OFFICE OF INSPECTOR GENERAL

Larimer County, Colorado, Needs Assistance to Ensure Compliance with FEMA Public Assistance Grant Requirements

Homeland Security

February 26, 2015

OIG-15-34-D

HIGHLIGHTS

Larimer County, Colorado, Needs Assistance to Ensure Compliance with FEMA Public Assistance Grant Requirements

February 26, 2015

Why We Did This

Larimer County, Colorado (County) received a $22.5 million grant for damages from a September 2013 disaster. We conducted this audit early in the grant process to identify areas where the County may need additional technical assistance or monitoring to ensure compliance with Federal requirements.

What We Recommend

FEMA should direct Colorado, as the grantee, to provide the County additional technical assistance and monitoring, and review costs the County incurred for eligibility and proper accounting.

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

What We Found

The policies, procedures, and business practices of the County are not adequate to account for and expend Federal Emergency Management Agency (FEMA) grant funds according to all Federal requirements. As a result, the County is at risk of losing some or all of its FEMA-approved funding, which totaled $22.5 million as of June 2014.

These findings resulted from the County's limited familiarity with Federal regulations and FEMA guidelines. However, Colorado, as the grantee, is likewise responsible for ensuring that subgrantees are aware of and follow these requirements. Therefore, additional technical assistance and monitoring of grant activities from Colorado should lessen the risk of the County losing its $22.5 million in Federal funding as a result of noncompliance with Federal requirements.

FEMA Response

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

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security
Washington, D.C. 20528

February 26, 2015

MEMORANDUM FOR: Sharon Loper
Acting Regional Administrator, Region VIII
Federal Emergency Management Agency

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

SUBJECT: *Larimer County, Colorado, Needs Assistance to Ensure Compliance with FEMA Public Assistance Grant Requirements*
Audit Report Number OIG-15-34-D

We audited Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to Larimer County, Colorado (County). We conducted this audit early in the Public Assistance Program 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, grant recipients have the opportunity to correct noncompliance before they spend the majority of their funding. It also allows them the opportunity to supplement deficient documentation or locate missing documentation before too much time elapses.

As of June 2014, the Colorado State Division of Homeland Security and Emergency Services (Colorado), a FEMA grantee, had awarded the County $22.5 million for damages resulting from severe storms, flooding, landslides, and mudslides that occurred in September 2013. We reviewed two large projects, totaling $2.6 million, to assess the policies and procedures the County used for this disaster (see appendix A).

Background

A storm system, with record-breaking precipitation and without advanced warning, caused severe damage in 18 Colorado counties, most significantly from September 11 to 12, 2013. As a whole, the disaster damaged and destroyed a significant number of residential structures, and resulted in the evacuation of 18,147 residents, 218 injuries, and 10 deaths. The President issued an Emergency Declaration on September 12, 2013 (allowing emergency services to supplement State and local efforts), and then signed a Major

Disaster Declaration (DR-4145) on September 14, 2013, authorizing FEMA to support State and local response and begin recovery efforts.

Larimer County is located in North-Central Colorado. It is the sixth largest county in Colorado based on population. The County encompasses 2,640 square miles, extending to the Continental Divide and includes several mountain communities. Over half of Larimer County is publicly owned, most of which is land within Roosevelt National Forest and Rocky Mountain National Park. During the disaster, the County experienced flooding that caused County-wide debris and damage to facilities such as roads, bridges, and parks.

Results of Audit

The County's policies, procedures, and business practices are not adequate to account for and expend FEMA grant funds according to all Federal requirements. As a result, the County is at risk of losing some or all of its FEMA-approved funding, which totaled $22.5 million as of June 2014. We identified several weaknesses in the County's policies, procedures, and business practices related to procurement, adequate support for costs, and accounting for costs. For example, based on our review of two large projects totaling $2.6 million, the County did not—

- comply with Federal procurement standards in awarding $1,506,548 in contracts for disaster work (finding A);
- support contract ($747,592) and force account equipment ($3,832) costs adequately (finding B); and
- maintain adequate accounting records that would allow us to trace $762,856 in cost reimbursement requests to the County's accounting ledgers (finding C).

These findings resulted from the County's limited familiarity with Federal regulations and FEMA guidelines. However, Colorado, as the grantee, is likewise responsible for ensuring that subgrantees are aware of and follow these requirements. Therefore, FEMA should direct Colorado to provide the County with additional technical assistance and to monitor its grant activities (finding D). These actions will lessen the risk of the County losing its $22.5 million in Federal funding as a result of noncompliance with Federal requirements.

