

**FEMA's Efforts to Provide
Funds to Reconstruct the
Vieques Community
Health Center**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

June 9, 2021

MEMORANDUM FOR: The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency

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

JOSEPH V CUFFARI
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JOSEPH V CUFFARI
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SUBJECT: *FEMA's Efforts to Provide Funds to Reconstruct the
Vieques Community Health Center*

Attached for your information is our final report, *FEMA's Efforts to Provide Funds to Reconstruct the Vieques Community Health Care Center*. Although given the opportunity to do so, your office did not provide formal comments to our draft report. The report contains no recommendations, and as such, we consider this audit closed.

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 Bruce Miller, Deputy Inspector General for Audits at (202) 981-6000.

Attachment

cc: Tom Fargione, Acting Administrator, Region II
Jose Baquero, Federal Disaster Recovery Coordinator, Puerto Rico and
U.S. Virgin Islands



DHS OIG HIGHLIGHTS

FEMA's Efforts to Provide Funds to Reconstruct the Vieques Community Health Center

June 9, 2021

Why We Did This Audit

On September 20, 2017, Hurricane Maria severely damaged the public health care facility on the island municipality of Vieques, off the coast of Puerto Rico. The following month, the municipality of Vieques requested public assistance from FEMA. Members of Congress asked the Office of Inspector General to evaluate FEMA's efforts to reconstruct the Vieques CDT.

What We Recommend

We made no recommendations.

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

Based on our audit, we determined that the Federal Emergency Management Agency (FEMA) followed applicable laws, regulations, and guidance in its efforts to provide funds for reconstruction of the *Centro de Salud Familiar Susana Centeno*, Vieques' community health center locally known as Vieques Center of Diagnostics and Treatment (Vieques CDT).

FEMA officials explained they made the determination to replace the Vieques CDT based on the facility's pre-disaster use and information provided by the award recipient and subrecipient. On July 9, 2019, FEMA issued an Eligibility Determination Memorandum to Puerto Rico's Central Office for Recovery, Reconstruction, and Resiliency (COR3) identifying the Vieques CDT as eligible for replacement and designating the replacement facility as a medical clinic. Although FEMA and COR3 disagreed about the designation of the Vieques CDT, Vieques did not exercise its right to appeal the designation or the final award amount. As required by FEMA guidance, *Puerto Rico's Public Assistance Alternate Procedures (Section 428)*, an expert panel reviewed and approved the cost estimate for reconstruction on December 16, 2019. On January 21, 2020, FEMA obligated about \$40 million to reconstruct Vieques CDT. As of January 2021, none of the funds had been disbursed by COR3.

FEMA also obligated about \$4.2 million to establish and operate a temporary medical services facility in Vieques that opened in May 2018. According to FEMA, the temporary facility can provide all the services previously available at the Vieques CDT, and FEMA will continue to fund the temporary facility until permanent facility reconstruction is complete.

FEMA Response

FEMA did not submit a formal response to our draft report because there were no recommendations.



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Department of Homeland Security

Background

The mission of the Federal Emergency Management Agency's (FEMA) Public Assistance program (PA program) is to provide assistance to state, territorial, Indian tribal, and local governments. The PA program provides disaster grant assistance to help communities respond to and recover from major disasters. The PA program funds restoration of community infrastructure, including temporary and permanent work.

Permanent work is work required to restore a facility to its pre-disaster design (size and capacity) and function. In the PA program, FEMA determines the eligibility of applicants, facilities, work, and costs. For projects that follow Section 428 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act) *Public Assistance Program Alternative Procedures*,¹ FEMA takes the following steps before obligating funds for the repair or replacement of a facility:

- site inspection;
- damage description and dimension development and agreement;
- Scope of Work (SOW) development and agreement;
- 50 percent rule² analysis of the SOW agreement, if necessary, to determine whether the facility is eligible for replacement;
- fixed-cost estimate development;
- expert panel validation for fixed-cost estimates, if required; and
- fixed-cost estimate agreement.

On September 20, 2017, Hurricane Maria struck Puerto Rico (PR) as a category 4 hurricane,³ causing severe widespread devastation across the island. The island municipality of Vieques, off PR's east coast, also experienced extensive damage, causing delays accessing electricity, housing, and medical care. (See Figure 1 for the location of Vieques and the path of the hurricane.)

