

Capacity Audit of FEMA Grant Funds Awarded to the USVI Department of Education





DHS OIG HIGHLIGHTS

Capacity Audit of FEMA Grant Funds Awarded to the U.S. Virgin Islands Department of Education

May 4, 2020

Why We Did This Audit

DHS OIG contracted with KPMG, LLP, to assess the extent to which FEMA provided adequate guidance to VITEMA and VIDE to ensure VIDE had established and implemented policies, procedures, and practices to account for and expend PA grant funds in accordance with Federal regulations and FEMA guidance.

What We Recommend

We made five recommendations that, when implemented, should improve management of FEMA PA grant funds, ensuring the funds are expended according to Federal regulations and FEMA guidance.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

KPMG, LLP found that the Federal Emergency Management Agency (FEMA) did not always ensure the Virgin Islands Territorial Emergency Management Agency (VITEMA) and the Virgin Islands Department of Education (VIDE) established and implemented policies, procedures, and practices to account for and expend Public Assistance (PA) grant funds according to Federal regulations and FEMA guidance. First, VIDE did not have policies and procedures to address procurement-related conflicts of interest and related disciplinary actions. This occurred because the U.S. Virgin Islands do not require such policies and procedures. Second, VIDE submitted an inadequate and late request to FEMA for approval of modifications to its Scope of Work. This occurred because VIDE personnel did not understand the Federal requirements for obtaining FEMA approval for project cost increases and for modifying a Scope of Work. Finally, VIDE did not establish a Project Worksheet for required services in a timely manner because FEMA did not verify that VIDE personnel understood its guidance related to these services.

Because of these deficiencies, there is an increased risk that PA programs may be mismanaged and that funds may be used for unallowable activities.

FEMA's Response

FEMA concurred with all five recommendations and took or plans to take corrective action. Appendix C includes FEMA's response in its entirety.




OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

May 4, 2020

MEMORANDUM FOR: Thomas Von Essen
Regional Administrator, Region II
Federal Emergency Management Agency

FROM: Sondra F. McCauley 
Assistant Inspector General Audits

SUBJECT: *Capacity Audit of FEMA Grant Funds Awarded to the
USVI Department of Education*

Attached for your action is our final report, *Capacity Audit of FEMA Grant Funds Awarded to the USVI Department of Education*. We incorporated the formal comments provided by your office.

The report contains five recommendations aimed at improving the USVI Department of Education. Your office concurred with the five recommendations. Based on information provided in your response to the draft report, we consider recommendation 5 resolved and closed, and recommendations 1, 2, 3, and 4 are resolved and open. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the open recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide 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.

Please call me with any questions at (202) 981-6000, or your staff may contact Maureen Duddy, Deputy Assistant Inspector General for Audits, at (617) 565-8723.

Attachment

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Abbreviations

CFR	Code of Federal Regulations
DPP	U.S. Virgin Islands Department of Property and Procurement
FEMA	Federal Emergency Management Agency
PA	Public Assistance
PW	Project Worksheet
SOW	Scope of Work
USACE	U.S. Army Corps of Engineers
VIDE	U.S. Virgin Islands Department of Education
VITEMA	U.S. Virgin Islands Territorial Emergency Management Agency



KPMG LLP
Suite 12000
1801 K Street, NW
Washington, DC 20006

May 1, 2020

Ms. Sondra F. McCauley
Assistant Inspector General for Audits
Department of Homeland Security
Office of Inspector General
395 E Street, SW
Washington, DC 20024

Dear Ms. McCauley,

This report presents the results of our work conducted to address the performance audit objectives relative to the Capacity Audit of Federal Emergency Management Agency (FEMA) Grant Funds Awarded to the U. S. Virgin Islands, Department of Education (VIDE). We performed the work during the period of September 26, 2018 to May 17, 2019 and our results are as of May 17, 2019.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). 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 on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to GAGAS, we conducted this performance audit in accordance with Consulting Services Standards established by the American Institute of Certified Public Accountants (AICPA). This performance audit did not constitute an audit of financial statements or an attestation level report as defined under GAGAS and the AICPA standards for attestation engagements.

The objective of our performance audit was to assess the extent to which FEMA provided adequate guidance to VITEMA and VIDE to ensure VIDE had established and implemented policies, procedures, and practices to account for and expend PA grant funds in accordance with Federal regulations and FEMA guidance. Our audit scope focused on VIDE's practices for appropriately procuring services, managing funding, and accounting for and reporting FEMA PA grant funds and related expenses. To make this determination, we reviewed the policies, procedures, and business practices at VIDE and compared them to the relevant Federal regulations. We listed our full audit objectives and criteria in appendix A of this report.

KPMG cautions that projecting the results of our evaluation to future periods is subject to the risks that controls may become inadequate because of changes in or deterioration of conditions or existing controls.

This report is intended solely for the use of the Department of Homeland Security Office of Inspector General and FEMA management, and is not intended to be and should not be relied upon by anyone other than these specified parties.

Very truly yours,

KPMG LLP

KPMG LLP is a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity.

