

**FEMA Needs Revised
Policies and Procedures to
Better Manage Recovery of
Disallowed Grant Funds**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

March 11, 2021

MEMORANDUM FOR: Robert J. Fenton, Jr.
Senior Official Performing the Duties of the
Administrator
Federal Emergency Management Agency

FROM: 
Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *FEMA Needs Revised Policies and Procedures to Better
Manage Recovery of Disallowed Grant Funds*

Attached for your action is our final report, *FEMA Needs Revised Policies and Procedures to Better Manage Recovery of Disallowed Grant Funds*. We incorporated the formal comments provided by your office.

The report contains five recommendations aimed at improving FEMA's process for recovering disallowed grant funds. Your office concurred with all five recommendations. Based on information provided in your response to the draft report, we consider them open and resolved. 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 recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act of 1978, as amended*, 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, or your staff may contact Thomas Kait, Acting Assistant Inspector General for Audits, at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

FEMA Needs Revised Policies and Procedures to Better Manage Recovery of Disallowed Grant Funds

March 11, 2021

Why We Did This Audit

FEMA grants billions of dollars each year to help recipients (states, territories, and tribal and local governments) and subrecipients (counties, cities, and nonprofit organizations) respond to and recover from disasters. We performed this audit to determine whether FEMA allowed grant costs consistent with Office of Management and Budget circulars and other cost guidance and to determine the effectiveness of FEMA's process for recovering disallowed grant costs.

What We Recommend

We made five recommendations for FEMA to address identified deficiencies and revise its guidance to comply with Federal laws and regulations.

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

The Federal Emergency Management Agency's (FEMA) process for recovering disallowed grant costs could be improved. First, FEMA justified allowing most of the costs we questioned for noncompliance with procurement regulations. FEMA based these decisions solely on the reasonableness of the costs, rather than addressing the procurement deficiencies. Allowing such costs may deter recipients and subrecipients from complying with Federal procurement requirements and leave funds open to potential waste and abuse.

Second, although staff in FEMA regional offices generally followed internal guidance when recovering disallowed grant costs, they did not track debt collections by the FEMA Finance Center (FFC) because FEMA guidance does not require them to do so. The FFC also did not update regional office staff on debt collection status, as required. Without such status updates, FEMA may award grants to recipients and subrecipients with outstanding unresolved debt.

Finally, FEMA's internal guidance does not comply with time limits for debt recovery in the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended. A statute of limitations in the act was revised to prohibit FEMA from initiating new action to recover payments from disaster recipients after 3 years from the date a final expenditure report for a project is submitted. This occurred because FEMA did not effectively communicate the changes to its staff and some officials were unaware the statute of limitations changed. In addition, FEMA did not update its guidance to remain compliant in a timely manner. As a result, FEMA may attempt to recover payments beyond the time limit.

FEMA's Response

FEMA concurred with the five recommendations. We consider all five resolved and open. Appendix B contains FEMA's management response in its entirety.



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Abbreviations

C.F.R.	Code of Federal Regulations
EMMIE	Emergency Management Mission Integrated Environment
ePMO	Electronic Program Management Office
FEMA	Federal Emergency Management Agency
FFC	FEMA Finance Center
OCFO	Office of the Chief Financial Officer
OMB	Office of Management and Budget
PA	Public Assistance
RA	Regional Administrator
RCA	reasonable cost analysis
U.S.C.	United States Code



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Background

The Federal Emergency Management Agency’s (FEMA) Public Assistance (PA) grant program provides assistance to help public and certain private non-profit entities quickly respond to and recover from presidentially declared major disasters or emergencies. To execute this assistance, FEMA provides funding to recipients (states, territories, and tribal and local governments) who act as pass-through entities to subrecipients (counties, cities, and certain types of private nonprofit organizations). FEMA, PA grant recipients, and subrecipients must comply with all Federal laws, including Title 44 of the Code of Federal Regulations (C.F.R.), *Emergency Management and Assistance* and 2 C.F.R. Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as well as related Executive Orders, regulations, and policies.

In addition to its headquarters in Washington, DC, FEMA has 10 regional offices. See Appendix C for a list of regional offices. Each FEMA region has an appointed administrator responsible for ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, mitigation, and programs for natural disasters, acts of terrorism, and other manmade disasters.¹ FEMA PA program staff are responsible for recovering disallowed grant costs and working with recipients to recover amounts that may be owed to FEMA. Figure 1 provides a map of FEMA’s 10 regions.

Figure 1. Map of FEMA Regions



Source: FEMA’s intranet

¹ Each Regional Administrator (RA) works in partnership with states and other governmental and non-governmental entities, commissions, and organizations within the geographical area served by the regional offices to carry out the RA’s responsibilities.



