DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General

State of Montana's Administration of the Fire Management Assistance Grant Program for the Missoula/Mineral Fire Zone

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Office of Inspector General
Office of Emergency Management Oversight

U.S. Department of Homeland Security
300 Frank H. Ogawa Plaza, Ste. 275
Oakland, California 94612

Homeland Security

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Preface

The U.S. Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the Homeland Security Act of 2002 (*Public Law 107-296*) by amendment to the Inspector General Act of 1978. This is one of a series of audits, inspections, and special reports published as part of our oversight responsibilities to promote economy, effectiveness, and efficiency within the department.

The attached report presents the results of the audit of the State of Montana's Administration of the Fire Management Assistance Grant Program for the Missoula/Mineral Fire Zone. We contracted with the independent public accounting firm of Williams, Adley & Company, LLP to perform the audit. The contract required that Williams, Adley & Company, LLP perform its audit according to generally accepted government auditing standards and guidance from the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Title 44 of the Code of Federal Regulations, and the Office of Management and Budget. Williams, Adley & Company, LLP reported two areas in which the State of Montana's administration of the Fire Management Assistance Grant Program could be improved. The report contains five recommendations addressed to the Regional Administrator, Federal Emergency Management Agency, Region VIII.

Williams, Adley & Company, LLP is responsible for the attached auditor's report dated August 29, 2008, and the conclusions expressed in the report. The recommendations herein have been discussed in draft with those responsible for implementation. It is our hope that this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

Robert J. Lastrico

Robert J. Lastrico
Western Regional Director

Williams, Adley & Company, LLP

August 29, 2008

Western Regional Director
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Williams, Adley & Company, LLP performed an audit of the State of Montana's management of the Federal Emergency Management Agency's funds awarded under the Fire Management Assistance Grant Program. The audit was performed in accordance with our Task Order TPD-ARC-BPA-07-0014 dated September 27, 2007.

This report presents the results of the audit and includes recommendations to help improve management of the audited Fire Management Assistance Grant Program.

Our audit was conducted in accordance with applicable *Government Auditing Standards*, July 2007 revision. Although the audit report comments on costs claimed by the State of Montana, we **did not perform** a financial audit, the purpose of which would be to render an opinion on the State of Montana's financial statements or the funds claimed in the Financial Status Reports submitted to the Federal Emergency Management Agency.

We appreciate the opportunity to have conducted this audit. Should you have any questions, or if we can be of further assistance, please call me on (202) 371-1397.

Sincerely,

Williams, Adley & Company, LLP

Charbet M Duckett

Charbet Duckett
Partner

Table of Contents/Abbreviations

Abbreviations

CFR	Code of Federal Regulations
DHS	U.S. Department of Homeland Security
DNRC	Department of Natural Resources and Conservation
FEMA	Federal Emergency Management Agency
FMAG	Fire Management Assistance Grant
GAR	Governor's Authorized Representative
OIG	Office of Inspector General
PW	Project Worksheet

Executive Summary

Williams, Adley & Company, LLP audited the State of Montana's (the state's) administration of the Fire Management Assistance Grant (FMAG) Program for the Missoula/Mineral Fire Zone (FMAG Declaration 2490). The objective of the audit was to determine whether the state administered the FMAG Program in an efficient and effective manner. To accomplish the objective, we considered the overall impact of material deficiencies on grant program administration. Specifically, we determined how well the state (1) coordinated and communicated with the Federal Emergency Management Agency (FEMA) and subgrant applicants, (2) ensured compliance with federal laws and FEMA guidelines, and (3) accounted for and expended FMAG Program funds. See Appendix A for additional details on the objectives, scope and scope limitations, and methodology of this audit.

On November 7, 2003, FEMA Region VIII awarded $30,550,994 under FMAG Declaration 2490 to the State of Montana Department of Natural Resources and Conservation (DNRC), Forestry Division. FEMA programmatically closed this declaration on September 26, 2006. The scope of this engagement was limited to an audit of $3.5 million in reimbursement costs and a financial audit of those costs was not performed. As such, we do not express an opinion on the state's financial statements or the funds claimed in the financial status reports submitted to FEMA.

The limited audit scope prevented us from determining if DNRC administered the program effectively and efficiently. However, DNRC did not always comply with federal laws and FEMA guidelines. Specifically, the state did not support $1,299,573 in costs claimed and did not complete the grant application correctly. Also, the state's grant application was incomplete, time extension requests and administrative and other costs were submitted beyond allowable timeframes, and federal cash transactions reports were late.

