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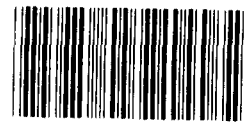
GAO

Report to the Chairman, Subcommittee on
Military Installations and Facilities,
Committee on Armed Services, House of
Representatives

December 1987

CIVIL DEFENSE

FEMA's Management Controls Need Strengthening



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**National Security and
International Affairs Division**

B-220686

December 31, 1987

The Honorable Ronald V. Dellums
Chairman, Subcommittee on Military
Installations and Facilities
Committee on Armed Services
House of Representatives

Dear Mr. Chairman:

In response to your request, we evaluated the Federal Emergency Management Agency's (FEMA's) key management controls over the use of civil defense program funds. You asked that we examine FEMA's contract and grant awards, with emphasis on its controls over noncompetitive awards and the funds allocated to state and local governments. Also, your office later requested that we provide information on how civil defense funds are used to meet the objectives of the civil defense program. The results of our work are summarized below and presented in greater detail in the appendixes.

Background

FEMA was established on April 1, 1979, to consolidate in a single agency the administration of civil defense and other emergency-management programs for the protection of life and property in the United States from attack and natural disasters. FEMA allocates civil defense funds each year to headquarters organizations, supporting organizations (such as the National Emergency Training Center), and regional offices. The headquarters organizations use the funds they are allocated primarily for procuring goods and services through contracts and small purchases, and for FEMA employees' salaries. The regional offices allocate most of their funds to state governments through comprehensive cooperative agreements. The states and their local governments use most of the allocations for personnel and the rest for travel, facilities, equipment, and services.

**Focus of Civil Defense
Spending**

Under existing law, civil defense funds are to be used to prepare for the protection of the civilian population in the event of an enemy attack, and may be used for natural disasters "to the extent that the use of such funds for such purposes is consistent with, contributes to, and does not detract from attack-related civil defense preparedness." However,

FEMA's internal assessments and our tests of fiscal year 1985 expenditures showed that FEMA's primary focus for civil defense funds was to plan for natural and technological disasters.

A conference report on DOD authorizations for fiscal year 1986 expressed concern about an apparent lack of focus and direction in civil defense, and directed the Administration to review the program. In response, FEMA reported in July 1986 that the existing civil defense system had concentrated limited available funds on preparedness for peacetime disasters at the expense of attack preparedness. Among the lessons highlighted by FEMA was a need to reemphasize attack preparedness.

A new policy document, National Security Decision Directive Number 259, U.S. Civil Defense, was issued on February 4, 1987. The directive states that the civil defense program will continue to support all-hazard integrated emergency management at state and local levels, "to the extent that this is consistent with and contributes to preparedness of the Nation in the event of an attack, whether by nuclear or non-nuclear means." It also states that federal funds and assistance for all elements of the civil defense program will be applied to develop capabilities required for attack preparedness and other disasters having national security implications.

In May 1987, FEMA consolidated civil defense planning, policy development, and implementation in a new Office of Civil Defense. FEMA stated that the consolidation would provide more effective management control of the program.

FEMA's Management Controls Over the Use of Civil Defense Funds

To evaluate FEMA's management controls, we focused primarily on fiscal year 1985 civil defense funds with some follow-up into subsequent years. We found a number of problems with controls at all levels—at FEMA's headquarters, National Emergency Training Center, and regional offices; and at state and local levels. The problems involved FEMA's monitoring of state and local activities and inadequate documentation of procurement activities, particularly for sole source awards.

In assisting and monitoring states' efforts to achieve civil defense objectives, FEMA often did little more than a cursory monitoring of states' compliance with administrative requirements. FEMA regions did not adequately monitor proposed and actual expenditures, and continued to

award funds even where states' plans did not meet objectives required by agreements.

FEMA's controls over funding and procurement were often weakened by lack of documentation and by questionable handling of procurement actions. FEMA often made little attempt to identify alternative sources, and did not adequately document the justifications for sole source awards. A particular problem area was the National Emergency Training Center, where prior FEMA reviews had repeatedly showed weaknesses. Our evaluation found that procurement personnel lacked expertise, and also disclosed practices that continued to leave the center vulnerable to abuse of procurement rules.

Although specific causes for the problems varied, we believe that improved management control systems could reduce or eliminate many of the problems.

FEMA officials said that they had attempted to address previously-noted procurement problems with additional guidance and certain staffing changes, such as at FEMA's National Emergency Training Center. Also, FEMA officials said that many of the problems result from a lack of resources, such as staff and travel funds for monitoring activities.

Agency Comments and Our Evaluation

In its written comments on our draft report, FEMA generally concurred with our findings on the focus of civil defense spending, but believed that our findings did not accurately reflect its management control practices.

After receiving their comments, we met with FEMA officials to examine additional information and further discuss FEMA's views. Our follow-up work showed that FEMA:

- issued new guidelines for comprehensive cooperative agreements, and provided additional training and headquarters assistance;
- set a regular cycle of internal audits for all programs in comprehensive cooperative agreements, and provided additional travel funds to FEMA regions to allow better monitoring of state activities;
- began additional training for supervisors, procurement and facility management staff, and project officers;
- created a new position within FEMA's Acquisition Directorate to conduct procurement training, monitor the adequacy of procurement activities,

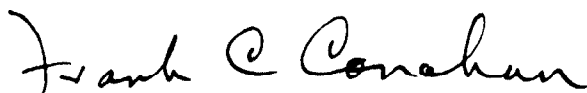
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- and conduct conferences to address procurement problems FEMA-wide; and
 - changed the organization at the National Emergency Training Center to improve supervisory control and separate duties, and issued an instruction on procurement administration.

We have modified our report to reflect the additional FEMA actions and the results of our additional examination of data provided by FEMA. We believe that FEMA's actions represent a reasonable effort to correct the weaknesses we identified in our review.

FEMA's comments are incorporated, as appropriate, in appendixes II and III, and are reprinted in appendix IV.

We are sending copies of this report to the Chairmen, Senate and House Committees on Armed Services, the Senate and House Committees on Appropriations, the Senate Committee on Governmental Affairs, the House Committee on Government Operations, and other FEMA authorization and oversight committees and subcommittees; and to the Director, FEMA. Copies will be made available to other interested parties upon request.

Sincerely yours,



Frank C. Conahan
Assistant Comptroller General

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Abbreviations

FEMA Federal Emergency Management Agency

Introduction

The Federal Emergency Management Agency (FEMA) was established on April 1, 1979, to administer civil defense and other emergency-management programs for the protection of life and property in the United States from attack and natural disasters. Until the establishment of FEMA, these programs were managed by five separate agencies (Defense Civil Preparedness Agency, Department of Defense; the Federal Preparedness Agency, General Services Administration; the Federal Disaster Assistance Administration, Department of Housing and Urban Development; the U.S. Fire Administration, Department of Commerce; and the Federal Insurance Administration, Department of Housing and Urban Development).

To fund its operations and provide funds to states in support of its multiple missions, FEMA has several appropriation accounts. Two appropriations—Salaries and Expenses, and Emergency Management Planning and Assistance—funded most of FEMA's operations, including all civil defense activities in fiscal year 1985. FEMA uses the Salaries and Expenses appropriation account primarily for activities performed by FEMA personnel. These funds accounted for \$129.6 million of FEMA's total fiscal year 1985 obligations of \$452.9 million. FEMA uses the Emergency Management Planning and Assistance account to fund activities performed by others. These funds accounted for \$323.3 million of FEMA's fiscal year 1985 obligations.

In fiscal year 1986, FEMA obligated \$128.8 million for its civil defense activities, a reduction of \$50.7 million from the prior year. The civil defense appropriation for fiscal year 1987 was \$139.4 million.

According to FEMA accounting and procurement system reports, FEMA obligated \$144.5 million of fiscal year 1985 civil defense funds on 230 major contracts or grants. Of the 230 major actions, 56 awarded \$91.4 million in civil defense funds to states and territories under comprehensive cooperative agreements (binding agreements between the FEMA regions and the states as to the work the states will accomplish during the year). The remaining 174 awards—primarily contracts for goods and services—totaled \$53.1 million in civil defense funds: 74 were new awards, 22 were modifications to the new awards, and 78 were modifications to prior-year awards.

FEMA's organization has both headquarters and field components. Its Washington, D.C., headquarters is made up of five major operating groups, with four having a role in civil defense:

- The National Preparedness Programs Directorate is responsible for overall civil defense plans and policy development.
- The State and Local Programs and Support Directorate develops and implements civil defense programs that are deployed at state and local levels.
- The Training and Fire Programs Directorate develops and implements civil defense training and public education.
- The Emergency Operations Directorate administers national warning and communications systems.

FEMA's field component includes 10 regional offices and several other facilities. The regional offices oversee civil defense and other programs in several states. For example:

- Region III (Philadelphia) monitors Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.
- Region VII (Kansas City) monitors Iowa, Kansas, Missouri, and Nebraska.
- Region IX (San Francisco) monitors Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Trust Territories of the Pacific Islands.

FEMA's other facilities are its 5 federal regional centers (in Massachusetts, Maryland, Georgia, Michigan, and Texas), 3 strategic storage centers (in Georgia, Kentucky, and Texas), the National Emergency Training Center (in Emmitsburg, Maryland), and a classified "Special Facility."

Objectives, Scope, and Methodology

In response to the request of the Chairman, Subcommittee on Military Installations and Facilities, House Committee on Armed Services, we evaluated FEMA's key management controls over the use of civil defense funds at all levels, with special emphasis on FEMA's sole-source contracts, regional monitoring of the states, and FEMA's primary focus in spending civil defense funds.

We worked at FEMA headquarters, the National Emergency Training Center, three FEMA regional offices, and six states. We selected regions and states to provide a geographic cross section, and to include both large and small state programs. In Region III, we visited state and local emergency offices in Maryland and Pennsylvania. In Region VII, we visited offices in Kansas and Missouri. In Region IX, we visited offices in Arizona and California.

We focused on FEMA's use of fiscal year 1985 civil defense program funds, but, as indicated in appendixes II and III, we also examined some transactions from other years to follow up on FEMA's actions to strengthen management controls. We traced FEMA's fiscal year 1985 civil defense program funds from the budget justification documents submitted to the Congress and from subsequent appropriations through FEMA's fund allocation and accounting systems to FEMA's year-end reports to the Department of the Treasury.

In conducting this review, we examined FEMA's authorizing legislation and history, and relevant regulations, policy, guidance, and planning documents. We interviewed key FEMA officials at all levels, and reviewed prior audits and other studies and evaluations of FEMA spending. We tested procurement records for accuracy, and examined 37 of FEMA's 230 major civil defense awards in fiscal year 1985. The 37 awards accounted for \$45.7 million of the total civil defense major awards of \$144.5 million, and included:

- 6 cooperative agreements with the states previously noted, accounting for \$17.2 million;
- 16 procurement files, which were judgmentally selected as large awards, accounting for \$4.1 million; and
- 15 procurement files randomly selected from modifications that extended prior-year awards, accounting for \$24.4 million.

In commenting on our report, FEMA stated that the Competition in Contracting Act became effective during the time period tested by our review, and that the resultant changes to procurement regulations might significantly affect our audit findings. While we agree that changing requirements would affect individual findings, the focus of our work was on management controls, which have general application. In addition, we applied the rules in effect at the time of the transactions being examined.

We conducted our work primarily between July 1985 and February 1987, with some follow-up during September and October 1987, in accordance with generally accepted government auditing standards.