¹ 42 United States Code (U.S.C.) § 5189f.

² According to 44 Code of Federal Regulations (C.F.R.) § 206.226(f), a facility is considered repairable when disaster damages do not exceed 50 percent of the cost of restoring the facility to its pre-disaster condition.

³ The U.S. National Hurricane Center uses the Saffir-Simpson Hurricane Wind Scale to classify hurricane intensities into five categories, distinguished by their sustained winds. Category 4: 130–156 mph: Well-built framed homes can sustain severe damage, and power outages will last weeks to possibly months. Most of the area will be uninhabitable for weeks or months. Category 3: 111–129 mph: Well-built framed homes can sustain severe damage with loss of most of the roof, structure, and/or some exterior walls, and electricity and water will be unavailable for several days to weeks after the storm passes.



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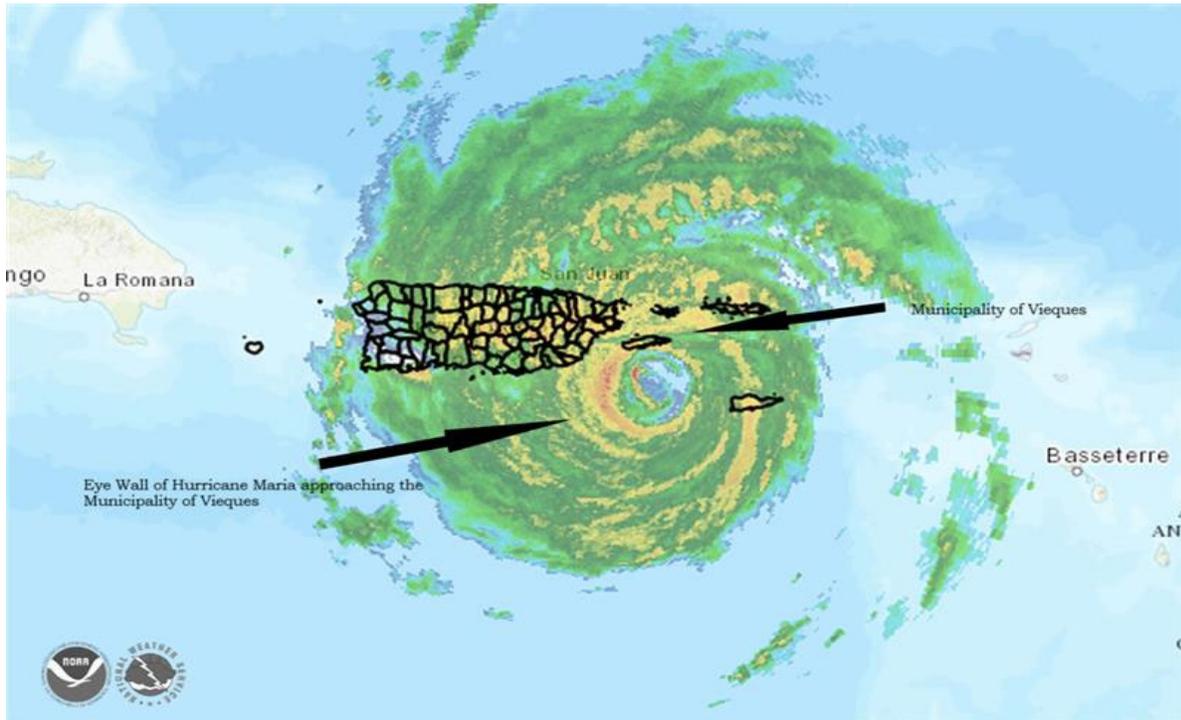


Figure 1. Radar at 3:54 AM AST (September 20, 2017) showing the center of Hurricane Maria just south of Vieques

Source: <https://www.weather.gov/>

The *Centro de Salud Familiar Susana Centeno*, Vieques' sole community health center and locally known as Vieques CDT,⁴ was severely damaged. As a result, the facility had to close, and citizens were forced to seek comprehensive medical care on the main island of PR until an alternative facility could be arranged. In August 2018, the municipality of Vieques submitted a \$76 million estimate to FEMA to rebuild Vieques CDT.

