



EMA-OH607 Public Assistance Damage Assessment and Cost Documentation Course Delivered by the Ohio Emergency Management Agency Disaster Recovery Branch

Course Description: This workshop introduces students to the FEMA Public Assistance (PA) Program by addressing the basics of damage assessment, cost documentation and procurement. The FEMA PA Program provides financial assistance to state and local governments and certain private non-profit organizations for emergency work and infrastructure repairs/replacement following natural disasters. This workshop is designed for record keepers, administrative and fiscal personnel responsible for cost documentation and/or procurement.

Course Presenter: If you have questions regarding this course, please contact Laura Adcock, Branch Chief, at 614-799-3667 or ladcock@dps.ohio.gov

Time of Course: Course Time: Approximately four hours

Location: Generally hosted by a County EMA Office

There are no pre-requisites for this course.

Target Audience: Local/state governments and/or private nonprofit organizations with facilities for emergency, medical, educational, utility, custodial care or other types of facilities that provide a governmental type service open to the general public.

Enrollment: Students must enroll via the Department of Public Safety Training Campus website: <https://trainingcampus.dps.ohio.gov/cm/cm710/pstc/pstc.html>. Students experiencing difficulty enrolling should call Ohio EMA Training at (614) 799-3666 / 3824 for assistance with registration. Course registration will generally close 10 working days prior to the course start date. You can check your enrollment / approval status via the Department of Public Safety Training Campus website.

Lodging & Per Diem Information:

Lodging, Meals, Per Diem and all other travel expenses are the responsibility of the student or the parent organization.

The Ohio EMA Training Catalog is located at <http://ema.ohio.gov/Training.aspx> provides additional information.

State Point of Contact: Susan Traylor, State Training Officer, Ohio Emergency Management Agency, (614) 799-3666, sctraylor@dps.ohio.gov



COURSE OBJECTIVES

- Introduction to Public Assistance (PA)
- Basics of Cost Documentation
- Documenting Contractual Services
- Appeals, Audits and Records Retention

FEMA has a new delivery model that focuses on greater customer service and transparency

Failure to properly document and procure are the most numerous audit findings issued by the Department of Homeland Security Office of Inspector General.

Attached is the OIG's Audit Tips for Managing Disaster-Related Project Costs

Audit Tips for Managing Disaster-Related Project Costs





DHS OIG HIGHLIGHTS

AUDIT TIPS FOR MANAGING DISASTER-RELATED PROJECT COSTS

**September 29,
2017**

Why We Did This

Using this report will assist recipients and subrecipients of Federal Emergency Management Agency (FEMA) disaster assistance grants to:

- document and account for disaster-related costs;
- minimize the loss of FEMA disaster assistance funds;
- maximize financial recovery; and
- prevent fraud, waste, and abuse of disaster funds.

The revised report is effective for all emergencies and major disasters declared on or after April 1, 2017.

For Further Information:

Contact our Office of Public Affairs at (202) 254-4100, or email us at

DHS-OIG.OfficePublicAffairs@oig.dhs.gov

Key Points to Remember

- Designate a person to coordinate the accumulation of records.
- Establish a separate and distinct account for recording revenue and expenditures, and a separate identifier for each distinct FEMA project.
- Ensure that the final claim for each project is supported by amounts recorded in the accounting system.
- Ensure each expenditure is recorded in the accounting books and is referenced to supporting source documentation (checks, invoices, etc.) that can be readily retrieved.
- Research insurance coverage and seek reimbursement for the maximum amount. Credit the appropriate FEMA project with that amount.
- Check with your Federal Grant Program Coordinator about the availability of funding under other Federal programs and ensure that the final project claim does not include costs that another Federal agency funded or should have funded.
- Ensure that materials taken from existing inventories for use under FEMA projects are documented by inventory withdrawal and usage records.
- Ensure that expenditures claimed under the FEMA project are reasonable and necessary, are authorized under the scope of work, and directly benefit the project.
- Ensure proper grant administration is established and enforced throughout the duration of the grant.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

September 29, 2017

MEMORANDUM FOR: All Recipients and Subrecipients of
Disaster Grant Awards from the
Federal Emergency Management Agency

FROM: John E. McCoy II
Acting Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Audit Tips for Managing Disaster-Related
Project Costs*
Report Number OIG-17-120-D

The Department of Homeland Security (DHS) Office of Inspector General (OIG) prepared this report to provide recipients and subrecipients (grantees and subgrantees) of Federal Emergency Management Agency (FEMA) Public Assistance and Hazard Mitigation grant funds examples of previous audit findings. The purpose of this report was not to audit FEMA or its grant recipients and subrecipients. Therefore, we did not prepare it in accordance with generally accepted government auditing standards.