FEMA's Management Controls Over the Use of Civil Defense Funds

FEMA allocates civil defense funds each year to headquarters, supporting organizations such as the National Emergency Training Center, and to regional offices. According to FEMA comptroller officials, funds are allocated in accordance with the consensus of the associate directors for each operating group, as approved by the Director, FEMA. The headquarters organizations use the funds they are allocated primarily to procure goods and services and to pay for salaries and expenses. The regional offices allocate most of their funds to state governments, but also pay regional salaries and expenses. The states allocate most of the funds to their local governments. We found problems with management controls over the use of funds at all levels, and, although some corrective actions had been taken, management control problems remained.

Headquarters Controls

At the headquarters level, the problems we identified included a transfer of funds to a central account and then losing their specific identity in end of year adjustments, and questionable procurement actions.

Allocation of Funds to Comptroller's Office Central Account

In fiscal year 1985, FEMA reallocated regional civil defense Salaries and Expenses funds of \$1.9 million to the comptroller's office. At the time of the reallocation, the funds were identified as civil defense, but subsequent documentation did not adequately show whether or for what purpose these specific funds were used. Comptroller officials provided documents indicating that \$40,000 of this amount was spent on travel they considered to be necessary to civil defense. FEMA officials told us that, because of the year-end commingling of the various activity balances in the Salaries and Expenses account, they could neither determine what portion of the remaining \$1.86 million in reallocated civil defense program funds was spent, nor whether the funds were spent for civil defense program activities. Their accounting system showed an overall year-end balance of \$1.86 million in the comptroller's portion of the Salaries and Expenses account. Even though program identity of the funds expended was not recorded, FEMA reported the balance as solely attributed to its civil defense program.

Lack of documentation on whether or how the funds were spent affects FEMA's ability to comply with congressional committee restrictions on reprogramming. Senate Report 98-506 directs FEMA to notify the Chairman of the Senate Appropriations Committee when it reallocates civil defense funds over \$250,000 to other programs. (House Report 98-803 limited FEMA's reprogramming approval to not more than \$500,000.) FEMA documents indicate that at least \$457,250 of the Salaries and

Expenses civil defense activity fund was reprogrammed. However, FEMA's management controls over reallocations did not ensure that the Senate Committee's directions were followed. FEMA officials told us that they had no documentation showing that they had notified the Chairman. They told us that they had informally provided Committee staff with status-of-funds information throughout the year. However, the Committees could not have been notified during the year about most of the identifiable reprogramming from the Salaries and Expenses fund, because over \$350,000 of it was done in a year-end adjusting entry to balance FEMA's activity accounts.

In commenting on our draft report, FEMA stated that the funds did not lose their program identity; that only their organizational identity was lost. FEMA further stated that FEMA met notification requirements for reprogramming by meeting with committee staffs, and that the staff did not object to reprogramming. We believe that FEMA's lack of documentation for use of these funds indicates a lack of funding control in this case, and that the timing of actions leads to a conclusion that not all of the reprogramming actions could have been reported by FEMA before the end of the year.

Questionable Handling of Procurement Actions

FEMA furthers its objectives through grants and agreements, and procures goods and services through contracts and small purchases. These awards may be made with or without competition.

Competition is a prominent factor in government procurement law and policy, and provides significant benefits, such as equal opportunity for all to compete, increased assurance that prices are reasonable, and increased incentive for improved quality or delivery. The Competition in Contracting Act of 1984 strengthened prior legislation governing civilian and military purchasing, making competition a far more significant and necessary element of government procurement practices. The Act is implemented by the Federal Acquisition Regulation, a single government-wide system of regulations, which requires that procurement awards generally must be made competitively.

However, competition may be limited under certain circumstances, such as when

- it is known that only one source is able to provide the necessary equipment or services, and no other product or service would meet the need; or

- the agency's need is of such unusual and compelling urgency that the government would be seriously injured if the agency cannot ease requirements for competition.

Before limiting competition, federal law generally requires a notice in the Commerce Business Daily so that alternative sources can be identified. Also, the decision to limit competition must be justified and approved in writing. Federal regulations and Executive Order 11222 also require that conflicts of interest in government/contractor relationships be avoided, and that government business be carried out without even the appearance of preferential treatment or personal benefit.

FEMA reported 29 sole-source awards over \$10,000 using fiscal year 1985 civil defense funds amounting to \$6.6 million. Our review of 10 of these awards (accounting for \$4.2 million) showed that FEMA often made little attempt to identify alternative sources, and did not adequately document the justifications for the awards. Our examination of other awards reported as competitive also disclosed weaknesses in efforts to obtain competition.

Limited Efforts Made to Identify Alternative Sources

During our review of contract files at FEMA, we found several instances of contracts being awarded with only a minimal effort to identify alternate sources or to ensure adequate competition. We found that the National Emergency Training Center initially allowed shorter response times than required in two of four competitive new contracts we reviewed, but then extended the response times. However, we found that not all potential bidders were notified of the extension date, thereby limiting their ability to respond to the solicitation. For example, in one case eleven potential bidders were identified during the original solicitation, but according to the contract file only the Schildt Construction Company—the only bidder and eventual contract winner—was notified of the extension of the closing date.

In commenting on our report, FEMA stated that the lack of records showing that potential bidders were notified of the closing date extension, indicates a failure to document actions taken rather than a failure to take the action. During our follow-up visit, FEMA officials described changes in management and operational procedures that should, if implemented properly, preclude recurrence of the documentation problems we found.

In another case, we found that Mitre Corporation was given a sole-source award in 1982 at an estimated cost of \$650,000. Nothing in the file indicates that FEMA tried to identify other potential sources. The award file indicates that the contractor was originally selected because of unique qualifications and prior experience with the Department of Defense. As of modification number 43, in September 1985, contract obligations totaled \$5.7 million, and as of September 1987, FEMA estimated the final cost to be \$6.4 million.

In commenting on our report, FEMA cited an April 4, 1984, Office of Federal Procurement Policy Letter, which prohibits Federally Funded Research and Development Centers from competing for government business on the open market. FEMA used this as the basis for procuring on a sole source basis from Mitre. However, the policy letter encourages agencies to identify opportunities to compete awards to maximize competition, not restrict it. The letter states that "Non-sponsoring agencies [such as FEMA] must fully comply with procurement or assistance statutes, policies and regulations for non-competitive actions prior to placing work directly with a specific [center]."

Also, FEMA stated that it had published a notice in the Commerce Business Daily of its intention to make a sole source award, and no other sources responded to or challenged it. FEMA's notice stated that an award would be issued to the Mitre Corporation on a "single source basis," and that "additional proposals are not requested." During our follow-up visit, FEMA officials stated that although the above was common practice at the time this award was made, it would not be acceptable now under FEMA policies. Thus, we believe that sole source awards would be better documented and that FEMA would not prepare notices that discouraged competition.

Inadequate Documentation of Sole-Source Justifications

We examined 10 of the 29 sole source awards reported by FEMA for fiscal year 1985, and found that the sole-source award files generally did not have documentation which adequately justified the awards. For example:

- Theodore Barry and Associates was given two noncompetitive awards to provide technical assistance, resources, and support in developing and exercising a radiological emergency plan at a nuclear power plant. The cost of the two awards was \$105,625, all from civil defense funds. The justification given for the sole-source selection was the urgency of the situation. A GAO advisory opinion (B-221550, Mar. 31, 1986), identified

the awards as improper sole-source awards. The opinion noted that FEMA's justifications (including the possibility of leaving the government open to a lawsuit, a short time frame for making an award, and unique qualifications) were not adequately supported and did not justify a sole-source award. In commenting on our report, FEMA stated that it disagrees with the advisory opinion, and believes the awards were proper.

- The contract file for the Mitre Corporation award, mentioned previously, cited unique qualifications and prior experience with the Department of Defense, but did not contain documents which adequately justified the original sole source award.
- A 1983 contract with Computer Sciences Corporation was originally awarded to provide assistance to the FEMA project officer in managing a Harris Corporation award. The original award and two priced options negotiated at the time of the original award, totaling about \$7 million in civil defense funds has since increased to about \$12 million. The file did not adequately justify the sole source award, explain how the purpose expanded to justify the cost increase, or show why the contract significantly increased without competition.

Other Questionable Award Practices

On September 21, 1984, FEMA awarded a year-end grant of \$29,900 to the Children's Television Workshop to "explore the feasibility of using various media to teach children how to protect themselves from natural hazards." During 1985, the grant was modified three times to bring the grant total to \$504,900 (about half of this amount was from civil defense program funds). Documentation indicated that the award was originally approved as a fiscal year 1985 competitive procurement contract, but was changed to a year-end fiscal year 1984 grant without documentation to explain the change. Sole-source justification is not ordinarily required for a grant. However, the change from a planned competitive contract to a grant award at the end of a fiscal year created the appearance of avoiding contract requirements. Therefore, we requested additional information regarding the justification for the award from FEMA's procurement staff. No further justification was provided.

In commenting on our report, FEMA stated that the award to the Children's Television Workshop was always planned as a grant. However, we found that an approved FEMA planning document, dated June 16, 1984, requested \$40,000 for open competition of the award that later went to the workshop.

Conflict of Interest

The Federal Acquisition Regulations state that even the appearance of conflicts of interest should be avoided in government-contractor relationships. However, some of FEMA's awards may have involved organizational conflicts of interest by contractors or consultants. For example, the statement of work for the Children's Television Workshop grant was written by a consultant under contract to FEMA who was then hired by a subcontractor to the grantee as a consultant to the Workshop to fulfill the objectives of the statement of work. This created the appearance of an organizational conflict of interest. In another case, FEMA's project officer for the contract to Theodore Barry and Associates, Inc., was a close friend of one of the contract principals, giving the appearance of a conflict of interest.

National Emergency Training Center Controls

The National Emergency Training Center has long had problems with its procurement practices. Since at least 1982, FEMA-initiated evaluations have repeatedly found weaknesses and recommended improvements in spending controls at the center:

- A September 1982 FEMA review noted that contract files were not adequately documented or maintained, and criticized practices such as splitting purchases into separate transactions to avoid procurement limits.
- A December 1983 review by an accounting firm found weaknesses in controls, such as insufficient segregation of duties and inadequate monitoring of grant recipients, and questioned practices such as purchase-splitting and high percentages of sole-source contracts and year-end awards.
- In an October 1985 issue paper on the center's procurement practices, FEMA officials concluded that the center's activities were vulnerable to abuse and required the services of an experienced contracting officer to supervise the activities.

Our review showed that the center's procurement practices continued to leave it vulnerable to abuse. For example, we found that, between 1983 and 1985, procurement staff at FEMA's National Emergency Training Center suggested procurements of at least \$200,000 to renovate a seldom used log cabin located in a flood plain. The renovated cabin was to be used for various center meetings and functions such as class graduations. In related expenditures, the center had awarded a contract in September 1985 for a new porch and roof for \$47,420, using \$23,710 in civil defense funds. After we questioned the justification for the contract, FEMA officials told us that, except for a subsequent \$3,447 modification in fiscal year 1986 to the contract (including \$1,674 in civil defense

funds), no additional funds would be spent on the log cabin. Therefore, total spending was only about \$90,000, of which about one half was from civil defense funds.

In commenting on our report, FEMA stated that only a total of \$50,767 was spent on the log cabin and that plans do not represent commitments or obligations. We found about \$90,000 in expenditures that FEMA staff identified as being cabin-related. FEMA's response appears to have excluded about \$38,000 that FEMA staff said was spent prior to fiscal year 1985 for items such as the replacement of a slate path with a concrete sidewalk, installation of lights and a fire alarm system, and preparation of an architectural engineer's report.

