

**FEMA Should Recover \$9.3 Million
of Ineligible and Unsupported
Costs from Fox Waterway Agency
in Fox Lake, Illinois**





DHS OIG HIGHLIGHTS

FEMA Should Recover \$9.3 Million of Ineligible and Unsupported Costs from Fox Waterway Agency in Fox Lake, Illinois

July 16, 2015

Why We Did This

Fox Waterway Agency (Fox Waterway) received a \$9.4 million award in Federal Emergency Management Agency (FEMA) grant funds for damages resulting from severe storms, straight-line winds, and flooding during April and May 2013. Our audit objective was to determine whether Fox Waterway expended FEMA funds according to Federal regulations and FEMA guidelines.

What We Recommend

FEMA should disallow \$8,230,969 of ineligible costs and \$1,136,218 of unsupported costs. FEMA should also direct Illinois to work with Fox Waterway to correct the deficiencies we identify in this report.

For Further Information:

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

What We Found

Fox Waterway did not account for and expend FEMA funds according to Federal regulations and FEMA guidelines. The period of performance has expired for all projects, and Fox Waterway has not requested time extensions. Further, Fox Waterway officials could not tell us how much they had spent on disaster-related work or provide us documentation supporting all expenditures. Therefore, we questioned \$9,367,187 of costs—\$8,230,969 as ineligible and \$1,136,218 as unsupported.

Additionally, in this disaster and a previous disaster, Fox Waterway's management was unresponsive to Illinois officials' repeated requests for information and has been generally unresponsive to our requests.

FEMA Response

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



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Department of Homeland Security

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

July 16, 2015

MEMORANDUM FOR: Andrew Velasquez III
Regional Administrator, Region V
Federal Emergency Management Agency



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

SUBJECT: *FEMA Should Recover \$9.3 Million
of Ineligible and Unsupported Costs
from Fox Waterway Agency in Fox Lake, Illinois*
Audit Report Number OIG-15-114-D

We audited Public Assistance grant funds awarded to the Fox Waterway Agency in Fox Lake, Illinois (Fox Waterway). The Illinois Emergency Management Agency (Illinois), a FEMA grantee, awarded Fox Waterway \$9.4 million for damages (mostly debris removal) resulting from severe storms in April and May 2013. The award provided 75 percent FEMA funding for 76 projects.

Fox Waterway has not submitted any claims to Illinois for reimbursement of its expenditures; and Illinois has not advanced or reimbursed Fox Waterway for any estimated or incurred expenditures, including small projects.¹ We audited 10 projects totaling \$1,267,732, of which Fox Waterway had only completed 9 and partially completed 1. We also performed a limited review of the other 66 projects totaling \$8.2 million that were all uncompleted (see appendixes A and B).

Background

Severe weather including heavy rain and strong, gusty winds passed over the Fox River and Chain O'Lakes area from April 16, through May 5, 2013. The overland flooding caused materials to wash into navigation channels, restricting waterway traffic and the operational capacity of the channels.

¹ According to FEMA Publication 321, *Public Assistance Policy Digest – Small Projects*, small project funds are generally available as soon as FEMA approves project worksheets, rather than after the applicant submits documentation of costs.



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Figure 1: Fox Waterway Project at Ackerman Island



Source: Fox Waterway Agency Website.

Fox Waterway is a special local government entity created by the State of Illinois in 1983. A Board of Directors governs Fox Waterway and the agency does not have taxing authority. Fox Waterway funds its operations through annual sales of user-fee stickers and a small yearly grant from the Illinois Department of Natural Resources. Fox Waterway's mission is to improve and maintain the Fox River and Chain O'Lakes public waterway for recreational use. Fox Waterway works to restore environmental quality, control flooding, promote tourism, and preserve and enhance the quality of life along the waterway.

Results of Audit

Fox Waterway did not account for and expend FEMA grant funds according to Federal regulations and FEMA guidelines. Fox Waterway officials could not tell us how much they had spent on disaster-related work or provide adequate and complete documentation supporting its expenditures. In addition, the deadlines for completing work have expired for all projects, rendering all incomplete work ineligible for FEMA funding. As a result, neither we nor FEMA can verify whether costs were valid and reasonable or whether most work was eligible had Fox Waterway completed it on time. Clearly, Fox Waterway incurred some eligible disaster-related costs. However, to receive Federal funding, Fox Waterway must provide adequate supporting documentation and comply with all Federal grant requirements.

