OFFICE OF INSPECTOR GENERAL

Boulder County, Colorado, Has Adequate Policies and Procedures to Manage Its Grant, but FEMA Should Deobligate about $2.5 Million in Unneeded Funds

Homeland Security

June 5, 2015
OIG-15-99-D

DHS OIG HIGHLIGHTS

Boulder County, Colorado, Has Adequate Policies and Procedures to Manage Its Grant, but FEMA Should Deobligate about $2.5 Million in Unneeded Funds

June 5, 2015

Why We Did This

Boulder County, Colorado (County) received a $95 million grant for damages from a September 2013 disaster and anticipates repair costs will exceed $100 million. We conducted this audit early in the grant process to identify areas where the County may need additional technical assistance or monitoring to ensure compliance with Federal requirements.

What We Recommend

FEMA should deobligate about $2.5 million in unneeded funds, and put those funds to better use.

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

What We Found

The County has adequate policies, procedures, and business practices to account for and expend Public Assistance grant funds according to Federal regulations and FEMA guidelines. The County accounted for disaster costs on a project-by-project basis and adequately supported repair costs. Additionally, the County has adequate procurement policies and procedures to ensure compliance with Federal procurement requirements. Further, the County's insurance procedures and practices are adequate to ensure that anticipated insurance proceeds are deducted from eligible projects. However, the County completed two large projects below original estimated budget, and about $2.5 million remains obligated. FEMA, after reconciling obligated dollars to actual incurred costs, should deobligate the unneeded funds ahead of the large project closeout phase, and put those funds to better use.

FEMA Response

FEMA officials generally agreed with our findings and recommendation. FEMA's written response is due within 90 days.

June 5, 2015

MEMORANDUM FOR: Sharon Loper
Acting Regional Administrator, Region VIII
Federal Emergency Management Agency

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

SUBJECT: *Boulder County, Colorado, Has Adequate Policies and Procedures to Manage Its Grant, but FEMA Should Deobligate about $2.5 Million in Unneeded Funds*
Audit Report Number OIG-15-99-D

We audited Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to Boulder County, Colorado (County). We conducted this audit early in the Public Assistance process to identify areas where the County may need additional technical assistance or monitoring to ensure compliance with Federal regulations and FEMA guidelines. 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.

As of April 2015, the Colorado Division of Homeland Security and Emergency Management (Colorado), a FEMA grantee, had awarded the County $95 million for damages resulting from severe storms, flooding, landslides, and mudslides that occurred in September 2013. The award provided 75 percent funding for debris removal, emergency protective measures, and permanent work, for 29 large and 9 small projects.[1] The County, as of the end of audit field work, continues to ascertain damages to its facilities and anticipates repair costs to exceed $100 million. We reviewed four large projects totaling $18 million to assess the policies and procedures the County used to manage this disaster grant (see appendixes A and B).

[1] Federal regulations in effect at the time of the disaster set the large project threshold at $67,500.

Background

Boulder County, located in North-Central Colorado, is home to almost 300,000 residents and encompasses 741 square miles. In September 2013, the County experienced a storm system with record-breaking precipitation. The storm caused severe flooding, landslides, and mudslides that caused widespread damage to roads, creeks, and culverts and scattered debris throughout the County (see figure 1).

Figure 1: Damage to Fourmile Canyon Drive

Source: Boulder County.

As a whole, the disaster damaged or destroyed a significant number of residential structures, and resulted in the evacuation of 18,147 residents, 218 injuries and 10 deaths. The President issued an Emergency Declaration on September 12, 2013 (allowing emergency services to supplement State and local efforts), and then signed a Major Disaster Declaration (DR-4145) on September 14, 2013, authorizing FEMA to support State and local response and begin recovery efforts.

Results of Audit

The County has adequate policies, procedures, and business practices to account for and expend Public Assistance grant funds according to Federal regulations and FEMA guidelines. The County accounted for disaster costs on a project-by-project basis and adequately supported repair costs. Additionally, the County has adequate procurement policies and procedures to ensure compliance with Federal procurement requirements. Further, the County's insurance procedures and practices are adequate to ensure that anticipated insurance proceeds are deducted from eligible projects. However, the County completed two large projects below original estimated budget, and about $2.5 million remains obligated. FEMA, after reconciling obligated dollars to actual incurred costs, should deobligate the unneeded funds ahead of the large project closeout phase, and put those funds to better use.

Finding A: Policies, Procedures, and Business Practices

<u>Project Cost Accounting</u>

The County has adequate policies, procedures, and business practices in place to ensure it accounts for disaster-related costs on a project-by-project basis as the following Federal regulations and FEMA guidelines require:

- Grantees must account for large project expenditures on a project-by-project basis (Title 44 Code of Federal Regulations (CFR) 206.205(b)). FEMA requires subgrantees to keep records for all projects on a project-by-project basis (*Public Assistance Guide*, FEMA 322, June 2007, p. 137).

- Subgrantees must maintain accounting records that adequately identify the source and application of Federal funds and maintain source documentation to support those accounting records (44 CFR 13.20(b) and (6)).

