



Homeland
Security

June 16, 2005

MEMORANDUM FOR: Gary Jones
Acting Regional Director, FEMA Region VI

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for *Hornick*

FROM: Tonda L. Hadley
Field Office Director

SUBJECT: *Management Issues Identified During the Audit of Texas' Compliance
With Disaster Assistance Program's Requirements*
Audit Report Number DD-07-05

On July 30, 2004, the Office of Inspector General (OIG) forwarded to you the final performance audit report on *Texas' Compliance with Disaster Assistance Program's Requirements* (Audit Report Number DD-11-04). The primary objective of that audit was to determine the effectiveness of Texas' Division of Emergency Management's (TDEM's) administration and management of disaster assistance programs authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act and applicable federal regulations.

The audit, accomplished by Foxx & Company, an independent accounting firm under contract with the OIG, was performed under the authority of the Inspector General Act of 1978, as amended, according to generally accepted government auditing standards. The audit included review of Federal Emergency Management Agency (FEMA) files and TDEM project files, accounting records, and correspondence. The auditors also interviewed appropriate FEMA and TDEM personnel and assessed problems that Region VI encountered in administering grant oversight. The audit report identified certain noncompliance situations and weaknesses in internal controls, but concluded that the State of Texas, for the most part, had effectively managed FEMA disaster assistance program funds in accordance with federal requirements.

RESULTS OF AUDIT

During the audit, we identified four additional conditions that require your attention. However, because those conditions did not relate to TDEM's performance, we did not include them in the audit report.

Specifically, FEMA Region VI:

- (1) Did not properly prepare, review, and approve Requests for Assistance (RFAs) for one disaster,
- (2) Improperly waived the requirement for Public Assistance (PA) Quarterly Progress Reports,
- (3) Gave improper guidance on reporting the non-federal shares of PA project costs, and
- (4) Did not aggressively pursue recovery of duplicate benefits awarded to Individual and Family Grant (IFG) recipients.

Finding A: Preparation, Review, and Approval of RFAs

Region VI prepared and approved 19 RFAs for Disaster No. 1425. The audit showed that the RFAs did not always include the following:

- Detailed descriptions of the requested assistance, the reason the assistance was needed, or whether the assistance had been requested by the State.
- The basis for the estimated costs of the assistance requested. In addition, subsequent deobligations and decreases in the originally estimated costs of the assistance provided were not explained or supported.
- A justification for increasing the cost of the assistance provided without changing the date the work was to be completed (one RFA).

FEMA Region VI officials said (without identifying specific RFAs) that they had concerns about the classification of a number of the RFAs. However, the officials said they were "over ruled" by FEMA Headquarters. All of the RFAs were classified as Federal Operations Support assignments and were 100 percent federally funded. We requested, but were not provided, documentation to support the concerns expressed by the Regional Office officials.

We requested from FEMA officials at the Disaster Finance Center and the Regional Office information on the criteria used to classify the RFAs as Federal Operation Support versus Direct Federal Assistance (DFA) or Technical Assistance. These officials said that FEMA did not have criteria for classifying RFAs as Federal Operation Support.

Because of the lack of established criteria, we could not evaluate the basis for classifying RFAs as Federal Operations Support without cost sharing. If criteria had existed, and the assistance requested had been appropriately described, some of the RFAs might have been more appropriately classified

as Direct Federal Assistance assignments, in which case the State would have shared the cost (25 percent) of federal assistance.

Recommendation:

We recommended that the FEMA Regional Director, Region VI, establish criteria to govern mission assignment activities to help ensure that Requests for Assistance are properly prepared, classified, supported, reviewed, approved, and closed in a timely manner.

FEMA Region VI Management's Response

Management is aware that the lack of criteria for RFAs, now referred to as mission assignments (MAs), might be confusing to those unfamiliar with MAs in the disaster arena. For that reason, FEMA has undertaken a "massive makeover" of the MA process in recent years to improve the delivery of MAs. These efforts include developing guidelines, standard operating procedures, checklists, and a standardized training program. Management also provided information on each of the 19 RFAs, stating that all of the requests "were made by FEMA to provide a service to FEMA and were not requested by the State of Texas."

OIG's Additional Comment

The actions taken by management appear adequate to resolve and close the recommendation. We also accept management's statements that FEMA, rather than the State, requested the mission assignments and therefore properly classified them as Federal Operations Support assignments funded with 100 percent federal funds.