Another weakness which could increase the center's vulnerability to procurement abuse was the lack of adequately trained personnel. Staff with procurement responsibilities at the National Emergency Training Center told us that they lacked the knowledge and experience to properly carry out the duties they were assigned. We found contracts being monitored by staff whose experience did not include the activity being monitored:

- Wage-grade motor-vehicle operators were monitoring contracts for telecommunications, landscaping, and bus services.
- A GS-5 facilities clerk was project officer on 12 awards totaling \$1.9 million (fiscal year 1985 obligations). The clerk did not appear to have direct knowledge of products or services rendered, but rather authorized payment based on input from his supervisor (the administrative officer at the center) and another contractor.

After we briefed FEMA headquarters officials about continuing problems at the center, the Director, Acquisition Management, visited the center to review procurement activities. He found problems such as following outdated procurement regulations and avoiding competition without an adequate rationale. In a February 1986 memorandum, he concluded that the problems resulted from a lack of adequate supervision and procurement knowledge. As a result of his findings, he reduced some of the contracting authorities delegated to the acting contracting officer at the center. However, the contracting authority was not reduced for the center's administrative officer, who had responsibility for the activities we questioned.

In its comments, FEMA suggested that the last sentence above should be deleted, because the administrative officer was not involved in any of

the actions we cited. However, we found that the administrative officer was supervising the facilities management, project, and procurement staffs at the center and signed several of the procurement documents. Additionally, except for a brief period in early 1985, he was the only person at the center delegated authority by FEMA headquarters to make major civil defense awards for the center.

Subsequent to our review, the Administrative Officer retired, and FEMA officials appointed a new administrative officer. Although this new official is responsible for providing administrative support for all the activities of the Center, he has no contract authority and is not included in the contract review and approval cycle. In addition, a new Chief of Procurement was hired. This new Chief has contract authority up to \$250,000 with review performed by headquarters officials. All contracts over \$250,000 are approved by headquarters. These actions are steps in the right direction, and alleviate our concerns regarding contract administration at the center.

Regional Controls

FEMA regional offices provide civil defense funds to state governments under comprehensive cooperative agreements. The states and their local governments use these funds primarily for personnel salaries. The six states we visited paid the salaries of almost 300 state and 760 local employees in full or in part with federal civil defense funds. The state and local governments also used the civil defense funds for facilities, equipment, services, and travel.

In fiscal year 1985, FEMA regional offices allocated \$17.2 million for civil defense to the six states we visited. The states spent \$16.7 million: \$9.9 million at the state level and \$6.8 million for local jurisdictions. The state-level use of federal funds averaged 61 percent for personnel, 5 percent for travel, and 34 percent for other purposes. The local use averaged about 90 percent for personnel, 1 percent for travel, and 9 percent for other purposes.

Under the Federal Grant and Cooperative Agreement Act of 1977, use of a cooperative agreement is appropriate where the purpose is to accomplish a public purpose authorized under federal statute, rather than to acquire property or services for the direct benefit of the federal government. Use of a cooperative agreement also assumes substantial involvement by the federal government in federal and state efforts to achieve the objectives of the agreement.

FEMA headquarters has further defined substantial involvement for its regional offices to include helping develop statements of work, monitoring state performance, providing assistance and training through site visits, and accepting or rejecting state work products.

However, the regions were often doing little more than cursory monitoring of states' compliance with administrative requirements. Specifically, the regions were (1) not adequately monitoring the states' proposed and actual expenditures, (2) not requiring all states to report property purchased with federal funds, and (3) continuing to award funds to states with incomplete statements of work. In addition, the regions' procurement controls needed strengthening, as evidenced by their making inappropriate noncompetitive purchase orders.

Inadequate Monitoring of Expenditures

FEMA requires the states to submit a detailed line item budget and retain financial records to show expenditures by categories for each program. There are more than 10 categories of expenditures within civil defense, such as Emergency Management Assistance and Population Protection Planning. For the Emergency Management Assistance category of civil defense, FEMA also requires the states to submit an annual statement of expenditures showing the type of expenditure such as for personnel salaries, travel, or equipment to enable FEMA to compare planned and actual expenditures. However, FEMA cannot readily compare planned and actual expenditures for the other categories of civil defense activity, because FEMA does not require such an annual statement for them. In the three FEMA regions we visited, these other activities accounted for \$10.2 million, or 39 percent of the \$26.1 million awarded to states in those regions.

Regional officials expressed concern that they are unable to adequately monitor actual state expenditures for these other activities. For example, a Region IX official stated that without on-site review of state accounting records, the propriety of expenditures must be taken on faith. We believe that reports similar to those required for Emergency Management Assistance activities could help monitor expenditures for the other civil defense activities as well.

In commenting on our report, FEMA stated they had discontinued use of the Emergency Management Assistance report, but that they were reemphasizing periodic site visits to grantee agencies. In a memorandum to the Associate Directors, Administrators, and Regional Directors regarding the allocation of travel funds, the FEMA Director emphasized the need

for a priority consideration to program monitoring when travel allocations are determined. If periodic site visits are made, and they include a review of grantee expenditures, then the expenditure reports should not be necessary.

States Not Reporting Property Purchased With Federal Funds

OMB Circular A-102 states that title to nonexpendable personal property purchased with federal funds remains with the federal government. The circular requires the states to prepare an inventory of such property in their custody and to report such property for disposition when it is no longer needed or after an agreement has been completed. However, two of the three regions we visited did not try to obtain such inventories because, according to region officials, their staff was insufficient. Although the third region did receive from its states an annual list of property purchased and disposed of, it did not require them to perform inventories of the federally-owned property on hand.

We did not find records showing the value of such federally-owned property, but we believe it to be significant. Under one FEMA head-quarter's contract, federal government-owned equipment costing over \$120 million is being distributed to federal and state emergency centers nationwide.

In its comments, FEMA expressed concern about the exact requirements and appropriate levels of responsibility regarding accountability of nonexpendable personal property. We recognize that determining which equipment should be inventoried may be subject to interpretation, but we believe FEMA should set the appropriate criteria for use by the states in conducting the required inventories of nonexpendable equipment.

Continued Award of Funds in Spite of Incomplete Statements of Work

We found that FEMA Region IX awarded funds even where the statement of work was incomplete. FEMA guidance states that:

"If a particular program in the state's application has an incomplete or deficient statement of work when reviewed against the [Comprehensive Cooperative Agreement] Program Guidelines and related FEMA and federal instructions and criteria, then the region should not award that program the funds in question until the state completes or corrects the statement of work."

The Code of Federal Regulations states that:

"Financial contributions will not be made unless substantive activities and projects in preparation for and response to attack-related disasters are identified, and progress is indicated in the submissions, and recorded in the program reporting system."

Although a statement of work in California's application for 1985 emergency management funds excluded nuclear attack planning that was required by FEMA's comprehensive cooperative agreement, the FEMA region continued to award funds to the state.

In addition, we found that, during prior years, California had spent at least \$930,000 in federal funds to plan for nuclear civil protection, but never distributed the resulting report because it included nuclear attack planning. In 1983, after the report was prepared, California prohibited state agencies from spending any state or federal funds on plans for the mass evacuation of the civil population in the event of the threat of a nuclear war. We noted, however, that even though the state only prohibited using funds for nuclear attack relocation planning, the state plan that was published had omitted all forms of nuclear attack related planning.

Determining whether a state's efforts comply with statements of work and FEMA regulations is within the discretionary authority of the Director, FEMA. In addition, the region's emergency management staff told us that determining whether a state's efforts contribute to nuclear attack preparedness is a matter of professional judgment, and that the region had decided to give the state the benefit of the doubt.

Although we do not question the FEMA Director's discretionary authority, it is not clear that FEMA has fully considered the instruction in its regulation that attack-related planning be fully developed in a state plan before contributions are made, especially when a nuclear attack planning document that cost almost \$1 million was deleted from state plans. States which were not included in our review, such as Massachusetts, New Mexico, and Wisconsin, have also taken steps to exclude or deemphasize attack preparedness. In our opinion, this indicates a need for FEMA, through its administrative procedures, to determine whether such states have a basis for excluding or deemphasizing attack preparedness.

FEMA headquarters officials told us that, following our review, FEMA and emergency planners in California had negotiated proposed changes in the California plan to include parts of the previously-deleted attack planning document. Although we did not review the subsequent plan, such mutual efforts are steps in the right direction.

Other Problems Related to Inadequate Monitoring

Our work at state and local levels provided other examples where better monitoring by FEMA regions could have identified problems:

- In California, 24 of 33 fiscal year 1985 emergency-management training contracts were awarded noncompetitively without sole-source justifications. The state recognized the problem and took corrective actions.
- In Missouri, \$667,200 in fiscal year 1985 personnel costs claimed as civil defense expenditures were not supported by time and attendance records, as required by Office of Management and Budget Circular A-87. We found that the lack of documentation had also been previously questioned in state audit reports in 1982 and again in 1985. The state agency began to maintain such records in fiscal year 1986. We believe that better monitoring by FEMA, including review of state audit reports, might have resulted in earlier correction of these documentation problems.

In its comments, FEMA indicated that lack of time and attendance documentation has been corrected as a result of a review by state auditors.

Control Weaknesses Reported by FEMA Internal Audits

FEMA internal auditors have also found significant problems with the way funds provided to the states were administered through comprehensive cooperative agreements in three regions we did not visit during this review. A March 1985 report noted that

- basic management controls should be improved,
- programmatic administration was questionable, and
- financial administration was ineffective.

The FEMA regions involved generally agreed with the internal audit findings and attributed the problems to a lack of support and guidance by FEMA headquarters and a lack of personnel. While some actions, such as the drafting of revised guidance for agreements with states, show efforts at correction, we found continued problems with FEMA's oversight of funds provided to state and local jurisdictions. Representatives of one of the regions we visited said that they have not seen the FEMA internal audit report and were unaware of its recommendations.

Purchase Orders Made Non-Competitively

Two of the three FEMA regional offices we visited made several types of sole-source awards to the U.S. Department of Agriculture Graduate School even though competition should have been obtained. An October 1984 letter from the Graduate School and a November 1984 Comptroller General decision stated that the school was not eligible to enter into

interagency agreements because it is a non-appropriated fund instrumentality, but could compete for contract awards.¹ The decision stated that FEMA's use of noncompetitive interagency agreements should cease. Future contracts should have been obtained competitively unless a sole-source procurement could be justified. Subsequent to these determinations, in fiscal year 1985, FEMA Regions III and VII issued noncompetitive awards to the Graduate School totaling about \$39,000 and \$83,500, respectively. Also, two other regions reported noncompetitive awards to the school after FEMA was advised of possible problems with such awards.

In commenting on our report, FEMA stated that their contract staff was not aware of the Comptroller General decision until July 18, 1985, when their Inspector General notified the staff of the decision, and that one of the Region VII awards predated the decision. However, we found that FEMA's Region VII was advised by the Graduate School of the problem in October 1984, prior to all of the examples we cite. Region VII officials told us that they immediately requested guidance from FEMA headquarters but received none and subsequently made \$83,500 in awards to the graduate school.

We also found that Region IX did not obtain competitive pricing for 6 of 14 purchase orders over \$1,000, as required by regulations. Purchasing personnel said they did not realize that such competition was required. In its comments, FEMA stated that corrective actions have been taken.

FEMA's Initiatives to Improve Management Controls Over Spending

To improve management controls, FEMA implemented a system in 1983 whereby its Program Analysis and Evaluation Office maintains oversight of internal control reviews and monitors management-improvement efforts initiated as a result of both internal and external reports of weaknesses. The office has developed an inventory of reported weaknesses that includes such issues as contract and grant awards, property accountability, fund controls, and automated data processing safeguards.