Rather, this report provides an overview of OIG responsibilities; roles of FEMA, recipients, and subrecipients; applicable disaster assistance Federal statutes, regulations, and guidelines; the audit process and frequent audit findings; and tips for managing project costs. Using this report should assist disaster assistance recipients and subrecipients to:

- document and account for disaster-related costs;
- minimize the loss of FEMA disaster assistance funds;
- maximize financial recovery; and
- prevent fraud, waste, and abuse of disaster funds.

We prepared this report in accordance with our leadership, coordination and policy responsibilities to promote economy and efficiency, and to deter waste, fraud and abuse, with respect to DHS programs.¹ This report does not constitute legal advice, but is designed to be a resource. It is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law by any party or litigant.

¹ 5 U.S.C. app. §§ 2(2), 4(a)(3)(4).



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Background

More than 152,900 recipients and subrecipients of FEMA disaster assistance grants are currently working on about 653,000 open projects worth over \$68 billion. Under the Public Assistance (PA) Program, FEMA provides grants to state, tribal, and local governments, and private nonprofit organizations so that communities can quickly respond to and recover from major disasters. FEMA's Hazard Mitigation Grant Program provides funding to some of the same entities to implement long-term measures to prevent damages from future disasters.

Each year, OIG audit reports reveal significant issues representing millions of dollars of Federal funds allocated for disaster assistance and recovery efforts. These reports also contain recommendations to protect the integrity of and improve FEMA's disaster assistance operations.

The majority of our grant audits focus on FEMA's PA and Hazard Mitigation grant programs (HMGP), funded from the Disaster Relief Fund. Under the PA Program, FEMA provides grants to state, tribal and local governments, and certain types of private nonprofit organizations so that communities can quickly respond to and recover from major disasters. FEMA's HMGP provides funding to the same entities to implement long-term measures to prevent damages from future disasters.

Overview of the Office of Inspector General

The *Homeland Security Act of 2002* established the OIG in DHS by amendment to the *Inspector General Act of 1978* (P.L. 95-452). The OIG serves as an independent office to promote economy, efficiency, and effectiveness; to prevent waste, fraud, and abuse; and to keep Congress and the Secretary of DHS fully informed of problems in DHS programs and operations. The principal functions of the OIG are to:

- perform or oversee audit and investigative functions relating to programs and operations of DHS;
- inspect department activities to identify actual or potential fraud, waste, abuse, or mismanagement, and to develop recommendations for corrective action; and
- investigate allegations of illegal, unethical, or other activities that may lead to civil or criminal liability on the part of DHS or its employees, contractors, or program participants.

Roles of FEMA, Recipients, and Sub-Recipients

FEMA awards PA and HMGP grants to assist state, tribal and local governments, and certain types of private nonprofit organizations with disaster



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relief and long-term hazard mitigation measures. These programs are administered through a coordinated effort between FEMA, the recipient (i.e. states or tribal governments), and the subrecipient (i.e. local or tribal governments, and eligible non-profit entities).² While all three entities must work together to meet the overall program objective, each has a different role.

FEMA is responsible for managing and administering the Federal award in a manner to ensure Federal funds are expended and programs are implemented in full accordance with Federal regulations and FEMA policy. Both FEMA and the recipients share the responsibility for making grant funds available to the subrecipients. FEMA approves the scope of work for the grants and provides technical assistance to the recipient, while the recipient disburses the grant funds, manages the grant, monitors the day-to-day activities, and provides technical assistance to the subrecipient. The subrecipient must complete eligible disaster work, maintain accounting records, document and monitor work performed, trace costs incurred, and adhere to Federal regulations and FEMA guidelines.

Applicable Federal Statutes, Regulations, and Guidelines

Federal grant recipients and subrecipients are responsible for understanding and complying with a large amount of criteria applicable to FEMA disaster grants, which include those for public assistance and hazard mitigation. Some help in responding to and recovering from a disaster, and others help in receiving and managing Federal funds. One of the most important criteria is Title 44 Code of Federal Regulations (CFR), which contains rules for implementing the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended (*Stafford Act*). These rules govern disaster relief operations. Title 44 CFR is available at the following website:

<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

Another very important criterion is Title 2 CFR Part 200: *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (“Super Circular” or “Omni Circular”). The purpose of the uniform guidance was to streamline the Federal government’s guidance on administrative requirements, cost principles, and audit requirements to effectively focus Federal resources on improving performance and outcomes, while insuring financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. The uniform guidance supersedes 44 CFR Part 13, and Office of Management and Budget (OMB) Circulars A-102, A-110, A-87, A-21,

² Generally, the State for which the major disaster is declared is known as the recipient. However, an Indian Tribal government may choose to be a recipient, or it may act as a subrecipient under the State (44 CFR 206.431). In 2013, the Sandy Recovery Improvement Act (SRIA), allowed tribal governments acting as recipients to directly seek *Stafford Act* assistance from the President in the event of a disaster.