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Program staff at FEMA regional offices determine the eligibility of projects submitted by applicants and award PA grant funds on a project-by-project basis. Once approved, funds are provided to the recipient, who may disburse them to a subrecipient (subaward), as appropriate. FEMA, recipients, and subrecipients have overlapping oversight, management, monitoring, and administrative duties. Specifically:

- FEMA is responsible for overseeing, managing, and administering Federal awards; determining eligibility, obligating or deobligating funds; and reviewing final costs submitted to complete the approved project's scope of work. FEMA closes the project when its review is complete.
- Recipients are responsible for managing and administering grants; submitting closure requests to FEMA at project completion; and certifying all costs incurred meet Federal regulations and FEMA policies.
- Subrecipients are responsible for overseeing daily project operations and certifying incurred costs comply with the approved scope of work, Federal regulations, and FEMA policies.

When the Department of Homeland Security Office of Inspector General (OIG) audits FEMA's PA grant awards, the recommendations are generally directed at FEMA and the recipient. Recommendations may include monetary findings, such as questioned costs, or non-monetary findings, such as improving grant management and oversight. Although OIG questions costs, FEMA regional administrators make the final determinations on the allowability of costs questioned within their respective regions.

FEMA may agree or disagree with OIG findings and recommendations. When FEMA concurs, it must provide a plan within 90 days following publication of the report with a proposed timeline for completing corrective actions. For OIG to close a recommendation, FEMA must provide documentation demonstrating it has completed all agreed-upon corrective actions. Table 1 provides examples of findings, potential corrective actions FEMA may take in response to recommendations, and examples of supporting documentation for those corrective actions.



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Table 1. Examples of Findings, Corrective Actions, and Supporting Documentation

	OIG Finding Examples	FEMA Corrective Actions	FEMA Supporting Documentation
Monetary	Unused obligated funds	Deobligate unused portion of previously obligated funds	Documentation showing deobligations have been completed
Non-Monetary	Noncompliance with administrative requirements	Provide training and/or technical assistance to recipient	Agenda of completed training or copy of a letter addressing shortfalls (e.g., training, oversight)

Source: DHS OIG derived from the *Inspector General Act of 1978, as amended*, 2 C.F.R. § 200.26, Office of Management and Budget (OMB) Circular A-50, and DHS Instruction No. 077-01-001

For this audit, we reviewed audit reports OIG issued from fiscal years 2012 through 2018 and identified 328 reports on PA grants. We analyzed these reports to determine whether FEMA allowed the costs consistent with Federal cost guidance. To analyze the types of noncompliance OIG identified and the consequent questioned costs, we grouped the deficiencies in the 328 reports into 30 categories.² (See Appendix D for a complete list of deficiencies, frequency of deficiencies, and recommendations.)

In the 328 reports we reviewed, noncompliance with procurement regulations was among the three findings OIG identified most often. The C.F.R. outlines procurement regulations recipients and subrecipients must follow in using grant funds.³ These include regulations for competition, procurement methods, contracting with small and minority businesses and women’s business enterprises, and contract costs and price.

We selected 42 of the 328 reports for subsequent review with FEMA regional officials to determine whether regional staff followed applicable guidance when allowing or recovering questioned costs. The five

Auditors may question the allowability of costs submitted for reimbursement.

FEMA determines which questioned costs to allow or disallow.

To be allowable, costs must comply with all terms and conditions of the award, including cost limitations.

Unallowable, unreasonable, or unnecessary costs are disallowed.

² In this report, deficiencies are instances of noncompliance with Federal regulations identified in DHS OIG audit reports.

³ 2 C.F.R. §§ 200.317-200.326.



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deficiencies we identified most frequently in the 42 reports related to noncompliant procurement practices, unused obligated funds, duplicate funding, unsupported costs, and miscellaneous ineligible costs.

We performed this audit to determine whether FEMA allowed grant costs consistent with Federal cost guidance. We also sought to determine the effectiveness of FEMA's process for recovering disallowed grant costs.

Results of Audit

FEMA's process for recovering disallowed grant costs could be improved. First, FEMA justified allowing most of the costs we questioned for noncompliance with procurement regulations. FEMA based these decisions solely on the reasonableness of the costs, rather than addressing the procurement deficiencies. Allowing such costs may deter recipients and subrecipients from complying with Federal procurement requirements and leave funds open to potential waste and abuse.

Second, although staff in FEMA regional offices generally followed internal guidance when recovering disallowed grant costs, they did not track debt collections by the FEMA Finance Center (FFC) because FEMA guidance does not require them to do so. The FFC also did not update regional office staff on debt collection status, as required. Without such status updates, FEMA may award grants to recipients and subrecipients with outstanding unresolved debt.