Although the inventory lists numerous management control weaknesses, progress in resolving them has not been fully satisfactory. A September 1985 listing included over 250 weaknesses, and a 1986 report indicated

¹Department of Agriculture Graduate School—Interagency Orders for Training (B-214810, November 29, 1984)

that the inventory had increased to over 400 control weaknesses. Items requiring action as noted in the September 1985 listing included:

- "Improve level of competition in the acquisition process."
- "Accounting system does not provide for the systematic accumulation of cost information by program structure."
- "Inadequate separation of duties."
- "Inadequate financial monitoring of grant recipients."

The majority of the weakness listed, including the examples above, had not been resolved.

In some cases weaknesses were prematurely reported as having been corrected. FEMA's 1985 Financial Integrity Act report to the President and the Congress stated some corrective actions were completed, although the action taken involved only further review of the weaknesses. Subsequently, the Program Analysis and Evaluation Office discovered the error and corrected FEMA's records to show the weaknesses as still unresolved.

Causes of Problems Noted in FEMA Spending

Notwithstanding initiatives such as the above, the problems discussed in this report indicate the need for additional efforts. As noted previously, staff with procurement responsibilities at the National Emergency Training Center told us that they lacked the knowledge and experience to properly carry out the duties they were assigned. Also, FEMA procurement staff told us that problems, such as not properly justifying sole-source awards and not documenting many contracting actions, were caused by the limited time they had to make awards.

At FEMA regions, personnel attributed their lack of monitoring and enforcement to a shortage of staff and travel funds. However, while we found cases where these circumstances have presented problems for the regions, many of these weaknesses also stemmed from conditions that could be relieved through better guidance and improved regional management and planning. For example, staff at one region with monitoring weaknesses disagreed about who was responsible for financial monitoring of state expenditures. In the regions we visited, not all staff members responsible for monitoring state activities were familiar with state financial reporting requirements and federal procurement regulations.

The lack of travel funds did not appear to be the sole reason for poor monitoring. Although the regions were restricted from travel for the latter part of fiscal year 1985, travel was not restricted for the first two quarters. Since comprehensive cooperative agreement closeout reviews are normally conducted during the first two quarters of a fiscal year for prior-year agreements (this is the time when program results are verified and expenditures are reconciled), the lack of travel funds in the last two quarters of a year would not necessarily have been the problem. In addition, state and local offices near the FEMA Region III offices were not visited regularly. Lack of travel funds could have affected fiscal year 1986 monitoring because regional travel was limited in the first quarter.

In commenting on our report, FEMA stated that travel funds were again available in fiscal year 1987, and that site visits have resumed, with over 80 jurisdictions visited by Region VII through May 1987. Also, FEMA noted that our finding was too broad and cited examples of extenuating circumstances regarding travel fund shortages during 1984 and 1986 in Region VII. However, FEMA's comments did not address reasons for the lack of site visits during fiscal year 1985, the period covered by our review.

We believe that FEMA's problems could be significantly reduced or eliminated if its management control systems could ensure that:

- Transactions and significant events are authorized and executed only by properly trained personnel acting within the scope of their authority.
- Key duties and responsibilities in authorizing, processing, recording, and reviewing transactions are separated among individuals.
- All such transactions and other significant events are adequately documented, and properly recorded and classified.
- Proper supervision is established and maintained.
- Accountability for the custody and use of resources is assigned and maintained, and periodic comparisons are made of resources with the recorded accountability.
- Managers (1) promptly consider findings and recommendations based on internal and external evaluations, (2) determine the actions needed to correct or resolve the matters, and (3) complete the actions within reasonable time frames.

Focus of Civil Defense Funding

Under existing law, civil defense funds are to be used to prepare for the protection of the civilian population in the event of an enemy attack, and may also be used to prepare for and deal with natural and technological disasters, provided that such use is consistent with, contributes to, and does not detract from attack-related preparedness. FEMA's internal assessments and our tests of fiscal year 1985 expenditures, showed that FEMA's primary civil defense focus was to plan for natural and technological disasters, rather than attack preparedness.

Determining a proper focus for the civil defense program has been a controversial issue. Some states have provided a focus on attack preparedness in their civil defense activities, while others have taken steps to exclude or deemphasize attack preparedness.

Background

The Federal Civil Defense Act of 1950, as amended in 1981, provides that the civil defense system is to be used to (1) protect the civilian population in the event of an enemy attack and (2) deal with natural disasters, such as hurricanes, tornadoes, storms, floods, earthquakes, volcanic eruptions, drought, and fire, as well as such manmade catastrophes as explosions and civil disturbances.

Section 2 of the Act states that

"It is the policy and intent of Congress to provide a system of civil defense for the protection of life and property in the United States from attack and from natural disasters.... The Congress recognizes that the organizational structure established...for civil defense purposes can be effectively utilized, without adversely affecting the attack-related civil defense objectives of this Act, to provide relief and assistance to people in areas of the United States struck by disasters other than disasters caused by enemy attack...."

Section 207 of the Act provides that, though civil defense funds at the state level may also be spent for both attack-preparedness and peacetime emergencies, attack-preparedness is to be a significant part of state civil defense planning and response:

"Funds made available to the States under this Act may be used by the States for the purposes of preparing for, and providing emergency assistance in response to, natural disasters to the extent that the use of such funds for such purposes is consistent with, contributes to, and does not detract from attack-related civil defense preparedness...."

After the 1981 amendment of the Civil Defense Act allowed such dual use of funds, FEMA developed an Integrated Emergency Management System intended to maintain an emergency-management capability nationwide by integrating activities along functional lines and, to the extent possible, across all hazards. FEMA also replaced the Nuclear Civil Protection Program, a program dedicated to attack-preparedness, with the Population Protection Program, a program that addressed all potential hazards—nuclear attack, as well as natural and technological catastrophes.

FEMA said that it did not intend that its new attention to dual-use, peacetime-emergency preparedness should result in a neglect of attack-preparedness. However, we found that, in fiscal year 1985, peacetime emergency preparedness efforts appeared to be emphasized over attack-preparedness efforts at all levels—FEMA headquarters, the National Emergency Training Center, regional, state, and local levels.

Focus at FEMA Headquarters

FEMA's contracts and its own activities at the National Emergency Training Center focus on peacetime emergencies rather than attack-preparedness.

Most of the civil defense contract awards FEMA made in fiscal year 1985 seem to have had limited relevance for attack-preparedness. Under the Integrated Emergency Management System, emergency planning work common to all potential emergency situations may be funded. Nevertheless, of the 37 major awards we selected for review, only 8 appeared to contribute directly to attack-preparedness. Examples of awards that did not contribute directly are as follows:

- FEMA paid an \$81,250 contract and a \$24,375 purchase order for a nuclear power-plant evacuation exercise from civil defense program funds, although another FEMA program (Radiological Emergency Preparedness) would ordinarily fund such exercises. A FEMA official told us that civil defense funds were used because the agency had exhausted the funds designated for radiological emergency-preparedness.
- FEMA headquarters awarded a contract to the American Red Cross in 1980. A 1985 modification to that contract used about \$300,000 from civil defense funds to provide advisors to each FEMA regional office to assist in responding to, and coordinating disaster-relief activities. An internal FEMA assessment in 1983 questioned the use of civil defense funds for this contract, noting that using disaster-response funds could make the civil defense money available for more appropriate purposes.

However, no action was taken to change the source of funding. In commenting on our report, FEMA stated that funding the Red Cross contract using civil defense funds “stemmed from a long-standing practice that had been instituted by the former Office of Civil Defense.”

FEMA’s Emergency Management Institute gives courses in the handling of emergencies. The Institute is located at the National Emergency Training Center, and is jointly funded by civil defense and training and fire program funds. The fiscal year 1985 allocations for the Institute totaled \$3.4 million from civil defense funds and \$2.9 million from training and fire funds. However, according to Institute officials, less than 5 percent of the Institute’s courses focused directly on attack-preparedness.

As an example of the kinds of courses given, in fiscal year 1985 FEMA paid a Department of Energy contractor \$140,350 in civil defense funds (out of a total cost of \$432,000) to give 12 radiological emergency-response courses focusing on peacetime nuclear accidents and incidents.

Focus at the Regional Level

FEMA regions use their share of funds designated for civil defense—and allow states and local governments to use such funds—for a variety of activities which are only incidentally related to attack-preparedness. For example, FEMA allocated \$12 million in civil defense-designated Salaries and Expenses funds for regional management and administration salaries and expenses. These expenditures would more appropriately relate to FEMA’s budget item for management and administration.

We analyzed these expenditures in Region VII and found that while all of the \$756,959 paid from civil defense funds should have been charged to FEMA’s management and administration account, \$430,710 of the administrative time was specifically applicable to non-civil defense programs.

Also, Region VII approved the use of over \$56,000 in civil defense funds to pay two state planners in Missouri for work devoted entirely to earthquake planning. FEMA headquarters later disapproved such use of funds, but believed it could not recover money already spent. In commenting on our report, FEMA stated that Missouri has discontinued the practice of using civil defense funds for earthquake planning.

Region VII also paid an estimated \$89,000 in civil defense funds to personnel working full-time in programs dealing with peacetime emergencies, and paid another \$57,926 in civil defense funds to two staff

members who spent most of their time working with peacetime emergencies. Finally, Region VII spent over \$100,000 in civil defense funds to rent office space for programs officials said were not related to attack-preparedness.

Region IX approved California's use of approximately \$100,000 in civil defense funds to develop or revise two area-specific earthquake plans even though the region initially informed the state in writing that these activities were not allowable projects as proposed. A FEMA regional official told us that even though the state did not revise the proposed projects, he later decided that the project would provide some benefits to civil defense.

Focus at the State Level

In the states visited, we found that the major focus of emergency management, planning, and preparedness was on natural and technological disasters. Furthermore, we noted that two of the states—California and Maryland—have taken specific actions to deemphasize or eliminate nuclear-attack preparedness planning.

Since 1983, California state law has prohibited state agencies from spending federal or state funds on plans for the mass evacuation of the civilian population in the event of the threat of a nuclear war. As a result, the state has excluded all nuclear-attack planning from its population-protection program. California emergency officials told us that they believe that the lack of nuclear-attack planning detracts from civil defense capability.

Maryland does not participate in FEMA's Population Protection Planning program, which is a civil defense activity for developing a plan for coping with the effects of various hazards, including nuclear attack. As a result, a state emergency official rated the state's nuclear-attack preparedness as marginal. However, the state, with FEMA approval, has used other (Emergency Management Assistance) civil defense funds to prepare a nonnuclear plan.

We also noted that at least three other states (Massachusetts, New Mexico, and Wisconsin) have taken steps to exclude or deemphasize all or some part of attack-preparedness, such as refusing to plan for crisis relocation.

Focus at the Local Level

Our review of state monitoring of local jurisdictions in California showed a similar emphasis on planning for peacetime emergencies. Even where local jurisdictions reported primary emphasis on civil defense, our tests raised questions about the focus of their activities. For example, one county's time and attendance records showed that four employees spent over one half of their time on attack-related civil defense activities. However, the reported accomplishments of these employees included activities such as the following:

- quarterly testing of sirens county-wide,
- developing and testing evacuation procedures for various public buildings,
- processing of earthquake claims,
- participating in Earthquake Week 1985,
- responding to two major wild land-fire emergencies,
- conducting a major medical exercise in preparation for the Super Bowl, and
- conducting a major exercise to test emergency-response patterns at the San Jose Airport.