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A-122 and A-133 **for all FEMA awards made on or after December 26, 2014.**

Title 2 CFR Part 200 is available at the following website:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl.

For all FEMA awards made before December 26, 2014, the following OMB circulars apply (<https://www.whitehouse.gov/omb/information-for-agencies/circulars>):

- OMB Circular A-102, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*. [FEMA codified these requirements, also referred to as the “Common Rule,” at 44 CFR Part 13.]
- OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*. See 2 CFR, Part 215, January 1, 2012.
- OMB Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*. See 2 CFR, Part 225, January 1, 2012.
- OMB Circular A-21, *Cost Principles for Educational Institutions*. See 2 CFR, Part 220, January 1, 2012.
- OMB Circular A-122, *Cost Principles for Non-Profit Organizations* (excludes hospitals). See 2 CFR, Part 230, January 1, 2012. [According to 2 CFR 215.27, the allowability of costs that hospitals incur “is determined in accordance with the provisions of Appendix E of 45 CFR part 74, *Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.*”]
- OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*.

In April 2017, FEMA’s Public Assistance Division published the second edition of the Public Assistance Program and Policy Guide (PAPPG), which is effective for all emergencies and major disasters declared on or after April 01, 2017.³ The PAPPG is comprehensive consolidation of program and policy documents for the PA program. This guide supersedes many of the previous PA publications and individual policy documents (e.g. 9500 series policy statements). The PAPPG will assist recipients and subrecipients in better understanding the PA and Hazard Mitigation grant programs. The PAPPG is available at the following website:

<https://www.fema.gov/public-assistance-policy-and-guidance>.

For all FEMA awards made before April 01, 2017, the following FEMA policies and guidelines still apply:

- FEMA 321, *Public Assistance Policy Digest* (January 2008),

³ The first edition of FEMA’s PAPPG was published in January 2016 and effective for all emergencies and major disasters declared on or after January 01, 2016 through April 01, 2017.



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- FEMA 322, *Public Assistance Guide* (June 2007),
- FEMA 323, *Public Assistance Applicant Handbook* (March 2010),
- FEMA 325, *Public Assistance Debris Management Guide* (July 2007),
- FEMA 327, *Debris Monitoring Guide* (October 2010), and
- FEMA Disaster Assistance Policy (9500 series policy statements).

However, the PAPPG did not supersede the following policies and guidelines:

- FEMA 329, *Debris Estimating Field Guide* (September 2010),
- Hazard Mitigation Assistance (HMA) Unified Guidance, and
- Public Assistance Policy on *Stafford Act* Section 705 (FP-205-081-2, March 31, 2016).⁴

The policies listed above are available at the following websites:

<http://www.fema.gov/publications-archive> and <https://www.fema.gov/public-assistance-policy-and-guidance>

The *Sandy Recovery Improvement Act of 2013* (P.L. 113-2) amended Title IV of the *Stafford Act*. Specifically, the law adds section 428, which authorizes alternative procedures for the PA Program under sections 403(a)(3)(A), 406, 407, and 502(a)(5) of the *Stafford Act*. It also authorizes FEMA to implement the alternative procedures through a pilot program. The program will remain in place until FEMA promulgates and adopts revised regulations that reflect the program changes the law authorizes. Information is available at the following website: <https://www.fema.gov/alternative-procedures>

The alternative procedures pertain to debris removal (emergency work) and repair, restoration, and replacement of disaster-damaged public and private nonprofit facilities (permanent work). Participation in the alternatives procedures is voluntary.

The goals of the alternative procedures are to:

- reduce the costs to the Federal Government of providing public assistance,
- increase flexibility in the administration of such assistance,
- expedite the provision of assistance to an applicant, and
- provide financial incentives and disincentives for timely and cost effective completion of a project.

⁴ This policy establishes guidelines under Section 705 (*Disaster Grant Closeout Procedures*) to determine whether Section 705 applies to prohibit FEMA from recovering payments made under the PA program.



The Audit Process and Frequent Audit Findings

The OIG considers several factors to determine which activities to audit. These factors include:

- the risk of fraud, waste, and abuse of Federal funds;
- statutory and regulatory requirements;
- current or potential dollar magnitude;
- requests from congressional, FEMA, or state officials; and
- reports/allegations of impropriety or problems in implementing FEMA programs.