Finally, FEMA's internal guidance does not comply with time limits for debt recovery in the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended. A statute of limitations in the act was revised to prohibit FEMA from initiating new action to recover payments from disaster recipients after 3 years from the date a final expenditure report for a project is submitted. This occurred because FEMA did not effectively communicate the changes to its staff and some officials were unaware the statute of limitations changed. In addition, FEMA did not update its guidance to remain compliant in a timely manner. As a result, FEMA may attempt to recover payments beyond the time limit.

FEMA Often Allowed Questioned Costs without Addressing Procurement-Related Deficiencies

According to the C.F.R., an agency's corrective action must correct an identified deficiency, produce recommended improvements, or demonstrate no action is necessary.⁴ However, when allowing costs associated with grant recipients' and subrecipients' noncompliance with regulations, we found FEMA regional

⁴ 2 C.F.R. § 200.508(c).



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offices often allowed *procurement-related* questioned costs without addressing the deficiencies OIG identified in its reports. Specifically, FEMA addressed deficiencies associated with unused obligated funds, duplicate funding, unsupported costs, and ineligible costs but did not address recipients’ and subrecipients’ procurement deficiencies — practices that were not compliant with Federal regulations.

Among the 42 reports we included in our review, the 5 most frequently identified deficiencies were noncompliant procurement practices, unused obligated funds, duplicate funding, unsupported costs, and miscellaneous ineligible costs. Table 2 displays these deficiency categories, the number of times these deficiencies were identified in the 42 reports, and whether FEMA addressed each deficiency category as a whole.

Table 2. Top 5 Categories of Deficiencies from 42 Reports OIG Issued from FY 2012 to FY 2018

Category of Deficiency*	Number of Deficiencies	Deficiency Addressed
Noncompliant Procurement Practices	66	No
Unused Obligated Funds	50	Yes
Duplicate Funding	28	Yes
Unsupported Costs	28	Yes
Miscellaneous Ineligible Costs	18	Yes

Source: Compilation and analysis of DHS OIG FYs 2012–2018 PA audit reports

*See Appendix D for complete list of repeated deficiencies and recommendations.

As the table shows, in all 42 reports, we determined that FEMA addressed the deficiencies related to unused obligated funds, duplicate funding, unsupported costs, and miscellaneous ineligible costs. For example, if OIG questioned unsupported costs, FEMA required the recipient or subrecipient to provide supporting documentation for costs we questioned and allowed the costs claimed. If the recipient or subrecipient was unable to support the costs claimed as regulations require, FEMA disallowed costs as recommended.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made.

However, FEMA allowed questioned costs related to procurement deficiencies without taking corrective action to address the deficiencies OIG identified. For example, when OIG questioned costs because a contract was awarded without full and open competition, FEMA allowed the questioned costs because it determined they were reasonable for the product or service acquired. However, FEMA did not address the underlying deficiency that the contract for the product or service was not properly competed.



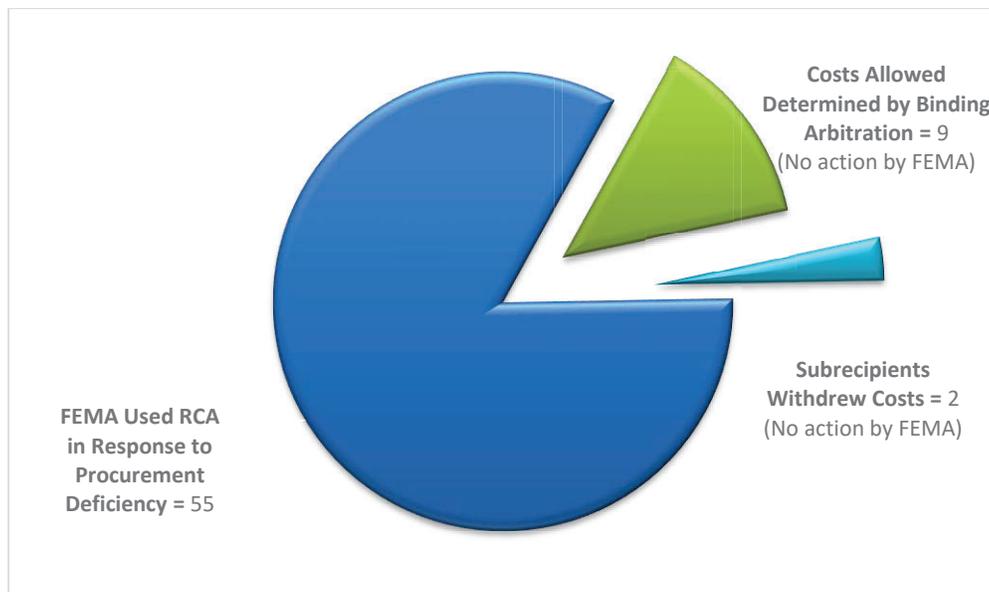
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FEMA officials in one region said regional staff commonly conduct reasonable cost analyses (RCA) as a basis for allowing costs OIG has questioned for procurement noncompliance. Our sample analysis supported this practice occurs across multiple regions. The methodology FEMA uses to conduct an RCA may vary from project to project. FEMA compares costs incurred by a recipient or subrecipient to those incurred by similar entities in similar circumstances. FEMA also evaluates whether the costs are ordinary and necessary to perform contracted work.

