

OFFICE OF INSPECTOR GENERAL

FEMA's Advance Contract Strategy for Disasters in Puerto Rico



Homeland
Security

March 23, 2020

OIG-20-20



DHS OIG HIGHLIGHTS

FEMA's Advance Contract Strategy for Disasters in Puerto Rico

March 23, 2020

Why We Did This Audit

The *Post-Katrina Emergency Management Reform Act of 2006* requires FEMA to maximize the use of advance contracts to expedite the acquisition of supplies and services during emergencies. FEMA introduced advance contracts as a way to expedite the acquisition of supplies and services during emergencies. Our objective was to determine to what extent FEMA's planning for advance contracts in Puerto Rico addresses identified capability deficiencies and needs.

What We Recommend

We made four recommendations to help FEMA improve its strategy for advance contracts, its process for identifying capability needs and gaps, and its contract file management practices.

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

Following Hurricane Maria, the Federal Emergency Management Agency (FEMA) did not maximize the use of advance contracts to address identified capability deficiencies and needs in Puerto Rico. Specifically, we identified 49 of 241 new contracts issued in the aftermath of Hurricane Maria for the same goods or services covered by existing advance contracts. In addition, FEMA Region II did not issue any new advance contracts prior to Hurricane Maria and did not perform analysis to identify goods or services to obtain through advance contracts. We attributed FEMA's limited use of advance contracts to its lack of strategy and documented planning process for ensuring maximum use of advance contracts. Although FEMA reported to Congress in December 2007 it had a strategy in place, we determined it was a one-time strategy that did not meet the intent of the *Post-Katrina Emergency Management Reform Act of 2006*. Without advance contracts to expedite acquisitions, goods and services for people in need may have been delayed or were more costly to the Government.

Further, FEMA did not maintain contract files in accordance with Federal acquisition regulations and departmental or its own policy. This occurred because FEMA's Office of the Chief Procurement Officer did not have controls in place to ensure contract personnel follow Federal regulations and departmental or its own internal policy. As a result, FEMA's ability to hold contractors accountable for deliverables is hindered if contract files are not easily located.

FEMA's Response

FEMA concurred with all four recommendations and described corrective actions it plans to take. However, FEMA's corrective actions do not meet the intent of the recommendations. Therefore, we consider all four recommendations open and unresolved.



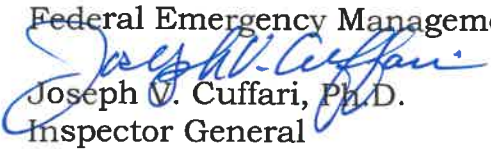
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Department of Homeland Security

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

March 23, 2020

MEMORANDUM FOR: The Honorable Peter T. Gaynor
Administrator
Federal Emergency Management Agency

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

SUBJECT: *FEMA's Advance Contract Strategy for
Disasters in Puerto Rico*

Attached for your action is our final report, *FEMA's Advance Contract Strategy for Disasters in Puerto Rico*. We incorporated the formal comments provided by your office.

The report contains four recommendations aimed at improving FEMA's strategy for advance contracts, its process for identifying capability needs and gaps, and its contract file management practices. While your office concurred with all four of the recommendations, based on information provided in your response to the draft report, corrective actions do not meet the intent of the recommendations. We consider all four recommendations open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report 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 responsible parties and any other supporting documentation necessary to inform us about the current status of each recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Sondra McCauley, Assistant Inspector General for Audit, at (202) 981-6000.

Attachment



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Table of Contents

Background 2

Results of Audit 4

 FEMA Region II/JFO Did Not Maximize the Use of Advance Contracts ... 4

 FEMA Did Not Manage Contract Files in Accordance with Regulations
 and Policy..... 10

Recommendations..... 12

Appendixes

Appendix A: Objective, Scope, and Methodology 16

Appendix B: FEMA Comments to the Draft Report..... 19

Appendix C: Office of Audits Major Contributors to This Report 22

Appendix D: Report Distribution..... 23

Abbreviations

FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
HSAM	Homeland Security Acquisition Manual
JFO	Joint Field Office
OCPO	Office of the Chief Procurement Officer
OIG	Office of Inspector General



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Background

The Federal Emergency Management Agency's (FEMA) mission is to support citizens and first responders and ensure, as a Nation, we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. To fulfill its mission, FEMA must thoroughly plan responses to different natural and manmade disasters. These disasters require timely response to begin recovery efforts in the affected communities.

The *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, Pub. L. No. 93-288 (1974) (Stafford Act), authorizes the Federal Government to provide necessary relief and assistance prior to and during a natural disaster. It directs the Government to provide work and services to save lives and protect property, such as debris removal, search and rescue, emergency medical care, shelter, food, water, and essential needs that include movement of supplies or persons. It also requires awarding contracts to local businesses to help stimulate the economy.

