribal Governments*; and FEMA guidance.¹ The FEMA grant agreement also requires the Authority 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 American-made iron, steel, and manufactured goods.

The objective of this audit was to determine whether costs claimed by the Authority were allowable, allocable, and reasonable according to the funding agreement and applicable Federal requirements.

¹ FEMA guidance for the Transit Security Grants is contained in the Department of Homeland Security's *American Recovery and Reinvestment Act of 2009, Transit Security Grant Program, Guidance and Application Kit*, May 2009.



Results of Audit

We determined that costs of \$6,755,539 claimed under Grant No. 2009-RA-R1-0103 were allowable, allocable, and reasonable. The majority of the claimed costs consisted of construction costs for the installation of perimeter protection. Under Grant No. 2009-RA-R1-0100, we questioned \$6,284,342 of the total grant costs of \$17,787,925. The questioned costs are payroll charges for recruits that NYPD hired to replace experienced officers who would be transferred to the antiterrorist teams. The approved grant budget included funds only to pay the antiterrorist teams. We also determined that the Authority fulfilled the requirements for submitting quarterly reports, paying prevailing wages, and complying with the requirement for buying goods manufactured in America. Furthermore, we obtained and reviewed the April 1–June 30, 2011, quarterly report and noted that it contained adequately supported jobs data.

Questionable Costs – \$6,284,342

The Authority claimed NYPD payroll costs totaling \$17,787,925, which included \$11,503,583 for antiterrorism teams and \$6,284,342 for trainees. The trainees' salary costs covered the 6-month period while they were at the training academy (\$4,332,510) and a subsequent 3-month period when they were assigned to transit security before the antiterrorism teams were deployed in the New York Transit System (\$1,951,832). According to NYPD officials, this backfill method was preferred because it avoided placing less experienced officers on the antiterrorism teams. However, the grant agreement did not include funds for training replacement officers.² The approved project provided funding for the straight-time salaries and fringe benefits of the officers assigned to the antiterrorism teams of \$34,812,960 for a 36-month period, and support costs of \$1,091,040. As a result, we questioned the salary costs of the replacement officers totaling \$6,284,342 because the activity was not covered by the grant agreement.

Recommendation

We recommend that FEMA's grant officer resolve the \$6,284,342 of questioned grant costs.

² The conditions of the approved grant agreement incorporate the grantee's Application Kit and approved project budget.



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Potential Monetary Benefits

Classification of Monetary Benefits					
Finding	Rec. No.	Funds To Be Put to Better Use	Questioned Costs – Unsupported Costs	Questioned Costs – Other	Total
Questioned Salary Costs	1		\$6,284,342		\$6,284,342
Total			\$6,284,342		\$6,284,342

Source: OIG.

Management Comments and OIG Analysis

Management Comments: FEMA concurs with the recommendation. FEMA stated that to resolve the questioned costs of \$6,284,342 for new-hire salaries, NYPD supplied a revised Operational Proposal to delineate the costs for new-hire salaries. On September 12, 2012, FEMA approved this amended Operational Proposal and decided to allow the reimbursement of costs for new-hire salaries.

OIG Analysis: We consider FEMA’s actions responsive to the recommendation and consider the recommendation resolved and closed.



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 objective of this audit was to determine whether costs claimed by the Authority were allowable, allocable, and reasonable according to the funding agreement and applicable Federal requirements. Our audit covered claimed costs of \$24,543,464 for the reported period September 1, 2009, through June 30, 2012.

The audit methodology included reviewing FEMA project files, original grant contract and modifications, the Recovery Act, and relevant FEMA and OMB guidelines; interviewing FEMA and Authority officials; examining the Authority accounting records supporting amounts claimed, and reviewing NYPD payroll and accounting procedures.

Also, we reviewed the audit working papers of Deloitte and Touche LLP, the auditing firm that performed the Single Audit of the Authority for the fiscal year ending December 31, 2011, as well as the Single Audit working papers for the City of New York, as it relates to the NYPD subgrant, for the fiscal years ending June 30, 2010, and June 30, 2011. We also tested the Authority records supporting costs claimed to determine compliance with OMB Circular A-87, Revised, and with other terms and conditions of the agreement. We considered the Authority's internal controls over the administration of FEMA funds as well as the internal control work performed by the Single Audit in determining our audit procedures.

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 finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based upon our audit objectives.