In a December 13, 2019 letter, members of Congress⁵ asked the Office of Inspector General (OIG) to evaluate FEMA's efforts to reconstruct the Vieques CDT. We addressed seven questions in the letter pertaining to FEMA's assistance to rebuild the Vieques CDT.

⁴ The Vieques CDT is also known as Susana Centeno Diagnosis and Treatment Center or Vieques Center of Diagnostics and Treatment.

⁵ Senator Elizabeth Warren, Senator Robert Menendez, Representative Nydia Velazquez, Representative Raul Grijalva, Representative Bennie G. Thompson, and Representative Peter A. DeFazio.



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Results of Audit

In a December 13, 2019 letter, members of Congress asked OIG to evaluate FEMA's efforts to reconstruct the Vieques CDT. In conducting our audit, we addressed seven questions in the letter pertaining to FEMA's assistance for this reconstruction. We addressed these questions by providing information about the following:

- FEMA's assistance reconstructing the Vieques CDT and a temporary health facility;
- factors affecting recovery projects in PR, including the Vieques CDT reconstruction;
- expert evaluation of the Vieques CDT reconstruction cost estimate;
- FEMA's assessment of Public Assistance funding needs for hospitals or other health facilities;
- timeliness and adequacy of the Vieques CDT reconstruction; and
- FEMA's decision to designate the Vieques CDT as a public community health center.

As a result of our audit, we determined that, in its efforts to provide funding for reconstruction of the Vieques CDT, FEMA followed applicable laws, regulations, and guidance. We are not making any recommendations related to Federal oversight of the Vieques CDT reconstruction efforts.

Congressional Questions and OIG Responses Based on Audit Results

- 1. What assistance has FEMA provided to rebuild the Vieques health care facility since Hurricane Maria hit Puerto Rico in September 2017, to include the establishment of any temporary health facilities on the island?**
- 2. To date, what assistance has FEMA allocated to either temporary- or permanent-work related to recovery efforts for the Vieques health care facility since Hurricane Maria hit in 2017? Of this assistance, how much has been disbursed and how much remains pending?**

FEMA provided separate obligations for the Vieques CDT — one obligation for a permanent facility and a series of obligations for temporary facilities. On



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Department of Homeland Security

January 21, 2020, FEMA obligated about \$40 million⁶ (Federal share) to replace the Vieques CDT. As of January 2021, PR's Central Office for Recovery, Reconstruction, and Resiliency (COR3)⁷ had not disbursed any funds. Officials from Vieques and COR3 indicated an issue with Vieques' procurement of project management services that, as of January 2021, had not been resolved.

In addition to the \$40 million obligated for a permanent health facility, FEMA obligated additional funds for temporary facilities. Between February 2018 and November 2019, FEMA obligated about \$4.2 million (Federal share) to establish and operate a temporary health care facility on Vieques through a series of awards to PR's Department of Health.⁸ As of January 2021, \$4.1 million of those funds had been disbursed.

According to a COR3 representative, an initial, tent-based infrastructure was deemed inadequate as an interim medical solution, after which a shelter was identified as a location for a temporary facility. FEMA funded refurbishment of the shelter and it opened as a temporary medical facility in May 2018. According to FEMA officials, the temporary facility can provide all services previously available at the Vieques CDT. In June 2018, three mobile clinics were delivered and co-located at the temporary facility in Vieques — one providing general medical capability, including X-ray technology; one providing gynecological and obstetrical capability; and one serving as a dental clinic. Additionally, in October 2018, a dialysis trailer was delivered and also co-located at the temporary facility. FEMA agreed to continue funding the temporary facilities until completion of the permanent Vieques CDT.

3. What factors have contributed to the significant discrepancy in the progress in the execution of recovery projects for Puerto Rico compared to jurisdictions in the continental United States that were also struck by hurricanes in 2017 and covered by a declaration of a major disaster or emergency under section 401 of the Robert T.