Traditionally, the OIG conducted most of its disaster grant audits after communities completed the majority or all of the work to determine whether they had accounted for and expended FEMA funds according to Federal requirements. However, in 2013, the OIG implemented a more proactive approach to auditing to place greater emphasis on prevention and early detection. This approach considers the entire life cycle of grant awards. Currently, the OIG has ongoing disaster grant audits that consist of (1) “capacity” audits that start usually within a year of the disaster; or (2) “early warning” audits that start before communities have begun work on most permanent projects. These audits identify areas where grant recipients may need additional technical assistance or monitoring to ensure compliance with Federal requirements. In addition, by undergoing an audit early in the grant cycle, grant recipients have the opportunity to correct noncompliance before they spend the majority of their grant funding. It also allows them the opportunity to supplement deficient documentation or locate missing records before too much time elapses.

Frequent Audit Findings (examples)

A. Improper Procurement Practices

Criteria: According to Federal regulations (2 CFR 200.318 to .326), all non-Federal entities (other than states) must comply with the following procurement standards:⁵

- Conduct all procurement transactions in a manner providing full and open competition consistent with the standards of this section (2 CFR 200.319(a)). Noncompetitive procurement may be used under certain circumstances, one of which is when the public exigency or emergency will not permit a delay resulting from competitive solicitation (2 CFR 200.320(f)(2)).

⁵ States must follow the same policies and procedures they use for procurements using non-Federal funds (2 CFR 200.317).



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- Take all necessary affirmative steps to assure the use of minority businesses, women's business enterprises, and labor surplus area firms when possible (2 CFR 200.321)).
- Maintain oversight to ensure contractors perform according to the terms, conditions, and specifications of their contracts or purchase orders (2 CFR 200.318(b)).
- Maintain written standards of conduct covering conflicts of interest and governing the performance of its employees who engage in the selection, award, and administration of contracts (2 CFR 200.318(c)(1)).
- Maintain records sufficient to detail the history of the procurement. These records will include, but are not limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (2 CFR 200.318(i)).
- Use time-and-material-type (T&M) contracts only after determining that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of (1) the actual cost of materials; and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit (2 CFR 200.318(j)(1)).
- Perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications (2 CFR 200.323(a)).
- Negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed (2 CFR 200.323(b)).
- Do not use cost-plus-a-percentage-of-cost and percentage-of-construction-cost methods of contracting (2 CFR 200.323(d)).
- Ensure required bonds are included in construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (2 CFR 200.325).
- Include required provisions in all contracts awarded as outlined in Appendix II in Part 200 (2 CFR 200.326).

Finding 1. Competition and Disadvantaged Firms. The subrecipient received a PA grant award that included \$6.1 million for disaster-related debris removal and permanent electrical repair work. The subrecipient solicited bids for the work only from contractors that it had used before the disaster. As a result, full and open competition did not occur and FEMA had no assurance that contract costs were reasonable or that small and minority firms, women's business enterprises, and labor surplus area firms had an opportunity to bid on the work. As part of the audit, subrecipient officials stated that they procured the contracts under exigent circumstances. The OIG determined that the subrecipient had restored electrical power to almost all of its customers. After such time, exigent circumstances no longer existed to warrant the use of noncompetitive contracts. The OIG also determined that because the



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solicitation of bids came from a limited number of contractors, full and open competition did not occur. Therefore, the OIG questioned \$6.1 million because the subrecipient did not meet Federal procurement standards for competition.

Clarification on Exigent versus Emergency: Subrecipients may use procurement through a noncompetitive proposal method when the public *exigency* will not permit delays that could result from competitive solicitation 2 CFR 200.320(f)(2).

Exigent is not necessarily the same as emergency, even though often used interchangeably. The general definition of exigent is a situation requiring immediate aid or action.⁶ An emergency represents an unforeseen combination of circumstances.⁷ A key distinction is that exigent circumstances represent those actions required to protect lives and property at the immediate outset of an emergency event.

Examples Illustrating the Meaning of Exigency and Emergency

Emergency. A tornado impacts the City of X and causes widespread and catastrophic damage, including loss of life, loss of power, damage to public and private structures, and millions of cubic yards of debris across the City, leaving almost the entire jurisdiction inaccessible. The City needs to begin debris clearance activities immediately to restore access to the community and support search and rescue operations and power restoration.