We recommend that the Regional Administrator, FEMA Region VIII: (1) review the alternative procedures used to support costs claimed, (2) disallow unsupported costs of $1,299,573 if not determined to be reasonable, allowable or allocable, (3) require the grantee to comply with record retention regulations, (4) provide additional training to the state on the proper completion of the FMAG application, FMAG grant submission, and cash transaction reporting requirements, and (5) work with the state to update and revise FMAG related procedures.

We held an exit conference with FEMA Region VIII and the State of Montana DNRC on August 13, 2008. FEMA and the state concurred with our findings but did not concur with the recommendations. A synopsis of the verbal comments we received is included in the Results of Audit section of this report.

Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, (Stafford Act), signed into law November 23, 1988, authorizes the President to provide federal funds to state and local governments under the FMAG Program for mitigation, management, and control of any fire burning on public or private forestland or grassland. The FMAG Program replaced the Fire Suppression Assistance Program on October 30, 2001. Title 44, Code of Federal Regulations (44 CFR), Part 204 provides procedures for the declaration and grants management processes for the FMAG Program and details applicant eligibility and the eligibility of costs to be considered under the program.

Declaration Process

A declaration request must be submitted while a fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The Governor or the Governor's Authorized Representative (GAR) is authorized to submit requests to the FEMA Regional Administrator or Regional Fire Duty Liaison for fire management declarations. Due to the magnitude and impact of a fire, the Governor or GAR can expedite the process by verbally requesting the declaration but must follow-up promptly after the date of an initial telephone request with all official forms and written information.

Upon declaration approval by FEMA, the Governor or GAR will enter into a standing FEMA/State Agreement (the Agreement) for the declared fire and for future declared fires in that calendar year.[1] The state must have a current and signed Agreement before receiving federal funding under the FMAG Program. The Agreement states the understandings, commitments, and conditions under which FEMA will provide federal assistance, including the 75% federal and 25% non-federal cost share provision and articles of agreement necessary for the administration of the grants. The Agreement must identify the state legislative authority for firefighting, as well as the state's compliance with the laws, regulations, and other provisions applicable to the FMAG Program.

Grant Application and Reimbursement Process

Following a declaration, the state is required to submit a grant application package to the FEMA Regional Administrator within 9 months of the declaration. The Regional Administrator may grant an extension of up to 3 months, upon receipt of a written request from the state that includes the

[1] The State of Montana executes the Agreement with FEMA at the beginning of each calendar year so that the Agreement is in place before the start of the fire season. An amendment to the Agreement (Exhibit E) is executed for each FMAG declaration occurring during the year.

justification for an extension. The grantee must document the total eligible costs for a declared fire on project worksheets (PWs), which are submitted with the grant application. The Regional Administrator has 45 days from the receipt of the state's initial grant application, or an amendment to the state's grant application, to approve or deny the application package or amendment or to notify the state of a delay.

By submitting PWs, the grantee certifies that all reported costs were incurred for work that was performed in compliance with laws, federal regulations, and FMAG Program policy and guidance, as well as the terms and conditions outlined in the FMAG Program FEMA/State Agreement. Upon approval of the grant application, FEMA obligates funds after determining that: (1) the state's eligible costs meet or exceed the individual or cumulative fire cost thresholds, and (2) the state has up-to-date State Administrative and Hazard Mitigation Plans approved by the Regional Administrator.

Subgrantee requests for FMAG Program funding are submitted on a Request for Fire Management Assistance Subgrant (FEMA Form 90-133) to the grantee according to state procedures and within timelines set by the grantee, but no later than 30 days after the close of the incident period. The grantee will review and forward the request to the Regional Administrator for final review and determination.

Results of Audit

We could not determine if DNRC administered the FMAG Program in an efficient and effective manner because of the limited scope.[2] Specifically, our task order required us to review PWs valued at no more than $3.5 million whereas the total grant award was $30.5 million. Although DNRC properly coordinated fire management activities and communicated with FEMA, we concluded that DNRC did not account for and maintain adequate documentation to support $1,299,573 of the $3.5 million in FMAG program expenditures. DNRC also did not always comply with federal laws and FEMA guidelines as reported in the following exceptions.

Project Worksheets Supporting Documentation

DNRC did not maintain supporting documentation for $1,299,573 in costs claimed. Specifically, DNRC could not produce documentation to:

- Verify contract costs, equipment costs, and materials costs,

[2] See Appendix A for details regarding the limited scope of this audit.

- Support United States Forest Service and Bureau of Land Management costs,

- Match job positions/position descriptions on timesheets with hourly pay rates, and in some instances, timesheets were missing, and

- Determine the eligibility of $647 in repair costs that were incurred prior to the incident period.