Background

The U.S. Virgin Islands Department of Education (VIDE) is an executive branch of the U.S. Virgin Islands (USVI). It is the largest governmental entity in the Virgin Islands, as measured by appropriations and employees. VIDE is responsible for the development, implementation, and monitoring of instructional programs for all K-12 students and adult learners, as well as the provision of support services such as child nutrition, pupil transportation, library services, and the maintenance of educational facilities and offices under its purview.

VIDE is divided into two separate districts, St. Thomas/St. John and St. Croix. In total, VIDE had 27 schools with 1,083 teachers and enrollments totaling 10,718 for the 2018-2019 school year. There are over 1,000 additional employees of VIDE, including attorneys, engineers, procurement and administrative specialists. VIDE is funded by the USVI general budget and U.S. Federal grant funds from the Departments of Education and Agriculture.

In September 2017, winds and rain resulting from Hurricanes Irma and Maria damaged or destroyed facilities owned by VIDE on the islands of St. Thomas, St. John, and St. Croix. On September 7, 2017, FEMA assigned disaster 4335 to Hurricane IRMA. On September 20, 2017, FEMA assigned disaster 4340 to Hurricane Maria. These declarations authorized FEMA to support the USVI's response and begin recovery efforts. As of December 10, 2018 FEMA had awarded VIDE approximately \$112 million for costs resulting from damages from severe winds and rain.

To support recovery efforts, FEMA provides guidance to all recipients and subrecipients of PA grant funding to help ensure their policies, procedures, and practices comply with Federal laws and regulations. In the USVI, FEMA provides funding directly to the recipient, the Territorial Government of the USVI. The U.S. Virgin Islands Territorial Emergency Management Agency (VITEMA) is the central government agency that oversees the funding process and fulfills the responsibilities of the recipient. VITEMA provides the funding and additional oversight to each subrecipient of FEMA funding, including VIDE. Thus, according to Federal regulations,¹ VITEMA is considered the recipient and VIDE is considered the subrecipient of these grant funds.

Although VIDE is the subrecipient of FEMA grant funds, both VIDE and VITEMA are entities that meet the definition of a "state."² As such, Federal regulations require that when procuring property and services under a Federal

¹ 2 Code of Federal Regulations (CFR) § 200.86 and 2 CFR § 200.93

² 2 CFR § 200.90

award, VIDE must follow the same policies and procedures used for all procurements that it uses for its non-federal funds.³

USVI government agencies have a complex interrelated structure. The following describes the roles VITEMA and VIDE play in managing FEMA PA grant funding, beginning with the creation of a Project Worksheet (PW), FEMA's funding document, the procurement of goods and services, and reporting on the status of the PA grant funding.

VIDE personnel draft the initial PW and submit it to VITEMA. VITEMA reviews the PW and submits it to FEMA for approval. Each PW must include a detailed Scope of Work (SOW) and estimated Project Cost.

Concurrently, the same VIDE personnel who draft the PW also draft a Request for Proposal (RFP) to solicit bids from vendors. For procurements over \$50,000, VIDE is responsible for drafting the RFP, but is not directly involved in the vendor selection.

USVI regulations require that the USVI Department of Property and Procurement (DPP) manage all procurements exceeding \$50,000. However, for contracts related to FEMA-funded work, DPP requires that VIDE review and approve vendor invoices prior to DPP's final approval. The management of all contracts also includes monitoring the performance of the contractor, tracking costs incurred against the budget, and progress to date. The responsibility of contract management either is the responsibility of DPP or VIDE depending on which party procured the contract. VIDE is responsible for managing the PW, including progress to date and potential cost overruns.

Once FEMA approves and funds a PW, VITEMA draws down funds to reimburse VIDE, who pays the vendors. The reporting of expenditures incurred to date is the responsibility of both VITEMA and VIDE. Project worksheet development is managed in the FEMA Grants Manager and Grants Portal Tool.⁴ In 2019, the Grants Manager Grants Portal Tool replaced FEMA's previous grants management system, Emergency Management Mission Integrated Environment (EMMIE); however, EMMIE remains the system of record and the system used to obligate PW funds.

³ 2 CFR § 200.317

⁴ Grants Manager and Grants Portal Tool is a web-based, project tracking system with two separate workflows. FEMA PA specialists are the sole users of the Grants Manager workflow. Recipients and subrecipients use the Grants Portal workflow. Although Grants Manager and Grants Portal is one system, to reference the different workflows the system is often referred to as either "Grants Manager" or "Grants Portal."

As detailed in appendix A, to assess the extent to which FEMA provided VIDE and VITEMA with guidance related to the use of PA grant funds, we reviewed the policies, procedures, and business practices in place at VIDE. Due to the organizational structure of the USVI government, some of the grants management functions that would ordinarily be the responsibility of the subrecipient (VIDE) were managed by the recipient (VITEMA). In these instances, we reviewed VITEMA's policies, procedures, and business practices.

Results of Audit

The following section provides the results of our audit. The objective of our audit was to assess the extent to which FEMA provided adequate guidance to VITEMA and VIDE to ensure VIDE had established and implemented policies, procedures, and practices to account for and expend PA grant funds in accordance with Federal regulations and FEMA guidance. The scope of our audit focused on VIDE's practices for appropriately procuring services, managing funding, and accounting for and reporting FEMA PA grant funds and related expenses.