Finding B: Waivers of the Requirement for PA Quarterly Progress Reports

Region VI approved requests from the State to waive the PA quarterly reporting requirement for 7 of the 20 quarters for Fiscal Years 1998 through 2002. The State's justifications for the waivers were that TDEM staff could not prepare the required reports because of the workloads caused by newly declared disasters.

According to 44 CFR 206.204 (f), quarterly progress reports will be submitted by the grantee to the Regional Director. The FEMA regulations did not provide for Regional Directors to waive this requirement.

Although FEMA Region VI waived the reporting requirements, we do not believe Region VI was authorized to approve TDEM's waiver requests. In addition, Region VI officials expressed concern that they did not know the status of approved PA projects. Adequately prepared quarterly progress reports would have provided Region officials with the status of PA projects.

Recommendation:

We recommended that the FEMA Regional Director, Region VI, establish a policy that future requests from states to waive reporting requirements will not be approved.

FEMA Region VI Management's Response

Management concurred with this recommendation, stating that its current practice is to follow federal regulations and guidelines. Management conceded that, while the Region may grant a justified request to extend a due date, it does not have the right to waive reporting requirements.

OIG's Additional Comment

The actions taken by management appear adequate to resolve and close the recommendation.

Finding C: Guidance on Reporting the Non-Federal Shares of PA Project Costs

TDEM was not reporting the correct non-federal share for large PA projects on its Financial Status Reports (FSRs) submitted to FEMA Region VI. This condition existed because Region VI provided inappropriate guidance to TDEM on reporting the non-federal cost share for PA large projects. In July 1999, FEMA Headquarters and Regional Office officials visited Texas to assist the State in improving TDEM's reporting of the non-federal share. According to FEMA Regional Office officials, they wanted TDEM to track the non-federal expenditures and to report the correct amounts on the FSRs.

However, because the State did not want to track the non-federal share, FEMA and State officials reached a compromise that was documented in an August 1999 memorandum to TDEM. The compromise was that the State would report the non-federal share when the subgrantee submitted a P.4 Certification and actual reviewed expenditures could be reported. According to Regional Office officials, they were not aware that more than one project is usually included on a P.4 Certification. As a result, the completion date for the last project listed on a P.4 might be a much later date than other projects on the P.4. We noted that some P.4s included projects completed nearly 4 years before the last project listed on the P.4 was completed. FEMA Regional Office officials said that they did not intend to delay the State's reporting of the non-federal share.

We believe that the guidance provided should be reviewed by the Regional Office and modified, as appropriate, to ensure that FEMA's intentions concerning non-federal share reporting is clearly conveyed to TDEM. We also believe that the Regional Office should not allow projects to be completed before the non-federal share is reported. FEMA's *Guide to Managing Disaster Grants* states that FSRs are the official source for cost-sharing information. In addition, FEMA's *Standard Operating Procedures for Reconciling Financial Status Reports* states that a review of the FSR gives FEMA up-to-date information on the grantee's expenditures and on whether they are meeting their cost-share requirements.

Recommendation:

We recommended that the FEMA Regional Director, Region VI, review the August 1999 guidance provided to TDEM and modify it, as necessary, to reflect FEMA's financial reporting objectives.

FEMA Region VI Management's Response

Management concurred with this recommendation, stating that the Region has corrected the procedure and is “now requiring the State to report the non-federal share of Public Assistance grants.”

OIG's Additional Comment

The actions taken by management appear adequate to resolve and close the recommendation.

Finding D: Recovery of Duplicate Benefits Awarded to IFG Recipients

FEMA needs to recover \$1,835,207 of overpayments resulting from its “auto-determination” process and FEMA’s National Processing Service Center’s failure to notify the State that a number of Disaster 1379¹ IFG applications were duplicate applications. The State’s share of the overpayment was \$458,802. As of May 2003, FEMA had recovered only about \$42,000 of the \$1,835,207 overpayment. FEMA did not have procedures for returning the State’s share of overpayments. In addition, FEMA had not determined whether the agency’s policy of assuming full responsibility for these types of errors would apply in this situation. As of the completion of the audit, FEMA had not refunded the State’s share of the overpayments or the State’s share of the amount recovered by FEMA.

Although FEMA initiated procedures to recover the duplicate payments, it had recovered only about \$42,000 as of May 2003. FEMA’s correspondence to IFG recipients stated that the payment was made in error through no fault of the recipient. The correspondence also stated that the recipient should inform FEMA if the funds could not be returned or if they did not believe the funds should be returned.

FEMA’s failure to notify the State of essential applicant information was the underlying cause of the duplicate payments. Therefore, we believe that FEMA and the State should reach agreement on the ultimate financial implications of \$458,802 paid by the State for the duplicate payments.