Finding A: Improper Procurement

The County is not complying with various Federal procurement standards. As a result, full and open competition did not occur, and FEMA has no assurance that contract costs are reasonable and appropriate. We advised the County in

March 2014 that its procurement actions related to the $1,506,548 in contract costs that we reviewed were not consistent with Federal procurement standards and that it should therefore immediately take corrective action to minimize jeopardy to its Federal funding. According to Federal procurement standards at 44 Code of Federal Regulations (CFR) 44 13.36, subgrantees must implement the following practices:

- Conduct procurement transactions in a manner providing full and open competition (except under certain circumstances, such as when the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation) (13.36(c)(1) and (d)(4)(i)(B)).
- Avoid the use of time-and-material type contracts unless no other contract is suitable and provided that the contract includes a ceiling price that the contractor exceeds at its own risk (13.36(b)(10)).
- Not use a cost-plus-a-percentage-of-cost methodology of contracting (13.36(f)(4)).
- Include specific provisions in subgrantees' contracts (13.36(i)).
- Take affirmative steps to assure the use of small and minority firms, women's business enterprises, and labor surplus area firms when possible (13.36(e)).

The County is using time-and-materials contracts and paying contractors on a cost-plus-percentage-of-cost basis for large Projects 170 and 330. Neither contract includes a scope of work related to the disaster or mandatory contract provisions. In addition, because the County used preexisting contracts without additional competition, it did not provide opportunities for small and minority/women-owned firms to bid on Federally-funded work. The County publicly solicited these contracts 4 years ago for as-needed asphalt and construction work. The County solicits these 'on call' contracts every 5 years and updates the rates annually. Typically, we do not question improper contracting for emergency work immediately after a disaster. However, the County continued to use these contracts in April 2014, well after threats to life and property had passed. We are not questioning the costs the County plans to claim for the two projects we reviewed (170 and 330) at this time to allow the County to bring its procurement practices into compliance with Federal regulations and FEMA guidelines.

County officials partially agreed with our finding. They agreed they used improper contracting, but explained that they did so because the magnitude of the flood, the extent of damages, and the mountainous terrain created a situation in which the threat to life, safety, and property continued for a period of months.[1] They told us it would have been grossly irresponsible to conduct its

[1] County officials told us that, after further review, the contracts they used were time and materials with a cap format (and not cost plus percentage of cost contracts). However, our

procurements in any other way. They stated that they would procure new contracts for permanent work in compliance with applicable Federal rules. We maintain, however, that the duration in which the County used these improper contract types was excessive, and that the County could not present evidence to support that conducting full and open competition after the most immediate threats to life and property had subsided was unfeasible. FEMA officials agreed with our finding and told us that County officials should not have used improper contracts for disaster-related work. Colorado officials did not comment on this finding.

Finding B: Adequate Support for Costs

The County could not adequately support contract ($747,592) and force account equipment ($3,832) costs for Project 330. As a result, we were unable to determine whether the County's disaster costs are eligible for Federal funding under FEMA's Public Assistance Program.

Federal regulations and FEMA guidelines stipulate that a subgrantee must adequately document costs to be allowable under a Federal award (2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*, Appendix A, C.1.j). However, the County is not complying with this criterion:

- The County cannot adequately support how its contractors' billings reconcile with FEMA's authorized scope of work for Project 330. We tested $747,592 of the total $1.5 million in contractor billings (at the time of our review), and were unable to specifically trace the costs to the FEMA-authorized scope of work. We therefore could not determine the eligibility, appropriateness, and reasonableness of these costs. This is particularly concerning because the County is using improper contract types that are inherently vulnerable to fraud, waste, and abuse (see finding A). County officials agreed that matching the scope of work in the contractors' billings is problematic. They explained that various FEMA officials wrote the projects—oftentimes in an overly-expedited manner—over the course of several months and during various weather conditions, making it difficult to produce accurate and consistent project scopes. However, we maintain that—regardless of how or when FEMA authorized its scope of work—the County is responsible for ensuring that the actual work performed and its contractor billings align with the FEMA-approved scope.

- The County cannot adequately support its contract billings ($747,592 at the time of our review) with equipment operator timesheets and

review of documentation confirmed the County's contractors billed the County on cost plus percentage of cost basis, with contractor markups of up to 13 percent.

equipment usage logs for Project 330. County officials confirmed that they do not have equipment operator timesheets and logs for some contractors. They told us that they have other processes and controls to ensure the accuracy of the billings, including: reviewing summary invoices and billings, verifying subcontractor charges against invoices, verifying delivered materials with material tickets, and verifying billings for reasonableness against daily County reports. However, we reviewed the contractors' billings (mostly comprised of labor and equipment charges) and determined that they were not adequately documented to the extent that they could support the cost reasonableness and accuracy of those billings. The County could improve its internal controls in this area by, for example, assigning its personnel to verify contractor timesheets and equipment usage logs on a daily basis.

