# DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General – Office of Audits
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November 24, 2003

MEMORANDUM

TO: Jeff Griffin
Regional Director
FEMA, Region IX

Robert J. Lastrico

FROM: Robert J. Lastrico
Field Office Director

SUBJECT: City of San Leandro, California
Public Assistance Identification Number 001-68084
FEMA Disaster Number 1203-DR-CA
Audit Report Number DS-01-04

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The Office of Inspector General (OIG) audited public assistance funds awarded to the City of San Leandro, California (City). The objective of the audit was to determine whether the City expended and accounted for Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines.

The City received an award of $3.3 million from the California Office of Emergency Services (OES), a FEMA grantee, for emergency and permanent repairs to City facilities damaged as a result of flooding that occurred from February 2, 1998, through April 30, 1998. The award provided for 75 percent FEMA funding for 3 large projects and 14 small projects.[1] The audit covered the period February 2, 1998, to December 10, 2002, and included a review

[1] Federal regulations in effect at the time of the disaster defined a large project as one costing $47,100 or more and a small project as one costing less than $47,100.

of all three large projects and two small projects with a total award of $3.26 million (see Exhibit).

The OIG performed the audit under the authority of the Inspector General Act of 1978, as amended, and according to generally accepted government auditing standards. The audit included a review of FEMA, OES, and City records, and other auditing procedures considered necessary under the circumstances. The two small projects were reviewed to verify completion of the work and to ensure cost items were not included in other claims.

## RESULTS OF AUDIT

The City's claim included questionable costs of $110,741 (FEMA's share - $83,056). The questionable costs consisted of $99,780 for duplicative benefits, $6,848 for non-disaster related contract costs, $2,798 for unsupported contract costs, and $1,315 for duplicate claim of materials.

### Finding A – Duplicative Benefits

The City's claim for project 07236 included duplicative funding of $99,780 for a catchment fence that was also funded under the grant program of another federal agency. This project was approved by FEMA for emergency buttressing and dewatering due to a hillside slope failure. Duplicative funding is ineligible under federal criteria.

According to Title 44, Code of Federal Regulations, Section 206.191(d)(1)(i) [44 CFR 206.191(d)(1)(i)], "Duplication occurs when an agency has provided assistance which was the primary responsibility of another agency, and the agency with primary responsibility later provides assistance …." Also, the FEMA Public Assistance Guide (FEMA 322) states that if an applicant can obtain assistance for a project from another federal agency, then FEMA cannot provide funds for that project.

Total project costs incurred by the City and approved by FEMA for the catchment fence was $110,633. The U.S. Department of Housing and Urban Development (HUD) awarded a grant of $99,780 to the City for a landslide mitigation project. According to the Semi-Annual Report to HUD, dated December 16, 2002, the City stated, " … The entire grant amount of $99,780 was expended for the Rock Catchment Fence …," an item reimbursed by FEMA under project 07236.

Article 1, Item "A" of the grant agreement between HUD and the City stated that grant funds will only be used for activities described in the application. The City's application to HUD was not available for the OIG auditor's review. Only the grant agreement and award document were available. Also, Article VII, Item "C" of the grant agreement stated that the

City may use grant funds only for "Alternate A" in FEMA document Damage Survey Report (DSR) 07236. However, the audit did not disclose any reference in the DSR to "Alternate A," and the City official did not have information as to what was meant by "Alternate A."

Upon learning from the OIG auditor of the questionable duplicative funding, the City official advised the auditor that the City would inform HUD that the grant amount will not be expended for the catchment fence as previously reported. Instead, the official said that the City will request that HUD grant funds be expended for project closeout costs that are currently being reviewed, discussed, and finalized with the general contractor, and that have not already been subject to reimbursement.[2]

Due to the FEMA criteria cited, and also the lack of information from the City concerning the HUD grant specifications, the OIG questioned $99,780 in FEMA funding for the catchment fence to the extent that the City expended HUD funds for the same work. The City official did not concur with the questioned costs.

**Finding B – Non-Disaster Related Contract Costs**

The City claimed $6,848 on project 75397 for non-disaster related work. These contract costs were incurred to repair a sewer on Merced Street, several blocks southeast of the approved site of Davis and Doolittle. As required by 44 CFR 206.223(a)(2), to be eligible for financial assistance, work must be located within a designated disaster area. Since the work was not located within the disaster area, the $6,848 was questioned. The City official confirmed that work was performed outside of the eligible project scope and concurred with the questioned costs.

**Finding C – Unsupported Contract Costs**

The City's claim for two projects included $2,798 not supported with invoices, cancelled checks, or similar documentation.

- For project 75351, the City claimed $2,403 that was not paid to the vendor. The purchase order was closed out before any payment was made and there was no evidence that the City was billed for this cost.

- For project 75397, the City claim consisted of $395 for City dump fees not supported by tickets.

[2] While the City can request that HUD funds be expended for other unreimbursed costs, FEMA is under no obligation to reimburse the City for costs that were also funded by HUD because FEMA policy precludes duplicate funding based on scopes of work, and the City did not have sufficient information regarding HUD grant specifications, terms, and conditions to determine if a change in the HUD project is allowable.

As required by 44 CFR 13.20(b)(2), the City must maintain accounting records that identify how FEMA funds are used. Due to the lack of supporting documentation, the $2,798 was questioned. The City official concurred with the finding.

**Finding D – Duplicate Claim of Materials**

The City claimed $1,315 in duplicate costs for project 75351. The $1,315 was included once in a general contractor's invoice as a cost incurred for the purchase of materials from a subcontractor, and again as a separate cost for the subcontractor. Due to the duplicate claim, the $1,315 was questioned. The City official concurred with this finding.

## RECOMMENDATION

The OIG recommends that the Regional Director, FEMA Region IX, in coordination with OES, disallow $110,741 in questionable costs.

## DISCUSSIONS WITH MANAGEMENT AND AUDIT FOLLOW UP

The OIG discussed the audit results with OES and City officials on September 15, 2003. The OIG also discussed the audit results with FEMA Region IX officials on September 16, 2003.

Please advise this office by January 23, 2004 of the actions taken to implement our recommendation. Should you have any questions concerning this report, please contact me at (510) 627-7011. Key contributors to this assignment were Jack Lankford and Paulette Solomon.

Exhibit

Schedule of Projects Audited
City of San Leandro, California
Public Assistance Identification Number 001-68084
FEMA Disaster Number 1203-DR-CA

| DSR Number | Amount Awarded | Questioned Costs | Finding Reference |
|---|---|---|---|
| Large Projects | | | |
| 07236 | $1,842,250 | $ 99,780 | A |
| 75397 | 1,238,431 | 7,243 | B, C |
| 75351 | 117,167 | 3,718 | C, D |
| Subtotals | $3,197,848 | $110,741 | |
| Small Projects | | | |
| 75581 | $ 31,500 | $ 0 | |
| 75586 | 28,424 | 0 | |
| Subtotals | $ 59,924 | $ 0 | |
| Totals | $3,257,772 | $110,741 | |

Legend:

A. Duplicative Benefits
B. Non-Disaster Related Contract Costs
C. Unsupported Contract Costs
D. Duplicate Claim of Materials.