Exigency. A tornado impacts the City of X in June and causes widespread and catastrophic damage, including damage to a City school. The City wants to repair the school and have it ready for the beginning of the following school year in September. The City estimates, based on past experience, that the sealed bidding process will take at least 90 days, and the City's engineer estimates that the repair work would take another 60 days. This would bring the project completion to well after the beginning of the school year. Rather than going through sealed bidding, the City—in compliance with State and local law—wants to solicit bids from five contractors that have previously constructed schools in the State and award the contract to the lowest bidder among those five. This would be an example of an “exigency” for the purposes of 2 CFR 200.320 (f)(2), such that sealed bidding would be infeasible under the circumstances and the use of some other procurement method was necessary based on the particular situation.

Source: *Field Manual, Public Assistance Grantee and Subgrantee Procurements Requirements, FEMA Office of Chief Counsel, Procurement Disaster Team, p.76 (December 2014)*

⁶ "Exigent" - (1) requiring immediate aid or action (Merriam-Webster.com, Accessed August 28, 2017, <http://www.merriam-webster.com/dictionary/exigent>)

⁷ "Emergency" - (1) an unforeseen combination of circumstances (Merriam-Webster.com, Accessed August 28, 2017, <http://www.merriam-webster.com/dictionary/emergency>)



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Finding 2. Use of T&M Contracts. The subrecipient used a T&M contract, which was not appropriate for the construction work performed, and did not include a not-to-exceed amount or cost ceiling. In addition, the contract included prohibited markups based on a percentage of costs. By definition, T&M contracts provide for acquiring supplies or services on the basis of (1) direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit and (2) materials at cost, including, if appropriate, material handling costs. The T&M rates in the contract already included profit and overhead, yet the contractor charged markups of 15 to 33 percent on top of its T&M rates. Additionally, the subrecipient did not perform any cost or price analysis for the contract. As a result, the contractor had no incentive to contain project costs. In fact, markups as a percentage of costs provide contractors a disincentive to save costs because higher costs lead to higher profits. Therefore, the OIG questioned \$1.2 million in T&M contract costs because the subrecipient did not follow Federal procurement standards.

Finding 3. Competition and Cost Analysis. The subrecipient did not openly compete a contract totaling \$4.1 million for the replacement/repair of pump stations and electrical components. Instead, the subrecipient used a contractor with which it had a business relationship before the disaster. In addition, the subrecipient accepted the contractor's proposed prices without performing an independent analysis of the prices to ensure reasonableness. Finally, the subrecipient did not take the required steps to assure the use of small businesses, minority owned firms, women's business enterprises, and labor-surplus area firms when possible. Therefore, FEMA has no assurance that these types of firms had adequate opportunities to bid on federally funded work as Congress intended. Therefore, the OIG questioned \$4.1 million because the procurement did not comply with Federal requirements.

Finding 4. Restricting Competition. The subrecipient used a shared services agreement with a regional planning commission to procure two debris removal contracts totaling \$2.5 million that did not fully meet Federal requirements. When advertising for the debris removal contracts, the regional planning commission unreasonably restricted competition by not allowing smaller contractors to compete for the work. For both debris removal contracts, the regional planning commission's procurement practices also did not take the specific steps that Federal regulations require to provide opportunities for small and minority businesses, women's business enterprises, and labor surplus area firms to bid on federally funded work when possible. The OIG recommended FEMA disallow as ineligible \$2.5 million for the two contracts that the subrecipient awarded using the regional planning commission's procurement services.

Federal regulations encourage grant recipients to enter into state and local intergovernmental agreements to foster greater economy and efficiency and



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promote cost-effective use of shared services across the Federal Government (2 CFR 200.318(e)). These state and local intergovernmental agreements are made possible through cooperative purchasing programs. A cooperative purchasing program streamlines the procurement process by providing competitively priced contracts for goods and services. While Federal regulations encourage shared services agreements, this does not relieve the grant recipient or subrecipient of its responsibility to follow Federal procurement requirements.

B. Unsupported Costs

Criteria: Federal cost principles (2 CFR 200.403(g)) require recipients and subrecipients to adequately document costs that they claim under Federal programs. OMB Circular A-122, Attachment A, (A)(2)(c), require recipients and subrecipients to be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the organization.

Finding 1. *Inadequate Documentation.* The subrecipient could not provide adequate documentation to support \$194,000 in labor costs it claimed for seven large projects. The subrecipient's support for its labor costs consisted of a single line item in its costs summary labeled as "Salary." The subrecipient's supporting documentation did not identify the names of the employees who performed the disaster-related work, when they completed the work, or the number of hours they worked. As a result, the subrecipient could not support the accuracy of the costs it claimed for labor. Therefore, the OIG questioned \$194,000 as unsupported.

Finding 2. The subrecipient's claim included \$300,000 for labor costs. However, the subrecipient provided time sheets and payroll registers to support only \$275,000. The OIG questioned the unsupported difference of \$25,000.