However, in our sample of 42 reports, FEMA conducted RCAs and allowed questioned costs for 55 of 66 procurement-related deficiencies without addressing the underlying deficiencies. For the remaining 11 of 66 deficiencies, FEMA did not have the option to disallow the claimed costs as we recommended because subrecipients withdrew their claims (2 cases) or FEMA was bound by arbitration (9 cases).⁵ Figure 2 shows how the 66 instances of procurement deficiencies from the 42 reports were resolved.

Figure 2. Resolution of 66 Questioned Procurement Costs in Our Sample of 42 DHS OIG Reports Issued



Source: DHS OIG analysis of audit reports issued from FY 2012 to FY 2018

FEMA should not allow procurement-related questioned costs based solely on its determination of reasonableness. Rather than using the RCA as the sole

⁵ Binding arbitration is a process in which disputes are resolved by a neutral party who makes a final and court enforceable decision about the dispute.



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rationale for allowing the cost, FEMA should address why the recipient or subrecipient did not comply with the procurement regulations. Although the C.F.R.⁶ allows FEMA to make exceptions by allowing costs on a case-by-case basis, doing so for all procurement deficiencies without addressing them may deter recipients and subrecipients from complying with Federal procurement requirements. That is, if recipients and subrecipients know FEMA is unlikely to recover procurement-related costs, even if questioned by OIG, they may have less incentive to comply with procurement regulations and leave funds open to potential waste and abuse.

In addition to inappropriately using reasonable cost as the sole basis for allowing costs for procurement deficiencies, we found FEMA did not always retain the supporting documentation used to conduct the RCA because FEMA's RCA job aid only requires regional offices to "record the results," and include the Validation of Applicant-Provided Cost Estimates checklist in the subaward file. Not maintaining such documentation can lead to uninformed decision making and hinder FEMA's and the OIG's ability to validate reasonableness determinations.

FEMA Regions May Not Be Able to Ensure Outstanding Debts Are Resolved before Awarding New Grants

Potential Debt - An amount which FEMA has made an initial determination is owed.

Debt - An amount of money which an appropriate FEMA official has made a final determination that is owed to FEMA by a Recipient.

Source: FEMA Directive 116-1

FEMA regional offices are responsible for recovering any disallowed costs paid under FEMA grants. The identification and recovery of monies owed (i.e., potential debt) under a grant may occur at any time during the grant's life cycle. For example, regional staff may identify potential debt through an internal audit, routine monitoring activity, or administrative process, such as grant closeout or appeal. When FEMA identifies potential debt, regional offices work with recipients to recover amounts that may be owed to FEMA. According to FEMA Directive 116-1,⁷ regional offices must track the amount owed when potential debt is identified.

⁶ 2 C.F.R. § 200.102(a) and (b).

⁷ FEMA Directive 116-1, *Identification and Collection of Monies Owed from Non-Federal Entities*, September 30, 2016.



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We reviewed FEMA guidance and examples of potential debt and determined regional offices generally followed internal guidance when recovering disallowed grant costs. To illustrate, when FEMA identifies a potential debt, regional staff coordinate with the recipient to recover the amount owed. FEMA can recover the amount owed through deobligation, reimbursement, or equitable offset. Our review of FEMA's system of record showed regional staff had started the process of deobligating 100 percent of the disallowed costs. However, at the time of our audit in spring 2020, some disallowed costs were still pending and not yet fully recovered.

When regional staff cannot successfully resolve and recover the full amount owed, they are to validate the amount owed, make a final

determination a debt exists, and submit a debt collection package to the FFC. Once the debt is referred to the FFC, the regional offices are prohibited from

Non-Federal Entity - A state, Indian tribe, local government, institution of higher education, or nonprofit organization that carries out a federal award as a Recipient or subrecipient.

Source: FEMA Directive 116-1

additional debt collection efforts and are excluded from the debt collection process. The FFC becomes the sole point of contact and, per Directive 116-1, is required to monitor all debts referred for collection. Regional offices are not required to maintain records or track the status of referred debt, but the directive requires the FFC to notify the applicable regional office of funds received for any debt collection activity, as well as to provide a "monthly non-federal entity aging report" (monthly report) of all outstanding recipient debts.