⁶ FEMA obligated \$39,569,694.82 to Puerto Rico's Central Office for Recovery, Reconstruction, and Resiliency (COR3) for the Vieques CDT after deducting an anticipated insurance reduction of \$6,400,000 from the total project cost of \$50,366,327.57 and accounting for the 90 percent Federal share. FEMA will adjust the final amount accordingly if the actual insurance proceeds differ.

⁷ On October 23, 2017, PR established COR3 to (a) identify, procure, and administer all state, Federal, and private resources available to the Government of PR or any Governmental Entity to invest in the Recovery; (b) coordinate and channel all the efforts and activities of the Government of PR and its Governmental Entities related to the Recovery; (c) finance, execute, or effect works and infrastructure projects related to Recovery; and (d) advise the Governor of PR and provide technical assistance and advice to other Governmental Entities regarding any matter related to recovery.

⁸ Although Vieques owns the building in which the Vieques CDT was housed, PR's Department of Health provided the medical services and owned the building's contents and equipment.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Stafford Disaster Relief and Emergency Assistance Act? Are any comparable projects being administered as assistance under Section 406 versus Section 428 of the Stafford Act? How have any discrepancies affected efforts to rebuild the Vieques health care facility?

According to COR3 officials, several factors may have delayed recovery efforts in PR when compared to jurisdictions in the continental United States that were also affected by hurricanes in 2017. Those factors include the severity of the hurricanes, requirement to use Section 428 of the Stafford Act for individual recovery projects, and the delay of FEMA guidance.

Severity of Hurricanes. The impact of the 2017 hurricanes on PR differed significantly from that on the continental United States, including the extent and severity of the damage incurred. COR3 officials noted that Hurricane Maria left nearly all of PR without power, adding that large portions of the island lacked power or communication until nearly 6 months later, in February or March 2018. Practically all cell phone service was lost, and municipal water supplies were disrupted. Additionally, downed trees and unprecedented flooding made travel around the island difficult. This may have hindered efforts to begin the recovery grants application process. For example, in April 2018, on Vieques the focus was still on establishing a temporary health care facility. It was decided to pause the permanent facility restoration effort until the temporary facility could be opened.

In contrast, the damage on the continental United States caused by the two major 2017 hurricanes⁹ to make landfall was less extensive. Hurricane Harvey, although devastating to those affected, was mostly a localized flooding event in Texas. Essential services and travel outside of the flooded areas were mostly unaffected. Hurricane Irma was a category 3 hurricane by the time it made landfall on the Florida coast, and it continued to weaken as it moved north across the state. These differences left Texas and Florida in a better position to quickly commence recovery efforts.

Requirement to Use Section 428. Section 428, *Public Assistance Program Alternative Procedures* (PAAP) was added to the Stafford Act in an effort to reduce the Federal cost and expedite provision of disaster assistance. Using the alternative procedures for a project is generally the decision of the applicant. PR elected to use PAAP for all its large permanent work

⁹ Hurricane Harvey made landfall in Texas on August 25, 2017, and Hurricane Irma made landfall in Florida on September 10, 2017.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

projects resulting from Hurricane Maria.¹⁰ After this decision, the President increased the Federal share of the funding for PR's Hurricane Maria disaster assistance to 90 percent from the typical 75 percent.¹¹

Using PAAP requires FEMA and the applicant to agree on the cost of the project before any funds are obligated. If the project ultimately costs more than the obligated amount, the applicant receives no additional funds from FEMA and is responsible for funding the difference.¹²

COR3 officials stated the requirement to use PAAP often increased the time before funds were obligated and work on a project could begin. Before agreeing to a cost estimate, applicants must first develop the cost estimate. To minimize the risk of unanticipated costs and cost overruns, the applicant must take extreme care to ensure all costs are identified, uncertainties are addressed, and other due diligence is performed, to ensure the estimate's accuracy. This is particularly true for the larger, more complex projects, such as the Vieques CDT reconstruction.

COR3 officials also noted that the benefit of using PAAP varies by project. In their experience, using PAAP does not necessarily expedite or reduce the cost of every large permanent work project. Given a choice, many applicants used the Stafford Act's Section 406, *Repair, Restoration, and Replacement of Damaged Facilities*¹³ procedures. For example, of the more than 1,900 large permanent work projects on the continental United States resulting from the 2017 hurricanes, only 19 (1 percent) used the PAAP procedures.