Even though the first two reported accomplishments could have contributed to attack-preparedness, the overall nature of the reported activities raises questions about whether attack-preparedness was the significant focus of the county's activities.

FEMA Reassessing Civil Defense Objectives and Policy

Several reports have criticized the lack of planning in the civil defense program. A July 1983 FEMA internal report stated that the nation was substantially below where it could be in protecting against the threat of nuclear attack. Also, a conference report on DOD authorizations for fiscal year 1986 expressed concern about an apparent lack of focus and direction in the civil defense program. The conferees directed that the Administration review national civil defense objectives, policies, and programs, and report the results of its review by March 3, 1986.

FEMA provided an interim report to the House and Senate Armed Services Committees on July 3, 1986. The report indicated that the existing system had concentrated limited available funds on preparedness for peacetime disasters at the expense of attack preparedness. The report stated that the basis of the U.S. civil defense program is that government has a responsibility to protect the lives and property of citizens, and that legislation is clear in setting the program's priorities: the basic mission is attack-related preparedness; and as far as possible, attack

preparedness capabilities should be adaptable to peacetime emergencies as well.

The lessons highlighted by the report included need for:

- reemphasis on attack preparedness;
- survivable state and local crisis management capabilities;
- attention to postattack problems;
- public understanding, acceptance, and involvement; and
- information for the public.

The FEMA report stated that a new policy document was under review. The policy document was issued as National Security Decision Directive Number 259, U.S. Civil Defense, on February 4, 1987. The directive states that the civil defense program will continue to support all-hazard integrated emergency management at state and local levels, "to the extent that this is consistent with and contributes to preparedness of the Nation in the event of an attack, whether by nuclear or non-nuclear means." It further states that federal funds and assistance for all elements of the civil defense program will be applied to develop capabilities required for attack preparedness and other disasters having national security implications.

Comments From the Federal Emergency Management Agency

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



Federal Emergency Management Agency

Washington, D.C. 20472

JUN 5 1987

Mr. Frank C. Conahan
Assistant Comptroller General
United States General Accounting
Office
Washington, D.C. 20548

Dear Mr. Conahan:

This responds to your letter of May 8, 1987, signed by David A. Littleton, requesting review and comment by the Federal Emergency Management Agency on the General Accounting Office (GAO) draft report entitled, "Civil Defense: FEMA's Management Controls Need Strengthening," (GAO assigned code 391544).

The draft report generally covers two areas of discussion: (1) the level of emphasis that the Agency has placed on attack preparedness, with particular attention on FY 1985; and (2) an evaluation of FEMA's management controls, with specific focus on the use of civil defense funds in FY 1985. We generally concur with the overall findings of the draft report regarding the insufficient level of emphasis that has been given to attack preparedness. However, with regard to the issue of FEMA's management controls, we feel that there are certain deficiencies in the report that need to be corrected in order to accurately reflect the Agency's practices.

The following enclosures are provided in an effort to show those areas in which the Federal Emergency Management Agency has: (1) undertaken new initiatives or improvements; and (2) instituted corrective actions in line with the draft findings contained in the report that are now in place at the National Emergency Training Center. The third enclosure is a detailed list of specific responses and/or corrections to the draft report (keyed to the appropriate page and paragraph) that are designed to provide clarifications or suggested changes to the draft findings. The final enclosure is a list of proposed editorial changes that are suggested in order to strengthen some of the draft findings.

We appreciate having had the opportunity to review the subject draft report and hope that you will find our comments both constructive and helpful. We have already instituted and are currently initiating a number of efforts directed to refocusing the civil defense program towards its mandated attack preparedness function. The report will assist significantly in enhancing this effort.

Sincerely,

Julius W. Becton, Jr.
Director

Enclosures

**Appendix IV
Comments From the Federal Emergency
Management Agency**

**NEW INITIATIVES OR IMPROVEMENTS
TO MANAGEMENT CONTROLS
MADE IN THE CIVIL DEFENSE PROGRAM**

1. Effective May 1, 1987, consolidated all elements of overall civil plans and policy development, formerly located in the National Preparedness Programs Directorate, in a newly formed Office of Civil Defense in the State and Local Programs and Support Directorate. This marks the first time in FEMA that the comprehensive civil defense planning and policy development function has been collocated with the development, implementation, and deployment functions for the State and local levels. We believe that the consolidation will provide more effective management control of the program.
2. Issued CPG 1-38, "CCA Policies and Procedures Guidelines".
3. Provided adequate funds for regional staff to travel to States and sub-State areas for program monitoring in FY 1987.
4. Instituted staff assistance visits by headquarters personnel to travel to the regional offices to provide program review.
5. Established a one-week course on CCA management and administration for Federal and State employees at the Emergency Management Institute; the course will be piloted in August 1987.
6. Instituted annual meetings of all CCA program managers and assistance managers to review procedures.
7. Instituted initiatives with the Office of the Comptroller (FEMA) to revise and simplify guidance documents.
8. Instituted an initiative with the Office of the Inspector General (FEMA) to set up a cycle of audits on all programs in the CCA.
9. Instituted an initiative to develop a regulation incorporating the substance of CPG 1-38, "CCA Policies and Procedures Guidelines," and CPG 1-3, "CCA General Program Guidelines." The intent of the regulation is to provide a better basis for sanctions and the withholding of funds to States whose performance or statutory provisions take away from FEMA's ability to fulfill its mission under the Civil Defense Act.
10. Ensured complete incorporation of the requirements of National Security Decision Directive 259, signed on February 4, 1987, in the CCA package for FY 1988. This will remove much of the ambiguity between attack preparedness and non-attack preparedness activities and will allow for more vigorous enforcement against State and local governments that do not comply with the requirements.
11. The Agency has developed and implemented a Position Management System to better control and account for the expenditure of salaries and benefits.

**Appendix IV
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**CORRECTIVE ACTIONS
THAT HAVE BEEN MADE IN THE CD PROGRAM
AT THE NATIONAL EMERGENCY TRAINING CENTER
IN LINE WITH SUGGESTED ACTIONS IN THE DRAFT REPORT**

SUGGESTED ACTION

Transactions and significant events are authorized and executed only by properly trained personnel acting within the scope of their authority.

CORRECTIVE ACTIONS

1. Since the audit was conducted, there have been changes in the staff at the National Emergency Training Center (NETC) such as the hiring of a Facility Manager, a Supervisory Contract Specialist, and four additional procurement staff members. This has resulted in more adequate staffing with qualified personnel.
2. Procurement authority has been adjusted to more closely reflect the qualifications of the contracting officers.
3. Training has been initiated and will be continued for procurement staff and project officers, which will provide for a better understanding of the scope and limits of authority of these staff members.
4. Future project officer assignments will be made only to those staff members who have completed the appropriate training within the past two years and who have demonstrated the skills, knowledge and ability to properly perform their duties as a project officer.

SUGGESTED ACTION

Key duties and responsibilities in authorizing, processing, recording, and reviewing transactions are separated among individuals.

CORRECTIVE ACTIONS

1. An experienced and qualified Facility Manager has been brought on the staff at NETC to monitor appropriate contracts as the project officer.
2. Training, which has been initiated, includes the participation of the facility management staff to better qualify them to assist in the preparation of statements of work as well as the oversight of the performance of the contractors.
3. The supervisory and management, contracting officer, and facility manager functions previously performed by the former Chief, Management and Administration, have now been separated between a Supervisory Contract Specialist, a Facility Manager, and a management official overseeing the Management and Administration staff. These changes have resulted in a clearer separation of responsibilities for authorizing, processing, recording and reviewing transactions.

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SUGGESTED ACTION

All transactions and other significant events are adequately documented and properly recorded and classified.

CORRECTIVE ACTIONS

1. In September 1986, an NETC Instruction entitled, "NETC Procurement Administration," (copy attached) was implemented. The Instruction describes the functions required and assigns responsibility to improve the documentation, recording and classification of procurement actions.
2. Training has been initiated for the procurement staff, the facility management staff and project officers which will result in an improved ability to fulfill the requirements of each individuals position.

SUGGESTED ACTION

Proper supervision is established and maintained.

CORRECTIVE ACTIONS

1. Training courses have been initiated, including OPM courses for supervisors, that will provide better trained supervisors. This should result in more effective supervision.
2. Changes in the NETC staff within the Management and Administration activity have resulted in a clear separation of responsibilities and functions and have established a better channel of supervisory control.

See comment 1.

**Appendix IV
Comments From the Federal Emergency
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SPECIFIC RESPONSES AND/OR CORRECTIONS
TO THE GAO DRAFT REPORT ENTITLED,
"CIVIL DEFENSE: FEMA'S MANAGEMENT CONTROLS NEED STRENGTHENING"

Page 3 - Paragraph 2:

Draft Finding:

"Although we did find cases where limited resources have presented problems, improved management controls could, in our opinion, reduce or eliminate a number of the problems within existing resources. We believe that improvements can be made to help ensure proper supervision, personnel with appropriate training and experience, separation of duties, and adequate documentation of transactions."

FEMA Response:

The report very strongly implies that improved management controls could reduce or eliminate many of the problems identified within existing resources. In the next paragraph on page three, the report lists five actions, which continue onto page four, that the draft report asserts could alleviate specific problems noted during the review. However, we believe that at least four of the actions call for the application of additional resources. For example, the first action calls for reducing procurement authority at the National Emergency Training Center (NETC). If this action is taken, it would require additional contracting officers at the headquarters or some other site to do the work that is now being done at the NETC. Similarly, the second recommended action of increased monitoring also implies additional personnel. The fourth and fifth actions, as they relate to providing the training, again call for the expenditure of scarce resources.

Conclusion/Recommendation:

While we do not argue with the premise that improved management controls could reduce or eliminate many of the problems identified, we do not agree that this could be accomplished within existing resources. With respect particularly to the procurement function in the Agency, the Office of Acquisitions Management has been operating at severely reduced staffing levels for some years, resulting in the staff having to work considerable overtime in order to process the existing actions. It would be impractical to assume that the management controls recommended could be accomplished within existing resources given the already heavy workload.

Page 8 - Paragraph 3:

Draft Finding:

The second sentence of the paragraph states that, "Of the 230 major actions, 56 awarded \$91.4 million in civil defense funds to states and territories under comprehensive cooperative agreements (contractual agreements between the FEMA regions and the states as to the work the states will accomplish during the year)."

Now on p. 8.

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FEMA Response: To call a cooperative agreement a contract is contrary to the definitions contained in Public Law 95-224, "The Federal Grant and Cooperative Agreement Act of 1977." The Act distinguishes between two classes of instruments, one being contracts and the other being assistance agreements. This includes both grants and cooperative agreements. We recognize that, in a broad generic and legal sense, all three types of instruments can be described as legal contractual agreements between two parties. However, we do not agree that a cooperative agreement is a contract since it creates confusion as to its intended use, terms and conditions.

Conclusion/Recommendation:

We recommend the deletion of the word "contractual" in the parenthetical paragraph in order to eliminate confusion.

Page 10 - Paragraph 3:

Draft Finding:

"We focused on FEMA's use of fiscal year 1985 civil defense program funds, but we also examined some transactions from other years to follow up on FEMA's actions to strengthen management controls."

FEMA Response:

The examination of transactions from other years expands the focus as stated on page two but does not provide us with enough information to determine the scope of the prior-year examinations or the results.

Conclusion/Recommendation:

In order to assist us in understanding the scope of the review and to give us an opportunity to assess the weaknesses of our controls over time, it would be helpful if the report specifically listed the years being referred to in this paragraph.