The *Post-Katrina Emergency Management Reform Act of 2006*, Pub. L. No. 109-295 (Post-Katrina Act), addressed various shortcomings identified in preparation for and response to Hurricane Katrina. It requires FEMA to identify an advance contracting strategy maximizing the use of advance contracts to the extent practical and cost effective in advance of a natural or non-natural disaster.

Advance contracts are for recurring disaster response requirements, including specific goods and services for which FEMA is capable of contracting in advance of a natural disaster, act of terrorism, or other manmade disaster that, when used, may be cost effective. FEMA introduced advance contracts as a way to expedite the acquisition of supplies and services during emergencies. FEMA must identify these recurring requirements prior to a disaster in order to enter into advance contracts meeting needs of affected communities.

Advance Contracting Process

The procurement process for awarding advance contracts is the same as any other contract, because advance contracts are not a separate type of contracting vehicle. Advance contracts are completed prior to an emergency to meet the regional or program office requirements. According to FEMA, contracts, including advance contracts, may be found in the Federal Procurement Data System-Next Generation, a repository of U.S. Government-wide procurement data.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

FEMA's Office of the Chief Procurement Officer (OCPO) requires certain documentation from its program offices before it moves forward with a procurement. FEMA program offices route required planning documents identifying goods and services to be acquired by FEMA OCPO. The documents include, but are not limited to, statement/scope of work and independent government cost estimates. FEMA OCPO initiates advance contracts and authorizes all regional contracting officers to award advance contracts.

Once an emergency occurs, FEMA will set up a Joint Field Office (JFO) to manage its portion of the emergency response efforts in the devastated area. During this time, the JFO may use advance contracts or enter into new post-disaster contracts in order to respond to the state or territory's needs.

Hurricane Maria

On September 18, 2017, the President approved an emergency declaration for Puerto Rico. On September 20, 2017, Hurricane Maria made landfall. It was the strongest hurricane to make landfall in Puerto Rico since 1928. Hurricane Maria's powerful winds and heavy rainfall damaged communication and power grids, destroyed homes, and downed trees leaving Puerto Rico's 3.7 million people without power or communication. Almost 4 months after the hurricane made landfall, approximately 45 percent of the power company's customers were still without power.



Figure 1. Puerto Rico after Hurricane Maria

Source: DHS OIG

According to FEMA, as of January 31, 2019, it spent more than \$1 billion during its response to Hurricane Maria in Puerto Rico, with more than \$550 million spent on advance contracts.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

FEMA Region II services the area encompassing Puerto Rico. During Hurricane Maria, Puerto Rico provided its requirement shortfalls to FEMA Region II and the JFO, which in turn used headquarters advance contracts or entered into post-disaster contracts to meet the needs of Puerto Rico's residents.

Since Hurricane Maria's landfall in Puerto Rico, other reports also highlighted shortcomings in FEMA contracting:

- The U.S. Government Accountability Office issued a report titled *2017 Disaster Contracting - Action Needed to Better Ensure More Effective Use and Management of Advance Contracts*, GAO-19-93. This report discussed an out-of-date advance contract strategy and poor contract file management.
- The Department of Homeland Security Office of Inspector General (OIG) issued a report titled *FEMA Should Not Have Awarded Two Contracts to Bronze Star LLC*, OIG-19-38. According to the report, FEMA did not follow procurement laws, regulations, and procedures when awarding two emergency contracts to Bronze Star LLC for tarps and plastic sheeting, valued at \$30 million, in Puerto Rico.

We conducted this audit to determine to what extent FEMA's planning for advance contracts in Puerto Rico addressed identified capability deficiencies and needs.

Results of Audit

FEMA Region II/JFO Did Not Maximize the Use of Advance Contracts

Following Hurricane Maria, FEMA did not maximize the use of advance contracts to address identified capability deficiencies and needs in Puerto Rico. Specifically, we identified 49 of 241 new contracts issued in the aftermath of Hurricane Maria for the same goods or services covered by existing advance contracts. In addition, FEMA Region II did not issue any new advance contracts prior to Hurricane Maria and did not perform analysis to identify goods or services to obtain through advance contracts. We attributed FEMA's limited use of advance contracts to its lack of strategy and documented planning process for ensuring maximum use of advance contracts. Although FEMA reported to Congress in December 2007 it had a strategy in place, we determined it was a one-time strategy and did not meet the intent of the Post-Katrina Act. Without advance contracts to expedite acquisitions, goods and



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Department of Homeland Security

services for people in need may have been delayed or were more costly to the Government.

Limited Use of Advance Contracts after Hurricane Maria

The Post-Katrina Act requires FEMA to maximize the use of advance contracts to the extent practical and cost effective. However, in the aftermath of Hurricane Maria, contracting officers in FEMA Region II/JFO did not always use existing advance contracts, issue new advance contracts, or perform analysis to identify goods or services for potential advance contracts to meet Puerto Rico's needs.