Therefore, we question \$8,230,969 as ineligible and \$1,136,218 as unsupported. Additionally, in this disaster and a previously declared 2008 disaster, Fox Waterway's management was unresponsive to



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Illinois officials' repeated requests for information and has been generally unresponsive to our requests.

Finding A: Period of Performance

Fox Waterway has not completed authorized work on 67 projects, awarded for \$8,276,045, and has not requested time extensions for any of these projects. These projects include one project for permanent work and 66 debris removal projects. Federal regulations set project completion deadlines from the date of declaration—6 months for debris clearance and emergency work and 18 months for permanent work (44 CFR 206.204). Based on extenuating circumstances or unusual project requirements beyond the control of the subgrantee, the grantee may extend the deadlines for an additional 6 months for debris clearance and emergency work and an additional 30 months, on a project-by-project basis, for permanent work. The grantee may request additional time extensions from the FEMA Regional Administrator.

For this disaster, the 6-month period of performance for debris removal ended in November 2013, and the 18-month period of performance for permanent repairs ended in November 2014. Table 1 identifies the total count and award amounts (gross and net) for projects not completed by category and size.²

Table 1: Projects Not Completed

| Project Size | Number of Projects | Debris Removal Category A | Permanent Work Category E | Totals (Gross) | Insurance Deductions | Totals (Net) |
|----------------|--------------------|---------------------------|---------------------------|----------------|----------------------|--------------|
| Large Projects | 38 | \$6,664,935 | \$221,150 | \$6,886,085 | \$69,967 | \$6,816,118 |
| Small Projects | 29 | 1,389,960 | 0 | 1,389,960 | 0 | 1,389,960 |
| Total | 67 | \$8,054,895 | \$221,150 | \$8,276,045 | \$69,967 | \$8,206,078 |

Source: Fox Waterway and Office of Inspector General (OIG) Analysis.

Fox Waterway officials said they did not perform the work because they did not have the funds to complete the projects.³ Based on our review of its 2013 financial statements, Fox Waterway appears to have only limited funding sources, which brings into question its ability to meet the 25 percent cost share under this grant.

However, if Fox Waterway had communicated these issues to Illinois and FEMA early in the disaster, FEMA may have been able to provide Immediate Needs

² FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).

³ Fox Waterway did perform a portion of the work for Project 536 and provided \$45,076 in adequately supported costs.



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Funding to meet Fox Waterway's urgent needs in the initial aftermath of the disaster. FEMA's Standard Operating Procedure 9570.7 (September 1999) provides guidance for this type of funding. Upon request by the State, FEMA can provide these funds for work an applicant must perform immediately and pay for within the first 60 days after the disaster declaration. The funding is available for emergency work only; the applicant cannot use it to complete permanent repairs. Eligible activities typically include debris removal, emergency protective measures, and removal of health and safety hazards. An applicant may use the funding to cover emergency work costs such as overtime payroll, equipment costs, materials purchases, and contracts.

FEMA identifies potential immediate needs during the Preliminary Damage Assessment. Immediate Needs Funding may total up to 50 percent of Preliminary Damage Assessment estimates for eligible emergency work. Upon approval, FEMA will fund the Federal share of the total Immediate Needs Funding and placed the funds in the grantee's account within days of the disaster. If an applicant receives Immediate Needs Funding, FEMA will deduct the amount from the applicant's Category A and B projects. The grantee is responsible for disbursing Immediate Needs Funding to eligible applicants.

Fox Waterway officials said they were not aware of the 6-month completion deadline for the debris removal projects. However, Illinois provided us letters they sent on at least seven occasions to Fox Waterway officials informing them of required periods of performance and the need to request time extensions. Because Fox Waterway has not completed projects within required periods of performance and has not requested time extensions, we question \$8,230,969 for 67 projects as ineligible (\$8,276,045 less \$45,076 in adequately supported costs on Project 536).

Finding B: Project Accounting

Fox Waterway officials did not track grant funds by project, nor could they tell us the total amount they spent under the grant. Therefore, FEMA has no assurance that costs are valid and reasonable. The method Fox Waterway used to track disaster expenses did not identify individual project expenditures. Also, we could not trace these expenditures to supporting documentation without relying on the memories of Fox Waterway officials.