C. Poor Project Accounting

Criteria: Federal regulations (2 CFR 200.302 and 44 CFR 206.205) require recipients and subrecipients to maintain a system that accounts for FEMA funds on a project-by-project basis. The system must disclose the financial results for all FEMA-funded activities accurately, currently, and completely. It must identify funds received and disbursed, and reference source documentation (i.e., canceled checks, invoices, payroll, time and attendance records, contracts, etc.).

Finding 1. *Accounting for Costs on Project-by-Project Basis.* The subrecipient did not account for expenditures for its \$15 million grant on a project-by-project basis, as Federal regulations require. The subrecipient could not separate disaster-related costs by project, but rather set up a single account within its automated accounting system designated as the "flood disaster" account. That single account commingled eligible disaster-related



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expenditures with non-eligible expenditures. Further, the subrecipient did not maintain any other systems such as spreadsheets or project files that separately accumulated all project costs on a project-by-project basis. Therefore, the OIG questioned the entire \$15 million grant because the costs were not auditable by project.

Finding 2. Inadequate Accounting Entries to Support Claim. The subrecipient's journal of project expenditures did not contain references to payroll or daily activity reports that supported claimed payroll expenditures of \$950,000 charged to the FEMA project. Although the subrecipient had timesheets to support the labor, the OIG could not trace expenditures for labor to supporting documents nor verify the claimed costs and, therefore, questioned the entire \$950,000 claim for labor.

D. Duplication of Benefits

Criteria: Section 312 of the *Stafford Act* (see also 44 C.F.R. § 206.191) prohibits duplication of benefits. In other words, a subrecipient cannot receive disaster funding for activities covered by insurance benefits, other Federal programs, or any other source.

Finding 1. Notice of Insurance Proceeds. The subrecipient claimed and received \$200,000 to repair a fence, replace dirt, and construct a retaining wall at a baseball park facility. However, the subrecipient had insurance coverage that it had not disclosed to FEMA, and received \$220,000 from its insurance carrier for the same damages. Therefore, the OIG questioned the \$200,000 of FEMA funding received for damages that insurance covered.

Finding 2. Notice of Insurance Proceeds and Other Federal Grant Funds. The subrecipient's claim included \$238,000 of duplicate benefits. The subrecipient claimed \$140,000 of costs that insurance also covered and \$98,000 to replace asphalt and perform road repairs that the U.S. Department of Housing and Urban Development (Community Block Development Program) paid for the same road repairs. The subrecipient disagreed with this finding, saying that they used the insurance and U.S. Department of Housing and Urban Development proceeds for road repairs that FEMA did not fund. However, the subrecipient did not provide the OIG with documentation to support their assertions. Therefore, the OIG questioned \$238,000 of ineligible duplicate benefits the subrecipient claimed.

E. Excessive Equipment Charges (applicability may vary with hazard mitigation projects)

Criteria: Federal regulations (44 CFR 206.228) require that subrecipients use the FEMA schedule of equipment rates or their local rates, whichever are lower when they use their own equipment. Subrecipients that do not have local



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established rates must use the FEMA equipment rates when claiming costs under a FEMA project.

Finding 1. Incorrect Use of Equipment Rates. The subrecipient claimed \$78,348 for the use of bucket trucks based on the FEMA rate of \$24 per hour (3,264.5 hours x \$24 per hour). However, the subrecipient's local equipment rate for bucket trucks was \$16 per hour, or \$8 less than the FEMA rate. Therefore, the OIG questioned \$26,116 (3,264.5 hours x \$8) of excess charges.

Finding 2. Overstated Equipment Charges. The subrecipient overstated its claim for equipment by \$964,756. It claimed \$1,569,593 for equipment use based on the FEMA Schedule of Equipment Rates. However, the subrecipient should have based its claim on actual equipment costs recorded in its accounting system, which would have resulted in total equipment costs of \$604,837 or \$964,756 less than the amount claimed. The subrecipient's recorded equipment costs contained all the cost elements included in the FEMA equipment rates for operation of the equipment such as fuel, insurance, maintenance, depreciation, etc. The OIG noted that the subrecipient used the recorded equipment costs to support equipment use in requests for construction work financing from the U.S. Department of Agriculture, Rural Utilities Service. However, when calculating its claim for equipment use under the FEMA projects, the subrecipient used the FEMA equipment rates, which resulted in the subrecipient receiving \$964,756 more than its actual costs of operating the equipment. Therefore, the OIG questioned the \$964,756 of excessive equipment charges.