Delay of Guidance. FEMA did not issue guidance to PR on using PAAP procedures for its Hurricane Maria large permanent work projects until April 2018 — more than 6 months after the hurricane. According to COR3, uncertainty during this 6-month period about the required procedures may have slowed progress on PR's projects. For large permanent work projects in PR resulting from Hurricane Maria, FEMA changed the standard PAAP procedures. For example, under PAAP, FEMA would typically review, at a subrecipient's request, cost estimates prepared by professionally licensed

¹⁰ On January 23, 2020, FEMA made the Section 428 procedures optional for all non-critical service facility projects in PR except those already obligated under those procedures.

¹¹ To receive the increased funding share, PR also was required to establish a grant oversight authority (COR3) to act as grant recipient and prioritize hazard mitigation funding towards protecting Federal investment in PR's public infrastructure.

¹² Alternatively, if the project costs less than the obligated amount, the applicant can use the excess funds for an alternate purpose, such as hazard mitigation.

¹³ 42 U.S.C. § 5172.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

engineers, but for PR's Hurricane Maria projects, FEMA allowed only cost estimates it developed.

FEMA officials said they sought PR's "buy-in" on the guidance, and this likely contributed to the delay. However, "the reality of the situation was that after FEMA had all the guidance in place, FEMA was still waiting for applicants to provide the required information to formulate the projects before the SOW or cost estimate could be developed."

We did not identify any projects resulting from the 2017 hurricanes administered under Section 406 sufficiently similar to the Vieques CDT project to provide a meaningful comparison. The Vieques CDT project is a large facility replacement project.¹⁴ Based on data provided by FEMA, there were 85 large health care-related permanent work projects in the continental United States related to 2017 hurricanes, all administered under Section 406. However, the total cost of the Vieques project (\$50.4 million) greatly exceeded that of the Section 406 projects. The average cost for those projects was just less than \$800,000, with only 11 exceeding \$1 million.¹⁵ Unlike the Vieques CDT, none of the 85 projects were identified for facility replacement.

We also analyzed FEMA data to identify 2017 Section 406 projects that FEMA designated as building and equipment replacements but were not health care-related. Although we identified 59 building and equipment and replacement projects, like the health care-related projects, the replacement projects costs were much less than those of the Vieques CDT. Only 17 exceeded \$1 million and of those projects, only three exceeded \$10 million. The three most costly projects were to relocate a county park (\$25 million), replace a parish hall (\$13 million), and replace a convent (\$12 million). All three projects provided services completely different from those of the Vieques CDT project.

Although one or more of the factors identified by COR3 may have slowed recovery in PR after Hurricane Maria, we did not confirm a direct causal connection. Vieques officials also added that the conditions on the island after Hurricane Maria concerning power, communication, and travel were challenging. In addition, they said the requirement specified in PAAP that the cost estimate agreement be agreed to before funds are obligated made project formulation more difficult and time-consuming. COR3 officials also cited as a complicating factor staff turnover at COR3 and FEMA, which made it difficult to obtain project status information.

¹⁴ For disasters declared during fiscal year 2017, including Hurricane Maria, projects with an estimated cost of \$123,100 or more were considered large projects.

¹⁵ The largest health care project cost \$9 million.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

4. According to a staff briefing for congressional offices, FEMA is awaiting an evaluation from a panel of experts before making a final decision on the cost estimate for the Vieques health care facility rebuild.

a. What experts are FEMA consulting to make a determination about the Vieques health care facility? How did FEMA select these panelists? Has the Government of Puerto Rico selected panelists and are they participating in the evaluation?

FEMA and PR formed a joint expert panel to make determinations on PR's Hurricane Maria projects, including the Vieques CDT. PAAP requires the FEMA Administrator to provide, at the applicant's request, an independent expert panel to validate permanent work projects with an estimated Federal share of \$5 million or more. In addition, panel review would be mandatory for projects with 50 percent rule calculations when the replacement estimate is greater than \$5 million.