FEMA Region II/JFO Did Not Use Existing Advance Contracts

We identified 49 of 241 contracts FEMA Region II/JFO awarded after Hurricane Maria for the same goods or services covered by existing advance contracts. For example:

- FEMA Region II/JFO awarded a post-disaster cleaning supply contract even though an existing advance contract was available for use. Cleaning supplies can be essential in an environment without running water or proper waste removal in limiting or stopping the spread of disease.
- FEMA Region II/JFO awarded new post-disaster housing and lodging assistance contracts instead of using the existing advance contract in place. Providing available housing and lodging promptly is vital since citizens may be without habitable living conditions or may be unable to satisfy basic survival needs.

Contracting officers provided several reasons for not using advance contracts. We interviewed 10 contracting officers associated with 44 of the 49 contracts (90 percent) to determine whether they considered the advance contracts already in place. Contracting officers were able to provide documentation supporting their decision to not use an advance contract for 4 of the 44 contracts. For the other 40 contracts, contracting officers provided reasons for not using existing advance contracts such as the existing advance contracts could not provide the goods and services when needed or were not cost effective. However, when asked, the contracting officers could not provide any documentation to support their assertions. One contracting officer provided documentation showing an advance contract was considered, but did not explain why the scope of the existing advance contract did not meet the agency's needs. Contracting officers also said the Stafford Act directs them to



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

award post-disaster contracts to local vendors. Contracting officers indicated the priority was to contract with local vendors before using advance contracts. While the Stafford Act requires FEMA to award contracts to local private organizations, firms, or individuals, it states that should be done to the extent feasible and practicable. The Stafford Act does not preclude FEMA from awarding local advance contracts. Finally, contracting officers believed their decisions were justified based on a July 19, 2010 FEMA memo, *Promoting the Use of Local Vendors in Disasters*. However, this memo reiterates following the Stafford Act and discusses transitioning from national advance contracts to local vendors within 6 months of a disaster event or sooner if/when feasible or practicable.

FEMA Region II Did Not Issue Any New Advance Contracts

In 2007, 10 years before Hurricane Maria, FEMA provided a report¹ to Congress with a list of goods and services suitable for advance contracts. However, FEMA Region II has not issued any new advance contracts since 2007. The Post-Katrina Act requires FEMA to maximize the use of advance contracts to the extent practical and cost effective. Maximizing the use of advance contracts in this context includes expanding the number of advance contracts based on identified needs.

We determined FEMA Region II contracting officers awarded 49 contracts for goods or services it previously reported on this list, including items such as box truck rentals and armed security guards. Table 1 shows examples of suitable goods and services included in the 2007 congressional report.

¹ FEMA's Report to Congress, *Advance Contracting of Goods and Services*, December 2007, not currently available online.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Table 1: Examples of Goods and Services Suitable for Advance Contract

Good/Service Category	Example
Cleaning Supplies	Brooms, Buckets, Mops, Rags, Soap, Trash Bags
Food Items	Baby Food, Canned Goods, Ice, Packaged Foods, Powdered Milk, Water
Transportation	All-Terrain Vehicles (ATVs) / 4-Wheel Drive Vehicles, Bus Rental, Trains, Truck Rental
Communication Services	Communications Improvement, Disaster Satellite Communication, Mobile Communication Power, Private Sector Calling Services, Satellite Phone Services, Translation Services, Wireless Services
Law Enforcement and Security Force	Automated Personnel Security System Support, Security Support Services, FEMA Security Office
Logistics and Transportation Support	Commodity Management, Fuel/Fuel Management, Ice Storage, Mortuary Services, Truck Transportation for Personnel, Water Transport - Potable (Drinkable) Water

Source: FEMA's Report to Congress on Advance Contracting of Goods and Services, December 2007

According to Region II contracting personnel, they had not issued any new advance contracts because contracting officers were unaware regions had the authority to enter into advance contracts and believed only FEMA headquarters had the authority to do so. However, we identified another FEMA regional office that had awarded advance contracts in the past.

FEMA Region II Did Not Perform Analysis to Identify Goods or Services for Potential Advance Contracts

To ensure the Government meets its needs in the most effective, economical, and timely manner, acquisition planning should begin as soon as an agency identifies a need. However, FEMA Region II personnel responsible for disaster planning in Puerto Rico were not required to perform analysis to identify needed goods or services that could have been obtained through advance contracts. As part of disaster planning, FEMA's Region II created several plans to respond to emergencies. The plans include an All-Hazards Plan, Hurricane Response Plan, and the Hurricane Annex for Puerto Rico and U.S. Virgin Islands. These plans discuss prepositioning goods prior to an emergency but do not discuss gaps or needs in terms of planning in advance of an emergency.

