

Lake County, California, Should Continue to Improve Procurement Policies, Procedures, and Practices





DHS OIG HIGHLIGHTS

Lake County, California, Should Continue to Improve Procurement Policies, Procedures, and Practices

June 9, 2016

Why We Did This Audit

The 2015 California wildfires caused severe damage to Lake County, California (County). County officials estimate that disaster-related costs may exceed \$25 million. Our audit objective was to determine whether the County's policies, procedures, and business practices are adequate to account for and expend FEMA Public Assistance Program grant funds according to Federal regulations and FEMA guidelines.

What We Recommend

FEMA should direct California, as its grantee, to monitor the County's performance and ensure compliance with Federal requirements to prevent the County from improperly spending the \$25 million in Federal funds it expects to receive for this disaster.

For Further Information:

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

What We Found

Most of the County's policies, procedures, and business practices are adequate to account for and expend Public Assistance grant funds according to Federal regulations and Federal Emergency Management Agency (FEMA) guidelines. However, we identified weaknesses in the County's procurement policies, procedures, and practices. Because of our audit, the County began revising its procurement policies and procedures to comply with Federal requirements. Moreover, the County awarded one contract valued at \$17.4 million that included in its estimate removal of trees from private property that did not meet FEMA's eligibility criteria for tree and stump removal. We brought this issue to FEMA's attention resulting in FEMA re-valuing eligible work and decreasing total estimated costs to \$8.5 million.

At the time of our audit, the County had started to account for disaster costs but had not submitted its cost claims. If the County follows its accounting procedures, FEMA and California have reasonable assurance the County will properly account for disaster costs.

Additionally, because the County has adequate insurance policies and procedures, if the County follows them, FEMA and California also have reasonable assurance that the County will deduct anticipated insurance proceeds from the cost of eligible work; recover insurance benefits from private property owners who receive proceeds from their insurance carriers for debris cleanup, and use the proceeds to reduce project costs; and obtain and maintain required insurance to protect against future damages.

FEMA Response

FEMA officials concurred with our findings and recommendations and have taken corrective action. Therefore, we consider this audit closed.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

June 9, 2016

MEMORANDUM FOR: Robert Fenton,
Regional Administrator, Region IX
Federal Emergency Management Agency

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

SUBJECT: *Lake County, California, Should Continue to Improve
Procurement Policies, Procedures, and Practices*
Audit Report Number OIG-16-103-D

We audited Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to Lake County, California (County). We conducted this audit early in the Public Assistance process to identify areas where the County may need additional technical assistance or monitoring to ensure compliance with Federal regulations and FEMA guidelines. In addition, by undergoing an audit early in the grant cycle, subgrantees have the opportunity to correct noncompliance before they spend the majority of their grant funding. It also allows them the opportunity to supplement deficient documentation or locate missing records before too much time elapses.

As of January 19, 2016 (our audit cutoff date), FEMA and the California Governor's Office of Emergency Services (California), a FEMA grantee, were in the process of drafting the County's project worksheets to estimate damages resulting from the September 2015 wildfires. County officials estimate that disaster-related costs may exceed \$25 million.¹ The award provided 75 percent funding for debris removal, emergency protective measures, and permanent work. At the time of our audit, the County was in the process of accounting for disaster costs but had not submitted a cost claim to California for reimbursement. Therefore, our audit assessed the policies and procedures the County used to account for and expend FEMA funds, and we reviewed two contracts the County awarded for disaster-related work with not-to-exceed estimated costs of \$18 million.

¹ In addition to the \$25 million the County estimates in disaster-related repair costs, the County expects to benefit from additional Public Assistance grant funding of more than \$100 million that FEMA will provide in costs reimbursement for private property structural debris removal work. The California's Department of Resources Recycling and Recovery, a subgrantee of California, will perform the structural debris removal work within Lake County under a separate grant award.



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Background

On September 9, 2015, wildfires swept through several communities in Northern California and continued to burn for at least 3 weeks. The Valley Fire in Lake County, 130 miles north of San Francisco, burned 76,067 acres and destroyed 1,958 structures, including 1,280 homes and 27 multi-family structures. It was the third worst fire in California history in terms of the number of damaged structures. The fire caused four fatalities.