Deobligation - A downward adjustment of an obligation previously authorized for an award.

Reimbursement - The recipient reimburses FEMA directly or to the award account for the amount it owes.

Equitable Offset - The disallowed amount is applied to an approved, but unpaid, allowable cost.

Source: FEMA Directive 116-1

We found no instances of debt being referred to the FFC within the scope of our audit. However, to demonstrate the process, regional staff provided two examples of referred uncollected debt. We determined these examples did not follow the established procedure. Specifically, after the debts were referred, the FFC did not update regional offices by providing monthly reports of referred outstanding debts, as required. Not all FEMA staff may have been aware of these requirements. For example, an official from FEMA's Office of the Chief Financial Officer (OCFO) was not aware the FFC was required to prepare and share monthly reports with regional staff. Although one regional office stated it requested updates from the FFC, FEMA staff from all four regions where we



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conducted site visits confirmed they do not receive status updates from the FFC after it assumes debt they have referred.

According to 2 C.F.R. § 200.206(b), regional staff are required to adequately assess risk, including conformance to the terms and conditions of previous Federal awards, prior to awarding new grant funds. Without regular updates from the FFC debt collection efforts, or a requirement for FEMA regional program staff to track debt status, FEMA may not be able to ensure that outstanding debts are resolved prior to awarding new grants to recipients, which increases the potential for misuse of taxpayer dollars.

FEMA's Internal Guidance Does Not Comply with a Statute of Limitations on Recovering Debt

FEMA did not update its internal guidance to comply with *The Disaster Recovery Reform Act of 2018*, which amended, in part, Section 705(a) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act).⁸ Section 705(a) includes a statute of limitations that prohibits FEMA from initiating any new action, including the use of administrative offset, to recover payments made to state and local governments after 3 years from the date the final expenditure report for a project is submitted. Although Section 705(a) was amended in October 2018, FEMA has not updated its guidance to comply with the statute.

According to DHS Directive 112-01,⁹ component heads are responsible for policies that comply with statutes. We identified three examples of FEMA's internal guidance that do not comply with the Stafford Act's statute of limitations.¹⁰ For example, FEMA OCFO's *Receivables Management Standard Operating Procedure* includes outdated language that allows FEMA to recover costs more than 3 years after transmission of the final expenditure report. Because FEMA did not effectively communicate the changes, an OCFO official with whom we met was unaware of the changes to the statute of limitations in the Stafford Act until our meeting, but agreed the *Receivables Management Standard Operating Procedure* had not been updated and included outdated language. We also found regional awareness of the new provision in Section 705(a) varied greatly. If FEMA continues to use this outdated guidance, grant

⁸ Pub. L. No. 115-254 (codified at 42 United States Code (U.S.C.) § 5205(a)).

⁹ Department of Homeland Security Directive 112-01, *DHS Directives System*, Revision 01, September 26, 2011.

¹⁰ The three examples of FEMA guidance are FEMA OCFO's *Receivables Management Standard Operating Procedure*, December 27, 2017; FEMA Directive 116-1, *Identification and Collection of Monies Owed from Non-Federal Entities*, September 30, 2016; and FEMA Instruction 116-1-1, *Identification and Collection of Monies Owed from Non-Federal Entities*, September 30, 2016.



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management personnel may try to recover payments after the statute of limitations has expired, which would be a violation of the Stafford Act.

Conclusion

To help ensure grant recipients and subrecipients comply with procurement regulations, FEMA should address and rectify procurement-related deficiencies OIG identifies through its audits. FEMA can also improve its debt recovery process and avoid potential misuse of taxpayer dollars by ensuring its regional offices are aware of outstanding debts before awarding new grants. Finally, FEMA should update its policies to align with the Stafford Act to help ensure that attempts to recover costs occur within the statute of limitations.

Recommendations

We recommend the FEMA Administrator:

Recommendation 1: Develop and implement a policy that requires corrective action plans to 1) correct the identified deficiency, 2) produce recommended improvements, or 3) demonstrate the audit finding is either invalid or does not warrant FEMA action. In addition, this policy will direct FEMA regional offices to retain all supporting documentation used in satisfying the submitted corrective action plans.

Recommendation 2: Update FEMA Directive 116-1 to require regional program offices to maintain records and track the status of referred debt.

Recommendation 3: Direct the Office of the Chief Financial Officer to provide updates of FFC debt recovery to the appropriate regional program offices, as required by FEMA Directive 116-1.

Recommendation 4: Review and update, as necessary, all applicable policies to reflect the changes to the statute of limitations created by the *Disaster Recovery Reform Act of 2018* for Section 705(a) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*.