Overall we found FEMA provided adequate guidance to VITEMA and VIDE to ensure VIDE was capable of managing FEMA PA grant funds. We found some exceptions as noted in findings summarized below and further detailed in the report as Findings I, II and III.

- **Accounting for Costs** – VIDE had policies, procedures, and business practices to review, monitor and account for FEMA PA grant funds on a project-by-project basis. We did not identify any instances of noncompliance with these policies. Additionally, of the costs reviewed, we did not identify any instances in which the costs were not eligible, supported, and reasonable and allocable to the PW. However, VITEMA did not have policies and procedures in place to ensure that VITEMA and VIDE submit management costs for federal reimbursement in accordance with February 2019, FEMA's *Public Assistance Management Costs Interim Policy – Standard Operating Procedures* (SOP) (see Finding I).
- **Procurement Practices** – VIDE did not have policies, procedures, and business practices to address conflicts of interest and related disciplinary actions. (See Finding I.) However, we did not identify any instances of noncompliance with applicable Federal procurement regulations.
- **Grant Management** –
 - VIDE submitted an inadequate and late request to FEMA for approval of modifications to its SOW. (See Finding II.)
 - VIDE did not establish a PW for required services in a timely manner. (See Finding III.)

- VITEMA and VIDE had not fully implemented FEMA's Grants Portal system (See Finding V).
- **Insurance Policies and Procedures** – VIDE had policies, procedures, and business practices to appropriately use insurance proceeds. We did not identify any instances of noncompliance.

More specifics about the procedures we performed, the criteria we used, and the results of our audit follow.

Accounting for Costs

To assess VIDE's capability to account for costs, we reviewed VIDE's policies and procedures to account for disaster related expenditures and revenues and discussed them with VIDE officials. We found that VIDE had policies, procedures, and business practices to review, monitor, and account for FEMA PA grant fund costs on a project-by-project basis, as required by Federal regulations and FEMA guidelines.

In addition, we obtained a list of approved PWs from FEMA as of December 10, 2018. Using risk-based criteria, we judgmentally selected for testing two PWs.⁵ The PWs selected for testing accounted for \$111 million of the \$112.1 million of obligations in the population provided.

We judgmentally selected for testing \$20.9 million of the \$80.8⁶ million in costs incurred on the PWs selected as of February 19, 2019. The selected costs were under a single contract⁷ for the PWs, for the purchase and installation of modular units. We reviewed the related invoices. We did not identify any instances in which the costs were not eligible, supported, and reasonable and allocable to the PWs.

In addition, we noted that VIDE uses an Enterprise Resource Planning system to assign a unique accounting code to each FEMA-funded project to account for disaster-related procurement costs. We did not identify any instances in which VIDE had not appropriately segregated these costs by project.

In addition to our assessment of VIDE's accounting of non-management costs incurred, we performed procedures related to the accounting of management costs at VITEMA and VIDE. In June 2018, FEMA issued a new recovery policy, the *Public Assistance Alternative Procedures for Direct Administrative Costs*, which created a new method for FEMA to award PA management costs via a

⁵ PWs: PW-00121 and PW-00155

⁶ Costs incurred were all contract costs. VIDE had not incurred force account costs.

⁷ Contract: P012DOET18

fixed estimate process (hereafter referred to as “the Interim Policy”). The USVI opted into this program as the grant recipient on behalf of the grant subrecipients, including VIDE. The USVI delegated the responsibility for the recording and monitoring of management costs to VITEMA, as well as the development of related policies and procedures. The USVI also required VITEMA to develop policies and procedures for VIDE and other subrecipients that would ensure management costs are appropriately reported and are not included on permanent work PWs. (See **Appendix B** for further background on FEMA’s management cost pilot program and the responsibilities of VITEMA and VIDE to record and monitor management costs.)

We assessed VITEMA’s ability to comply with the requirements of the pilot program and found that VITEMA had not developed policies and procedures for the proper recording of management costs. Although the USVI opted into the Interim Policy on behalf of VIDE, VIDE was unaware of the Interim Policy. See **Finding I** below.

Finding I: Inadequate Policies and Procedures Related to the Accounting of Management Costs

VITEMA officials informed us that they had not established policies and procedures to ensure that they and VIDE submit management costs in accordance with the February 2019, FEMA’s *Public Assistance Management Costs Interim Policy – Standard Operating Procedures* (SOP).

VITEMA had not established policies and procedures related to this requirement because FEMA had yet to develop adequate guidance, including policies and procedures, communicating the requirements of the pilot program. FEMA issued the SOP in February 2019, three months after the *Management Costs Interim Policy*. The SOP and Interim Policy provided guidance on the *Disaster Recovery Reform Act of 2018* requirements to reimburse direct and indirect administrative costs to the state for distribution between the recipient and subrecipient, up to the established percentages.

The SOP sufficiently defines the procedures to document and process management cost claims, to ensure consistent implementation of the requirements, and effectively track and verify management cost claims by recipients and subrecipients. Prior to implementation of the SOP, FEMA did not effectively work with VITEMA to reinforce the existing policies and procedures related to management costs, including implementing controls, to ensure that costs already submitted for reimbursement as project costs are not also later submitted for reimbursement as management costs.

