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U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

**AD HOC SUBCOMMITTEE ON DISASTER RECOVERY AND
INTERGOVERNMENTAL AFFAIRS**

OF THE

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE

U.S. SENATE

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Good morning, Mr. Chairman and Members of the Committee. I am Matt Jadacki, Assistant Inspector General for Emergency Management Oversight for the Department of Homeland Security. Thank you for the opportunity to discuss the efforts the Federal Emergency Management Agency (FEMA) has made to recoup improper payments and prevent and deter fraud, waste, and abuse.

Improper payments have been a growing problem for the federal government. Reported improper payments by government agencies have increased significantly from an estimated \$20 billion in 2000 to approximately \$125 billion in 2010. The Congress and the President have brought increased attention to this issue. The Improper Payments Elimination and Recovery Act of 2010 has focused agencies' attention not only toward identifying programs vulnerable to improper payments and estimating the annual error rate of such programs, as called for by the Improper Payments Information Act of 2002, but requiring the agencies to: 1) determine the causes of such improper payments; 2) describe the actions taken or planned to correct these causes; and 3) report the actions taken to recover the improper payments.

A March 2010 Presidential memorandum, *Finding and Recapturing Improper Payments*, states that Executive departments and agencies should use every tool available to identify and reclaim funds associated with improper payments.

Improper Payments in FEMA

Since hurricanes Katrina and Rita, FEMA has disbursed more than \$7 billion dollars in disaster assistance payments under its Individuals and Households Program (IHP). This program provides disaster survivors with financial assistance for temporary housing, home repair, and other needs, such as transportation, moving, and storage expenses.

Last summer, we began a review of FEMA's fraud prevention efforts. During our field work, we learned that FEMA was not attempting to recoup 160,000 individual cases of potentially improper IHP payments totaling approximately \$643 million following hurricanes Katrina and Rita and subsequent disasters.

Many factors resulted in these improper payments. Because of the high volume of applicants following hurricanes Katrina and Rita, FEMA turned off many of its system controls in order to process registrations in a timely manner, allowing thousands of cases of fraudulent and improper payments to occur. Some applicants used vacant lots, post office boxes, and cemeteries as their damaged property address. Others received payments for property damage based on falsified rental agreements with addresses in the damaged area. FEMA also made improper payments based on multiple registrations with the same disaster-damaged addresses.

Staff did not have time to interview all applicants or inspect damaged property prior to providing assistance. In some cases, human error led to improper payments. For example, caseworkers entered incorrect banking information into the National

Emergency Management Information System, resulting in receipt of assistance by non-applicants. In some cases, the applicant's insurance covered the damage or a secondary residence was damaged, thus making the applicant ineligible for assistance. In many cases the applicant was unaware of eligibility rules and the FEMA caseworker did not collect all the necessary information to make a proper determination.

These improper payments were discovered in various ways. Some resulted from audits by our office and the Government Accountability Office. Tips were received by various fraud hotlines from neighbors, as well as federal, state, and local officials. FEMA's Fraud Prevention and Investigation Branch uncovered cases through data mining and calls from law enforcement officers. Still others were found by FEMA staff during reviews of applicant files when assistance needed to be extended or an applicant applied for a second type of assistance.

Of the \$643 million in identified improper IHP payments, \$621.6 million was paid in response to hurricanes Katrina and Rita, and \$21.7 million in response to subsequent disasters. When recoupment begins, FEMA intends to attempt to recoup the newest debt first.

Locating recipients and collecting the improper payments from them may be difficult. Most of the debt is several years old, the money has probably been spent, people have moved, and many recipients may be struggling economically. FEMA officials are concerned with the negative publicity restarting the recoupment process will engender. The Office of Management and Budget has reminded FEMA that the agency is required to pursue the improper payments pursuant to the Debt Collection Act of 1982, as amended.¹ The law also requires FEMA to transfer the debt to the Secretary of the Treasury for collection if the debt is delinquent for more than 180 days.²

FEMA Plans New Recoupment Process

In June 2007, as a result of a lawsuit³ challenging, among other things, FEMA's recoupment of some disaster assistance payments following hurricanes Katrina and Rita, a federal district court judge issued an injunction, ordering FEMA to discontinue its debt collection activities until certain changes were made in its recoupment process. FEMA was prohibited from terminating or discontinuing assistance without advance written notice of the reasons for terminating or discontinuing assistance and was required to notify the parties of their right to appeal FEMA's decisions. The same year, the Department of Homeland Security promulgated department-wide debt collection standards which superseded FEMA's process.

¹ 31 U.S.C. § 3711(a)

² 31 U.S.C. § 3711(g)(1)

³ *Ridgely v. FEMA*, 2007 U.S. Dist. LEXIS 43002 (E.D. La. June 13, 2007).

FEMA complied with the injunction and halted all recoupment activities. FEMA announced in a 2008 Federal Register notice⁴ that:

- Recoupment notices previously sent to individuals were withdrawn;
- The debts were not cancelled; only the former debt collection procedure was terminated;
- All individual cases would be reexamined *de novo* for evidence of overpayment; and
- New recoupment proceedings would be instituted, where warranted, pursuant to the Department's new regulation for the collection of debts.

FEMA's Office of Chief Counsel, in cooperation with the Individual Assistance Office and the FEMA Finance Center, developed a new recoupment process, which has been awaiting approval from the FEMA Administrator since 2008. FEMA personnel are prepared to begin the recoupment process upon instruction from the Administrator.⁵ In November 2010, the Texas National Processing Service Center began the *de novo* reexamination of approximately 160,000 cases.