F. Excessive Labor and Fringe Benefit Charges

Criteria: According to Federal cost principles (2 CFR 200.403(c)), allowable costs must be consistent with policies and procedures that apply uniformly to both Federal awards and other activities of the non-Federal entity. Additionally, according to 44 CFR 206.228(a)(2)(iii), straight- or regular-time salaries and benefits of permanent employees engaged in emergency work (other eligible emergency protective measures) are not eligible for PA funding.

Finding 1. Incorrect Use of Fringe Benefit Rates. The subrecipient claimed \$50,000 for overtime fringe benefits based on a fringe benefit rate of 23.55 percent. However, the rate included the cost of worker's compensation, which is not applicable to overtime. The subrecipient should have based its claim on a rate of 10 percent, which would have resulted in charges of \$21,231. Therefore, the OIG questioned \$28,769 that the subrecipient received, but to which it was not entitled.

Finding 2. Overstated Labor Charges. The subrecipient's claim included \$19,000 in excess force account labor costs not based on the subrecipient's written compensation policy in effect before the disaster. The \$19,000 of



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excessive costs occurred because the subrecipient paid double time for all hours worked, including regular hours, when an employee worked 16 consecutive hours during a work period. However, according to the subrecipient's compensation policy and labor union contract, employees who work between 8 and 16 consecutive hours during a work period receive pay at time-and-a-half rates, and all hours greater than 16 would be paid at double-time rates. Therefore, the OIG questioned the \$19,000 of excessive force account labor costs that were not consistent with the subrecipient's established compensation policy.

G. Unrelated Project Charges

Criteria: According to Federal cost principles (2 CFR 200.403(a)), charges to Federal grants must be necessary and reasonable for the performance of the Federal award. In addition, to be eligible for FEMA funds, an item of work must be required because of the major disaster event (44 CFR 206.223). Therefore, the subrecipient must substantiate that its claimed costs directly relate to the disaster. The subrecipient must also establish a clear relationship between claimed costs and the scope of work recorded on a project worksheet.

Finding 1. Non-Disaster Related Costs. The subrecipient claimed \$267,000 for materials (\$254,000 for transformers and \$13,000 for utility poles) that it used for non-disaster-related repairs. However, the OIG determined that the subrecipient did not use either the \$254,000 of costs for the transformers or the 13,000 for utility poles for disaster purposes. The non-disaster claim of \$254,000 for transformers occurred because the subrecipient based its claim on invoices for all transformers purchased after the disaster. The non-disaster claim of \$13,000 for utility poles occurred because the subrecipient did not adjust its inventory for, and inadvertently included costs for poles it used on a non-disaster work order in its claim. The subrecipient later adjusted the inventory, but did not credit the FEMA project. Therefore, the OIG questioned the \$267,000 of non-disaster-related costs charged to the project.

H. Unapplied Credits

Criteria: According to Federal cost principles (2 CFR 200.406), credits accruing to or received by a non-Federal entity that relate to allowable costs must be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

Finding 1. Overstated Claim. The subrecipient overstated its claim under several projects because it did not reduce project costs for \$42,000 of credits received on fuel and material costs and proceeds from sales of scrap. Therefore, the OIG questioned \$42,000, as unapplied credits.



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I. Direct Administrative Costs

Criteria: Federal regulations (44 CFR 207.5) and FEMA’s PAPPG, identify “section 324 management costs,” and other grant management and administrative costs that are eligible under the PA Program. The Policy also clarifies the process through which recipients and subrecipients can request reimbursement for these costs. Federal regulations and FEMA policy state:

- Direct Administrative Costs (DAC) include costs that can be tracked, charged, and accounted for directly to a specific eligible project, such as staff time to complete field inspection and preparation of a project worksheet (FEMA Policy 104-009-2, Chapter II, section V.N.2, April 2017).
- Indirect Costs are costs a recipient incurs for a common or joint purpose benefiting more than one cost objective that are not readily assignable to the cost objectives specifically benefited (44 CFR 207.2).
- Indirect costs may not be charged directly to a project or reimbursed separately, but are considered to be eligible management costs (44 CFR 207.6(b)).
- Management Costs are any indirect costs, administrative expenses, and any other expenses that a recipient or subrecipient reasonably incurs in administering and managing the PA grant that are not directly chargeable to a specific project, but are reasonably incurred in the administration of the grant award (44 CFR 207.2).
- Pass-through funds are the percentage or amount of management costs that the grantee (recipient) determines it will make available to the subgrantees (subrecipients) (44 CFR 206.207(b)(1)(iii)(K)).
- Costs must be necessary and reasonable to be allowable under Federal awards (2 CFR 200.403(a)).