- County officials cannot adequately support its own equipment costs ($3,832 at the time of our review) related to the pickup trucks its personnel used to perform disaster-related work for Project 330. The County could only provide equipment records that detail the employees' total hourly use of its pickup trucks. We determined that the County did not maintain data on the actual usage of its trucks to exclude idle time (when the equipment was not in operation). County officials told us that these costs represent only a small portion of their equipment costs and that they were not aware of the need to document equipment idle time. They stated that, as a result, they may not claim these costs under the FEMA grant because the cost of doing so could far exceed its value.

FEMA officials agreed with our finding and told us that they will review the County's contract billings for reasonableness at project closeout. Colorado officials did not comment on this finding.

Finding C: Accounting for Project Costs

County officials have established procedures to account for costs on a project-by-project basis, as Federal regulations require. However, at the time of our fieldwork, we could not trace $762,856 in cost reimbursement requests for Project 330 to the County's accounting ledgers.[2] These records did not reconcile to the amount included in the costs reimbursement requests. As a result, we cannot confirm the accuracy and completeness of the disaster costs the County plans to claim for reimbursement from FEMA.

Federal regulations stipulate that subgrantees must—

[2] The $762,856 is comprised of $747,592 in contract costs, $11,432 in labor costs, and $3,832 in equipment costs.

- maintain accounting records that adequately identify the source and application of Federal funds and maintain source documentation to support those accounting records (44 CFR 13.20(b)(2) and (6)); and
- account for large project expenditures on a project-by-project basis (44 CFR 206.205(b) and *FEMA Public Assistance Guide*, FEMA 322, p. 137, June 2007).

County officials told us that they did eventually capture these costs in their accounting system and that this condition does not constitute a significant accounting lapse. They noted that they have since resolved this issue and are now tracking project costs on a project-by-project basis. However, we maintain that the County should reconcile its reimbursement requests to its accounting ledger *before* submitting cost reimbursement requests to Colorado. FEMA officials agreed with our finding and told us that they support the County's steps to resolve this finding. Colorado did not comment on this finding.

Finding D: Grant Guidance, Management, and Oversight

Colorado should improve its guidance to the County on FEMA's Public Assistance Program. County officials need to understand Federal procurement standards, rules for recording and documenting disaster costs, and the eligibility requirements for disaster costs.

Federal regulations require Colorado to—

- ensure that subgrantees are aware of requirements that Federal regulations impose on them (44 CFR 13.37(a)(2)); and
- manage the day-to-day operations of subgrant activity and monitor subgrant activity to assure compliance with applicable Federal requirements (44 CFR 13.40(a)).

County officials partially agreed with this finding. They stated that although the County's relationship with Colorado has not been without some challenges, they are confident that Colorado is committed to educating and supporting them. FEMA officials told us that they are aware of the County's Public Assistance Program-related concerns and have consequently sent a FEMA team to assist them. Colorado officials partially agreed with our finding. They told us that they provided many opportunities and resources for subgrantees to understand program, finance, and audit requirements. Moreover, Colorado noted that it did this in a timely manner, which gave the County ample time to restructure and improve its internal processes. Nevertheless, Colorado also stated that, as a result of this disaster, they could benefit from additional staff to provide applicants proper oversight and assistance.

Recommendations

We recommend that the Regional Administrator, FEMA Region VIII:

Recommendation 1: Direct Colorado to provide additional technical assistance and monitoring to the County to ensure compliance with all Public Assistance grant requirements. Colorado's assistance will lessen the risk of the County losing $22.5 million in Federal funding as a result of noncompliance with Federal requirements.

Recommendation 2: Direct Colorado to review the $1.5 million in costs the County incurred for emergency work on Projects 170 and 330 to ensure the costs are reasonable, supported, and eligible.

Discussion with FEMA and Audit Follow-up

We discussed the results of our audit with FEMA, Colorado, and County officials during our 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 a pre-exit conference with the County on May 27, 2014, and exit conferences held with FEMA officials on July 25, 2014, and Colorado and County officials on August 26, 2014.

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 the recommendation. Also, please include the contact information of responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Please email a signed pdf copy of all responses and closeout request to Humberto Melara, Director, Western Regional Office, Office of Emergency Management Oversight, at Humberto.Melara@oig.dhs.gov. Until we receive your response, we will consider the recommendation open and unresolved.

Major contributors to this report are Humberto Melara, Director; Devin Polster, Audit Manager; and Ravi Anand, Senior 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.

Appendix A

Objective, Scope, and Methodology

We conducted this performance audit between February 2014 and July 2014, 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.