FEMA Region II planning personnel informed us since the Region II Hurricane Annex for Puerto Rico and U.S. Virgin Islands did not plan for a total island destruction, FEMA used the June 2012 Puerto Rico Catastrophic Tsunami Annex and Puerto Rico Catastrophic Earthquake Annex plans in response to Hurricane Maria. However, these plans only provide guidance for initial Federal response and long-term recovery from catastrophe. It references activation of the advanced contract initiative for debris removal, water,



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

temporary roofing, and emergency power contract support, but does not assess how the needs for these goods and services were determined. In addition, the Puerto Rico Catastrophic Earthquake Annex plan does not identify needs and gaps for advance contracts. The Earthquake Annex plan does mention specific advance contracts, but does not specify how FEMA identified these contracts to fulfill its needs. It also uses the term *preposition*, but it is in reference to prepositioning of resources and commodities.

According to FEMA planning personnel, they work with the Commonwealth of Puerto Rico to develop plans before disasters. Specifically, FEMA works with the Puerto Rico State Agency for Emergency and Disaster Management to make sure the plans meet Puerto Rico's needs. FEMA chooses the most realistic planning scenario using historical data, as well as the Threat and Hazard Identification and Risk Assessments and the State Preparedness Reports, to develop each plan. FEMA's plans describe how it will respond to and recover from incidents and includes planning assumptions. However, the plans do not consider the potential for advance contracts to prepare for a disaster. Region II relies on advance contracts written by headquarters or its own post-disaster contracts to fulfill their needs.

FEMA Lacks Strategy with a Documented Process and Performance Goals to Maximize Use of Advance Contracts

We attributed FEMA's limited use of advance contracts to its lack of:

- strategy for maximizing the use of advance contracts;
- a documented planning and decision-making process, particularly for considering state and local needs; and
- performance goals and measures to assess progress.

No Advance Contract Strategy

The Post-Katrina Act requires FEMA to develop an advance contracting strategy to maximize the use of such contracts. Having an advance contracting strategy would provide guidance for decision makers on awarding and using advance contracts, potentially improving the responsiveness and availability of resources before a disaster strikes. It also allows FEMA to take into consideration the priorities of the local community affected by disasters and rapidly mobilize resources. Although the Post-Katrina Act does not specify what should be included in the advance contracting strategy, FEMA defines a strategy as a carefully devised plan of action to achieve one or more objectives.

Although FEMA reported to Congress in December 2007 it had an advance



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

contracting strategy in place, we determined it was a one-time strategy and did not meet the intent of the Post-Katrina Act. Instead, this strategy only identified a list of goods and services deemed appropriate for advance contracting and a list of fiscal year 2007 advance contracts.

No Documented Planning and Decision-making Process

FEMA's December 2007 advance contract strategy did not include a documented planning process that considered the possibility of updating the number of advance contracts to address ongoing demands and changing needs.

According to FEMA OCPO personnel, they did not use a documented planning process and primarily identified new advance contracts based on the needs of the previous disasters. FEMA OCPO stated it collaborated with other program offices to identify needs, but did not have documentation to support its decisions. In the same report to Congress, FEMA also stated it had developed an acquisition tracker to help define future requirements; however, we could not identify anyone in FEMA who knew whether the acquisition tracker existed. In addition, FEMA's strategy lacked a documented process for contracting officers to justify not using existing advance contracts.

Further, the Post-Katrina Act requires FEMA to coordinate with state and local governments and other Federal agencies, and establish a process to ensure Federal pre-negotiated contracts for goods and services are coordinated with state and local governments, as appropriate. FEMA's advance contract strategy did not include a documented process for considering the needs of its state and local partners. According to FEMA planning personnel in Region II, they work with the Commonwealth of Puerto Rico before disasters to develop plans on how it will respond and recover from disasters. However, documentation did not exist to show FEMA Region II considered local community needs in deciding how to use advance contracts to help those communities quickly respond and recover from disasters.

No Performance Goals and Measures

Finally, FEMA's advance contract strategy did not include any performance goals and measures to assess progress of maximizing advance contracts.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

According to the *GPR Modernization Act of 2010*, Pub. L. No. 111-352, performance plans covering program activities shall include:

- performance goals to define the level of performance to be achieved;
- goals expressed in an objective, quantifiable, and measurable form;
- a description of how the performance goals are to be achieved; and
- performance indicators to be used in measuring or assessing progress toward performance goals.

Since FEMA did not have an advance contract strategy, we cannot be certain it had enough advance contracts in place to provide assistance to the residents of Puerto Rico after Hurricane Maria made landfall. In addition, FEMA may have missed opportunities to provide goods and services promptly to citizens affected by Hurricane Maria, and those goods and services may have been more costly.