According to Chapter II, section V. N.1 and N.2 of the PAPPG, recipients and subrecipients cannot charge costs to a project if it previously allocated similar costs for the same purposes in like circumstances to indirect costs. Direct costs may be appropriate only if they meet all of the following conditions:

- Administrative or clerical services are integral to a project or activity;
- Individuals involved are specifically identified with the project or activity;
- Such costs are explicitly included in the budget for the project or have FEMA’s prior written approval; and
- The costs are not recovered as indirect costs.

Finding 1. Cost Allocations. The subrecipient claimed \$2,272,675 as direct administrative costs, but could not track the costs separately to specific projects. The subrecipient allocated its administrative, travel, and per diem costs over all the projects. The OIG questioned the \$2,272,675 because the subrecipient could not trace the costs directly to specific projects; therefore, the



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costs were indirect costs incurred for a common purpose. Although allocating administrative costs over all the projects may have been acceptable for project formulation (initial estimation of project cost) and/or to expedite the funding process, it is not acceptable for claiming direct administrative costs.

Finding 2. Contractor Direct Administrative Costs. The subrecipient claimed \$590,847 in ineligible direct administrative costs that included indirect activities (such as attending disaster briefings and completing preliminary cost estimates) and billings above contracted rates. This occurred because subrecipient officials did not consistently monitor contractor performance to ensure contractors completed eligible work based on contracted rates. Also, the subrecipient did not follow FEMA's guidance on direct administrative costs allowances. As a result, the OIG questioned \$590,847 as ineligible DAC.

J. Obtain and Maintain Insurance

Criteria: Section 311 of the *Stafford Act* requires applicants of disaster assistance to obtain and maintain such types and extent of insurance as may be reasonably available, adequate, and necessary, to protect against future loss to any property to be replaced, restored, repaired, or constructed with such assistance. Federal regulations at 44 CFR 206.252(d) also require grant recipients to obtain and maintain flood insurance in the amount of eligible disaster assistance as a condition of receiving Federal funds. Grant recipients may also seek an exemption from insurance requirements from their State insurance commissioner.

Finding 1. Flood Insurance Requirements. The subrecipient did not obtain \$52 million of required flood insurance coverage for its replaced disaster-damaged facilities, which is a condition for receiving Federal disaster assistance. As a result, the subrecipient does not have adequate flood insurance coverage to meet Federal regulation insurance requirements to protect it and taxpayers in future disasters. The subrecipient should have obtained and maintained \$52 million in flood insurance or received an exemption from insurance requirements from its State insurance commissioner. Therefore, the OIG recommended that FEMA disallow as ineligible \$52 million for its new buildings unless the subrecipient obtains the required insurance coverage or obtains an exemption.



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Key Points to Remember When Administering FEMA Grants

1. Designate a person to coordinate the accumulation of records.
2. Establish a separate and distinct account for recording revenue and expenditures, and a separate identifier for each distinct FEMA project.
3. Ensure that the final claim for each project is supported by amounts recorded in the accounting system.
4. Ensure each expenditure is recorded in the accounting books and is referenced to supporting source documentation (checks, invoices, etc.) that can be readily retrieved.
5. Research insurance coverage and seek reimbursement for the maximum amount. Credit the appropriate FEMA project with that amount.
6. Check with your Federal Grant Program Coordinator about the availability of funding under other Federal programs (Federal Highway, Housing and Urban Development, etc.) and ensure that the final project claim does not include costs that another Federal agency funded or should have funded.
7. Ensure that materials taken from existing inventories for use under FEMA projects are documented by inventory withdrawal and usage records.
8. Ensure that expenditures claimed under the FEMA project are reasonable and necessary, are authorized under the scope of work, and directly benefit the project.
9. Ensure proper grant administration is established and enforced throughout the duration of the grant.



Disaster Fraud Hotline

The DHS OIG not only conducts audits, but also aggressively investigates allegations of fraud, waste, and abuse. Below are a few of the more common allegations reported through our Hotline.

- ❑ Disaster assistance applicants use false names and/or fictitious addresses.
- ❑ Disaster assistance applicants claim losses that they did not incur or were not entitled to claim.
- ❑ Private individuals claim to be FEMA employees.
- ❑ Disaster fund recipients are victimized by contractors who inflate repair fees and/or fail to properly complete repairs.
- ❑ Disaster fund recipients damage their own properties to receive disaster assistance.
- ❑ Recipients do not use FEMA funds for the purpose intended.

If you have knowledge of fraud, waste, or abuse, or allegations of mismanagement involving disaster relief operations, you can:

- Call the Disaster Fraud Hotline at 1-866-720-5721
- Fax the Disaster Fraud Hotline at 1-225-334-4707
- Email: disaster@leo.gov
- Or write: National Center for Disaster Fraud
Baton Rouge, LA 70821-4909

***Calls can be made anonymously and
confidentially***

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