Federal Regulation 44 CFR 13.20(b)(2) requires subgrantees to maintain records that adequately identify the source and application of funds provided for financially-supported activities. According to FEMA Publication 322, *Public Assistance Guide* (June 2007, p. 137), it "is critical that the applicant establish and maintain accurate records of events and expenditures related to disaster recovery work The importance of maintaining a complete and accurate set of records for each project cannot be over-emphasized. Good documentation



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facilitates the project formulation, validation, approval, and funding processes. All of the documentation pertaining to a project should be filed with the corresponding project worksheet and maintained by the applicant as the permanent record of the project.”

In the previously declared 2008 disaster, Fox Waterway officials recorded receipt of FEMA Public Assistance grant reimbursements under a general ledger account specifically marked for Federal grants. However, when we discussed with Fox Waterway’s staff how they intended to account for funds they received under the current disaster, they said that they did not plan to separate the accounts to differentiate between the disasters. Further, Fox Waterway comingled disaster-related expenditures with non-FEMA reimbursable expenditures without differentiating one from the other or identifying expenses to approved projects.

This method of tracking expenditures may be adequate for Fox Waterway’s normal operations; however, this method does not meet the Federal requirement of tracking project expenses by grant and on a project-by-project basis. Fox Waterway officials said they were never told of the regulations requiring accounting for funding and expenses on a project-by-project basis. Yet, we found documents that show Illinois provided Fox Waterway information on the requirements for accounting for costs related to the grant.

Supporting Documentation

Fox Waterway cannot provide documentation adequate to support \$1,136,218 in costs related to 9 completed debris removal projects that we reviewed. FEMA obligated \$1,148,397 for these 9 projects, but Fox Waterway provided only \$12,179 of adequate supporting documentation.

Federal cost principles at 2 CFR Part 225, Appendix A, Section C.1.j., require grant recipients to adequately document costs under a Federal award. Further, FEMA’s *Debris Management Guide* (FEMA 325, July 2007, p.14) requires applicants to maintain source documentation such as timesheets, work logs, and equipment-use sheets that show the work was disaster related.

Regarding use of its own equipment, Fox Waterway relied on the memory of its supervisors to document employees assigned to specific equipment and what dates the employees worked on a project. Fox Waterway did not have activity logs to identify the specific periods that its employees used equipment (i.e., dates of use, along with beginning and ending times). Fox Waterway used the hours on timesheets as the amount of time the employees used each piece of equipment. This methodology is not acceptable because it assumes that the employee used the equipment continuously throughout the day and does not consider idle time.



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Fox Waterway officials said that they tracked employee time and equipment usage on a spreadsheet. However, after repeated requests, Fox Waterway could not provide us this spreadsheet. Therefore, we were unable to evaluate the accuracy of the tracking system. Regardless, Fox Waterway did not maintain contemporaneous source documentation that could have supported the spreadsheets such as equipment activity logs or equivalent documentation to identify the dates and the beginning and ending times the employees used the equipment.

Relying on the memory of an individual is not an adequate accounting system and does not meet the requirement to support tracing the application of grant funds. Without an adequate method of accounting, Fox Waterway (1) cannot identify all costs associated with projects, (2) increased the risk of duplicate receipts and expenditures, and (3) jeopardized its future Federal funding. Because Fox Waterway cannot track grant funds on a project-by-project basis or provide adequate supporting documentation, we question \$1,136,218 as unsupported.

Finding C: Fox Waterway's Non-responsiveness and Illinois' Grant Management

Fox Waterway officials were not responsive to our requests for information until 3 months after our initial request. We notified Fox Waterway of the audit on June 6, 2014, and requested basic documents such as incurred costs, contracting and accounting procedures, insurance policies, and disaster-related contracts. Over a period of 90 days that included multiple phone calls and 8 written requests, Fox Waterway still did not provide us with the documents we requested. Fox Waterway officials repeatedly told us they were getting the documentation together; however, a Fox Waterway official later told us that, during their busy season, they did not have the necessary staff to prepare the documentation.

Nevertheless, during our site visit, Fox Waterway's administrative staff members were very cooperative and provided us what little documentation they had.