According to FEMA officials, the expert panel for the Vieques CDT consisted of both FEMA-appointed members and PR-appointed members. For its members, FEMA had the Homeland Security Operational Analysis Center (HSOAC) select three individuals to serve as the FEMA members of the panel.¹⁶ According to FEMA officials, using HSOAC offered a much shorter contracting timeline, and HSOAC had the necessary capabilities and capacity to provide the services required. According to a September 4, 2018 acknowledgement letter, COR3 chose the panelists to represent PR. COR3 requested potential panelist résumés from the University of Puerto Rico's Mayaguez College of Engineers, contractor associations, and engineers with extensive experience in the industry. COR3 evaluated the résumés and conducted interviews to choose its three panel members. According to written meeting minutes of the expert panel concerning the Vieques CDT, PR panelists demonstrated active involvement in the Vieques CDT project validation of the 50 percent rule.

b. What are the rules and criteria that these experts are following in making their determination? Will the panel's views be made public?

The expert panel followed the FEMA October 2019 draft standard operating procedure, *Methodology for Cost Validation by the Independent Expert Panel*, to approve the cost estimate for reconstructing the Vieques CDT. The procedure

¹⁶ HSOAC is operated by the RAND Corporation and administered by the Department of Homeland Security's Science and Technology Directorate as a federally funded research and development center. HSOAC operates under a sole-source Indefinite Delivery/Indefinite Quantity contract and provides specialized, independent, and objective studies and analysis services to DHS components.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

outlines the methodology an expert panel employs when making PAAP permanent work cost determinations. Additionally, other FEMA policies, guidance, procedures, and regulations applied to the Vieques CDT project, including a 50 percent rule calculation and a subsequent review of that calculation by the expert panel. HSOAC issued a report that validated the 50 percent rule calculation and FEMA issued a July 9, 2019 Eligibility Determination Memorandum to COR3 that documented and confirmed the expert panel's agreement with FEMA's repair and replacement cost estimates, which designated the Vieques CDT as an eligible replacement project. As required by FEMA's Puerto Rico *Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work*,¹⁷ the expert panel approved the fixed cost estimate on December 16, 2019.

FEMA officials indicated they were unaware of anything that would prevent the panel from making its views public. They said the panel's determination memorandum is part of the project records in the Grants Manager¹⁸ system.

c. Has FEMA convened similar panels of experts for similarly destroyed health care facilities in the continental United States? If so, when?

According to FEMA officials, there were no destroyed health care facilities in the continental United States similar to the Vieques CDT project that required using an expert panel. Based on data provided by FEMA, 85 large health care-related permanent work projects in the continental United States related to 2017 hurricanes were administered under Section 406. However, the total cost of the Vieques CDT (\$50.4 million) greatly exceeded the cost of each of these projects. Also, none of the 85 projects were identified for facility replacement like the Vieques CDT.

The requirement that FEMA provide an expert panel upon applicant request applies to all PAAP permanent projects with an estimated Federal share of \$5 million or more, regardless of location. Additionally, beginning on March 29, 2016, FEMA made expert panel reviews mandatory for continental United States projects with an estimated Federal share of \$25 million or more. The U.S. Army Corps of Engineers Center for Excellence for Cost Engineering fulfills the expert panel function for projects.

¹⁷ *Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work*, FEMA-4339-DR-PR, April 2018, pp. 13–14 was developed specifically for Puerto Rico for Hurricane Maria projects.

¹⁸ Grants Manager is the current FEMA system used to track disaster project progress.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

5. How long, on average, does it take FEMA to assess the funding needs of hospital or other health facilities for Public Assistance in areas impacted by hurricanes? How does FEMA's assessment of the Vieques health care facility project compare to this average assessment time?

According to FEMA officials, it took an average of 588 days to obligate funds for health care facility projects resulting from 2017 hurricanes.¹⁹ By comparison, FEMA took 853 days to obligate funds for the Vieques CDT, or 265 days more than the average. However, FEMA officials stated that the extent and severity of the devastation in PR from Hurricane Maria prevents a meaningful comparison between Vieques and an average project obligation time that includes projects on the continental United States.

As part of the *Sandy Recovery Improvement Act of 2013*,²⁰ Congress tasked the OIG with assessing the effectiveness of FEMA's PAAP program. On March 30, 2020, we announced a comprehensive review of the PAAP program.²¹ During that audit, we plan to compare PAAP and non-PAAP assessment times.