**Figure 1: Residential Complex Damaged By Valley Fire
Middletown, California**



Source: Office of the Inspector General (OIG)

To provide Federal assistance, the President signed a major disaster declaration (DR-4240-CA) on September 22, 2015, for Individual Assistance.² On September 24, 2015, FEMA amended the declaration to include Federal assistance under the Public Assistance Program [Federal Register, Amendment No. 4 to Notice of a Major Disaster Declaration, 80 Fed. Reg. 60,165 (Oct. 5, 2015)].³

² FEMA's Individual Assistance program provides housing assistance and assistance for medical, funeral, and transportation expenses to eligible individuals who, because of a federally declared major disaster or emergency, have necessary expenses and serious needs that insurance or other means does not cover.

³ FEMA's Public Assistance program awards grants to State, local, and federally recognized tribal governments and certain private non-profit entities to assist them with the response to and recovery from federally declared disasters.



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Results of Audit

Most of the County's policies, procedures, and business practices are adequate to account for and expend Public Assistance grant funds according to Federal regulations and FEMA guidelines. However, we identified weaknesses in the County's procurement policies, procedures, and practices. Because of our audit, the County began revising its procurement policies and procedures to comply with Federal requirements. Moreover, the County awarded one contract valued at \$17.4 million that included in its estimate removal of trees from private property that did not meet FEMA's eligibility criteria for tree and stump removal. We brought this issue to FEMA's attention resulting in FEMA re-valuing eligible work, estimating a significantly reduced scope of work from 22,100 to 14,001 trees, and decreasing total estimated cost to \$8.5 million (49 percent of the County's \$17.4 million estimate).

At the time of our audit, the County had just started the process of accounting for disaster costs but had not submitted its cost claims. If the County follows its accounting procedures, FEMA and California have reasonable assurance the County will adequately account for disaster costs. Additionally, because the County has adequate insurance policies and procedures, FEMA and California have reasonable assurance that the County will—

- deduct anticipated and actual insurance proceeds from the cost of eligible facilities and property;
- recover insurance benefits from private property owners who receive proceeds from their insurance carriers for debris cleanup, and use the proceeds to reduce project costs; and
- obtain and maintain required insurance on damaged insurable facilities.

California, as FEMA's grantee, should monitor the County's performance and ensure compliance with Federal requirements to prevent the County from improperly spending the \$25 million in Federal funds it expects to receive for this disaster.

Procurement Practices

The County's procurement policies and procedures did not fully conform to Federal procurement standards at 2 Code of Federal Regulations (CFR) 200.318 through 326. Additionally, the County awarded a \$17.4 million contract for tree and debris removal that included work not eligible for FEMA funding.



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To assess the County's procurement policies and procedures, we reviewed two contracts the County awarded for a not-to-exceed estimate of \$18 million—a \$17.4 million unit-price contract for tree and debris removal work and a \$600,000 time-and-materials contract for monitoring the tree and debris removal contract and grant management activities.

When the County awarded the contracts in November 2015, its procurement policies did not require taking any of the necessary affirmative steps that 2 CFR 200.321(b)(1) through (6) requires to assure the use of minority businesses, women's business enterprises, and labor surplus area firms when possible. These steps include using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce to solicit and use these firms. These steps also require prime contractors, if they allow subcontracts to take similar affirmative steps to use minority businesses, women's business enterprises, and labor surplus area firms. Further, the County's simplified acquisition threshold of \$175,000 was \$25,000 higher than the current Federal threshold of \$150,000 (2 CFR Part 200, Appendix II, Section A).

In addition, the County developed a scope of work for tree and debris removal that included work not eligible for Federal disaster assistance. The County estimated the removal of 22,100 trees from its right-of-ways and accepted a bid of \$17.4 million for a unit-price contract. However, at the time the County awarded the contract, it included in its estimate removal of trees from private property that did not meet FEMA's eligibility criteria for tree and stump removal.⁴ We brought this issue to FEMA's attention, resulting in FEMA re-evaluating eligible work and estimating a significantly reduced scope of work with 14,001 trees and total estimated cost of \$8.5 million (49 percent of the County's \$17.4 million estimate).⁵ Because FEMA has not yet obligated these expenditures, we classify \$16.5 million as costs avoidance—or the difference between the County's total estimated disaster-related costs of \$25 million and FEMA's total estimated costs of \$8.5 million for debris removal (see Procurement Practices section of this report).