Pages 12 & 13 (Allocation of funds to comptroller's office central account):

Draft Finding:

"In fiscal year 1985, FEMA reallocated regional civil defense salary and expense funds of \$1.9 million to the comptroller's office. Comptroller officials provided documents indicating that \$40,000 of this amount was spent on travel they considered to be related and necessary to civil defense. FEMA officials told us that the remaining funds were commingled with funds of other accounts, and that most of the total was spent. However, their accounting system did not show whether the \$1.86 million originally allocated to civil defense was all used for other FEMA programs, or whether some of the funds were not spent.

Lack of documentation on whether or how the funds were spent affects FEMA's ability to comply with congressional Committee restrictions on reprogramming. Senate Report 98-506 directs FEMA to notify the Chairman of the Senate Appropriations Committee when it reallocates civil defense funds over \$250,000 to

Now on p. 10.

Now on pp. 11-12.

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other programs. (House Report 98-803 limited FEMA's reprogramming approval to not more than \$500,000.) FEMA documents show that at over \$450,000, including part of the above \$1.86 million, was reprogrammed. However, FEMA's management controls over reallocations did not ensure that the Senate Committee's directions were followed. For example, FEMA officials told us that they had no documentation showing that they had notified the Chairman. They told us only that they had informally provided Committee staff with status-of-funds information throughout the year."

FEMA Response:

The transfer of salary and expense funds from all other approved budget program object classes, except the personnel object classes, to a central account administered by the Office of the Comptroller did not result in a commingling of funds. At the time the funds were transferred to the Office of the Comptroller, an account structure was established which maintained the program integrity of these funds. Each FEMA program has a unique program code; this Program code was retained when the control of the funds was shifted to the Office of the Comptroller. At no time did the funds lose their program identity; only their organizational identity was lost. The request to obligate and/or expend funds was initiated by a program official responsible for the budget program. The request was approved either by the Comptroller and/or the Executive Administrator.

In congressional committee hearings that occurred in the spring of 1985, the Agency was criticized for spending its funds at a rate in excess of the appropriated amount. Had spending continued at the rate that it was occurring during fiscal year 1985, the Agency would not only have exceeded reprogramming limitations but also would have been in a deficiency situation at the end of the fiscal year. On March 19, 1985, the Agency initiated a number of actions, previously explained to GAO, to restrain spending. These actions markedly decreased the rate of Agency expenditures. On various occasions during the third and fourth quarters of fiscal year 1985, representatives of the Office of the Comptroller met with the senior staff of both the House and Senate Subcommittees on Appropriations to report on the status of the fiscal year 1985 Salary and Expense appropriation. Financial status reports and projections were provided to the Congressional staff members. Given the fact that remedial action was not undertaken to reduce the rate of Salary and Expense expenditures until well into the second quarter of fiscal year 1985, excess expenditures in a number of Salary and Expense program accounts was unavoidable. In summary, the Agency provided the Committee staffs with status of funds information throughout the balance of fiscal year 1985 and reported actuals for each account in the budget justification for fiscal year 1987.

At this juncture, it is appropriate to observe that the most significant problem in fiscal year 1985 was the absolute need to control the Salary and Expense appropriation in order to: (1) prevent an anti-deficiency violation; (2) make salary payments to all FEMA personnel and vendors; (3) meet other priority needs; and (4) comply with the mandate of the House Sub-Committee on Appropriations that FEMA control its spending and not furlough employees. The Agency instituted appropriate management controls to accomplish this mandate.

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Conclusion/Recommendation:

Based on the above information, we recommend that the GAO delete from its draft findings the alleged transfer of funds to a central account and loss of the specific identity of the funds and the Agency's purported noncompliance with reprogramming requirements. It is our belief that, in meeting with the committee staffs, FEMA met the notification requirements referenced in the draft report. In addition, FEMA did not commingle salary and expense funds; rather, the Agency established an account structure that maintained the program identity and integrity of the Salaries and Expense appropriation. With respect to the reprogramming audit finding, the Agency provided the staffs of each appropriation subcommittee with a series of financial status reports and fund projections during fiscal year 1985. The Agency also reported on actual expenditures in the budget justifications for fiscal year 1987. The staffs of the subcommittees did not object to the financial data, actual and projected, provided to them on expenditures by program. If the subcommittee staffs offered no objections to the expenditures, GAO should not report the reprogramming as an audit finding.

Now on p. 12.

Page 13 - Paragraph 1 (under "Questionable handling of procurement actions"):

Draft Finding:

"FEMA procures goods and services through grants and agreements, and contracts and small purchases. These awards may be made with or without competition."

FEMA Response:

As written, the statement suggests that FEMA uses grants, cooperative agreements, contracts and small purchases as instruments to procure goods and services. This is in conflict with Public Law 95-224, (superseded by Public Law 95-228) which stipulates that the procurement of goods and services is only performed through contracts or small purchases. Grants and cooperative agreements are the instruments used when a Federal agency is assisting an organization, be it state, local government, non-profit group, university, etc.

Conclusion/Recommendation:

If the intent of the draft report is to imply that FEMA has been incorrect in its interpretation of Public Law 95-224 (superseded by Public Law 97-258), then we believe that the draft report should cite specific issues and cases in order for us to take corrective actions where necessary.

Now on p. 13.

Page 14 - Paragraph 3:

Draft Finding:

"FEMA reported 29 sole-source awards over \$10,000 using fiscal year 1985 civil defense funds amounting to \$6.6 million."

FEMA Response:

The small purchase threshold was changed to \$25,000 on April 1, 1984. The "Competition in Contracting Act," which applies to contracts over \$25,000, became effective on April 1, 1985.

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Conclusion/Recommendation:

There is a question as to whether or not the appropriate competition rules are being applied in this case in view of the changes in the thresholds listed above. The application of inappropriate competition rules would have a significant impact on the audit findings.

Page 14 - Paragraph 3:

Draft Finding:

"Our review of 10 of these awards (accounting for \$4.4 million) showed that FEMA often made little attempt to identify alternative sources, and did not adequately document the justification for the awards. Our examination of nine other awards reported as competitive disclosed seven that also appeared noncompetitive and thus should have been justified and reported as such."

FEMA Response:

The statements contained in the quote above are quite clear in alleging that FEMA "...did not adequately document the justification for the awards." However, since the report does not list either the 10 awards for which inadequate justification is alleged, nor the seven of nine awards that appeared to be noncompetitive, we are unable to review the specific files so that we can assess the extent of our alleged weaknesses in order to develop appropriate improvements.

Conclusion/Recommendation:

We feel that it is important that the contracts that are alleged to have been deficient in these areas be identified. Without knowing the contract numbers of the specific contracts, it is impossible for us to be able to identify the problem, explain the reasons for the actions taken, or take remedial actions if required. We recommend that the contracts cited be listed by name in order for us to take the appropriate action. Again, it is important in a report that leads to audit findings that the Agency be given every opportunity to identify the specific cases where alleged improprieties have occurred, both for the purpose of identifying what led to the decisions in the first place and/or ensuring that such mistakes are not made in the future.

Page 15 - Paragraph 2:

Draft Finding:

"FEMA frequently allowed shorter response times than required. For example, on September 8, 1984, FEMA's National Emergency Training Center published a notice for an award to renovate rest rooms to accommodate the handicapped, requiring response within 5 days. The subsequent solicitation required bids within 13 days, but was later amended to allow 27 days. Although 11 potential bidders were identified, only one bid--from the Schildt Construction Company, which was working on another project at the center--was received. We found no evidence in the award file that the other 10 potential bidders were advised

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of the additional time allowed for submission of bids, and it appears that the short time announced for responding and submitting bids may have restricted competition. FEMA initially awarded a contract to the sole bidder and ultimately paid about \$50,000, including \$28,000 in civil defense funds."

FEMA Response:

The current rules require the Notice of Solicitation to be published fifteen days prior to the issuance of a solicitation. However, under regulations in effect at the time of the action in question, the contracting office could presume that notice was published ten days after mailing to the Commerce Business Daily. The solicitation was issued 16 days after presumption of publication, which was in compliance with the rules. The solicitation was issued on September 13, 1984, with a bid opening date of September 26, 1984. On September 19, 1984, the solicitation was extended to October 17, 1984. The submission was, therefore, in conformance with the regulations.

Conclusion/Recommendation:

GAO states that there is no evidence in the award file that bidders other than Schildt received copies of the amendment. However, there is no evidence to suggest that other firms did not receive the amendment. We believe that this is a failure to document rather than a failure to provide the amendments to the vendors and recommend that this be reflected in the final report.

Page 15 - Paragraph 3:

Draft Finding:

"In another case, we found that Mitre Corporation was given a sole-source award in 1982 at an estimated cost of \$650,000. Nothing in the file indicates that FEMA made any effort to identify other potential sources. Furthermore, this contract has been continued through numerous sole-source modifications. As of modification number 43, which obligated \$349,239 in September 1985, contract obligations totaled \$5.7 million. The award file indicates that the contractor was originally selected because of unique qualifications and prior experience. Some of the modifications cited the contractor's technical expertise with the system now in place as justification for the awards."

FEMA Response:

The second sentence of this paragraph indicates that the Mitre Corporation was given a sole source award and that there was nothing in the file that indicates that FEMA made any effort to identify other potential sources. However, a review of the file shows that this requirement was advertised in the Commerce Business Daily as an intended sole source award. No other sources responded or challenged the notice. More importantly, we have been advised that the Mitre Corporation, a federally funded research and development center as defined by Office of Federal Procurement Policy Letter 84-1, dated April 4, 1984, is prohibited from competing for government business on the open market.

This paragraph also refers to numerous sole source modifications without any recognition that the basic contract type was an indefinite quantity task order

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contract. Such a contract type, by its very nature, will result in many modifications as orders are placed under the instrument. This is precisely why this type of instrument is used.

Conclusion/Recommendation:

In view of the aforementioned facts, we recommend that the findings be revised to reflect more accurately the circumstances of this award.

Page 16 - Paragraph 1:

Draft Finding:

"Our examination of the files for 7 of the 11 sole-source awards reported by FEMA showed that none of them had documentation which adequately justified a sole-source award."

FEMA Response:

The statement that 7 of 11 sole source awards reported by FEMA were inadequately documented seems to conflict with the statement on page 14 where it was reported that 10 sole source awards were examined.

Conclusion/Recommendation:

It is unclear as to whether 10 or 11 sole source awards were reviewed. We recommend that this discrepancy be corrected. In addition, as previously stated, the 10 or 11 contracts reviewed should be identified by contract number so that we can review the specific files to determine the extent of the inadequacy of the justification in order to take necessary corrective actions.

Page 16 - Paragraph 2:

Draft Finding:

"Theodore Barry and Associates was given noncompetitive awards to provide technical assistance, resources, and support in developing and exercising a radiological emergency plan at a nuclear power plant. The cost of the two awards was \$105,625 in fiscal year 1985, all from civil defense funds. The justification given for the sole-source selection was the urgency of the situation. However, we found that FEMA's justification for not soliciting other sources was inadequate."

FEMA Response:

In a footnote to this paragraph, there is a reference to a GAO legal decision (B-221550, March 31, 1986), which indicates that FEMA's justification for not soliciting other sources was inadequate. The subject decision concluded that FAR 6.302-2, Unusual and Compelling Urgency, could not be relied on as a statutory authority permitting contracting without providing for full and open competition. The decision makes the point that exercise timeframes should have been adjusted to accommodate competitive procedures.

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We do not agree. We believe that we did not have enough time to conduct a competitive procurement and that this was within the legal exceptions to full and open competition. We believe that the procurement regulations provide the flexibility to make time sensitive procurements as we accomplished in this instance.