Insufficient guidance from FEMA increases the risk that VITEMA would not have appropriate policies and procedures in place to ensure they and VIDE submit eligible management costs for reimbursement on permanent work PWs, in compliance with Federal regulations. As of February 2019, VITEMA and VIDE had not submitted any claims for management costs to FEMA because the process was not yet fully developed.

Recommendation I: We recommend the FEMA Regional Administrator, Region II, provide VITEMA and VIDE with additional guidance to update their policies and procedures in place to ensure they comply with *Disaster Recovery Reform Act of 2018* and FEMA’s *Public Assistance Management Costs Interim Policy – SOP*.

FEMA’s Comment

Concur. FEMA issued the *Public Assistance Management Costs Interim Policy* on November 14, 2018, shortly after the President signed the *Disaster Recovery Reform Act of 2018* (October 5, 2018). Additionally, FEMA issued the *Public Assistance Management Costs Interim Policy – Standard Operating Procedures (SOP)* in February 2019. FEMA will meet with VITEMA and VIDE to review the SOP and provide guidance needed for VITEMA and VIDE to have compliant policies and procedures. **Estimated Completion Date (ECD): February 26, 2021.**

OIG Analysis

FEMA’s corrective actions are responsive to the recommendation. However, the recommendation will remain resolved and open until we have received and reviewed the updated policies and procedures that FEMA worked with VITEMA and VIDE to develop and implement.

Procurement Practices

We reviewed VIDE’s policies and procedures to procure services related to FEMA PA grants. We also conducted walkthroughs with procurement personnel from VIDE to determine their business practices. We found that VIDE’s policies, procedures and business practices complied with applicable Federal procurement requirements, with the exception of policies related to conflicts of interest. See finding I below.

In addition, for the contract selected for testing above, we reviewed the procurement records such as those for contract selection, basis for contract price, requests for proposals, bid tabulations, and agreements. We did not

identify any instances of noncompliance with applicable Federal procurement requirements.

Finding II: Inadequate Conflict of Interest Policies and Procedures

Although VIDE's procurement policies and procedures contain an overarching conflict of interest statement, VIDE's existing procurement policies and procedures do not contain conflict of interest provisions governing the selection, award, and administration of contracts that are negotiated at arm's length. We further noted that the overarching conflict of interest statement does not address disciplinary actions for violations of the policy, as required by Federal regulations.

While conflict of interest policies are not required for procurements made by VIDE, costs incurred must be necessary and reasonable for the performance of the Federal award⁸. In determining reasonableness of a given cost, FEMA considers, among other factors, restraints or requirements such as arm's length bargaining. Without adequate conflict of interest policies, costs may not be negotiated at arm's length⁹, resulting in costs that are considered not reasonable and therefore, unallowable. Therefore, we determined that VIDE's conflict of interest policies and procedures do not provide assurance that costs incurred for negotiated contracts are reasonable.

During our testing, we did not identify any instances in which the absence of appropriate conflict of interest policies adversely influenced the procurement reviewed. In addition, VIDE officials informed us that they were unaware of any instances in which a procurement had been influenced by a conflict of interest. We further noted that the following factors partially mitigated the effects of the absence of conflict of interest policies at VIDE. Prior to awarding a contract, a selection committee, consisting of three to five members, reviews and evaluates each of the bids submitted and selects the contractor for each procurement. DPP selects the members of the selection committee. All members of the selection committee sign a waiver stating they are free from conflicts of interest with each vendor that has submitted a bid. VIDE followed this process for the contract reviewed.

Recommendation II: We recommend that the FEMA Regional Administrator, Region II work with VITEMA, in its capacity as the recipient, to request VIDE establish controls over conflict of interest provisions.

⁸ 2 CFR § 200.403(a)

⁹ 2 CFR § 200.404(b)

FEMA's Comment

Concur. FEMA will reiterate that without sufficient controls over conflict of interest provisions, contract costs claimed for FEMA reimbursement might not be reasonable and allowable. **ECD: February 26, 2021.**

OIG Analysis

FEMA's corrective actions are responsive to the recommendation. However, the recommendation will remain resolved and open until we receive and review evidence that FEMA worked with VITEMA to ensure that VIDE establishes conflict of interest provisions.

Grant Management

We reviewed VIDE's policies and procedures related to grants management for FEMA PA grants. We also conducted walkthroughs with grants management personnel from VIDE to determine their business practices. VIDE personnel play a key role in grants management, but many of the duties are the responsibility of VITEMA. As such, we additionally conducted walkthroughs with grants management personnel from VITEMA to understand their business practices.

Contractors from multiple firms supported both VIDE and VITEMA in the grants management process. These contractors helped identify which projects were allowable, prepared PWs and related SOWs, including cost estimates, and reviewed costs submitted for reimbursement.