Title 44, Code of Federal Regulations, Section 13.42(a) [44 CFR 13.42(a)], *Retention and Access Requirements for Records*, provides guidance on records retention of grant documentation applicable to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees, which are: (i) required to be maintained by the terms of this part, program regulations or the grant agreement, or (ii) otherwise reasonably considered as pertinent to program regulations or the grant agreement. According to 44 CFR 13.42(b) and (c), *Length of retention period* and *Starting date of retention period*, except as otherwise provided, records must be retained for 3 years from the date the grantee submits its final expenditure report; or if any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3 year period, the records must be retained until completion of the action.

According to 44 CFR 13.20(b)(6), grantees and subgrantees are required to support accounting records with source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

The cooperative fire management agreement between the DNRC and the Bureau of Land Management, National Park Service, Bureau of Indian Affairs, United States Fish and Wildlife Service, and the United States Forest Service that was in effect during the incident period included provisions for support documentation requirements. Paragraph 60 of the agreement states, "In accordance with applicable State and Federal rules and regulations, agencies will furnish to each other, or otherwise make available upon request, such maps, documents, GIS data, instructions, records, and reports including, but not limited to, fire reports, time reports, and investigation and law enforcement reports as either party considers necessary in connection with the Agreement."

Due to the complexity and size of the Missoula/Mineral Fire Zone, DNRC relied heavily upon the United States Forest Service, Bureau of Land Management, and Bureau of Indian Affairs for fire fighting personnel, equipment, and materials. The state experienced extreme difficulty in obtaining proper supporting documentation from these entities and had to file a Freedom of Information Act request to obtain documentation from the

United States Forest Service. Nonetheless, the documentation that DNRC received was insufficient. DNRC was unable to provide documentation to support that they had received approval from FEMA Region VIII for these expenditures despite this deficiency. FEMA Region VIII grant files included a request from DNRC and approval of alternative procedures related to the support documentation review requirements. However, no evidence was presented that the approved alternative procedures were audited or reviewed to determine the reliability or accuracy of the alternative procedures or whether the alternative procedures set aside the terms and conditions of the cooperative fire management agreement between the DNRC and the federal agencies providing fire management assistance.

Recommendations

We recommend that the Regional Administrator, FEMA Region VIII:

Recommendation #1. Review the alternative procedures related to support documentation requirements to determine if the procedures reasonably ensured that costs claimed were reasonable, allowable, and allocable.

Recommendation #2. Disallow unsupported costs totaling $1,299,573, if not determined to be reasonable, allowable, and allocable.

Recommendation #3. Require the grantee to comply with FMAG regulations that pertain to records retention of supporting documentation.

Management Comments and Auditor's Analysis

FEMA and DNRC verbally concurred that some cost components may not have detailed supporting documentation such as payroll timesheets. However, extenuating circumstances beyond the DNRC's control impacted its ability to fully comply with the requirements. For example, DNRC has limited enforcement tools to require federal agencies such as the United States Forest Service, Bureau of Land Management, or Bureau of Indian Affairs to provide detailed cost information. Furthermore, FEMA has determined that federal entities, such as United States Forest Service, should be considered contractors to the grantee, and therefore, supporting documentation requirements should be limited to the invoices submitted by the contractor.

The auditors agree that the DNRC attempted to obtain supporting documentation from its federal partners to comply with the FMAG documentation requirements and that DNRC requested assistance from FEMA in its attempts to comply with the documentation requirements. Although FEMA may have determined that the federal entities in question were contractors, and therefore, not bound by the documentation requirements imposed upon grantees and sub-grantees, an existing agreement between

DNRC and its federal partners stipulated compliance with the grant documentation requirements. As such, DNRC should have enforced compliance with the agreement that it had in effect when the fire related services were provided. The FEMA determination that the federal entities were contractors does not supersede the contractual arrangement between DNRC and the federal entities or with FMAG guidance that requires supporting documentation. Neither FEMA nor state officials commented at this time in regards to conducting an independent audit or review.

Compliance with FMAG Program Requirements

DNRC needs to fully comply with grant application, financial reporting, and accounting policies and procedures requirements. Specifically:

- The performance ending date on the grant application was blank;
- PWs were not submitted with the grant application;
- Multiple written time extension requests for submission of PWs were submitted for approval although only one time extension request is permitted under the applicable regulations;
- Eight of 11 federal cash transaction reports (SF-272s) were not submitted in the timeframes required by grant regulations; and
- PWs were submitted for reimbursement after the allowable and approved deadlines.