Conclusion/Recommendation:

We recognize that we are in disagreement with a GAO legal decision in this instance. However, we believe that the procurement regulations provide adequate flexibility to provide the type of time-sensitive procurement that is at issue in this section. While we recognize the GAO position in this particular area, we feel that it is important to raise the issue of time sensitive procurements in view of the Agency's emergency management mission, particularly in view of the flexibility provided in FAR 6.302-2.

Page 16 - Paragraph 3:

Draft Finding:

"On September 21, 1984, FEMA awarded a year-end grant of \$29,900 to the Children's Television Workshop to 'explore the feasibility of using various media to teach children how to protect themselves from natural hazards.' During 1985, the grant was modified three times to bring the grant total to \$504,900 (with over half of this amount in civil defense program funds). Documentation indicated that the award was originally approved as a fiscal year 1985 competitive procurement contract, but was changed to a year-end fiscal year 1984 grant without documentation to explain the change. Sole-source justification is not ordinarily required for a grant. However, the change from a planned competitive contract to a grant award at the end of a fiscal year created the appearance of avoiding contract requirements. Therefore, we requested additional information regarding the justification for the award from FEMA's procurement staff. No further justification was provided."

FEMA Response:

A review of the file indicates that this particular award was always planned as a grant. Competition was not obtained before awarding the grant as the Federal Grant and Cooperative Agreement Act of 1977 and the subsequent implementing regulations do not require competition before awarding assistance instruments (i.e., grants and cooperative agreements).

With regard to the modifications of the grant, a review of the file indicates that this series of modifications was actually an attempt to add funds to the grant in a controlled and phased way to ensure that each phase was successful before proceeding with the next phase. We believed this to be a cost effective way of managing this assistance instrument.

Conclusion/Recommendation:

We believe that the evidence indicates that this allegation should be deleted since the documentation available supports the original intention to award this action as a grant and that the subsequent modifications were done in accordance with sound procurement practices.

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Page 17 - Paragraph 2:

Draft Finding:

"The contract file for the Mitre Corporation award, mentioned previously, does not contain documents which adequately explain how the purpose for the contract expanded to justify the cost increase from \$650,000 to \$5.7 million. The file also did not adequately show why the contract was increased without competition, when the project is expected to be completed, or what the ultimate cost is estimated to be."

FEMA Response:

This paragraph also refers to numerous sole source modifications without any recognition that the basic contract type was an indefinite quantity task order contract. Such a contract type, by its very nature, will result in many modifications as orders are placed under the instrument. This is precisely why this type of instrument is used.

Conclusion/Recommendation:

We recommend that the GAO conclusion be revised to reflect the fact that the contract type was an indefinite quantity task order contract which will result in many modifications being placed under the instrument. This is an important issue which changes the conclusion reached by the auditors in preparing their findings.

See comment 4.

Now on p. 15.

Page 17 - Paragraph 3:

Draft Finding:

"A 1983 contract with Computer Sciences Corporation was originally awarded to provide assistance to the FEMA project officer in managing a Harris Corporation award. The original award of about \$2 million in civil defense funds has since increased to \$11.6 million...the file did not adequately explain how the purpose expanded to justify the cost increase, or show why the contract was increased without competition."

FEMA Response:

The file indicates that two priced options were negotiated at the time of the original basic award that were subsequently properly exercised to significantly increase the basic award amount.

Conclusion/Recommendation:

We recommend that the GAO conclusion be revised to reflect the aforementioned information.

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Page 18 - Paragraph 1:

Draft Finding:

"FEMA has frequently extended the performance period of contracts by approving modifications in the form of unpriced options and noncompetitive follow-on

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options...A review of FEMA reports showed that 37 contracts (representing 53 of the modifications) involved a modification to extend the period of performance beyond the prior fiscal year."

FEMA Response:

The relevance of this statement is not understood because there are many legitimate reasons to issue contract modifications extending the period of performance beyond the fiscal year. For example, the exercise of a hard option almost always involves extending the period of performance beyond the fiscal year. In many cases, legitimate in-scope modifications will extend the period of performance.

Conclusion/Recommendation:

We recommend that this section be deleted in view of the unclear relevance of the allegation in terms of standard procurement practices.

Page 18 - Paragraph 3:

Draft Finding:

"A contract with the Harris Corporation was reported as competitive by FEMA even though this contract has been continued through modifications (which, lacking evidence of competition, we believe should have been considered to be noncompetitive sole source awards) since 1980. In fiscal year 1985, \$11.8 million from civil defense funds supported this contract. Full access to the contract file was not possible because the basic contract is under a classified special access program, which restricts access based on a need to know program information. However, FEMA did not provide even administrative information to show that it had attempted to obtain competition."

FEMA Response:

The contract with the Harris Corporation was awarded in September 1983 (not 1980) for \$81 million. It contained many negotiated "hard" options, which was anticipated, at that time, to result in a contract of approximately \$500 million upon completion in 1991. Although the contract file is classified under a special access program which restricts access based on the need to know, unclassified documentation relating to the competitive nature of this award was available in the contract file.

Conclusion/Recommendation:

Although we are unclear as to why it was believed that the information was not available through the unclassified administrative information in the file, we believe that adequate documentation exists to warrant revision or deletion of this draft finding.

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Page 19 - Paragraph 2:

Draft Finding:

"A contract with the Sperry Corporation included options which were not priced at the time of the original 1983 award to Sperry. Fiscal year 1985 awards, based on the exercise of unpriced options, totaled \$2.9 million including \$732,000 from civil defense funds. After we informed FEMA of our concerns, FEMA subsequently included priced options in a September 30, 1985 modification which required an update of the system provided by the original contract."

FEMA Response:

The file shows that the original contract, awarded on a competitive basis, contained four "priced" options for the lease and maintenance of Sperry equipment. These option costs were eventually revised to reflect the change from a straight lease to lease with option to purchase plan which was considered to be in the best interest of the Federal Government and to reflect the upgrade of the equipment in accordance with the contract.

Conclusion/Recommendation:

In view of the fact that evidence exists in the file to support the fact that "priced" options were, in fact, included in the original competitive award, we believe that there is adequate information available to warrant either the revision or deletion of this allegation.

Page 20 - Paragraph 5:

Draft Finding:

"Our review confirmed that the center [NETC] has weaknesses in management controls over procurement. For example, we found that, between 1982 and 1985, FEMA's National Emergency Training Center prepared procurement plans to spend over \$280,000 to renovate a seldom used log cabin located in a flood plain... As a part of the plan, the center awarded a contract in September 1985 for a new porch and roof for \$47,420 using \$23,710 in civil defense funds. After we questioned the contract, FEMA officials told us that, except for a subsequent \$3,447 modification to the contract (including \$1,674 in civil defense funds), no additional funds would be spent on the log cabin. Therefore, total spending was reduced from the planned \$280,000 to about \$90,000, of which about one half was from civil defense funds."

FEMA Response:

Procurement plans are planning documents initiated by the FEMA program offices to provide the Office of Acquisitions Management with a projection of the anticipated workload for each upcoming fiscal year. As a result, the procurement plans represent the estimate of the program office project officer as to what he or she considers the work will cost. The procurement plans do not, however, constitute either a commitment or an obligation of any funds. The advance procurement plan in the contract file was for an award in the amount of \$100,000. Requisition Number 79261 in the amount of \$50,000 was initially processed for the replacement of only the roof and porch of the log cabin. A

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contract was awarded in the amount of \$47,420. Due to change in the specifications, requisition number 62614 was processed in the amount of \$3,347, with a subsequent modification to the contract for the same amount. However, the total cost of the completed work was \$50,767. The management control problems listed in the draft audit findings are not evident in this case.

Conclusion/Recommendation:

In view of the aforementioned information, we recommend that the report be revised to reflect the accurate numbers and that the draft finding either be revised or deleted.

Page 21 - Paragraph 2:

Draft Finding:

"Also, the center often extended contracts without competition when it should have made new, competitive awards."

FEMA Response:

Both contracts cited in the draft report had firm options extending the contract for two years. However, they were increased both as a result of an increase in the level of work resulting from greatly increased student demand, and by duration, since each contract was extended several times pending completion of a large competitive contract which took much longer than anticipated. These services were necessary to the functioning of the schools. Each extension was made with the belief that the new contract would be in place.

Conclusion/Recommendation:

We believe that the evidence indicates that the draft finding is not correct in view of the evidence presented. As a result, we recommend that the draft finding should either be revised or deleted.

Page 21 - Paragraph 3:

Draft Finding:

"After we briefed FEMA headquarters officials about continuing problems at the center, the Director, Acquisition Management, visited the center to review procurement activities. He found similar problems and, in a February 1986 memorandum, concluded that the problems resulted from a lack of adequate supervision and procurement knowledge. As a result of his findings, he reduced some of the contracting authorities delegated to the acting contracting officer at the center. However, the contracting authority has not been reduced for the center's administrative officer, who has responsibility for the activities we questioned."

FEMA Response:

The administrative officer's unlimited contracting authority delegation remained in effect until his retirement in December 1986. However, he was not the contracting officer on any of the actions cited in the report.

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Conclusion/Recommendation:

The last sentence of the draft finding should be deleted in view of the fact that the administrative officer was not involved in any of the actions cited in the report.

Page 23 - Paragraph 1:

Draft Finding:

"FEMA requires the states to submit a detailed line item budget and retain financial records to show expenditures by categories for each program. For Emergency Management Assistance activities funded by civil defense, FEMA also requires the states to submit an annual statement of expenditures by categories to enable FEMA to compare planned and actual expenditures. However, FEMA cannot readily compare planned and actual expenditures for the other categories of civil defense activity, because FEMA does not require such an annual statement for them. In the three FEMA regions we visited, these other activities accounted for \$9.7 million, or 38 percent of the \$25.7 million awarded to the states in those regions."

FEMA Response:

The financial reporting requirements of the Comprehensive Cooperative Agreement (CCA) are in accord with the requirements of OMB Circular A-102 and are contained in the Agreement Articles of the CCA. We believe that the reports, when combined with a program of structured monitoring visits to states and local fund recipients does permit adequate monitoring to ensure compliance with fiscal and programmatic requirements.

Conclusion/Recommendation:

We believe that the draft finding is not accurate based on the compliance with the requirements of OMB Circular A-102, the established reporting requirements, and the site monitoring visits. We therefore recommend that the draft finding be revised to reflect this information or deleted.

Page 23 - Paragraph 2:

Draft Finding:

"Regional officials expressed concern that they are unable to adequately monitor actual state expenditures for these other activities...We believe that reports similar to those required for Emergency Management Assistance activities could help monitor expenditures for the other civil defense activities as well."

FEMA Response:

The referenced report of actual expenditures is FEMA Form 85-21. FEMA decided to discontinue the form when it came up for OMB information collection renewal because: (1) the States are required to report program expenditures on an existing form prescribed by OMB Circular A-102; (2) another existing FEMA form provides categorical information by jurisdiction in terms of a request for funds, which allows for analysis of where costs are incurred; and (3) cancellation of the form reduced the information collection burden hours for FEMA consistent with the President's concept of Federalism.

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Conclusion/Recommendation:

None.

Page 24 - Paragraph 1:

Draft Finding:

"OMB Circular A-102 states that title to nonexpendable personal property purchased with federal funds remains with the federal government. The circular requires the states to submit an annual inventory of such property in their custody and to report such property for disposition when it is no longer needed or after an agreement has been completed. However, two of the three regions we visited did not try to obtain such inventories because, according to region officials, their staff was insufficient. Although the third region did receive from its states an annual list of property purchased and disposed of, it did not require annual inventories of the federally-owned property on hand."