Recommendation 5: Revise FEMA's process to routinely review all internal policies and procedures when Federal laws and regulations affecting FEMA change to ensure internal policies and procedures remain compliant and required changes are timely.



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FEMA's Management Response and OIG Analysis

FEMA concurred with the five recommendations made in this report. Appendix B contains FEMA's management response in its entirety. We also received technical comments and made changes where appropriate. A summary of FEMA's responses and our analysis follows.

FEMA's Response to Recommendation 1: FEMA concurred with this recommendation. FEMA will develop and implement a policy to require corrective action plans for procurement-related deficiencies that will address the deficiencies and recommend improvements, where applicable. In addition, FEMA will direct regional offices to retain all documentation supporting the corrective action plans. Estimated Completion Date (ECD): January 29, 2022.

OIG's Analysis: FEMA's response meets the intent of this recommendation. The recommendation is resolved and open. This recommendation will remain resolved and open until the proposed policy is finalized and the changes are communicated to FEMA staff. Further, when FEMA determines that developing corrective action plans for procurement-related deficiencies is not applicable, FEMA should document and retain the rationale for its decision.

FEMA's Response to Recommendation 2: FEMA concurred with this recommendation. FEMA is updating FEMA Directive 116-1 and its implementing instructions, FEMA Instruction 116-1-1. The implementing instructions provide detailed guidance on FEMA's recoupment processes and will implement recommendation 2. ECD: November 30, 2021.

OIG's Analysis: FEMA's response meets the intent of this recommendation. The recommendation is resolved and open. This recommendation will remain resolved and open until FEMA can show the revisions to FEMA Directive 116-1 and its implementing instructions are finalized and communicated to FEMA staff.

FEMA's Response to Recommendation 3: FEMA concurred with this recommendation. FEMA will incorporate this recommendation into its updates of FEMA Instruction 116-1-1. Additionally, FFC will provide debt recovery updates to the appropriate regional program offices. ECD: November 30, 2021.

OIG's Analysis: FEMA's response meets the intent of this recommendation. The recommendation is resolved and open. This recommendation will remain resolved and open until FEMA can show the revisions to FEMA Directive 116-1 and its implementing instructions are finalized and communicated to FEMA staff and regional program staff are receiving updates on debt recovery.



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FEMA's Response to Recommendation 4: FEMA concurred with this recommendation. FEMA is updating FEMA Recovery Policy FP 205-081-2, *Stafford Act Section 705: Disaster Grant Closeout Procedures*, in coordination with FEMA regions and stakeholders to comply with the *Disaster Recovery Reform Act of 2018*. The update will comply with the time limits for debt recovery in the Stafford Act and clarify FEMA's interpretation and implementation of the statute of limitations for debt recovery. FEMA is also updating FEMA Directive 116-1 and its implementing instructions. ECD: November 30, 2021.

OIG's Analysis: FEMA's response to recommendation 4 in conjunction with its proposed actions to address recommendation 5 meet the intent of this recommendation. In implementing recommendation 5, FEMA should identify and update any other policies that do not comply with the *Disaster Recovery Reform Act of 2018*. The recommendation is resolved and open. The recommendation will remain resolved and open until FEMA finalizes updates to the identified policies and communicates the updates to FEMA staff.

FEMA's Response to Recommendation 5: FEMA concurred with this recommendation. FEMA will develop and implement a process to communicate changes to Federal laws and regulations applicable to FEMA components and ensure FEMA's existing policy process incorporates a mechanism to make timely interim updates to policies and procedures in response to changes in Federal laws and regulations. ECD: January 29, 2022.

OIG's Analysis: FEMA's response meets the intent of this recommendation. The recommendation is resolved and open. The recommendation will remain resolved and open until FEMA provides proof the proposed process and policy changes are complete.



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Appendix A **Objective, Scope, and Methodology**

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. We conducted this audit to determine whether FEMA is allowing costs consistent with OMB Circulars and other cost guidance, and to determine the effectiveness of FEMA's process for recovering disallowed grant costs.

To perform our audit, we assessed FEMA's actions to resolve and close DHS OIG findings of questioned costs. We reviewed prior OIG and Government Accountability Office audit reports, applicable Federal laws, FEMA regulations, policies and procedures, and other criteria; determined there were no conflicting engagements by internal or external agencies; reviewed supporting documentation; and assessed the risks that our audit procedures or findings may be improper or incomplete. We also reviewed FEMA's grant management system of record, Emergency Management Mission Integrated Environment (EMMIE), to validate the status of questioned costs, as well as FEMA's audit management system of record, Electronic Program Management Office (ePMO), to gain a full understanding of FEMA's resolution of the audit recommendations. We assessed the reliability of computer-based data by validating the EMMIE and ePMO data with paper records during our site visits and desk reviews. We determined that EMMIE and ePMO were the best sources of data available and were reliable for the purpose of meeting our audit objectives. Based on our analysis of the interviews and questionnaires, supporting documentation, EMMIE, and ePMO, we gained an understanding of FEMA's process for determining which questioned costs it would allow or disallow and recover.