In addition, we reviewed the abovementioned PWs selected for testing and a request for a PW modification¹⁰ for \$26 million that FEMA rejected for lack of support. We noted the following findings:

Finding III: Delayed Requests for Cost Overruns

For the \$26 million PW modification, VIDE did not submit to FEMA an acceptable cost estimate. Specifically, the PW modification provided for \$12 million in allowances.¹¹ These allowances represented 46 percent of the modification total. According to FEMA personnel, the industry standard for allowances is typically 5 percent of the contract total. As such, FEMA was

¹⁰ Modification was to PW: PA-02-VI-4340-PW-00121 only

¹¹ Construction contract allowances are budget estimates used to help plan for costs of materials that are unknown at the time contract documents are executed, such as appliances. Allowances enable contractors to bid work when the design is incomplete but the project must begin nonetheless.

unable to determine if the \$26 million in costs included on the PW modification were reasonable. Although the updated SOW and related cost estimate met the requirements for DPP to modify the contract, DPP and VIDE chose not to proceed prior to FEMA's approval.

In addition to the insufficient cost estimate, VIDE personnel did not notify FEMA in a timely manner of the need for an adjustment to the SOW.¹² Specifically, VIDE had received additional cost information necessitating modification of the SOW from the contractor in July 2018. However, VIDE did not inform FEMA until approximately two months later. Specifically, VIDE submitted a modification request in September 2018. However, the request did not include full documentation of the cost information.

VIDE submitted the inadequate modification request because VIDE personnel did not understand the Federal requirements for obtaining FEMA approval for project cost increases and for modifying a PW's SOW. For example, VIDE personnel informed us that FEMA rejected the modification because VIDE did not first enter into a contract for the services described in the PW's SOW. However, there is no requirement in Federal regulations to obtain a contract prior to FEMA approving a PW. FEMA officials informed us that there was no formal or informal requirement to obtain a contract prior to FEMA approving a PW specific to the USVI or these disasters.

Delays in approval of modifications for existing PWs prevented VIDE from procuring services in a timely manner. This type of delay may increase the total costs of related services because damaged facilities may deteriorate further if not promptly repaired or replaced. Additionally, failure to promptly notify FEMA of changes in the SOW may cause delays in the PW modification approval process. Such delays may damage VIDE's reputation with existing and potential contractors and increase the likelihood that contractors not bid on future work.

Since the time of our audit fieldwork, FEMA informed us that it received and was currently reviewing additional documentation supporting the modification request, including an updated cost estimate supporting the PW modification.

Recommendation III: We recommend that the FEMA Regional Administrator, Region II work with VITEMA and VIDE to:

- Determine if the additional \$26 million in costs submitted are reasonable.
- Require that VIDE adhere to Federal regulations requiring that FEMA be promptly notified of SOW changes for all future PW requests and modifications.

¹² 2 CFR §200.308 and 44 CFR §206.204

- Establish clear communication procedures for VITEMA, VIDE, and DPP to follow to promptly report changes in SOWs and incremental costs incurred.

FEMA's Comment

Concur. FEMA implemented a manual drawdown review process for reimbursement on October 1, 2019 for all eligible projects. Through that process, FEMA is currently reviewing all requests to draw down funding and will only approve the drawdown of reasonable, eligible costs. FEMA will also ensure that VITEMA and VIDE are fully aware of FEMA regulations and policies regarding requests for scope of work changes. Finally, FEMA will work with VITEMA and VIDE to ensure that VIDE enhance communication procedures during disaster recovery. **ECD: February 26, 2021.**

OIG Analysis

FEMA's corrective actions are responsive to the recommendation. However, the recommendation will remain resolved and open until we have received and reviewed evidence that FEMA has determined the reasonableness of the additional \$26 million in cost submitted; VITEMA and VIDE are aware of FEMA's regulations regarding scope of work changes; and VIDE has established procedures for enhanced communication during disaster recovery.

Finding IV: Ineffective Transition of a Mission Assignment to a Project Worksheet

VIDE did not request FEMA develop PW for required services in a timely manner. Specifically, VIDE personnel informed us that a contractor had provided refrigerated trailers from September 2017 to the time of our audit, but had not been paid as of June 2018 because there was no contract in place. At the time of our audit, VIDE may have potentially owed the contractor approximately \$800,000.

In the immediate aftermath of the disaster, United States Army Corp of Engineers (USACE), on behalf of FEMA, had procured the refrigerator trailers from the contractor via a mission assignment. Due to the short-term nature of mission assignments, USACE's contract with the vendor only ran until June 2018.

We found that FEMA had created a PW to fund a potential contract for continued use of the trailers, but it was created in December 2018 — 6 months after the contract with USACE expired. In addition, this PW was created without input or direct request from VIDE. Further, this PW would only cover three of the 8 months for which the contractor was not paid. VIDE had not

communicated the need to extend the PW, which is required by Federal regulations.¹³

Prior to expiration of the mission assignment, FEMA provided VIDE guidance on the difference between goods and services provided as a mission assignment and those provided through the PW process. FEMA also provided VIDE guidance on the requirement that VIDE obtain refrigerated trailers using the PW funding. However, FEMA did not effectively follow up with key stakeholders at VIDE to verify the guidance was understood. Specifically, FEMA did not confirm that VIDE was aware of its responsibility to procure its own rental of refrigerator trailers after the USACE agreement expired. In addition, VIDE was unaware that FEMA had created a PW for three months of rentals or its responsibility to promptly inform FEMA of changes in the SOW or period of performance for the PW.