FEMA Response:

The legislative history of the Act reveals an intention on the part of Congress that, upon purchase of property by the grantee, with the assistance of a Federal grant under sections 201(i) and 205 of the Federal Civil Defense Act, legal ownership is considered to be vested in the grantee (i.e., the State or local government). It is also considered to be in the category of "other nonexpendable property" under section 6 of OMB Circular A-102. Paragraph 6.d.(3) prescribes that a physical inventory of property shall be taken and the results reconciled with the property records at least every two years, but does not require the submission of inventory records to the grantor agency.

Conclusion/Recommendation:

In view of the foregoing discussion, the draft report should note the ambiguities that exist between the Act and the Circular as to the exact requirements and appropriate levels of responsibility.

Page 26 - Paragraph 3:

Draft Finding:

"In Missouri, \$667,200 in fiscal year 1985 personnel costs claimed as civil defense were not supported by time and attendance records, as required by Office of Management and Budget Circular A-87. State officials told us that the lack of documentation had also been previously questioned by state auditors in 1982 and that the state agency began to maintain such records in fiscal year 1986."

FEMA Response:

The comment notes that the State took corrective action in fiscal year 1986. We would like to note that since the State's audit, Missouri has continued to assure the correctness of the procedures in this regard. FEMA Region VII has received State correspondence dated September 23, 1986, certifying to the adherence to proper monitoring practices.

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Conclusion/Recommendation:

We believe that this is a significant fact that should be incorporated into the draft finding.

Page 27 - Paragraph 3 (continued on Page 28):

Draft Report Statement:

"Two of the three FEMA regional offices we visited made several types of sole-source awards to the U.S. Department of Agriculture even though competition should have been obtained. An October 1984 advisory letter from the Graduate School and a November 1984 Comptroller General decision stated that the school was not eligible to enter into interagency agreements because it is a non-appropriated fund instrumentality, but could compete for contract awards. The decision stated that FEMA's use of noncompetitive interagency agreements should cease. Future contracts should have been obtained competitively unless a sole-source procurement could be justified. Subsequent to these determinations, FEMA Region III issued noncompetitive awards totaling about \$38,000 in fiscal year 1985, and Region VII entered into cooperative agreements for \$83,500. Also, two other regions reported noncompetitive awards to the school after FEMA was advised of possible problems with such awards."

FEMA Response:

FEMA contracting personnel were not aware of the Comptroller General's decision before July 18, 1985, near the end of Fiscal year 1985, when the FEMA Inspector General issued a notification. The FEMA Region VII award predated the notification date and, as a result, the regional contracting personnel could not have been aware of the fact that the notification had been issued since they had not received it. When the Region was informed of the ineligibility, no new award was issued.

Conclusion/Recommendation:

The allegation is based on the premise that FEMA contracting personnel were advised immediately following the October 1984 Department of Agriculture Graduate School notice and the November 1984 Comptroller General decision. However, as has been shown, FEMA contracting personnel were not advised until nearly the end of the fiscal year. In view of the fact that the contracting personnel were not aware of the regulation and ceased awards upon learning of it, we recommend that the allegation either be revised to reflect these facts or deleted.

Page 28 - Paragraph 1:

"We also found that Region IX did not obtain competitive pricing for 6 of 14 purchase orders over \$1,000, as required by regulations. Purchasing personnel said they did not realize that such competition was required.

FEMA Response:

Corrective actions have been taken in Region IX.

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Conclusion/Recommendation:

None.

Page 30 - Paragraph 3:

Draft Finding:

"The lack of travel funds did not appear to be a valid reason for poor monitoring. Although the regions were restricted from travel for the latter parts of fiscal years 1984 and 1985, travel was not restricted for the first two quarters of either year. Since comprehensive cooperative agreement closeout reviews are normally conducted during the first two quarters of a fiscal year for prior-year agreements (this is the time when program results are verified and expenditures are reconciled), the lack of travel funds in the last two quarters of a year would not necessarily have been the problem. In addition, state and local offices near the FEMA regional offices were not visited regularly. (Lack of travel funds could affect current monitoring, however, because fiscal year 1986 regional travel was also limited in the first quarter.)"

FEMA Response:

While it would be impossible to discuss the travel accomplishments of each of the FEMA regions covered in the audit, it is, nevertheless, instructive to note the facts as they relate in FEMA Region VII.

FEMA Region VII had a program monitoring system established in 1984 to visit local and state jurisdictions with teams composed of fiscal and program staff to evaluate compliance and performance. About a dozen such visits were conducted before all travel funds were canceled and recalled by the FEMA headquarters at the end of the second quarter of the fiscal year in order to alleviate funding difficulties. Region VII did carry out monitoring visits to four jurisdictions in the Kansas City metropolitan area during the third and fourth quarters without using travel funds that fiscal year. In fiscal year 1986, FEMA Region VII did not receive travel funds until late in the first quarter. At the time of the initial allocation, the region was informed that the Agency was once again critically short of salary and expense funds and that there was a serious possibility that a reduction-in-force would be required, that a furlough of employees was possible, and that travel should be limited to that which was absolutely essential. The fiscal year 1986 funds were withdrawn during the second quarter.

As a result, FEMA Region VII was unable to reimplement the Regional monitoring process during fiscal years 1985 or 1986. However, with the availability of travel funds during the current fiscal year, FEMA Region VII has conducted monitoring visits to over 80 jurisdictions through the end of May 1987, and plans for regional staff to visit each jurisdiction at least once during a three-year cycle. In addition, the Assistance Officer will have completed a State financial review in each State by the end of the current fiscal year.

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Conclusion/Recommendation:

We believe that the scope of the draft finding is too broad and does not take into account many of the realities that occurred during periods of severe financial difficulties in FEMA. As a result, we recommend that the draft finding be deleted.

Page 34 - Paragraph 2:

Draft Finding:

"FEMA headquarters awarded about \$300,000 from civil defense funds to the American Red Cross to provide advisors to each FEMA regional office, who assist in responding to and coordinating disaster-relief activities. An internal FEMA assessment questioned the use of civil defense funds, noting that using disaster-response funds could make the civil defense money available for more appropriate purposes. However, no action was taken to change the source of funding."

FEMA Response:

The Red Cross Advisors were a part of the civil defense program prior to 1970. The purpose during the early years of the contract was to support the volunteerism and family preparedness portion of the program.

Conclusion/Recommendation:

We understand the statement made in the draft GAO report, however, clarification should be inserted that shows that the expenditures were not a FEMA creation but stemmed from a long-standing practice that had been instituted by the former Office of Civil Defense.

Page 35 - Paragraph 3:

Draft Finding:

"Also, Region VII approved the use of over \$56,000 in civil defense funds to pay two state planners in Missouri for work devoted entirely to earthquake planning. FEMA headquarters later disapproved such use of funds, but believed that it could not recover money already spent."

FEMA Response:

We believe that the question of Missouri's use of civil defense-funded staff to work on earthquake activities should have noted that, following the disapproval by FEMA headquarters, the practice was discontinued. The State has been in compliance with CCA guidelines on proper use of staff from the time it was notified to discontinue the practice regarding earthquake activities.

Conclusion/Recommendation:

We believe that it is important to clarify the impression that is left that this issue is still unresolved and recommend that a clarification be inserted.

Now on p. 27-28.

Now on p. 28.

Appendix IV
Comments From the Federal Emergency
Management Agency

SUGGESTED EDITORIAL CHANGES ON THE
DRAFT CIVIL DEFENSE PROGRAM REPORT
BY THE GAO

We generally concur with the overall findings of the draft report regarding the insufficient level of emphasis that has been given to attack preparedness. Listed below are suggested changes in the language of the draft report that are intended to clarify or strengthen the statements included therein:

Now on p. 11.

Page 13 - Line 9: The term, "...at over \$450,000..." should be modified to read either "at least \$450,000" or "over \$450,000."

Now on p. 26.

Page 32 - Lines 9-10: The current language ("...may indicate an inappropriate degree of emphasis on attack...") is weak in light of the preceding sentence (that in 1985, FEMA's "primary" focus was on natural and technological disasters). Suggest that this sentence be changed to read, "This focus resulted in inadequate emphasis on attack preparedness, contrary to the provisions of the Civil Defense Act."

Now on p. 26.

Page 31 - Last two lines: Change to read, "...attack preparedness to be the predominant part of State civil..." The current wording ("significant part") is inordinately weak in characterizing Section 207 of the Act ("not detract from").

Now on p. 27.

Page 33, second full paragraph, lines 4-6: Change to read, "peacetime emergency preparedness efforts were emphasized over attack preparedness efforts in all levels, contrary to Section 207 of the Act, not only at the FEMA headquarters...." The sentence as it currently appears ("peacetime emergency preparedness efforts appeared to be emphasized") is inconsistent with page 32, paragraph one, which states that in 1985, the "primary" focus was on peacetime disasters.

Now on p. 27.

Page 33 - third line from the bottom: Delete the words "seem to have," so that the sentence will read that most contract awards in 1985 "had limited relevance to attack...."

Now on p. 30.

Page 37, last two lines: Revise to read, "...clearly showed that attack preparedness was not the primary focus..." The current language ("raises questions about whether attack-preparedness was the primary focus...") is completely inappropriate to characterize a list of local activities that had scarcely any relevance to attack preparedness.

The following are GAO's additional comments on FEMA's letter dated June 5, 1987.

GAO Comments

1. We did not include FEMA's instruction in this appendix.
2. On August 25, 1986, we provided FEMA with a letter listing 27 awards questioned, and the nature of questions for each. FEMA acknowledged receipt of the letter, and, although it stated that it did not plan to respond until it received our draft report, stated that the list would be provided to the appropriate contracting officers. Thus, we do not see a valid basis for the FEMA statement.
3. During our review of contract files we found that the center had allowed shorter response times than required in two of four new contracts that were competitively awarded. Subsequent review of the contract files and discussions with the current officials at the center confirmed that the initial time frames were insufficient (probably an effort to complete the contracts before the end of the fiscal year), but that the later extension of the closing dates resulted in sufficient time for bid submissions. We modified the example because of the later extension of closing dates and changes in procedures that should preclude recurrence of the problems.
4. Based on FEMA's comments regarding the use of task orders, we deleted the report's reference to the contract's modifications.
5. Through subsequent discussions with FEMA and examination of additional information, we believe that FEMA had a reasonable basis to conclude that the modifications to the Sperry contract were within the scope of the original contract. After review of the additional information FEMA provided to support its position on the Harris contract, we concluded that the fiscal year 1985 modifications were not within the scope of the original contract. Thus, we still believe the awards should have either been justified as a sole source award or competed. In the subsequent discussions, FEMA agreed that it erred in considering the Harris modifications to be within the scope of the contract, and stated that a planned 3-day workshop regarding this major contract will include discussions of how to avoid repetition of the error. In view of our agreement with FEMA on the Sperry case, and the corrective actions underway in the Harris case, we have deleted the report's discussion of contract modifications.

6. In subsequent discussions, FEMA agreed that the center had incorrectly reported 1985 extensions beyond the scope of original awards and options as competitive modifications and had not attempted to justify them as noncompetitive. However, the additional explanations by FEMA and our subsequent review of additional documentation indicated that the questionable extensions involved judgments by the contracting officers that may have seemed more reasonable at the time than they do in retrospect. A new umbrella contract which would combine the services of the contracts being extended was in process, and the prior contracts were extended several times as award of the new contract was repeatedly delayed. Although the improper reporting of the extensions as competitive awards and resulting lack of attempts to justify sole source awards are incorrect, they could have been justified. Therefore, this material has been deleted from the report.

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