FEMA Did Not Manage Contract Files in Accordance with Regulations and Policy

FEMA did not maintain contract files in accordance with the Federal Acquisition Regulation (FAR) and departmental or FEMA policy guidance. FAR Part 4.800 prescribes the Federal requirement for establishing, maintaining, and disposing of contract files. The FAR requires the head of each office performing contracting, contract administration, or paying functions to establish contract files containing all contractual actions. In addition, according to FAR Part 4.802, if contract files are decentralized, responsibility for their maintenance must be assigned. A central control and, if needed, a locator system should be established to ensure the ability to promptly locate any contract files.

The FAR is not strict about having a paper contract file and allows for contract files to be maintained in any medium (paper, electronic, microfilm, etc.). However, the *Homeland Security Acquisition Manual (HSAM)*, section 3004.803-70, requires DHS components to have an official contract file folder for every contract awarded. Further, FEMA's standard operating procedure for contract file management requires contracting officers and contract specialists to create and maintain official contract files. It also requires headquarters contract files be stored in a central file room within 5 business days after award of a contract or issuance of an order. The same standard operating procedure requires field offices to establish a central file location (where practicable) for all active files.

We requested 133 task orders associated with 9 advance contract files from FEMA to determine the completeness and accuracy of Region II/JFO procurement logs, which are lists of all contracts, including advance and post-



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

disaster contracts, Region II/JFO used during Hurricane Maria. Requests for all contract files and associated task orders were made to FEMA OCPO. We made these requests more than a month in advance to afford FEMA OCPO enough time to gather the requested files. We sent multiple follow-up emails, indicating these files would be needed and should be made ready for our review. However, FEMA OCPO did not make all the requested task orders available.

We were provided access to 18 task orders associated with 7 contract files — 4 hardcopy task order files located in FEMA headquarters and 14 electronic task order files from FEMA Region II. FEMA OCPO did not provide us the remaining 99 FEMA headquarters task order files, which should have been located in the headquarters central file room, as required by FEMA's standard operating procedure. In addition, FEMA OCPO did not produce the remaining 16 task order files that should have been available in hardcopy at a central file room located at FEMA Region II. Overall, FEMA OCPO did not produce 115 of the 133 task orders we requested.

This occurred because FEMA OCPO does not have controls to ensure contract personnel are following the FAR, HSAM, and FEMA's standard operating procedure. For example, a Region II Contracting Officer stated personnel are behind on printing hardcopy files. They print the hardcopy files as needed or requested for audits and do not have enough storage space for the hardcopy files. Further, a FEMA OCPO staff member informed us there are no requirements in place to perform any checks on contracting officers to ensure they are following the FEMA OCPO policy requiring all contracting officers to store contract files in the central file room. As a result, FEMA may not be able to hold contractors accountable for deliverables if contract files are not easily located.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendations

Recommendation 1: We recommend the Regional Administrator, FEMA Region II develop and implement a formal documented process to identify capability needs and gaps for potential advance contracts in Puerto Rico.

Recommendation 2: We recommend the Head of Contracting Activity for FEMA develop and implement an advance contract strategy that:

- includes a documented planning process to support the addition or removal of available advance contracts;
- encourages awarding advance contracts at the regional level;
- provides clear guidance for when a contracting officer should defer to the Post-Katrina Act or the Stafford Act;
- incorporates a formal process to identify capability needs and gaps for potential advance contracts;
- includes a schedule for updating its guidance and processes;
- requires state, territory, and local input; and
- specifies performance measures.

Recommendation 3: We recommend the Head of Contracting Activity for FEMA direct all contract personnel to follow the FAR, HSAM, and their standard operating procedure for creating and maintaining contract files.

Recommendation 4: We recommend the Head of Contracting Activity for FEMA implement controls to ensure FEMA personnel are following the FAR, HSAM, and their standard operating procedure for creating and maintaining contract files.

FEMA Comments and OIG Analysis

The Department concurred with all four of our recommendations. However, FEMA's planned actions do not meet the intent of the recommendations. We have included a copy of the management comments in their entirety in appendix B. According to FEMA, it is committed to ensuring contracting for preparedness, response, and recovery efforts against all hazards are in full compliance with laws, regulations, and policies. FEMA is equally committed to maintaining updated information on the availability and use of advance contracts for the FEMA acquisition workforce.

In addition, FEMA provided technical comments to our draft. We evaluated those comments but did not make changes to our report.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Response to Recommendation 1: Concur. FEMA's OCPO agrees with the need for a formal process to identify capability needs and gaps for potential advance contracts, and claims one already exists. Specifically, FEMA OCPO establishes advance contracting on a nation-wide basis, not region-by-region. It is not a function of FEMA Region II to develop and implement a formal documented process for potential advance contracts in Puerto Rico, since FEMA's nation-wide establishment of advance contracts to meet the agency's mission-essential needs includes the Regions. To improve the existing process, OCPO established an agency-wide Disaster Strategy Forum in February 2019, which brings together FEMA's major disaster operational functions, including FEMA Regions, on a bi-weekly basis. This forum allows these functions to strategize future approaches to disaster contracting issues and needs, such as mitigating mission shortfalls and identifying capability gaps. FEMA requested this recommendation be closed and resolved.