If the review results in a finding that the payment was in fact proper, the FEMA Finance Center records will be revised and any portion of the debt paid to date will be reimbursed. However, if the reexamination results in a finding that the original payment was improper, a Notice of Debt will be sent to the applicant, advising them of: 1) the amount of the debt owed; 2) the reason(s) why the original payment was improper; and 3) his or her right to appeal FEMA's determination within sixty days. Instructions are provided to the applicant regarding the appeal procedure.

The applicant may request a "paper" hearing and provide documentation to the National Processing Service Center to prove the validity of the payment, or the applicant may request an oral hearing (generally to be accomplished via a telephone call) with an Alternative Dispute Resolution official in FEMA's Office of Chief Counsel. The hearings will form the basis of a Final Agency Determination. If the determination is that no debt is owed, the FEMA Finance Center will be notified of that determination and if the applicant has previously made a partial or full payment, the payment is reimbursed.

If the applicant fails to appeal within sixty days of receipt of the Notice of Debt, or the determination of the hearing is that the debt is owed, the FEMA Finance Center will send a Letter of Intent to the applicant. This Letter notifies the individual that FEMA is now taking further action to collect the debt.

⁴ 73 Fed. Reg., 51831, 51832 (Sept. 5, 2008).

⁵ The injunction was dissolved in 2009 (*Ridgely, et al. V. FEMA, et al.*, E.D. La. 2:07-cv-02146-HGB-ALC (2009)).

The applicant may make the required payment or call the FEMA Finance Center to: 1) negotiate a payment plan; or 2) request a compromise or waiver of part or all of the debt, based on their inability to pay.⁶ If repayment of the debt is not resolved, FEMA forwards the debt to the Department of the Treasury's Financial Management Service for collection.

Future Improper Payment Audit Planned

FEMA has several programs that are considered high risk for significant amounts of improper payments. In the Department of Homeland Security FY2010 Annual Financial Report, FEMA was projected to disburse \$186 million in improper payments in FY2010, \$163 million in FY2011, and \$140 million in FY2012. We plan to review FEMA's high risk programs and report on the actions FEMA is taking to decrease the error rate and dollar value of improper payments associated with these programs.

Fraud Prevention Efforts

It has been well documented that FEMA's disaster assistance programs are susceptible to fraud, waste, and abuse. In 2006, the Government Accountability Office reported improper and potentially fraudulent individual assistance payments between \$600 million and \$1.4 billion to applicants who used invalid information to apply for disaster assistance after hurricanes Katrina and Rita.

FEMA made improvements in internal controls after hurricanes Katrina and Rita and prior to hurricanes Ike and Gustav, which resulted in significant decreases in duplicate, improper, and potentially fraudulent registrations receiving payments. For example, payments for 380,000 duplicate damaged addresses were made following hurricanes Katrina and Rita, but only 4,400 such payments were made following Hurricane Gustav. Payments were made to 700 registrants with invalid Social Security numbers after hurricanes Katrina and Rita, but only 2 such registrants received assistance after Hurricane Gustav. Leading reasons for this improvement include multiple tests by a contractor to check the validity of all registrations for IHP assistance, and in-person inspection of every damaged property to validate damage, occupancy, and ownership.⁷

The Post-Katrina Emergency Management Reform Act of 2006 calls on the FEMA Administrator to ensure that all programs within the agency administering federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse. The Act further requires the Administrator to develop

⁶ Agencies may compromise a debt if the Government cannot collect the full amount because: (1) The debtor is unable to pay the full amount in a reasonable time...; (2) The government is unable to collect the debt in full within a reasonable time by enforced collection proceedings; (3) The cost of collecting the debt does not justify the enforced collection of the full amount; or (4) There is significant doubt concerning the Government's ability to prove its case in court. 31 C.F.R § 902.2(a). Subject to certain exceptions, if a debt is canceled or forgiven, it must be included in gross income for tax purposes. If a federal government agency cancels or forgives a debt of \$600 or more, the agency will issue a Form 1099-C.

⁷ *Improvements to Internal Controls for FEMA's Individuals and Households Program Registration Process* (Redacted), OIG-09-110, September 2009.

and implement a program to provide training on the prevention of fraud, waste, and abuse of federal disaster relief assistance relating to the response to or recovery from natural disasters.

We will soon be issuing a report on FEMA's fraud prevention efforts. After a series of hurricanes struck Florida in 2004, the Florida recovery office established a fraud prevention office, now called the Fraud Prevention and Investigation Branch. This office has referred cases of potential fraud to the DHS Office of Inspector General, and has stopped disbursements of assistance to ineligible recipients. However, the office's physical location in Florida, limited resources and authority, distance from the Office of the Administrator, and a general lack of awareness of its existence throughout FEMA, has restricted its ability to detect and prevent fraud.

It is critical that FEMA employees assist disaster survivors as promptly as possible, but FEMA also needs to ensure the assistance is provided only to eligible recipients and in the proper amounts. We believe that the required fraud prevention training program, which has not yet been instituted, will help to raise fraud prevention awareness throughout the agency and lead to increases in the prevention, detection, and deterrence of waste, fraud, and abuse. FEMA also needs to begin the recoupment process, as required by law, to return taxpayer dollars that were improperly provided. Further delay will only make these aging debts more difficult to collect.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions you or the Committee members may have.