We informed County officials of the procurement issues we identified. These officials acknowledged that their procurement policies did not conform to Federal requirements, but said they would implement corrective actions.

⁴ FEMA's debris removal guidelines include, but are not limited to, *Debris Removal from Private Property* (Disaster Assistance Policy-DAP 9523.13, July 2007), *Hazardous Stump Extraction and Removal Eligibility* (DAP 9523.11, May 2007), and FEMA 325, *Debris Management Guide* (July 2007).

⁵ By our audit cutoff date, FEMA was in the process of developing large project 33, Category-A work, to reimburse the County in costs incurred for tree and debris removal work. FEMA had not yet drafted a project worksheet for the \$600,000 service agreement.



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Regarding the \$17.4 million contract, County officials explained that, when they awarded the contract, they did not have a full understanding of FEMA requirements for removing hazardous trees. They noted that they have since learned of those requirements and were working with California and FEMA to determine the correct scope of work and cost estimate.

FEMA and California agreed with our observations. FEMA officials said that, irrespective of the value of the contract for tree and debris removal (\$17.4 million), the contract is unit price, and FEMA will only reimburse the County for cost that is eligible, reasonable, and supported with adequate documentation.

We are not questioning any of the \$18 million from these contracts because the County agreed to update its policies and procedures to include all applicable Federal procurement requirements. Moreover, FEMA, for the tree and debris removal contract, plans to reimburse the County on actual costs incurred, and only for removed trees that are fully documented and eligible in accordance with Federal standards.

Accounting Policies and Procedures

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

- Grantees must account for large project expenditures on a project-by-project basis (44 CFR 206.205(b)). FEMA requires subgrantees to keep records for all projects on a project-by-project basis (*Public Assistance Guide*, FEMA 322, June 2007, p. 137).
- Subgrantees must maintain accounting records that adequately identify the source and application of Federal funds and maintain source documentation to support those accounting records (2 CFR 200.302(a) and (b)(3)).

At the time of our audit, the County had begun the process of accounting for disaster costs but had not submitted a cost claim to California for reimbursement. Therefore, to assess the County's accounting policies and procedures, we reviewed the County's standard administrative and financial procedures for tracking expenditures.



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We also discussed these procedures with County officials to gain an understanding of how they plan to track costs they intend to claim for FEMA reimbursement. These officials explained that their administrative and accounting systems will track disaster-related costs by assigning a unique identifying activity code to each project. The County also intends to develop desk procedures that will provide assurance to FEMA that disaster-related costs are coded properly to the correct FEMA project and that expenditures do not exceed contract award or purchase order amounts.

Therefore, if the County follows its procedures, FEMA and California have reasonable assurance that the County will account for disaster costs in accordance with Federal regulations.

Insurance Policies and Procedures

The County has adequate insurance policies and procedures. Therefore, if the County follows these procedures, FEMA and California have reasonable assurance that the County will—

- deduct anticipated and actual insurance proceeds from the cost of eligible facilities and property;
- recover insurance benefits from private property owners who receive proceeds from their insurance carriers for debris cleanup, and use the proceeds to reduce project costs; and
- obtain and maintain required insurance on damaged insurable facilities as a condition of current and future FEMA funding.

As of January 19, 2016, our audit cutoff date, the County was in the process of identifying damages and estimating repair costs to its insured and uninsured facilities and had not submitted a claim with its insurance carrier. We anticipate that, based on insurance records and interviews with County officials, the County will properly deduct anticipated insurance recoveries from eligible project costs as 44 CFR 206.250(c) requires.