6. Is FEMA conducting timely and sufficient recovery efforts to rebuild the health care facility on the island? If not, what are the reasons for FEMA's delayed efforts?

Based on our audit, we determined that FEMA followed the laws, regulations, and guidance required to reconstruct the Vieques CDT, and on January 21, 2020, obligated about \$40 million (Federal share) for its replacement. Although it ultimately funded the replacement, FEMA encountered multiple problems processing the Vieques CDT project. COR3 and Vieques officials disagreed with FEMA over the replacement cost, the designation determination of the facility, and the assessed extent of mold contamination. These disagreements caused delays in HSOAC and expert panel reviews of the project, as well as the obligation of funds. Also, FEMA developed a new set of specific guidelines for the use of PAAP in PR, to which PR did not agree until April 2018.

Before obligating funds to replace the Vieques CDT, FEMA followed several steps, as required. FEMA conducted multiple site inspections beginning in October 2017. FEMA, PR, and Vieques reached an agreement on the Damage

¹⁹ The date is calculated from the date the disaster is declared.

²⁰ Public Law 113-2, Division B, January 29, 2013.

²¹ DHS OIG, *Review of the Federal Emergency Management Agency's Implementation of the Public Assistance Alternative Procedures Pilot Program Enacted by the Sandy Recovery Improvement Act* (20-028-AUD-FEMA).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Description and Dimensions/Scope of Work on September 24, 2018. However, on November 19, 2018, FEMA officials received a video²² COR3 created in March 2018 containing photos that was not considered in the September 2018 agreement. The video did not support the Description and Dimensions, which stated there was mold throughout the building and walls needed to be torn down. FEMA officials were concerned about removing and replacing the interior walls and the amount of mold contamination. After reviewing the video and discussions with staff and COR3, FEMA requested additional information from COR3 and the municipality of Vieques. To confirm the extent of mold contamination and whether additional work would be required as a result of the mold, three additional site inspections were conducted that lasted into June 2019.

In December 2018, FEMA submitted repair and replacement cost estimates to HSOAC for validation of the Vieques CDT 50 percent rule calculation. The first HSOAC report issued on January 2, 2019, concluded that further clarifications on scope and costs were necessary to validate the estimates. The next HSOAC report on January 22, 2019, for the 50 percent rule resulted in a ratio below 50 percent. A ratio below 50 percent meant the facility should be repaired instead of replaced. The report stated FEMA should redraft the statement of work and complete a new detailed estimate. FEMA then significantly revised the damage assessment, scope of work, and cost estimates for the Vieques CDT and resubmitted them to HSOAC for review on May 6, 2019. On May 23, 2019, the HSOAC issued a report validating the 50 percent rule calculation concluding the Vieques CDT should be replaced. FEMA then sent a July 9, 2019 Eligibility Determination Memorandum to COR3 that identified the Vieques CDT as a medical clinic replacement project. On September 18, 2019, FEMA sent another memo to COR3 informing it of its right to appeal the July 9, 2019 identification of Vieques CDT as a clinic instead of a hospital.²³ As of November 7, 2019, the cut-off date to file an appeal, no appeal was filed.

FEMA submitted the cost estimate for replacement on November 21, 2019, to HSOAC for review and validation. HSOAC deemed the fixed-cost estimate reasonable in a report issued on December 16, 2019, and the expert panel issued a memo dated the same day agreeing with the fixed cost estimate. As a result, on January 21, 2020, FEMA obligated \$39,569,695 Federal share for a full facility replacement.

²² COR3 provided this “walk through” video, which was created from a collection of the photos of the Vieques CDT in an attempt to better show mold contamination.

²³ Regulations in 44 C.F.R. § 206.206 allow an applicant (subrecipient) 60 days after a determination is made to file an appeal with the recipient and another 60 days for the recipient to file with FEMA.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

7. Given the services provided by the medical center prior to its destruction, is FEMA's decision to designate the facility as a public community health center rather than a hospital appropriate? What are the funding and other recovery impacts of designating the facility as a community health center rather than a hospital?