We reviewed the County's standard administrative and financial procedures for tracking costs and determined they were adequate. We also observed the application of these procedures by County officials to track costs they intend to claim for disaster-related repair costs. County officials explained that their administrative and accounting systems track disaster-related costs by assigning a unique identifying activity code to each project. These officials further explained that project managers and accounts payable managers are also responsible for ensuring that all disaster-related expenditures are coded properly to the correct FEMA project and that expenditures do not exceed contract award or purchase order amounts.

We reviewed project records such as purchase orders, invoices, and timesheets from the $12.1 million in costs the County incurred. These records clearly identified incurred costs as disaster related. Therefore, the County's administrative controls over project records provide reasonable assurance that the County can track disaster costs on a project-by-project basis. As of the end of our audit field work, the County had submitted about $7 million in claimed costs to Colorado for reimbursement.

Procurement Practices

The County has sufficient procurement policies and procedures to ensure compliance with applicable Federal procurement standards. To obtain an understanding of the County's procurement practices, we reviewed its policies and procedures and discussed these practices with the County's contracting officials. We also reviewed procurement records such as contract selection, basis for contract price, requests for proposals, bid tabulations, agreements, contracts, and contract amendments from six contracts with costs totaling $8.2 million the County awarded for FEMA-approved work.[2] We determined that the records we reviewed are sufficient to detail the significant history of the procurement as 44 CFR 13.36(b)(9) requires. The County complied with Federal procurement standards by—

- Conducting all procurement transactions in a manner providing full and open competition (13.36(c)(1)). Full and open competition increases the probability of reasonable pricing from the most qualified contractors, and helps discourage and prevent favoritism, collusion, fraud, waste, and mismanagement of Federal resources;

- Including specific contract provisions in all federally funded contracts (13.36(i)). These Federal contract provisions document the rights and responsibilities of the parties and minimize the risk of contract misinterpretations and disputes. For example, the termination for cause provision gives the subgrantee the right to end an agreement with a contractor for nonperformance; in instances where contractors violate or breach contract terms, the administrative, contractual, or legal remedies provision allows for sanctions and penalties to the contractor as may be appropriate; and the access to records provision gives the subgrantee, grantee, and FEMA the right to examine the contractor's records; and

- Ensuring the use of small or disadvantaged business enterprises such as minority firms, and women's business enterprises, when possible (13.36(e)(2)(i) through (v)). As a result, FEMA has assurance that these

[2] By the end of audit field work, the County had awarded 13 contracts totaling $10.4 million under Projects 901, 967, 968, and 1088. We reviewed 6 of the 13 contracts totaling $8.2 million.

types of firms had sufficient opportunities to bid on Federal work as Congress intended.

Because the County's procurement policies and procedures are adequate, FEMA has reasonable assurance that the County will comply with Federal contracting requirements. County officials assured us that they would continue to conduct procurement practices that comply with Federal procurement standards.

Insurance

The County's insurance procedures and practices are adequate to ensure that anticipated insurance proceeds are deducted from eligible projects in accordance with Federal regulations. The County, for its insurable facilities, received gross insurance recoveries totaling $628,130 (or $928,130 insurance recoveries less $300,000 deductible). We determined that, based on insurance records and interviews with County officials, the County properly deducted anticipated insurance recoveries from eligible project costs as 44 CFR 206.250(c) requires.

We also discussed with County officials the need to obtain and maintain insurance on insurable facilities. The County must obtain and maintain insurance that is reasonable and necessary to protect facilities repaired or replaced using Federal funds against future loss from the types of hazard which caused the major disaster. We also informed County officials that, if they did not obtain and maintain insurance on such facilities, the County would not be eligible to receive Public Assistance for future disasters.[3]

Finding B: Funds Put to Better Use

The County completed two large projects below original estimated budget, and about $2.5 million remains obligated. FEMA, after reconciling obligated dollars to actual incurred costs, should deobligate the unneeded funds ahead of the large project closeout phase, and put those funds to better use (see table 1).

[3] Section 311 of the *Robert T. Stafford Disaster Relief and Emergency Act*, Public Law 93-288, 42 U.S.C §5154, as amended, (Stafford Act) requires recipients of disaster assistance to obtain and maintain such types 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."

Table 1: Funds that Should Be Put to Better Use

Project Number	Project Category	Amount Obligated	Project Costs Incurred (as of March 6, 2015)	Funds Put to Better Use
968	A	$ 4,500,573	$2,856,174	$1,644,399
1088	B	3,971,563	3,132,800	838,763
Total		**$8,472,136**	**$5,988,974**	**$2,483,162**

Source: FEMA and County Project Documentation and Office of Inspector General (OIG) Analyses.

Federal appropriations laws require Federal agencies to record obligations in the accounting records on a factual and consistent basis throughout the government.[4] That is, the agency must increase or decrease obligated funds when probable and measurable information becomes known. The overrecording and the underrecording of obligations are equally improper. Both practices make it impossible to determine the precise status of Federal appropriations.[5]

The County completed the two projects in September 2014, and the $2,483,162 in unneeded Federal funds remained obligated as of February 2015. The County confirmed to us that it no longer needs the $2,483,162 in FEMA funds to complete repairs. Therefore, FEMA should deobligate these funds and put them to better use. County officials agreed with this finding.