Additionally, FEMA approved the County for debris removal and disposal of hazardous trees and vegetation for about 1,163 private properties that are within the County's right-of-ways. We confirmed that County officials were aware that, as a condition of receiving Public Assistance, FEMA requires the County to recover insurance benefits from private property owners who received benefits from their insurance carriers for debris cleanup, and use the proceeds to reduce project costs. According to the *Robert T. Stafford Disaster Relief Emergency Assistance Act*, as amended, no entity will receive assistance for any loss for which it has received financial assistance from any other program, insurance, or any other source.



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In our discussions, we also confirmed that County officials are aware that obtaining and maintaining insurance on damaged insurable facilities is a condition of current and future FEMA funding. The County must obtain and maintain insurance that is reasonable and necessary to protect facilities repaired or replaced using Federal funds against future loss from the types of hazard that caused the major disaster (44 CFR 206.253(b)(1) and (f)).

Recommendations

We recommend that the Regional Administrator, FEMA Region IX:

Recommendation 1: Direct California, as grantee, to continue providing the County with technical assistance it may need to ensure compliance with all applicable Federal regulations, specifically for procurement, and to avoid improperly spending any of the \$25 million (\$18.75 million Federal share) in Federal funds that the County estimates it will receive for damages caused by this disaster.

Recommendation 2: Direct California, as grantee, to ensure the County only submits costs reimbursement claims for tree and debris removal work that are fully documented and eligible in accordance with FEMA's debris removal guidelines.

Recommendation 3: Direct California to ensure the County (1) properly deducts anticipated insurance proceeds from the costs of eligible disaster work; (2) recovers all available insurance benefits from private property owners who receive proceeds from their insurance carriers for debris cleanup, and uses these benefits to offset FEMA project funding; and (3) obtains and maintains insurance sufficient to cover damages to insurable facilities in future disasters.

Discussion with Management and Audit Follow-Up

We discussed the results of our audit with County, California, and FEMA officials during our audit. We also provided a draft report in advance to these officials and discussed it at exit conferences with FEMA on March 30, 2016; with California on April 7, 2016; and with the County on May 5, 2016. We included these officials' comments, as applicable, in the body of this report, and included FEMA's written comments (provided to us on April 28, 2016) in their entirety in appendix B. Because FEMA agrees with our findings and recommendations and has taken corrective actions, we consider these recommendations resolved and closed. Therefore, we do not require any further actions by FEMA.



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The Office of Emergency Management Oversight major contributors to this report are Humberto Melara, Director; Louis Ochoa, Audit Manager; Renee Gradin, Auditor; and Paul Sibal, Auditor.

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



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Appendix A

Objective, Scope and Methodology

We audited FEMA Public Assistance grant funds awarded to the County, Public Assistance Identification Number 033-99033-00. Our audit objective was to determine whether the County's policies, procedures, and business practices are adequate to account for and expend FEMA Public Assistance Program grant funds according to Federal regulations and FEMA guidelines. We conducted this audit early in the Public Assistance process to identify areas where the County may need additional technical assistance, or monitoring to ensure compliance, before improperly expending any of the Federal grant funds to be awarded for FEMA Disaster Number 4240-DR-CA.

Our audit covered the period of September 9, 2015, the first day of the incident period, through January 19, 2016, our audit cutoff date. By January 19, 2016, FEMA and California were in the process of drafting the County's project worksheets to estimate damages resulting from the September 2015 wildfires. County officials estimate that disaster-related costs may exceed \$25 million. The award provided 75 percent funding for debris removal, emergency protective measures, and permanent work for small and large projects.⁶ At the time of our audit, the County was in the process of accounting for disaster costs but had not submitted a cost claim to California for reimbursement. Therefore, to assess the policies and procedures the County used to account for and expend FEMA funds, we reviewed two contracts the County awarded for disaster-related work with not-to-exceed estimated costs of \$18 million.

We interviewed FEMA, California, and County officials; assessed the adequacy of the policies, procedures, and business practices the County uses or plans to use to account for and expend Federal grant funds and to procure and monitor contracts for disaster work; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our objective. We did not perform a detailed assessment of the County's internal controls over its grant activities because it was not necessary to accomplish our audit objective.

⁶ Federal regulations in effect at the time of the disaster set the large project threshold at \$121,600 [Notice of Adjustment of Disaster Grant Amounts, 79 Fed. Reg. 62,648 (Oct. 20, 2014)].