Unless VIDE obtains a contract from the contractor and modifies the existing PW, it may be unable to pay the contractor for services provided to date. In addition to the potential legal consequences and costs of not paying the contractor for goods and services delivered, VIDE's reputation with existing and potential contractors could be damaged, which increases the likelihood that contractors do not bid on future work.

After our audit fieldwork, VIDE submitted a request to extend the period of performance for the PW an additional 9 months, until June 30, 2019. FEMA was reviewing the request.

Recommendation IV: We recommend that the FEMA Regional Administrator, Region II work with VITEMA to improve the management of VIDE related to resolution of the transition from mission assignments to project worksheets.

FEMA's Comment

Concur. FEMA will meet with VITEMA and VIDE to discuss the transition from mission assignments to interagency agreements, project worksheets, and lessons learned from the transition relative to the modular units. **ECD: February 26, 2021.**

OIG Analysis

FEMA's corrective actions are responsive to the recommendation. However, the recommendation will remain resolved and open until we have received and reviewed evidence that FEMA has worked with VITEMA to improve the

¹³ 2 CFR §200.308 and 44 CFR §206.204

management of VIDE transition from mission assignments to project worksheets.

Finding V: Inadequate Grants Portal Access and Training

We found that neither VITEMA nor VIDE had fully implemented FEMA's Grants Portal (Grants Portal) system. In February 2019, FEMA provided access to the Grants Portal to two individuals at VITEMA, but no personnel at VIDE. VITEMA personnel received minimal training, consisting mainly of a high-level system overview and basic functionality of the tool. Although FEMA scheduled several trainings on use of the Grants Portal, an insufficient number of personnel from VITEMA and VIDE attended due to late notice and scheduling difficulties. Furthermore, while additional VITEMA personnel must receive Grants Portal access from FEMA, it was VITEMA's responsibility to provide access to VIDE personnel.

Inadequate access to the system and attendance at training could have negatively affected VITEMA and VIDE ability to manage the PA program. Specifically, this could have prevented VITEMA and VIDE from ensuring that it has a complete list of projects related to PA grants, funds awarded by FEMA, as well as a complete and accurate status of drawdowns.

Recommendation V: We recommend the FEMA Regional Administrator, Region II coordinate with VITEMA and VIDE to identify and grant access to individuals whose job responsibilities require FEMA Grants Portal access, and ensure all appropriate personnel receive the Grants Portal training.

FEMA's comment

Concur. FEMA has granted Grants Portal Access and has trained all VITEMA and VIDE personnel identified by each agency requiring access. Specifically, FEMA provided training the following training for VITEMA and Territorial applicants: Grants Manager Basics on August 13, 2018; Grants Manager Portal on January 23, 2019; Grants Portal Overview to VITEMA on February 7, 2019; Grants Portal on February 27, 2019; and Grants Portal Applicant Training on June 21, 2019. The sign-in sheets confirming attendance by VITEMA and VIDE consultants will be sent separately. FEMA will provide additional Grants Portal training upon request. FEMA requests that OIG consider this recommendation resolved and closed.

OIG Analysis

FEMA's corrective actions are responsive to the recommendation. FEMA noted that it provided Grants Manager Basic, Grants Manager Portal, Grants Portal

Overview, Grants Portal, and Grants Portal Applicant training to VITEMA and VIDE personnel in 2018 and 2019. We believe that the actions taken by FEMA met the intent of the recommendation. Therefore, we consider this recommendation resolved and closed.

Insurance Policies and Procedures

VIDE had policies, procedures, and business practices to appropriately use insurance proceeds according to Federal regulations, which require that subrecipients use insurance proceeds to offset the costs of projects funded by FEMA.¹⁴ Federal regulations further require that subrecipients obtain and maintain insurance on facilities rebuilt using FEMA grant funds.¹⁵

To determine if VIDE had appropriately used insurance proceeds received from the disasters to offset the costs from projects funded by FEMA, we reviewed VIDE's policies and procedures for use of insurance proceeds and discussed the policies and procedures with VIDE management.

In addition, we obtained the Government of the Virgin Islands (GVI) Insurance Policy. We noted that under the GVI insurance policy, VIDE had received \$35 million in insurance proceeds. The USVI used \$5 million of the insurance proceeds received by VIDE to pay insurance deductibles for other USVI agencies covered by the GVI policy. We noted the insurance policy allowed for this use of the proceeds. The remaining \$30 million was allocated to VIDE's anticipated projects.

In addition, to validate that VIDE had used the insurance proceeds to reduce FEMA's share of project costs for the projects to which they had been allocated, we reviewed one contract totaling \$117 million. We noted that VIDE had used \$5 million of insurance proceeds allocated to the related project to fund a portion of the contract. We also noted that VIDE had policies and procedures in place to use the remaining \$25 million in insurance proceeds to offset the costs of anticipated FEMA PA grant projects for permanent work. In our review of these policies and procedures, we did not identify any instances of non-compliance with applicable Federal regulations and FEMA guidelines.

We also confirmed that VIDE officials are aware that obtaining and maintaining insurance on insurable facilities is a condition of current and future FEMA funding.