OIG Analysis: The agency's response does not address the intent of the recommendation. The agency describes actions taken at the agency-wide level to establish advance contracts. However, the agency does not specify how it will address identifying capability needs and gaps, specifically in Puerto Rico, that can then be shared at the regional level via the newly developed Disaster Strategy Forum to guide national discussions. Therefore, this recommendation is considered open and unresolved until FEMA can provide a documented process identifying capability gaps and needs for potential advance contracts in Puerto Rico.

Response to Recommendation 2: Concur. According to FEMA, OCPO has been assessing the advance contracts list as an ongoing activity since well before the 2017 hurricane season. Based on this activity, OCPO took steps, beginning in October 2018, to improve the planning, management, and visibility of advance contracts. These steps include regularly assessing the advance contracts list, in consultation with headquarters and regional partners, to ensure commodities and services are available to meet the mission. Further, the issuance of new advance contracts is now based on known recurring goods and services that will be used in advance of natural or manmade disasters, as a result of the FEMA Disaster Strategy Forum. FEMA OCPO is memorializing this process to manage and track advance contracts by creating a FEMA Acquisition Manual, and updating its current *Disaster Contracting Desk Guide* to ensure clear guidance is given to contracting personnel on the proper use of advance contracts. The estimated completion date is August 31, 2020.

OIG Analysis: The agency's response does not fully address the intent of the recommendation. FEMA indicated it has taken steps toward an advance



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

contracting strategy by creating an acquisition manual and providing clear guidance on the proper use of advance contracts. However, the Post-Katrina Act of 2006 requires FEMA to maximize the use of advance contracts to expedite the acquisition of supplies and services during an emergency. According to FEMA, it is basing its decision to issue new advance contracts on recurring goods and services that will be used in advance of a disaster. Therefore, this recommendation is considered open and unresolved until FEMA provides documentation of an advance contract strategy describing the process to be followed to address all elements our recommendation.

Response to Recommendation 3: Concur. According to FEMA, OCPO personnel, including contract personnel, are instructed through the standard operating procedure, *Labeling and Organizing Official Contract File Folders*, dated August 31, 2009, to manage all contract files in accordance with the FAR and HSAM. In addition, FEMA will transition to an Electronic Contract Filing System by March 31, 2020. In April 2019, OCPO also drafted an Acquisition Alert, *Contract File Accountability*, requiring the use of the Electronic Contract Filing System as the system of record. This alert is scheduled for issuance during the third quarter of fiscal year 2020. The estimated completion date is June 30, 2020.

OIG Analysis: The agency's response does not fully address the intent of the recommendation. FEMA stated an August 31, 2009 standard operating procedure instructs personnel to manage all contract files in accordance with the FAR and HSAM. However, FEMA did not address its standard operating procedure for contract file management, which requires contracting officers and contract specialists to create and maintain official contract files in hardcopy. It also requires headquarters contract files to be stored in a central file room within 5 business days after award of a contract or issuance of an order. The same standard operating procedure requires field offices to establish a central file location (where practicable) for all active files. Until FEMA transitions to an Electronic Contract Filing System, the current standard operating procedure to maintain hardcopy contract files must be followed. Therefore, this recommendation is considered open and unresolved until the Head of Contracting Activity for FEMA directs all contract personnel to follow all current regulations and policies until the acquisition alert requiring use of an Electronic Contract Filing System is issued.

Response to Recommendation 4: Concur. According to FEMA, the standard operating procedure, *Labeling and Organizing Official Contract File Folders*, dated August 31, 2009, instructs FEMA OCPO personnel to manage all contract files in accordance with the FAR and HSAM. From April 29 to May 2, 2019, FEMA OCPO provided training to OCPO personnel for creating and



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

maintaining contract files during the Mission Rehearsal Training. The FEMA OCPO also drafted an Acquisition Alert, *Contract File Accountability*, in April 2019 to reiterate existing controls ensuring all OCPO personnel comply with the contract filing process, including the use of the Electronic Contract Filing System. This alert is scheduled for issue during the third quarter of FY 2020. The estimated completion date is June 30, 2020.

OIG Analysis: The agency's response does not fully address the intent of the recommendation. FEMA stated it trained staff on the creation and maintenance of contract files. FEMA also stated the acquisition alert that has been drafted, but not released, reiterates existing controls ensuring all OCPO personnel comply with the contract filing process. However, we did not find any evidence that such controls were in place. Therefore, this recommendation is open and unresolved until FEMA provides documentation it has implemented controls to ensure personnel are following all current regulations, policies, and standard operating procedures for creating and maintaining contract files.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002*, Pub. L. No. 107-296, by amendment to the *Inspector General Act of 1978*.