Our audit was conducted without the benefit of a technical evaluation by FEMA; therefore, our conclusion is qualified to the extent that a technical evaluation may affect the allowability of claimed costs.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix B
Management Comments

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



FEMA

JAN 04 2013

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

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

SUBJECT: Response to OIG Draft Report: *Costs Claimed by
Metropolitan Transit Authority of New York under
Transit Security Grants Funded by the Recovery Act*
(job code 12-146-AUD-FEMA)

The Federal Emergency Management Agency (FEMA) appreciates the opportunity to review and respond to the Department of Homeland Security (DHS) Office of Inspector General (OIG) Draft Report, *Costs Claimed by Metropolitan Transit Authority of New York under Transit Security Grants Funded by the Recovery Act*. As noted in our response to your recommendation below, FEMA has been working to resolve the issues identified in this audit.

Recommendation: We recommend that FEMA's grant officer resolve the \$6,284,342 of questioned costs.

FEMA Response: FEMA concurs with OIG's recommendation. To resolve the question of the \$6,284,342 costs of new-hire salaries, the NYPD supplied a revised Operational Proposal (enclosed) which clearly delineates those costs for new hire salaries. The re-write now states that:

"The grant would fund newly hired officer costs of full six-month New York Police Department Police Academy Training and a 90-day orientation period in the bureau, including reimbursement of straight-time salary and fringe costs of the 104 newly hired members."

On September 21, 2012 FEMA approved this amended Operational Proposal, and decided to allow the reimbursement of costs for new hire salaries as authorized on Page 24 of FY 2009 *American Recovery and Reinvestment Act of 2009 Transit Security Grant Guidance and Application Kit*, which states:

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Department of Homeland Security

“1. Operational Packages. Three OPacks have been developed to support operational activities. These OPacks are available for funding to eligible transit systems listed in Table 2. Certain law enforcement agencies are also eligible as subrecipients of eligible transit systems. Transit systems that meet the eligibility requirements can apply for funding to support one or more of the three available OPacks through the hiring of new officers. DHS considers OPacks to be effective tactics for supporting the FY 2009 funding priorities of the ARRA TSGP.”

FEMA believes that these actions meet the intent of the recommendation and requests that the recommendation be considered resolved and closed. Again, we thank you for the opportunity to review and comment on the recommendation concerning your final report. Please do not hesitate to contact our Audit Liaison Office point of contact, Gary McKeon at 202-646-1308 with any questions or concerns regarding our response.

1 Enclosure
As stated



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Department of Homeland Security

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American Recovery and Reinvestment Act of 2009 Transit Security Grant Program NYPD Operational Proposals

Under this grant, which is a three (3) year program, the NYPD seeks \$35,904,000 to establish and operate twenty six (26) Anti-Terrorism Teams in the NYC Transit Subway system as well as on NYC Transit Buses. *
Note: While this program funds Operational and Capital projects, this summary serves only to address the NYPD's Operational proposal.

One of the purposes of the American Recovery and Reinvestment Act of 2009 (ARRA) is the creation of jobs. Funding available in the Transit Security Grant Program under the ARRA will accomplish this and at the same time allow the TSGP to continue focusing on the use of visible, unpredictable deterrence through the use of Operation Packages (OPacks); canine teams, mobile explosive detection screening teams, and Anti-Terrorism Teams.

The NYPD's Operational Proposal supports the purposes of the ARRA as follows:

- The NYPD would hire 104 additional police officers to be assigned to the Transit Bureau upon completion of Academy training and bureau orientation.
- The grant would fund newly hired officer costs of full six-month NYPD Police Academy Training, and a 90-day orientation period in the bureau, including reimbursement of straight-time salary and fringe costs of the 104 newly hired members.
- Upon assignment of these new officers to operating districts (post training and orientation) 104 experienced officers from those districts would then be deployed to twenty six (26) newly established "Anti-Terrorism Teams" within the NYPD's Transit Bureau on a full time basis. This backfill method is preferred since it avoids placing new, less experienced officers into the Anti-Terrorism Teams.
- The grant would then fund the total Personnel Service costs of the members of the fully constituted Anti-Terrorism Teams (experienced, reassigned officers), for the remaining period, at costs estimated to be \$58,851,564. The grant would fund **\$34,812,960** of this amount.
- Each Anti-Terrorism team would consist of four uniformed members of the Police Department divided into two elements: overt and covert.
- Each member of the Anti-Terrorism Team would receive the appropriate training, i.e. Plainclothes, Behavioral Indicator, and Surveillance Detection training. Course guides will be printed at an extended cost of \$1,016.
- Funding in the amount of **\$1,090,024** would be used to purchase equipment for each member of all 26 teams. At a cost of \$41,924 per team, the equipment would include heavy ballistic vests, tactical helmets, tactical holsters, covert clothing, and surveillance equipment.
- Teams would be assigned to the NYC Transit Subway system as well as on NYC Transit Buses serving high-volume, main thorough-fares citywide.



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Appendix C
Report Distribution

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The OIG seeks to protect the identity of each writer and caller.