To achieve our objective, we created a spreadsheet containing all FEMA related audit reports published between October 1, 2012 and September 30, 2018, and isolated 328 reports related to PA grants. We then analyzed 100 percent of the 328 reports to categorize deficiencies and validate FEMA's recovery of disallowed funds. Next, we selected a judgmental sample of 42 of the 328 reports representing all 10 FEMA regions for subsequent onsite and desk reviews as part of our fieldwork. To ensure each region was represented in our sample, we gave each region its own tab and assigned each report a randomly generated number using Excel's number generator. We sorted the random numbers from smallest to largest and selected the first 10 percent of the region's reports. If 10 percent for a region was less than one, we selected the first report listed.



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We conducted site visits to Regions II, IV, VI, and IX (FEMA regions with the greatest number of deficiencies) and performed desk reviews of the remaining six regions. We interviewed FEMA personnel involved in the recoupment process, which includes tracking, decision making, and actual recoupment of funds; and collected policies and procedures, examples of documents referenced during interviews, and documentation supporting decisions made on whether to recoup funds questioned in the judgmentally selected sample of reports. We designed interview questions to answer eight specific researchable questions.

We also developed a questionnaire based on site interview questions and documents received. We sent the questionnaire to Regions I, III, V, VII, VIII, and X to gain a complete understanding of FEMA's regional processes for recovering disallowed grant costs, as identified by DHS OIG audit findings and recommendations.

We analyzed all documentation collected from the 10 FEMA regional offices and compared FEMA's actions to applicable criteria to determine whether FEMA is allowing costs in a manner consistent with Federal cost guidance.

We conducted this performance audit between July 2019 and July 2020 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B FEMA Comments to the Draft Report

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



FEMA

January 28, 2021

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Cynthia Spishak CYNTHIA
Associate Administrator SPISHAK Digitally signed by CYNTHIA
Office of Policy and Program Analysis SPISHAK
Date: 2021.01.28 20:36:51 -05'00'

SUBJECT: Management Response to Draft Report: "FEMA Needs Revised
Policies and Procedures to Better Manage Recovery of
Disallowed Grant Funds"
(Project No. 18-130-AUD-FEMA)

Thank you for the opportunity to comment on this draft report. The 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 is pleased to note OIG's positive recognition of the assistance the Agency provides to help states, territories, and tribal and local governments respond and recover from presidentially declared major disasters or emergencies. FEMA remains committed to help others before, during, and after disasters.

The draft report contained five recommendations with which FEMA concurs. Attached find our detailed response to each recommendation. FEMA previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for OIG's consideration.

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



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Attachment: Response to Recommendations Contained in Project No. 18-130-AUD-FEMA

OIG recommended that the FEMA Administrator:

Recommendation 1: Develop and implement a policy that requires corrective action plans to 1) correct the identified deficiency, 2) produce recommended improvements; or 3) demonstrate the audit finding is either invalid or does not warrant FEMA action. In addition, this policy will direct FEMA regional offices to retain all supporting documentation used in satisfying the submitted corrective action plans.

Response: Concur. FEMA will develop and implement a policy to require corrective action plans for procurement-related deficiencies OIG identifies and with which FEMA concurs. For these deficiencies, the corrective action plan will address the deficiencies and recommend improvements, where applicable. In addition, this policy will direct all entities, including FEMA regional offices, to retain all documentation supporting the corrective action plans. FEMA does not currently prepare corrective action plans for OIG recommendations for which it non-concurs; that approach will not change going forward. Estimated Completion Date (ECD): January 29, 2022.

Recommendation 2: Update FEMA Directive 116-1 to require regional program offices to maintain records and track the status of referred debt.

Response: Concur. FEMA is currently in the process of updating FEMA Directive 116-1 and its implementing debt instructions. We anticipate completion in the next several months of the revision to FEMA Instruction 116-1-1, *Identification and Collection of Monies Owed from Non-Federal Entities*. This publication provides detailed guidance on FEMA's recoupment processes, and recommendation 2 has been incorporated into that draft. ECD: November 30, 2021.

Recommendation 3: Direct the Office of the Chief Financial Officer to provide updates of FFC debt recovery to the appropriate regional program offices, as required by FEMA Directive 116-1.