The regulatory requirements regarding grant application, financial reporting, and accounting policies and procedures are referenced in the agreement between FEMA and the state and are detailed below:

The performance period is defined in 44 CFR 204.3 as, "The time interval designated in block 13 on the Application for Federal Assistance (Standard Form 424) for the Grantee and all subgrantees to submit eligible costs and have those costs processed, obligated, and closed out by FEMA." According to 44 CFR 204.64, "Within 90-days of the Performance Period expiration date, the State will submit a final Financial Status Report (FEMA Form 20-10), which reports all costs incurred within the incident period and all administrative costs incurred within the performance period."

According to 44 CFR 204.51(a)(2), "The State should submit its grant application within 9 months of the declaration. Upon receipt of the written request from the State, the Regional Director [currently, the Regional Administrator] may grant an extension for up to 3 months. The State's request must include a justification for the extension." In addition, according to

44 CFR 204.51(b)(4), "States must document the total eligible costs for a declared fire on PWs, which they must submit with the grant application."

Under 44 CFR 13.20(a), the state must expend and account for grant funds according to state laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the state, as well as its subgrantees and cost-type contractors, must be sufficient to: (1) permit preparation of reports required by this part and the statutes authorizing the grant, and (2) permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. In addition, 44 CFR 13.20(b)(3) indicates that effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets.

The federal cash transaction reporting requirements specified in 44 CFR 13.41(c)(1) require the grantee to submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement. Also, 44 CFR 13.41(c)(4) requires grantees to submit the report no later than 15 working days following the end of each quarter.

DNRC was generally not aware of how to complete the grant application form. Furthermore, according to FEMA, the program was new and the state was not fully aware of the submission requirements. According to the DNRC, the state experienced an exceptionally active fire season in 2003 that depleted its resources and the Missoula/Mineral Fire Zone was a very large and complex fire. As such, DNRC experienced an extraordinary administrative burden to compile, calculate, and determine fire management costs within the time limits imposed by the FMAG program. Also, because the DNRC was having difficulty obtaining supporting documentation from other entities, including the United States Forest Service and Bureau of Land Management, additional extensions were requested and granted for reasonable cause based on guidance provided by the FEMA Recovery Division.

Because FEMA Region VIII accepted the incomplete application, it could not establish a date for submission of the final financial status report -- generally, 90 days after the expiration of the performance period. FEMA did not receive the final PW from the grantee until March 2, 2006, or 2 ½ years after the incident period ended. As a result of the submission deficiencies, FEMA could have denied acceptance of some fire management costs because they were submitted beyond all approved and allowable time extension periods or denied all costs since PWs were not submitted with the grant application, or an amended grant application, as required.

Because quarterly financial cash transaction reports were not submitted in a timely manner, FEMA has no assurance that the grantee properly monitored or expended grant funds within the performance period. Further, because FMAG procedures are not periodically updated, new employees will not have sufficient knowledge or information to properly process FMAG funds or report on the use of such funds. Reviews and revisions of written procedures will enable effective and efficient controls over accounting and financial reporting processes.

Recommendations

We recommend that the Regional Administrator, FEMA Region VIII:

Recommendation #4. Train the state on:

a) The FMAG application process to ensure that the grant application forms are completed according to FMAG Program regulations. Future incomplete applications should be returned to the state.

b) How to request time extensions and submit PWs to ensure that the state meets FMAG Program requirements.

c) Grant requirements for quarterly submission of cash transaction reports.

Recommendation #5. Work with the state to review and update written policies and procedures pertaining to funds management and financial reporting to ensure compliance with FMAG Program reporting regulations.

Management Comments

FEMA Region VIII and DNRC officials verbally concurred that the grantee was not in strict compliance with the regulations. However, the grantee said it could not and cannot comply with the regulations because the grant requirements do not fit real time situations. FEMA Regional personnel suggested amendments to the FMAG regulations such that they reflect the performance realities of this fire program. FEMA and state officials made the following specific comments as they relate to these issues:

- DNRC said it was not possible to determine the performance ending date when the application was submitted, although it was required to do so by 44 CFR, Subpart D – *Application Procedures*. FEMA Region VIII officials said they agreed with DNRC, and in the future, it will instruct its grantees to insert a comment that the performance period will be determined at close out as a standard practice.

- Both DNRC and FEMA Region VIII officials said it is unrealistic to compile and prepare the PWs within the regulatory timeframe for submission of the grant application. DNRC and FEMA Region VIII officials said the regulations should be changed to allow for separate submission of PWs.