Recommendation:

We recommended that the FEMA Regional Director, Region VI, consult with FEMA Headquarters and the State Coordinator for Texas to:

- Review the process currently underway to recover the \$1,835,207 in duplicate payments made to IFG recipients and
- Reach agreement with the State on the amount of the overpayment that will be refunded to the State.

¹ Disaster No. 1379 was declared on June 9, 2001.

FEMA Region VI Management's Response

Management concurred with the finding and, in its initial response, stated that the initial problem and the subsequent recovery of duplicate benefits were the jurisdiction of FEMA Headquarters, the National Processing Service Center, and the Disaster Finance Center. In a supplemental response to this finding, dated March 21, 2005, FEMA Region VI stated, "we have consulted with FEMA Headquarters and they are recovering the overpayments." The supplemental response included two memorandums evidencing the fact that FEMA had completed both of the recommendations related to this finding.

OIG's Additional Comment

The actions taken by management appear adequate to resolve and close the recommendation.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the four management issues with FEMA Region VI officials on September 22, 2004. In general, these officials agreed with our findings and recommendations. We have summarized their comments in the body of the report and have included the Region's two written responses to the draft report in their entirety as Attachments 1 and 2. We consider all of the recommendations to be resolved and closed; therefore, no additional response is required.

We appreciate the time and effort the Region took to respond to and resolve our recommendations. Should you have any questions concerning this report, please contact Stuart Weibel or me at (940) 891-8900.

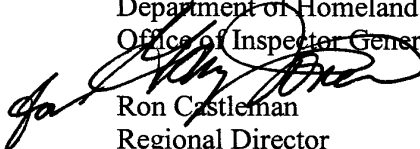
U.S. Department of Homeland Security
FEMA Region 6
800 North Loop 288
Denton, TX 76209-3698



FEMA

October 26, 2004

MEMORANDUM FOR: Tonda L. Hadley, Field Office Director
Department of Homeland Security
Office of Inspector General

FROM:  Ron Castleman
Regional Director

SUBJECT: Response to Draft Management Report—Texas Audit
Management Issues Identified During the Audit of Texas'
Compliance With Disaster Assistance Program's
Requirements
Audit Report Number DD-XX-04

Thank you for the opportunity to review and comment on the draft management memorandum referenced above. Our response to each of your recommendations to the Regional Director is listed below.

Recommendation 1

Establish criteria to govern mission assignment activities to help ensure that Requests for Assistance are properly prepared, classified, supported, reviewed, approved, and closed in a timely manner.

Response

This recommendation appears to be based partly on a defective finding. Our staff reviewed each Request for Assistance (RFA), now called Mission Assignment (MA), with the auditor. His reluctance to accept the explanations and his failure to seek additional sources of verification seem to predicate the recommendation without basis. The enclosed attachment contains information that was explained to the auditor to clarify the use of the MAs in this disaster.

MAs used in support of FEMA staff and FEMA responsibilities are paid with 100 percent federal funds under Federal Operations Support (FOS) or Technical Assistance (TA). Direct Federal Assistance (DFA) requested by the State is cost-shared. The auditor contended that the State should share the costs for internal requests (FOS and TA).

During the initial stages of a major disaster or emergency, our staff uses descriptions and instructions for mission assignments that are commonly understood by those who work with mission assignments in the disaster arena. Often, people who are less

Tonda L. Hadley
October 26, 2004
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knowledgeable about the commonly known terms and procedures may be confused. We are aware of this problem and we are attempting to expand the descriptions without sacrificing the needs of those who are affected by the disaster or emergency.

The mission assignment process has undergone a massive makeover in recent years. We worked with Headquarters to develop guidelines, standard operating procedures, and checklists. We also helped design and deliver a standardized training program. This effort should improve the delivery of MAs.

Recommendation 2

Establish a policy that future requests from States to waive reporting requirements will not be approved without specific authority from FEMA Headquarters.

Response

We concur that the Region does not have the right to waive reporting requirements. Justified requests to extend the due date for a performance grant may be granted, according to 44 CFR 13.40(1). Our practice is to follow federal regulations and guidelines.

Recommendation 3

Review the August 1999 guidance provided to TDEM and modify it, as necessary, to reflect FEMA's financial reporting objectives.

Response

We have corrected the procedure and are now requiring the State to report the non-federal share of Public Assistance grants.

Recommendation 4

Consult with FEMA Headquarters and the State Coordinator for Texas and:

- Review the process currently underway to recover the \$1,835,207 in duplicate payments made to IFG recipients, and
- Reach agreement with the State on the amount of the overpayment that will be refunded to the State.