FEMA introduced advance contracts as a way to expedite the acquisition of supplies and services during emergencies. Our objective was to determine to what extent FEMA's planning for advance contracts in Puerto Rico addresses identified capability deficiencies and needs. The scope of our audit included reviewing advance and post-disaster contracts used between September 20, 2017 and May 31, 2018. This includes contract modifications, task orders, requisition forms, and other file documentation.

FEMA provided a list of 121 advance contracts. This list became our universe for selecting a judgmental sample. We judgmentally selected 40 advance contract files for review in consultation with the OIG statistician. We reviewed documents in the contract files to determine whether FEMA identified capability deficiencies and needs.

We reviewed requisitions (FEMA form 143) for supplies, equipment, personnel, and/or teams; statements of work; performance work statements; statements of objective; and independent government cost estimates to determine whether FEMA may have documented identified capability deficiencies and needs on these forms instead of including this information in contract files.

We compared post-disaster contracts awarded from September 20, 2017, through May 31, 2018 by Region II/JFO to the advance contract list in order to identify whether FEMA maximized its use of advance contracts in lieu of post-disaster contracts. In addition, we compared the goods and services acquired through post-disaster contracts by Region II/JFO with the list of goods and services appropriate for advance contracts FEMA reported to Congress in 2007.

We identified and reviewed pertinent Federal criteria related to our audit objective, which included the Post-Katrina and Stafford Acts. We reviewed related DHS and FEMA policies and FEMA standard operating procedures. FEMA and the government of Puerto Rico identified and provided disaster planning documents, which included:

- Threat and Hazard Identification and Risk Assessment;
- State Preparedness Report;
- Puerto Rico Catastrophic Tsunami Annex;



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

- Puerto Rico Catastrophic Earthquake Annex;
- Puerto Rico Catastrophic Planning Annex;
- FEMA Region II Hurricane Annex for Puerto Rico and U.S. Virgin Islands;
- Incident Management Assistant Team Reports; and
- Puerto Rico Hazard Mitigation Plan.

We interviewed personnel responsible for identifying needs and acquisition planning at the Federal, regional, and state levels. We met with various FEMA and Puerto Rico offices including:

FEMA:

- Office of the Chief Procurement Officer, Washington, D.C.;
- Response and Recovery, Washington, D.C.;
- Logistics, Washington, D.C.;
- Region II, New York;
- Mission Assignments and Operations, Puerto Rico;
- Logistics, Puerto Rico;
- Federal Coordinating Officer, Puerto Rico;
- Region II Caribbean Office, Puerto Rico; and
- Finance and Administration, Puerto Rico.

Puerto Rico:

- Departamento de Transportacion y Obras Publicas (Department of Transportation), Puerto Rico;
- Agencia Estatal para el Manejo de Emergencias y Administración de Desastres (Puerto Rico State Agency for Emergency and Disaster Management), Puerto Rico;
- State Coordinating Officer, Puerto Rico; and
- Central Office for Recovery, Reconstruction, and Resiliency (COR3), Puerto Rico

We attempted to obtain and identify the complete universe of FEMA's advance contracts in order to address our audit objective. We requested a list of advance contracts available for use in Puerto Rico after Hurricane Maria to select our sample. We were unable to identify a complete universe of FEMA's advance contracts from which to select our sample. Based on discussions with key FEMA personnel, we found the advance contract list is manually generated. There were no databases or documentation to verify completeness of the advance contract list.

To identify advance contracts used in Region II/JFO, we obtained Region II/JFO procurement logs and compared them with the FEMA headquarters'



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advance contract list. We assessed the reliability of Region II/JFO procurement logs for the audit by attempting to review contract files and associated task orders. However, FEMA did not provide all requested task orders, which prevented us from determining whether Region II/JFO procurement logs were complete. Therefore, we used Federal Procurement Data System-Next Generation to determine whether contracts and select task orders were used in Puerto Rico during Hurricane Maria. We found advance contracts used in Puerto Rico for Hurricane Maria not on the Region II/JFO procurement log. Although the data provided was incomplete, we believe the data was sufficient to meet our audit objectives and conclusions.