¹⁴ 44 CFR §206.250

¹⁵ 2 CFR §200.310

Appendix A: OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The overall objectives of our audit were to assess the extent to which FEMA provided adequate guidance to VITEMA and VIDE to ensure VIDE had established and implemented policies, procedures, and practices to account for and expend PA grant funds in accordance with Federal regulations and FEMA guidance. We also determined whether Federal regulations and FEMA guidance were used to ensure:

- VIDE has accounting policies and procedures in place that are in compliance with applicable laws and regulations, as required by Sec. 795 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988*.
- VIDE has policies and procedures in place to appropriately procure services using grant funds in compliance with applicable laws and regulations, as required by Sec. 795 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988*.
- VIDE has policies and procedures in place to appropriately manage the accounting of grant funds on a project-by-project basis and to ensure costs were allowable, reasonable, and allocable, as required by Sec. 795 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988*.
- Costs incurred by VIDE on category C – G projects for compliance with contracting criteria for non-Federal entities described in 2 Code of Federal Regulations (CFR) § 200.318 - .326 General Procurement Standards.

Additionally, we were to report instances of noncompliance identified that Government Auditing Standards require reporting, or that warrant the attention of DHS OIG and DHS management.

Scope and Methodology

We audited the capability of VIDE to manage FEMA PA grant funds in accordance with applicable laws and regulations, including policies and procedures related to contracting with external vendors. DHS OIG engaged us to conduct this audit early in the PA process to identify areas where VIDE may

need additional technical assistance or monitoring to ensure compliance with Federal regulations and FEMA guidelines.

The period in scope was September 5, 2017, the first day of the incident period for the disasters, through March 22, 2019. As of December 10, 2018, FEMA had awarded and obligated 14 projects for debris removal and emergency services and 2 projects for permanent work. The total obligations for the debris removal and emergency services was approximately \$111 million, and total obligations for the two permanent work was approximately \$71,000.

We interviewed FEMA, VITEMA, and VIDE officials; assessed the adequacy of the policies, procedures, and business practices VIDE uses to account for and expend Federal grant funds and to procure and monitor contracts for disaster work; reviewed applicable Federal regulations and FEMA guidelines, and performed other procedures considered necessary to accomplish our objective.

We conducted fieldwork activities at VITEMA and VIDE offices. We did not perform a detailed assessment of VIDE's internal controls over its grant activities because it was not necessary to accomplish our audit objectives. However, we did assess the adequacy of the policies procedures, and business practices VIDE uses and plans to use to account for and expend Federal grant funds and to procure for and monitor disaster work.

We selected a judgmental sample of expenses already incurred by VIDE using risk-based criteria, including projects self-identified as high risk by FEMA and VIDE. In total, we selected two out of three projects with expenses incurred and evaluated costs totaling approximately \$21 million out of approximately \$81 million incurred to date. We evaluated these costs for compliance with applicable Federal regulations and FEMA guidelines.

We discussed the results of our audit with personnel from FEMA, VITEMA, and VIDE. We considered their comments in developing our draft report and incorporated their comments as appropriate.

To assess the reliability of the data provided to us by FEMA of PW obligations and expenditures we obtained supporting documentation and interviewed VIDE and VITEMA personnel. We determined that the data was sufficiently reliable for the purposes of this report.

Appendix B: Background on June 2018 FEMA Public Assistance Alternative Procedures for Direct Administrative Costs (pilot program)

Section 324 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Stafford Act)* authorizes FEMA to provide funds to the recipient and the subrecipient for management costs incurred in the administration of PA programs. In June 2018, FEMA issued a new recovery policy, the *Public Assistance Alternative Procedures for Direct Administrative Costs*, which created a new method for FEMA to award PA management costs via a fixed estimate process (hereafter referred to as “the pilot program”).

Under the pilot program, FEMA reimburses management costs using a single “management cost” PW. The “management cost” PW is funded based on a percentage of the total amount of all non-management cost PWs submitted. The recipient and subrecipient must each establish their own “management cost” PWs. The intent of the pilot program is to reduce the administrative burden of requiring recipients and subrecipients to submit individual management costs for reimbursement through non-management cost PWs. Instead, the recipient and subrecipient receive the funds provided through the “management cost” PW without having to submit management costs for reimbursement. However, the recipient and subrecipient must also have policies and procedures in place to ensure that they do not submit management cost for reimbursement to non-management cost PWs (i.e., duplication of benefits).

Section 1215 of the *Disaster Recovery Reform Act of 2018*, signed into law in October 2018, expands the definition of management costs to include both direct and indirect administrative costs incurred by the state, local, tribal or territorial government. Previously under the Stafford Act, FEMA reimbursed direct administrative costs directly to subrecipients but reimbursed indirect administrative costs to the state, and the state would determine what portion of these costs to pass through to subrecipients. Under this act, FEMA reimburses direct and indirect administrative costs as “management costs” in an amount up to 12 percent of the total award, of which up to 7 percent may be used by the recipient and up to 5 percent may be used by the subrecipient.