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Appendix A (continued)

We conducted this performance audit between December 2015 and March 2016 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.



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Appendix B

FEMA Region IX Response


U.S. Department of Homeland Security
Region IX
1111 Broadway, Suite 1200
Oakland, CA 94607-4052



FEMA

APR 27 2016

MEMORANDUM FOR: Humberto U. Melara
Director, Western Regional Office
Office of Inspector General

FROM: Robert J. Fenton 
Regional Administrator
FEMA Region IX

SUBJECT: FEMA-4240-DR-CA
Subgrantee: Lake County; PA ID: 033-99033-00
Response to Draft Audit Report OIG-16-XXX-D
FEMA Log: 309558.2

On March 30, 2016, the Office of Inspector General (OIG) Western Regional Office transmitted the draft audit report *Lake County, California, Should Continue to Improve Policies, Procedures, and Practices for Procurement*. The OIG audited the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to Lake County, California (County) under Disaster 4240. The audit report listed the following three (3) recommendations based on findings related to offering the California Governor's Office of Emergency Services (Cal OES), as grantee, additional guidance:

- **Recommendation 1:** Direct Cal OES, as grantee, to continue providing the County with technical assistance it may need to ensure compliance with all applicable Federal regulations, specifically for procurement, and to avoid improperly spending any of the \$25 million (\$18.75 million Federal share) in Federal funds that the County estimates it will receive for damage caused by this disaster.
- **Recommendation 2:** Direct Cal OES, as grantee, to ensure the County only submits costs reimbursement claims for tree and debris removal work that are fully documented and eligible in accordance with FEMA's debris removal guidelines.
- **Recommendation 3:** Direct Cal OES to ensure the County (1) properly deducts anticipated insurance proceeds from the costs of eligible disaster work; (2) recovers all available insurance benefits from private property owners who receive proceeds from their insurance carriers for debris cleanup, and uses these benefits to offset FEMA project

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Appendix B (continued)

Mr. Humberto U. Melara
Draft Audit Report OIG-16-XXX-D
FEMA-4240-DR-CA, FEMA Log: 309558.2
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funding; and (3) obtains and maintains insurance sufficient to cover damages to insurable facilities in future disasters.

FEMA's Response to Recommendations 1 – 3: Concur. FEMA works closely with Cal OES and all California subgrantees to ensure that federal regulations regarding the FEMA Public Assistance program are fully understood and properly applied. This is an ongoing and interactive process with seminars, classes, and discussions. Specifically, Cal OES disseminates program specific information, including the importance of compliance to federal regulations, during the Applicants' Briefing at the beginning of each new disaster. FEMA then reiterates the information during the Kick-off Meeting. To stress the importance of this information reaching not only the County but all subgrantees, on April 14, 2016, FEMA Region IX's Public Assistance senior leadership held a meeting with Cal OES representatives to provide further guidance on topics raised by the OIG's recommendations in this audit draft report and offer an open forum in which Cal OES representatives could ask questions. FEMA acknowledges OIG Recommendations 1 – 3 and will continue to support Cal OES' efforts and obligation to educate and assist public assistance applicants throughout California.

In summary, FEMA concurs with all three (3) recommendations. FEMA has taken the actions noted above. FEMA requests closure of all recommendations.

If you have any questions or require additional information, please contact Marcie Stone, Acting Recovery Division Director, at (510) 627-7250.



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Appendix C

Potential Monetary Benefits

Table 1: Summary of Potential Monetary Benefits

Type of Potential Monetary Benefit	Total	Federal Share
Questioned Costs – Ineligible	\$ 0	\$ 0
Questioned Costs – Unsupported	0	0
Funds Put to Better Use (Cost Avoidance)	16,506,222	12,379,667
Totals	\$16,506,222	\$12,379,667

Source: OIG analysis of findings in this report

*Because FEMA has not yet obligated these expenditures, we classify \$16.5 million as costs avoidance—or the difference between the County’s total estimated disaster-related costs of \$25 million and FEMA’s total estimated costs of \$8.5 million for debris removal (see Procurement Practices section of this report).



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Appendix D

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