Grantee Monitoring

Illinois did a good job of monitoring Fox Waterway by identifying it as a noncompliant applicant and deciding not to reimburse Fox Waterway until it complied with Federal regulations and FEMA policy. Ultimately, it is Fox Waterway's responsibility to understand the requirements of a Federal grant. Illinois officials said that they were aware of problems with Fox Waterway's compliance from the previously declared disaster in 2008 and questioned



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FEMA on its obligation of the \$9.4 million in grant funds for the current disaster.

Fox Waterway officials did not respond to Illinois' repeated requests to provide required documents and quarterly reports.⁴ In fact, for over a year, Illinois repeatedly warned Fox Waterway that FEMA may deobligate the disaster funds because of Fox Waterway's failure to respond to inquiries or provide the requested documents.

Illinois officials said that it is their normal procedure to work with subgrantees having difficulties, but, because Fox Waterway would not respond to its repeated requests, Illinois devoted its limited resources to responsive subgrantees. However, we believe that had Illinois visited Fox Waterway's offices, they would have quickly realized that Fox Waterway's management did not have the capacity to adequately manage its grant. Illinois said it is very difficult to provide additional help to applicants who refuse to respond to multiple phone calls and letters.

Although we are questioning nearly the entire grant, the storm caused serious damage and Fox Waterway clearly incurred some disaster recovery costs. Normally, we would recommend that Illinois work with Fox Waterway to help them get their records in order. However, based on Illinois' and our experience, Fox Waterway is unlikely to respond to additional communications.

Because Fox Waterway did not materially conform to the terms and conditions of this grant and demonstrated a history of unsatisfactory performance, FEMA and Illinois should consider Fox Waterway as a "high risk subgrantee" according to 44 CFR 13.12(a) and impose special conditions on any future grant awards.⁵ These special conditions should include (1) making payments only on a reimbursement basis; (2) performing additional project monitoring; and (3) providing technical or management assistance.

Recommendations

We recommend that the Regional Administrator, FEMA Region V:

Recommendation 1: Disallow \$8,230,969 (\$6,173,227 Federal share) as ineligible unless FEMA extends the period of performance for uncompleted projects (finding A).

⁴ In July 2014, Fox Waterway finally provided Illinois with requested documentation under the 2008 disaster. This action by Fox Waterway allowed Illinois to consider Fox Waterway compliant under the previous disaster.

⁵ For all awards after December 26, 2014, 2 CFR 200.207 applies to high-risk grant recipients.



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Recommendation 2: Disallow \$1,136,218 (\$852,164 Federal share) as unsupported unless Fox Waterway Agency can properly account for and support its expenditures (finding B).

Recommendation 3: Direct Illinois to work with Fox Waterway officials to correct the deficiencies we identify in this report. Also, FEMA and Illinois should consider Fox Waterway a “high risk” subgrantee according to 44 CFR 13.12(a) and impose special conditions on any future grant awards (finding C).

Discussion with Management and Audit Follow-up

We discussed the results of our audit with Fox Waterway, Illinois, and FEMA officials during the course of this audit and included their comments in this report, as appropriate. We also provided a draft report in advance to these officials and discussed it at exit conferences with Fox Waterway on May 4, 2015; with Illinois on April 27, 2015; and with FEMA on April 21, 2015. FEMA, Illinois, and Fox officials agreed with all of the findings and recommendations.

Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include the contact information for responsible parties and any other supporting documentation necessary to inform us about the status of the recommendations. Please email a signed pdf copy of all responses and closeout request to paige.hamrick@oig.dhs.gov. Until we receive and evaluate your response, we will consider the recommendations open and unresolved.

The Office of Emergency Management Oversight major contributors to this report are Christopher Dodd, Director; Paige Hamrick, Director; Judy Martinez, Audit Manager; Rebecca Hetzler, Auditor-in-charge; and Raeshonda Keys, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Paige Hamrick, Director, Central Regional Office - North, at (214) 436-5200.