FEMA determined that the replacement facility, inclusive of the type of occupancy of the building, is a medical clinic (occupancy 1–2 patient beds). FEMA officials explained they based the determination to replace the Vieques CDT on the pre-disaster use of the facility as well as information provided by the recipient and subrecipient. FEMA used the "Business Group B" occupancy classification set forth in Chapter 3 of the 2018 International Building Code used by the Government of PR.

Regulation and Guidance used in the Designation. FEMA based its determination decisions on the adopted International Building Code, which defines three types of facilities that were possible designations for the Vieques CDT:

Clinic Outpatient – Buildings or portions thereof used to provide medical care on less than a 24-hour basis to persons who are not rendered incapable of self-preservation by the services provided.

Ambulatory Care – Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing, or similar care on a less than 24-hour basis to persons who are rendered incapable of self-preservation by the services provided.

Hospital – Structure used for medical care on a 24-hour basis for more than five persons who are incapable of self-preservation.

The following applicable key terms²⁴ are used in the designation determination of the Vieques CDT:

- Permanent work means restorative work that must be performed through repairs or replacement, to restore an eligible facility on the basis of its pre-disaster design and current applicable standards.
- Pre-disaster design is “the size or capacity of a facility as originally designed and constructed or subsequently modified by changes or additions to the original design. It does not mean the capacity at which

²⁴ *Public Assistance Program and Policy Guide*, April 2018, p. 84, VII. Permanent Work Eligibility.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

the facility was being used at the time the major disaster occurred if different from the most recent designed capacity.”

- Pre-disaster function is the facility function performed immediately prior to the disaster.

Review to Determine the Designation. FEMA is responsible for determining a facility’s pre-disaster design and function, as well as providing the appropriate funding. An applicant is responsible for providing sufficient documentation to support its eligibility for disaster assistance. To determine the designation of the Vieques CDT, FEMA compared the Vieques CDT 2017 PR Department of Health certificate licensed for two beds to the International Building Code that requires five beds for a hospital designation.

On July 9, 2019, FEMA notified COR3 that it determined the replacement facility had a medical clinic building type of occupancy. FEMA sent another memo on September 18, 2019, to COR3 informing it of its right to appeal the July 9, 2019 memorandum. Our search of the FEMA appeals database showed no appeals received for the Vieques CDT.

Conclusion

Congress asked that we recommend how FEMA or other Federal entities could improve oversight and implementation of recovery efforts for Vieques, considering the island’s unique geography, transportation, and other challenges. However, at this time, we are not making any recommendations concerning Federal oversight and recovery efforts for the Vieques CDT. FEMA followed the required laws, regulations, and guidance in its efforts to reconstruct the Vieques CDT. FEMA’s assessment of the funding needs for the project is complete and \$39,569,694.82 (Federal share) was obligated on January 21, 2020, for a full facility replacement. We plan to assess FEMA’s PAAP process for all permanent work projects as part of a more comprehensive review of the PAAP program in a currently ongoing audit.

Management Comments and DHS OIG Analysis

We discussed the results of our audit with FEMA officials during our audit. We also provided a notice of findings and recommendations to these officials and discussed it at the January 14, 2021 exit conference. We considered and incorporated FEMA’s technical comments, as appropriate. FEMA officials stated they did not submit a formal response to our draft report because there were no recommendations. We consider this audit closed.



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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 review in response to a request from members of Congress to evaluate FEMA's efforts to reconstruct the Vieques CDT.

To accomplish our objective, we:

- interviewed officials from FEMA, COR3, and Vieques to understand the events surrounding execution of the Vieques CDT project;
- reviewed applicable Federal regulations and FEMA guidelines to obtain an understanding of the criteria as they related to our objective;
- reviewed documentation related to the expert panel for the Vieques CDT project to identify the criteria and process used; and
- assessed progress on the Vieques CDT as compared to similar projects on the mainland that resulted from 2017 hurricanes.

We reviewed *Puerto Rico's Public Assistance Alternate Procedures (Section 428)* guidance specific to PR to identify controls in place for meeting the program's goals. We assessed the reliability of computer processed data by interviewing officials and recreating calculations to ensure that totals were correct. We determined the data to be sufficiently reliable for our purposes.

We conducted this audit between March 2020 and January 2021 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 review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our review objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our review objective.

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