Appendix C: FEMA Region II Comments


U.S. Department of Homeland Security
Region II
Jacob K. Javits Federal Office
Building 26 Federal Plaza
Room 1807 18th Floor
New York, New York 10278



FEMA

March 27, 2020

MEMORANDUM FOR: Sandra F. McCauley
Assistant Inspector General for Audits

FROM: Thomas Von Essen 
Regional Administrator, Region II

SUBJECT: Management Response to Draft Report: "Capacity Audit of
FEMA Grant Funds Awarded to the U.S. Virgin Islands
Department of Education"
(Project No. 19-021-AUD-FEMA)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

FEMA appreciates OIG's recognition of the intricacy of the U.S. Virgin Island's (USVI) government agencies and the challenges it faced in the aftermath of Hurricanes Irma and Maria. These included developing communication procedures between all agencies involved in procurement process, while also complying with federal regulations.

In partnership with the USVI Territorial Emergency Management Agency (VITEMA) and in line with FEMA's mission of helping citizens and first responders before, during and after disasters, DHS and FEMA provided effective and timely recovery assistance to disaster survivors after an historic 2017 Hurricane Season.

In 2019, the USVI established the Office of Disaster Recovery (ODR) as the primary territorial government agency responsible for monitoring, managing and administering federal funding provided for Hurricanes Irma and Maria recovery. On October 1, 2019, FEMA implemented a manual drawdown review process for reimbursement for all eligible projects under the Public Assistance (PA) Program.

FEMA will continue the manual drawdown process until ODR implements fiscal controls, accounting and project administration procedures at the recipient and sub-recipient levels that demonstrates that it is ready, willing, and able to assume the responsibility and access the federal grant funds. This capability includes the effective execution of all phases of the grants management process, for both the recipient and sub-recipient, in accordance with all applicable federal laws, regulations, and administrative requirements. As mentioned in the draft report, the USVI Department of Education (VIDE) needs additional support to implement steps to ensure it can manage its grants effectively.

The draft report contains five recommendations, with which the Department concurs. Attached find our detailed response to each recommendation. DHS previously submitted technical comments under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment

**Attachment: Management Response to Recommendations
Contained in 19-021-AUD-FEMA**

Recommendation 1: Provide VITEMA and VIDE with additional guidance to update their policies and procedures in place to ensure they comply with *Disaster Recovery Reform Act of 2018* and FEMA's *Public Assistance Management Costs Interim Policy – SOP*.

Response: Concur. FEMA issued the *Public Assistance Management Costs Interim Policy* on November 14, 2018, shortly after the President signed the *Disaster Recovery Reform Act of 2018* (October 5, 2018). Additionally, FEMA issued the *Public Assistance Management Costs Interim Policy – Standard Operating Procedures (SOP)* in February 2019.

FEMA will meet with VITEMA and VIDE to review the SOP and provide guidance needed for VITEMA and VIDE to have compliant policies and procedures. Estimated Completion Date (ECD): February 26, 2021.

Recommendation 2: Work with VITEMA, in its capacity as the Recipient, to ensure VIDE establish controls over conflict of interest provisions.

Response: Concur. FEMA will reiterate that without sufficient controls over conflict of interest provisions, contract costs claimed for FEMA reimbursement might not be found reasonable and allowable. ECD: February 26, 2021.

Recommendation 3: Work with VITEMA and VIDE to:

- Determine if the additional \$26 million in costs submitted are reasonable.
- Require that VIDE adhere to Federal regulations requiring that FEMA be promptly notified of SOW changes for all future PW requests and modifications.
- Establish clear communication procedures for VITEMA, VIDE, and DPP to follow to promptly report changes in SOWs and incremental costs incurred.

Response: Concur. FEMA implemented a manual drawdown review process for reimbursement on October 1, 2019, for all eligible projects. Through that process, FEMA is currently reviewing all requests to draw down funding and will only approve the draw down of reasonable, eligible costs.

FEMA will also ensure that VITEMA and VIDE are fully aware of FEMA regulations and policies regarding requests for scope of work changes. Finally, FEMA will work

with VITEMA and VIDE to ensure that VIDE enhance effective communication procedures during disaster recovery. ECD: February 26, 2021.

Recommendation 4: Work with VITEMA to improve the management of VIDE related to resolution of the transition from mission assignments to project worksheets.

Response: Concur. FEMA will meet with VITEMA and VIDE to discuss the transition from mission assignments to interagency agreements, project worksheets, or lessons learned from the transition relative to the modular units. ECD: February 26, 2021.

Recommendation 5: Coordinate with VITEMA and VIDE to identify and grant access to individuals whose job responsibilities require FEMA Grants Portal access; and ensure all appropriate personnel receive the Grants Portal training.

Response: Concur. FEMA has granted Grants Portal access and trained all VITEMA and VIDE personnel identified by each agency to require access. Specifically, FEMA provided training to VITEMA and Territorial applicants on Grants Manager Basics on August 13, 2018; Grants Manager Portal on January 23, 2019; Grants Portal Overview (specifically for VITEMA) on February 7, 2019; Grants Portal on February 27, 2019; and Grants Portal Applicant Training on June 21, 2019. The sign-in sheets confirm attendance by VITEMA as well as VIDE consultants and will be sent under separate cover. FEMA provides additional Grants Portal training upon request. FEMA requests this recommendation be considered resolved and closed.

Appendix D: Report Distribution

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