Response

We are aware of the problem of overpayments caused by the auto-determination feature of the Individual and Family Grant program. The initial problem and the subsequent recovery of duplicate benefits were the jurisdiction of FEMA Headquarters, the National Processing Service Center, and the Disaster Finance Center. The Region has notified your office and the Department of Homeland Security Office of Inspector General headquarters office (National Single Audit Coordinator). We are supporting FEMA Headquarters in the resolution of this matter; however, the resolution has to come from FEMA Headquarters.

Attachment

Mission Assignments:

ARC-01 is the activation mission to ESF-6 to deploy to the Region VI ROC and to the DFO. This was done at the request of FEMA. This is standard procedure through the Federal Response Plan.

ARC-02 is the activation mission to ESF-6 to deploy to the HQ EST.
COE-01 is the activation mission to ESF-3 to deploy to the Region VI ROC and to the DFO. This was done at the request of FEMA. This is standard procedure through the Federal Response Plan.

COE-02 was a request by the FEMA Public Assistance Program to have the COE provide a dam specialist and a hydrologist to inspect the Medina Dam. The Region VI PA program did not possess this skill on its staff. This request did not originate with the State of Texas. The local dam control board had reported that the dam was in jeopardy of failure. A decision had to be made regarding the down-stream safety of local citizens. Before evacuations were ordered, which could be traumatic and expensive, FEMA needed to thoroughly evaluate the condition of the dam.

COE-03 the COE Housing Planning Response Team is a small group of people who specialize in housing needs. Primarily they provide oversight management. Their services were requested by the FEMA Individual Program to assist them in the implementation of their housing program. This request did not originate with the State of Texas.

COE-04 the COE Debris Planning Response Team is a small group of people who specialize in debris removal needs. Primarily they provide oversight management. Their services were requested by the FEMA PA Program to assist them in the implementation of their debris program. This request did not originate with the State of Texas.

COE-05 is the activation mission to ESF-3 to deploy to the HQ EST.

DOD-01 is the activation mission to DOD to deploy to the Region VI ROC and to the DFO. This was done at the request of FEMA. This is standard procedure through the Federal Response Plan.

DOT-01 is the activation mission to ESF-1 to deploy to the HQ EST.

EPA-01 is the activation mission to EPA to deploy to the Region VI ROC and to the DFO. This was done at the request of FEMA. This is standard procedure through the Federal Response Plan.

GSA-01 is the activation mission to GSA to deploy to the Region VI ROC and to the DFO. This was done at the request of FEMA. This is standard procedure through the Federal Response Plan.

GSA-02 is a request through GSA by FEMA (the FCO via FEMA DFO requirements) to provide security services at the DFO and the Disaster Recovery Centers. This request was not made by the State of Texas.

GSA-03 is a request by FEMA (FCO) to GSA to provide office supplies and related services to the DFO. This was not requested by the State of Texas.

GSA-04 is the activation mission to GSA to deploy to the HQ EST.

There is no HHS-01 mission assignment issued under 1425-TX. However, USPHS-01 is the activation mission to the Public Health Service to deploy to the REGION VI ROC and to the DFO. This was done at the request of FEMA. This is standard procedure through the Federal Response Plan.

Treas-01 is the standard mission assignment provided to the Department of the Treasury to pay for any overtime associated with the extra workload of issuing disaster relief checks. This is requested by FEMA, generally through the IA program and not by the State of Texas.

Treas-02 is not a request for the IRS to provide tax information to the disaster victims but rather a request through the Department of the Treasury, Internal Revenue Service to provide 125 employees to assist the FEMA National Teleregistration Center in taking the initial surge of victim registration calls. The registration system is the proscribed method implemented by FEMA to assist the victims in obtaining qualified assistance. This was not requested by the State of Texas.

TVA-01 this request to TVA was for their activation and the deployment of 2 electrical inspectors to augment the FEMA PA staff in meeting the demand of electrical power distribution damages.

TVA-02 this request to TVA was the deployment of 4 road and bridge inspectors to augment the FEMA PA staff in meeting the demand of road and bridge damages. This request was not made by the State of Texas.

Based on the current criteria of the mission assignment procedures, all of the above were made by FEMA to provide a service to FEMA and were not requested by the State of Texas.