FEMA officials explained that they were aware the County had completed projects 968 and 1088 under budget. As a result, FEMA plans to (1) continue to monitor the progress of the two large projects in accordance with its grant closeout procedures, (2) reconcile obligated dollars to actual incurred costs, and (3) deobligate any unneeded funds ahead of the large project closeout phase.

Recommendation

We recommend that the Regional Administrator, FEMA Region VIII:

Recommendation 1: Deobligate $2,483,162 (Federal share $1,862,372) the County no longer needs to complete projects 968 and 1088, and put those funds to better use (finding B).

[4] U.S. Government Accountability Office, *Principles of Federal Appropriations Law,* Third Edition, Volume II, February 2006, chapter 7, section B: Criteria for Recording Obligations (31 U.S.C. § 1501).
[5] *7 Government Accountability Office Policy and Procedures Manual* § 3.5.D; B-300480, April 9, 2003; and Statement of Federal Financial Accounting Standards Number 5, paragraphs 19, 24, 25, and 29.

Discussion with Management and Audit Follow-Up

We discussed the results of our audit with FEMA, Colorado, and County officials during our audit and included their comments in this report, as appropriate. We provided a draft report in advance to these officials and discussed it at exit conferences with FEMA officials on April 2, 2015, and Colorado and County officials on April 15, 2015. FEMA, Colorado, and County officials agreed with the findings.

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 the recommendation. Also, please include the contact information of responsible parties and any other supporting documentation necessary to inform us about the status of the recommendation. Please email a signed pdf copy of all responses and closeout request to Humberto Melara, Director, Western Regional Office, Office of Emergency Management Oversight, at Humberto.Melara@oig.dhs.gov. Until we receive your response, we will consider the recommendation open and unresolved.

The Office of Emergency Management Oversight major contributors to this report are Humberto Melara, Director; Louis Ochoa, Audit Manager; Ravi Anand, Auditor-In-Charge; and Renee Gradin, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Humberto Melara, Director, Western Regional Office, at (510) 637-1463.

Appendix A

Objective, Scope and Methodology

We audited FEMA Public Assistance grant funds awarded to the County, Public Assistance Identification Number 013-99013-00. Our audit objective was to determine whether the County's policies, procedures, and business practices are adequate to account for and expend FEMA grant funds according to Federal regulations and FEMA guidelines for FEMA Disaster Number 4145-DR-CO. As of April 2015, Colorado, a FEMA grantee, had awarded the County $95 million for damages resulting from severe storms, flooding, landslides, and mudslides that occurred in September 2013. Our audit covered the period of September 11, 2013, through March 9, 2015. The award provided 75 percent funding for debris removal, emergency protective measures, and permanent work for 29 large and 9 small projects. We audited four large projects totaling $18 million to assess the policies and procedures the County used for this disaster (see appendix B).

We interviewed FEMA, Colorado, and County officials; assessed the adequacy of the policies, procedures, and business practices the County uses or plans to use to account for and expend Federal grant funds and to procure and monitor contracts for disaster work; judgmentally selected and reviewed (generally based on dollar amounts) project costs and procurement transactions for the projects included in our audit scope; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our objective. As part of our standard auditing procedures, we also notified the Recovery Accountability and Transparency Board of all contracts the subgrantee awarded under the grant that we reviewed to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. As of the date of this report, the Recovery Accountability and Transparency Board's analysis of contracts was ongoing. When it is complete, we will review the results and determine whether additional action is necessary. We did not perform a detailed assessment of the County's internal controls over its grant activities because it was not necessary to accomplish our audit objective.

We conducted this performance audit between September 2014 and March 2015, 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

Appendix B

Potential Monetary Benefits

Table 2: Projects Audited and Funds Put to Better Use

FEMA Project Number	FEMA Category of Work*	Gross Award Amount	Project Costs Incurred	Funds Put to Better Use (Finding B)**
901	C	$ 4,364,916	$ 3,128,716	$ 0
967	C	5,168,250	2,999,150	0
968	A	4,500,573	2,856,174	1,644,399
1088	B	3,971,563	3,132,800	838,763
Totals		$18,005,302	$12,116,840	$2,483,162

Source: FEMA and County Project Documentation and OIG Analyses.

*FEMA identifies type of work by category: A for debris removal, B for emergency protective measures, and C-G for permanent work.
**As of the end of audit field work, the County had not completed Projects 901 and 967 or determined final costs; therefore, we did not identify any unused funding for these projects.

Table 3: Summary of Potential Monetary Benefits

Type of Potential Monetary Benefit	Amounts	Federal Share
Questioned Costs – Ineligible	$ 0	$ 0
Questioned Costs – Unsupported	0	0
Funds Put to Better Use	2,483,162	1,862,372
Totals	**$2,483,162**	**$1,862,372**

Source: FEMA and County Project Documentation and OIG Analyses.

Appendix C

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Appendix C (Continued)

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