Response: Concur. FEMA's Office of Chief Counsel has incorporated this recommendation into the draft rewrite to FEMA Instruction 116-1-1. FEMA Finance Center (FFC) will provide debt recovery updates to the appropriate regional program offices. ECD: November 30, 2021.

Recommendation 4: Review and update, as necessary, all applicable policies to reflect the changes to the statute of limitations created by the *Disaster Recovery Reform Action of*

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2018 for Section 705(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Response: Concur. FEMA is updating FEMA Recovery Policy FP 205-081-2 *Stafford Act Section 705: Disaster Grant Closeout Procedures* in coordination with FEMA Regions and stakeholders to comply with *The Disaster Recovery Reform Act of 2018* (DRRA). This guidance complies with the time limits for debt recovery in the Stafford Act and clarifies FEMA's interpretation and implementation of the statute of limitations for debt recovery therein. FEMA is also updating FEMA Directive 116-1 and its implementing debt instructions. We anticipate completion in the next several months of the revision to FEMA Instruction 116-1-1, *Identification and Collection of Monies Owed from Non-Federal Entities*. This publication provides detailed guidance on FEMA's recoupment processes, and all references to Section 705(a) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* have been updated to reflect the changes to the statute of limitations. ECD: November 30, 2021.

Recommendation 5: Revise FEMA's process to routinely review all internal policies and procedures when Federal laws and regulations affecting FEMA change to ensure internal policies and procedures remain compliant and required changes are timely.

Response: Concur. FEMA's Office of Policy and Program Analysis will work with relevant FEMA offices to develop and implement a process to communicate changes to federal laws and regulations affecting FEMA to appropriate FEMA components and ensure FEMA's existing policy process incorporates a mechanism to make timely interim updates to policies and procedures in response to such changes in federal law and regulations affecting FEMA. ECD: January 29, 2022



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Appendix C FEMA Regional Offices

Regional Office Headquarters and Included States and Territories	
REGION I (Boston) <i>Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont</i>	REGION VI (Denton) <i>Arkansas, Louisiana, New Mexico, Oklahoma, and Texas</i>
REGION II (New York) <i>New Jersey, New York, Puerto Rico, and U.S. Virgin Islands</i>	REGION VII (Kansas City) <i>Iowa, Kansas, Missouri, and Nebraska</i>
REGION III (Philadelphia) <i>Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia</i>	REGION VIII (Denver) <i>Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming</i>
REGION IV (Atlanta) <i>Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee</i>	REGION IX (Oakland) <i>American Samoa, Arizona, California, Guam, Hawaii, Nevada, Commonwealth of the Mariana Islands, Federate States of Micronesia, Republic of the Marshall Islands, and Republic of Palau</i>
REGION V (Chicago) <i>Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin</i>	REGION X (Bothell) <i>Alaska, Idaho, Oregon, and Washington</i>

Source: FEMA's intranet



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Appendix D Categories and Frequency of Recommendations and Deficiencies

DHS OIG Reports Published between FYs 2012 and 2018			
Deficiency Categories	Total Reports Reviewed (328)	Reports in Sample (42)	
			# of Deficiencies
A. Funds Put to Better Use			
Cost Avoidance	9	2	14
Unused Obligated Funds	59	10	50
Interest Earned	3	0	0
Unused Funds at Risk	2	0	0
Ineligible Project	8	0	0
Unapplied Donations and Credits	5	0	0
Misc. Funds Put to Better Use	13	1	2
B. Ineligible Work or Costs			
Procurement Practices	79	15	66
Insufficient Insurance	9	2	7
Improper Contract Billing	13	0	7
Legal Responsibility	18	1	6
Other Ineligible Work/Costs	21	0	0
Insurance Proceeds	35	2	2
Misapplied/Misallocated			
Outside FEMA approved Scope of Work	27	3	8
Estimated/Calculated Costs - Project Cost Estimating	20	1	8
Project Accounting	11	0	0
Duplicate Funding	24	4	28
Other Federal Funding Available	7	0	0
Non disaster Related Costs	16	3	4
Duplicate Claims	14	1	2
Duplicate Costs	21	3	3
Force Account Labor/Equipment	26	2	2
Mismanaged Federal Funds	3	1	1
Extended Period of Performance	6	0	0
Contractor Billings Administrative Allowance/Overhead	6	0	0
Direct Administrative Costs	6	1	2
Excessive/Unreasonable Costs	39	6	11
Miscellaneous Ineligible Costs	52	7	18
C. Unsupported Costs	101	11	28
D. Grant Management & Administrative Issues	311	5	9
SUBTOTAL	964	81	278
E. No Recommendations	61	3	0
TOTAL: RECORDS REVIEWED	1,025	84	278

Source: DHS OIG analysis



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Appendix E

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