U.S. Department of Homeland Security
FEMA Region 6
800 North loop 288
Denton, TX 76209-3698



FEMA

March 21, 2005

MEMORANDUM FOR: Tonda L. Hadley, Field Office Director
Department of Homeland Security Office of Inspector General

FROM: Gary Jones *Frank Pagan for G.I.*
Acting Regional Director

SUBJECT: Supplemental Response to Draft Management Report—Texas Audit
*Management Issues Identified During the Audit of Texas' Compliance
With Disaster Assistance Program's Requirements*
Audit Report Number DD-XX-04

In regard to Recommendation 4 in the above referenced draft audit report, we have consulted with FEMA Headquarters and they are recovering the overpayments. The two enclosed documents address FEMA's action and should, we believe, be sufficient to close this recommendation. Please advise us of your decision by May 1, 2005.

If you have any questions, please contact Billy Penn at 940-898-5297.

Enclosures



FEMA

JAN 28 2005

Mr. Gary Jones, Acting Regional Director
FEMA Region VI
800 N. Loop 288
Denton, TX 76209

Dear Mr. Jones:

We understand that as a result of FEMA inspections process errors associated with a newly implemented automatic determination feature in NEMIS, the State of Texas made duplicate Individual and Family Grant (IFG) Program personal property payments to at least 706 applicants in DR-1379-TX. The State would ordinarily be responsible for recovering its share of duplicate payments. However, because the duplicate payments for DR-1379-TX were the result of a significant FEMA systems error, FEMA has agreed that it will attempt to recover both the FEMA and State shares of these payments.

We also understand that the State is requesting FEMA provide a credit to the State for its cost share in advance of, or in lieu of, actual collection. To credit the state for its cost share without first collecting the funds from the debtor would result in FEMA expending new funds from the Disaster Relief Fund. FEMA cannot lawfully expend disaster funds without authorization from the Stafford Act. While the version of the Stafford Act applicable to DR-1379-TX authorized the IFG program, it contained no provision that would authorize FEMA to use appropriated funds for the purpose of assuming a debt owed the State by the recipient of an IFG award.

If you have any questions regarding this matter, please contact me via email or by phone at 202-646-3642.

Sincerely,

A handwritten signature in black ink that reads "Daniel A. Craig".

Daniel A. Craig
Director
Recovery Division
Emergency Preparedness and Response

U.S. Department of Homeland Security
FEMA Region 6
800 North loop 288
Denton, TX 76209-3698



FEMA

February 2, 2005

Mr. Jack Colley, State Coordinator
State of Texas
Governor's Division of Emergency Management
P.O. Box 4087
Austin, TX 78773-0220

Dear Mr. Colley:

First, I would like to thank you for your patience as we have worked to clarify the process for recovering funds paid in error during the FEMA-1379-DR Individual and Family Grant Program (IFG). We received clarification from FEMA Headquarters this week.

The State would ordinarily be responsible for recovering its share of duplicate payments. However, because the duplicate payments for DR-1379-TX were the result of a significant FEMA systems error, FEMA has agreed that it will attempt to recover both the FEMA and State share of these payments. But, we cannot credit the State for its cost share without first collecting the funds from the debtor. To do so would result in FEMA expending new funds from the Disaster Relief Fund. FEMA cannot lawfully expend disaster funds without authorization from the Stafford Act. While the version of the Stafford Act applicable to DR-1379-TX authorized the Individual and Family Grant Program, it contained no provision that would authorize FEMA to use appropriated funds for the purpose of assuming a debt owed the State by the recipient of an IFG award.

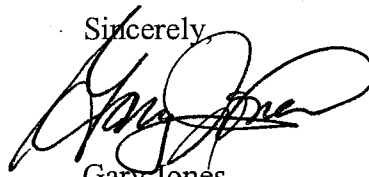
There are actually 706 cases with overpayments of \$1,616,830.35 being pursued by FEMA and the U. S. Treasury. So that the State can proceed with close-out activities, we will provide you with a list of these cases to become a part of the permanent record. FEMA will return funds to the State on a to-be-determined basis (i.e., quarterly) after the program closes. (By waiting until the program closes, these cases can be considered as any other dispersed case in the close out.) Though to date only about \$78,000 total has been returned, activity may soon pick up as Treasury has begun turning cases over to private collection agencies.

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Mr. Jack Colley
February 2, 2005
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Please accept my apologies for the delay in answering your letter of May 25, 2004. Progress we had made earlier was halted with the onset of the hurricane activity beginning in August. Attention and resources were focused on hurricane recovery. If you have any questions, please contact Pam Wade (940 898-5296) or Sheila Morgan (940 898-5112).

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Jones", written in a cursive style.

Gary Jones
Acting Regional Director