- FEMA Region VIII officials said they coordinated time extensions requests with FEMA headquarters and approved them on a case-by-case basis. DNRC required the time extensions for the Missoula/Mineral Fire Zone because of the extreme difficulty the state was having in obtaining the cost data from federal agencies.

- The submission deadlines provided for in the regulations could not be met in this instance. FEMA regional staff coordinated with headquarters to extend the timeframe for the Missoula/Mineral Fire Zone FMAG submissions.

- DNRC official said the state's Department of Military Affairs was responsible for drawing down funds and preparing the cash transaction report and DNRC was responsible for grant monitoring. FEMA officials said that better communication and coordination between the Department of Military Affairs and DNRC would ensure the submission of the cash transaction reports in a timely manner.

Objective

The objective of the audit was to determine whether the state entity administered the FMAG Program in an efficient and effective manner. To accomplish the objective, we considered the overall impact of material deficiencies on grant program administration. Specifically, we determined how well the state (1) coordinated and communicated with FEMA and subgrant applicants, (2) ensured compliance with federal laws and FEMA guidelines, and (3) accounted for and expended $3.5 million in judgmentally selected FMAG Program funds.

We were not engaged to and did not perform a financial statement audit, the objective of which would be to express an opinion on specified elements, accounts, or items. As such, we were neither required to nor expressed an opinion on the costs claimed for the grant programs included in the scope of the audit. Had we been required and performed additional procedures or conducted an audit of the financial statements according to generally accepted auditing standards other matters might have come to our attention that would have been reported. This report relates only to the programs specified and does not extend to any financial statements of the state.

Scope

We judgmentally selected and audited $3.5 million in grant funds for the Missoula/Mineral Fire Zone (FMAG Declaration 2490) that was awarded by FEMA to the state based on a grant application dated September 17, 2003, and signed on September 26, 2003. The grant, totaling $30,550,993.65, was programmatically closed on September 26, 2006.[3] This FEMA grant award was selected for review because the award was significantly higher than other fire declarations within the same FEMA Region. DNRC administered the FMAG Program.

We reported a scope limitation in that DHS OIG instructed the auditors to review PWs not to exceed $3.5 million in grant funds. In order to comply with this requirement, the auditors did not use materiality or random sampling techniques to select PWs. Instead, the auditors judgmentally selected four PWs that approximated the required dollar value limitations. This selection methodology precludes extrapolation of the audit findings to the general population of PWs for the grant or expressing an opinion related to the overall grant funds.

[3] FMAG Programs are considered programmatically closed if all work has been completed and final costs submitted to FEMA have been obligated.

The scope limitation was caused by errors in the initial data base and time constraints. Specifically, the initial task order was based on data obtained in the research phase performed by DHS OIG that showed this FMAG Declaration to be $3.5 million. When fieldwork began at the state level, the correct amount of $30.5 million was reported. At that time DHS OIG held discussions with contracting officials who said that a new task order would have to be issued for the change of scope of work and extending milestones. Based on the requirement to have all FMAG audits completed by September 30, 2008, a new task order was not feasible. As a result, DHS OIG elected to have a sample based on $3.5 million be accomplished.

Methodology

We performed fieldwork at FEMA Region VIII and DNRC. The state had 13 subgrantees under the grant. To obtain an understanding of the grant procedures, we reviewed FEMA regulations, the Stafford Act as amended, pertinent sections of Title 44 of the CFR, and Office of Management and Budget Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments.*

To achieve the objectives of this audit, we:

1) Interviewed FEMA and state personnel to obtain an understanding of policies and procedures followed and to identify potential internal control weaknesses and their causes;

2) Reviewed grant files to determine whether sufficient documentation was present to support proper administration of the grant;

3) Reviewed the state's internal controls over accounting for grants to ensure that the State properly recorded and reported grant expenditures;

4) Reviewed a judgmental sample of PWs totaling $3.5 million to determine whether grant monies under the selected PWs were spent according to laws and regulations. Our sampling approach was not in conformity with the risk model promulgated by the American Institute of Certified Public Accountants.

5) Reviewed prior audit reports to determine whether deficiencies had been noted in the reports with respect to the state's administration of the FMAG Program or internal controls over grant fund accounting.

We conducted a performance audit by executing tests, conducting interviews, making observations, and examining documentation in the following areas:

1. Applicant Eligibility
2. Cost Eligibility
3. Procurement
4. Grantee's Accounting System and Internal Controls
5. PW Review
6. Grant Reporting

We conducted our audit between November 2007 and June 2008 and performed our work according to the *Government Auditing Standards* prescribed by the Comptroller General of the United States (July 2007 Revision).

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