Appendix A

Objective, Scope, and Methodology

We audited FEMA Public Assistance grant funds awarded to Fox Waterway, Public Assistance Identification Number 097-UUM2F-00. Our audit objective was to determine whether Fox Waterway accounted for and expended FEMA funds according to Federal regulations and FEMA guidelines for FEMA Disaster Number 4116-DR-IL. Illinois awarded Fox Waterway \$9.4 million for damages resulting from severe storms that occurred April 16, to May 5, 2013. The award provided 75 percent FEMA funding for 45 large projects and 31 small projects.⁶

The audit covered the period of April 16, 2013, to June 12, 2014. Fox Waterway provided us with a list of 9 completed projects and 1 started project with obligated funds totaling \$1,267,732 and provided adequate supporting documentation totaling \$57,255 that it planned to claim under this disaster recovery grant. We used this list as the basis for selecting the 10 projects we reviewed in detail. We also performed a limited review of the other 66 projects totaling \$8.2 million that were all uncompleted (see table 3 in appendix B).

We interviewed FEMA, Illinois, and Fox Waterway officials; gained an understanding of Fox Waterway's method of accounting for disaster-related costs and its procurement policies and procedures; judgmentally selected and reviewed (generally based on dollar amounts) project costs and procurement transactions for the projects included in our review; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary under the circumstances to accomplish our audit objective. We did not perform a detailed assessment of Fox Waterway's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective.

⁶ Federal regulations in effect at the time of the disaster set the large project threshold at \$67,500.



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Appendix A (continued)

Fox Waterway did not account for costs on a project-by-project basis as required (see finding B). Therefore, we could not determine whether Fox Waterway's expenditures were for eligible work authorized on the project worksheets. As a result, our audit scope was limited, and other matters may have come to our attention if Fox Waterway had properly accounted for costs.

Table 2 shows the gross and net award amounts before and after reductions for insurance for all projects and for those in our audit scope. Table 3 (in appendix B) shows the 10 complete or started projects we audited and the amounts we questioned under each project and table 4 summarizes the potential monetary benefits. We also performed a limited review on 66 remaining projects to determine whether Fox Waterway completed these projects during the required period of performance.

Table 2: Gross and Net Award Amounts

| | Gross Award Amount | Insurance Reductions | Net Award Amount |
|--------------|---------------------------|-----------------------------|-------------------------|
| All Projects | \$9,424,442 | \$69,967 | \$9,354,475 |
| Audit Scope | \$9,424,442 | \$69,967 | \$9,354,475 |

Source: FEMA Project Worksheets.

We conducted this audit between June 2014 and April 2015 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. To conduct this audit, we applied the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.



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Appendix B

Potential Monetary Benefits

Table 3: Schedule of Projects Audited and Questioned Costs

| Project Number | Gross Award | Net of Insurance | Finding A | Finding B | Total Questioned |
|-----------------------|--------------------|-------------------------|--------------------|--------------------|-------------------------|
| 490 | \$ 226,080 | \$ 226,080 | \$ 0 | \$ 226,080 | \$ 226,080 |
| 523 | 205,520 | 205,520 | 0 | 205,520 | 205,520 |
| 403 | 188,680 | 188,680 | 0 | 188,680 | 188,680 |
| 469 | 148,160 | 148,160 | 0 | 148,160 | 148,160 |
| 379 | 143,520 | 143,520 | 0 | 143,520 | 143,520 |
| 536 | 119,335 | 119,335 | 74,259 | 0 | 74,259 |
| 534 | 92,157 | 92,157 | 0 | 79,978 | 79,978 |
| 398 | 71,120 | 71,120 | 0 | 71,120 | 71,120 |
| 397 | 37,040 | 37,040 | 0 | 37,040 | 37,040 |
| 507 | \$ 36,120 | \$ 36,120 | \$ 0 | \$ 36,120 | \$ 36,120 |
| Subtotal | \$1,267,732 | \$1,267,732 | \$ 74,259 | \$1,136,218 | \$1,210,477 |
| Limited Review | 8,156,710 | 8,086,743 | 8,156,710 | 0 | 8,156,710 |
| Totals | \$9,424,442 | \$9,354,475 | \$8,230,969 | \$1,136,218 | \$9,367,187 |

Source: FEMA Project Worksheets and OIG Analysis.

Table 4: Summary of Potential Monetary Benefits

| Type of Potential Monetary Benefit | Amounts | Federal Share |
|---|--------------------|----------------------|
| Questioned Costs – Ineligible | \$ 8,230,969 | \$ 6,173,227 |
| Questioned Costs – Unsupported | 1,136,218 | 852,164 |
| Totals | \$9,367,187 | \$7,025,391 |

Source: OIG Analyses of findings in this report.



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Appendix C

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Appendix C (continued)

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