We audited FEMA Public Assistance grant funds awarded to the County, Public Assistance Identification Number 069-99069-00. Our audit objective was to determine whether the County's policies, procedures, and business practices are adequate to account for and expend FEMA grant funds according to Federal regulations and FEMA guidelines for FEMA Disaster Number 4145-DR-CO. Colorado had awarded the County $22.5 million for damages resulting from severe storms, flooding, landslides, and mudslides that occurred in September 2013. The award provided 75 percent funding for debris removal, emergency protective measures, and permanent work, for 51 large and 29 small projects.[3]

Our audit covered the period of September 11, 2013, through August 26, 2014, and focused primarily on the County's policies and procedures for emergency work—primarily because there was limited grant activity at the time of our fieldwork, especially for permanent work. We performed our review based on data available from September 11, 2013, the start of the incident period, until January 22, 2014, the date we selected our audit sample.[4] FEMA obligated $5,338,456 at the time we selected this sample (see appendix A).[5] At the time of our fieldwork (February 25, 2014), FEMA awarded about $2.6 million, and the County had incurred $1.5 million, for Projects 170 and 330.

[3] Federal regulations in effect at the time of the disaster set the large project threshold at $67,500.

[4] When we started audit fieldwork in February 2014, FEMA had approved only 14 large and 5 small projects totaling $5.3 million.

[5] We updated the amount FEMA initially awarded to $22.5 million, in June 2014, to reflect current information.

Appendix A (continued)

Schedule of FEMA-Approved Projects
(September 11, 2013, to January 22, 2014)

FEMA Project Number	FEMA Category of Work*	Gross Award Amount
51	C	$73,166
56	B	87,713
57	B	87,321
58	C	376,329
152	C	322,388
153	B	280,573
154	B	196,738
170	B	1,088,638
245	C	50,729
247	C	56,745
261	C	550,035
292	C	187,952
295	C	114,880
325	G	10,953
328	G	10,080
329	C	10,390
330	B	1,504,227
361	A	179,260
374	G	150,339
Total		**$5,338,456**

Source: FEMA and County Project Documentation and OIG Analyses

* FEMA identifies type of work by category: A for debris removal, B for emergency protective measures, and C-G for permanent work.

We reviewed two large projects (170 and 330), totaling $2.6 million (49 percent of the $5.3 million total award at that time), to assess the policies and procedures the County used for this disaster.

Appendix A (continued)

We interviewed FEMA, Colorado, 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; judgmentally selected and reviewed (generally based on dollar amounts) project costs and procurement transactions for the projects included in our audit scope; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our objective. As part of our standard auditing procedures, we also notified the Recovery Accountability and Transparency Board of all contracts the subgrantee awarded under the grant that we reviewed to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. As of the date of this report, the Recovery Accountability and Transparency Board's analysis of contracts was ongoing. When it is complete, we will review the results and determine whether additional action is necessary. 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.

Appendix B

Report Distribution

Department of Homeland Security

Secretary
Deputy Secretary
Chief of Staff
General Counsel
Executive Secretary
Assistant Secretary for Office of Policy
Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
Director, GAO/OIG Liaison Office

Federal Emergency Management Agency

Administrator
Chief of Staff
Chief Financial Officer
Chief Counsel
Director, Risk Management and Compliance
Chief Procurement Officer
Audit Liaison, FEMA (Job Code G-14-027)
Audit Liaison, FEMA Region VIII

Recovery Accountability and Transparency Board

Director, Investigations

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Congress

Congressional Oversight and Appropriations Committees

Appendix B (continued)

External

Director, Colorado State Division of Homeland Security and Emergency Services, Office of Emergency Management
Audit Liaison, Mitigation and Recovery Section, Emergency Management Branch, Colorado State Division of Homeland Security and Emergency Services, Office of Emergency Management
State Auditor, Colorado Office of the State Auditor
County Manager, Larimer County, Colorado
County Finance Manager, Larimer County, Colorado

ADDITIONAL INFORMATION AND COPIES

To view this and any of our other reports, please visit our website at: www.oig.dhs.gov.

For further information or questions, please contact Office of Inspector General Public Affairs at: DHS-OIG.OfficePublicAffairs@oig.dhs.gov. Follow us on Twitter at: @dhsoig.

OIG HOTLINE

To report fraud, waste, or abuse, visit our website at www.oig.dhs.gov and click on the red "Hotline" tab. If you cannot access our website, call our hotline at (800) 323-8603, fax our hotline at (202) 254-4297, or write to us at:

Department of Homeland Security
Office of Inspector General, Mail Stop 0305
Attention: Hotline
245 Murray Drive, SW
Washington, DC 20528-0305