We conducted this performance audit between April 2018 and June 2019 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B

FEMA Comments to the Draft Report

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



FEMA

January 14, 2020

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

FROM: Joel Doolin
Associate Administrator
Office of Policy and Program Analysis

JOEL A DOOLIN Digitally signed by
JOEL A DOOLIN
Date: 2020.01.15
11:17:01 -0500

SUBJECT: Management Response to Draft Report: "FEMA's Advance
Contract Strategy for Disasters in Puerto Rico"
(Project No. 18-076-AUD-FEMA)

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

Following the historic 2017 hurricane season, FEMA undertook action to improve contracting processes, such as establishing an agency-wide forum to develop strategies and future disaster contracting approaches to mitigate potential mission shortfalls. FEMA is committed to ensuring that contracting for preparedness, response, and recovery efforts against all hazards are in full compliance with the Post-Katrina Emergency Management Reform Act, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Federal Acquisition Regulations (FAR), Homeland Security Acquisition Regulations, and the Homeland Security Acquisition Manual (HSAM), as appropriate. In addition, FEMA is equally committed to maintaining updated information on the availability and use of advance contracts for the FEMA acquisition workforce.

The draft report contained four recommendations, with which FEMA concurs. Attached find our detailed response to each recommendation. FEMA previously submitted technical comments under a separate cover.

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

Attachment



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Management Response to Recommendations Contained in 18-076-AUD-FEMA

Recommendation 1: The Regional Administrator, FEMA Region II develop and implement a formal documented process to identify capability needs and gaps for potential advance contracts in Puerto Rico.

Response: Concur. FEMA's Office of the Chief Procurement Officer (OCPO) agrees with the need for a formal process to identify capability needs and gaps for potential advance contracts, and one already exists. Specifically, FEMA OCPO establishes advance contracting on a Nation-wide basis, not region-by-region. It is not a function of FEMA Region II to develop and implement a formal documented process for potential advance contracts in Puerto Rico, since FEMA's Nation-wide establishment of advance contracts to meet the agency's mission-essential needs includes the Regions.

To improve the existing process, OCPO established an agency-wide Disaster Strategy Forum in February 2019, which brings FEMA's major disaster operational functions, including FEMA Regions, together on a bi-weekly basis. This forum allows these functions to strategize future approaches to disaster contracting issues and needs, such as mitigating mission shortfalls and identifying capability gaps. We sent the OIG copies of selected meeting minutes under a separate cover.

We request that the OIG consider this recommendation resolved and closed.

OIG further recommended that the Head of Contracting Activity for FEMA:

Recommendation 2: Develop and implement an advance contract strategy that:

- includes a documented planning process to support the addition or removal of available advance contracts;
- encourages awarding advance contracts at the regional level;
- provides clear guidance for when a contracting officer should defer to the Post-Katrina Act or the Stafford Act;
- incorporates a formal process to identify capability needs and gaps for potential advance contracts;
- includes a schedule for updating its guidance and processes;
- requires state, territory, and local input; and
- specifies performance measures.

Response: Concur. FEMA OCPO has been assessing the advance contracts list as an ongoing activity since well before the 2017 hurricane season. Based on this activity, OCPO took steps, beginning in October 2018, to improve the planning, management, and



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Department of Homeland Security

visibility of advance contracts, such as regularly assessing the advance contracts list, in consultation with headquarters and regional partners, to ensure commodities and services are available to meet the mission. Further, the issuance of new advance contracts is now based on known recurring goods and services that will be used in advance of natural or man-made disasters, as a result of the FEMA Disaster Strategy Forum.

FEMA OCPO is memorializing this process to manage and track advance contracts by creating a FEMA Acquisition Manual, and updating its current Disaster Contracting Desk Guide to ensure clear guidance is given to contracting personnel on the proper use of advance contracts.

Estimated Completion Date (ECD): August 31, 2020.

Recommendation 3: Direct all contract personnel to follow the FAR, HSAM, and their standard operating procedure [SOP] relating to creating and maintaining contract files.

Response: Concur. FEMA OCPO personnel, including contract personnel, are instructed through the SOP, "Labeling and Organizing Official Contract File Folders," dated August 31, 2009, to manage all contract files in accordance with the FAR and HSAM. In addition, FEMA will transition to an Electronic Contract Filing System (ECFS) by March 31, 2020. In April 2019, OCPO also drafted an Acquisition Alert, "Contract File Accountability," requiring the use of ECFS as the system of record. This alert is scheduled for issue during the third quarter of Fiscal Year (FY) 2020.

ECD: June 30, 2020.

Recommendation 4: Implement controls to ensure FEMA personnel are following the FAR, HSAM, and their standard operating procedure as it relates to creating and maintaining contract files.

Response: Concur. The SOP, "Labeling and Organizing Official Contract File Folders," dated August 31, 2009, instructs FEMA OCPO personnel to manage all contract files in accordance with the FAR and HSAM. From April 29 to May 2, 2019, FEMA OCPO provided training to OCPO personnel related to creating and maintaining contract files during the Mission Rehearsal Training. The FEMA OCPO also drafted an Acquisition Alert, "Contract File Accountability," in April 2019 to reiterate the controls in place to ensure all OCPO personnel comply with the contract filing process, including the use of ECFS. This Alert is scheduled for issue during the third quarter of FY 2020.

ECD: June 30, 2020.



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Appendix C
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Appendix D
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