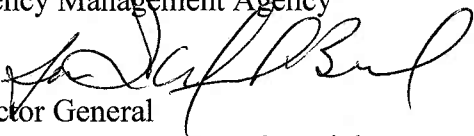




**Homeland
Security**

August 23, 2011

MEMORANDUM FOR: William L. Carwile, III
Associate Administrator, Response and Recovery
Federal Emergency Management Agency

FROM: Matt Jadacki 
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *Capping Report: FY 2010 FEMA Public Assistance Grant
and Subgrant Audits*
Report DD-11-17

This report summarizes the results of Public Assistance (PA) program grant and subgrant audits performed during fiscal year (FY) 2010. We reviewed audit findings and recommendations made to Federal Emergency Management Agency (FEMA) officials as they related to PA program funds awarded to state, local, and tribal governments and eligible nonprofit organizations. The objectives of this capping report were to identify frequently reported audit findings and quantify the financial impact of these findings.

In FY 2010, we issued 45 audit reports on grantees and subgrantees awarded FEMA PA funds between July 2003 and October 2008 as a result of 29 presidentially declared disasters in 16 states and 2 U.S. Territories.¹ The objective of those 45 audits was to determine whether the grantees and subgrantees expended and accounted for FEMA funds according to federal regulations and FEMA guidelines. Exhibit A, *Schedule of Public Assistance Grant and Subgrant Audits Issued in FY 2010*, lists the 45 audit reports and provides a link to our web page where these audit reports can be obtained.

Our subgrant audits included recipients that had (1) completed all work approved by FEMA and reported final costs to the grantee, which in turn had requested final FEMA payment; (2) completed all work and reported final costs to the grantee, which had not yet requested final FEMA payment; (3) completed selected projects but not reported final project costs to the grantee; or (4) projects in progress or projects that had not yet started. The subgrantees were awarded \$2.29 billion in project funding for debris removal; emergency protective measures; or permanent repair, restoration, and replacement of damaged facilities. We audited \$1.23 billion of the \$2.29 billion, or 54% of the awarded amounts.

We conducted the 45 performance audits pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we

¹ Of the 45 audits, 25 were audits of subgrantees that suffered damage from hurricanes Katrina, Rita, and Wilma (August through October 2005).

plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. The evidence obtained during those 45 audits provided a reasonable basis for our findings and conclusions based upon our audit objective.

Our review included analyses of (1) findings and recommendations in our FY 2010 grant audit reports and (2) applicable federal regulations, Office of Management and Budget grant and audit guidance, and FEMA PA guidance applicable to the conditions noted.

RESULTS

Of the 45 audits performed in FY 2010, 44 reports contained 155 recommendations regarding 152 findings or reportable conditions resulting in a potential monetary benefit of \$165.25 million.² This amount included \$104.48 million in project costs questioned as ineligible or unsupported that should be disallowed and \$60.77 million in funds that were unused or uncollected that should be put to better use. The \$165.25 million in potential monetary benefits represent 13% of the \$1.23 billion we audited, compared with 15% in FY 2009.³

As discussed in this report, ineligible costs occur for numerous reasons. However, unsupported costs usually were caused by grant recipients not adequately recording their own labor and equipment hours or not obtaining support for the hours worked by contractors. Also, as we identified last year, grant recipients continued to have problems complying with federal contracting requirements. For example, last year we identified \$106 million in improper contracting actions and this year we identified \$73 million. We sometimes questioned the costs of improper contracting, depending on the severity of the noncompliance.

Our audit results and the 155 recommendations are categorized in the four broad categories listed in the following table.

Type of Finding/Reportable Condition		
A. Ineligible Work or Costs	87	\$ 73,521,710
B. Unsupported Costs	14	30,954,510
C. Funds Put to Better Use	17	60,772,001
D. Grants Management and Administrative Issues	<u>37</u>	<u>0</u>
Totals	<u>155</u>	<u>\$165,248,221</u>

The findings and reportable conditions identified in our FY 2010 audits are listed in Exhibit B, *Findings and Reportable Conditions by Type and Subtype*, and detailed below.

² One FY 2010 audit report had no findings or reportable conditions.

³ In our FY 2009 capping report, we reported \$138.4 million in potential monetary benefits out of \$933 million in PA funds audited (Report DS-11-1).

A. Ineligible Work or Costs

As illustrated in the following table, we considered nearly \$73.52 million in work or costs claimed or to be claimed by the subgrantees as ineligible for FEMA reimbursement.

Category of ineligible work or costs	Number of resulting recommendations	Amounts questioned in our reports
1. Contracting practices	1	\$746,473
2. Contract monitoring	6	11,044,756
3. Other ineligible work or project charges	47	45,888,965
4. Miscellaneous ineligible costs	<u>33</u>	<u>15,841,516</u>
Totals	<u>87</u>	<u>\$73,521,710</u>

1. **Contracting practices.** We reported 11 instances where subgrantees awarded \$72.7 million in contracts that did not comply with federal procurement regulations. Although we questioned only \$746,473 of this amount, subgrantee contracting practices that do not comply with federal procurement regulations result in high-risk contracts that may cost taxpayers millions of dollars in excessive costs and often do not provide full and open competition. We considered the exigencies that often arise early after a disaster occurs, and as a general rule did not question contracting practices or costs associated with those exigencies. However, subgrantee noncompliance after bona fide exigencies no longer exist remains a major concern. In FY 2009, we questioned almost \$30 million for improper contracts and we expect to question more than \$100 million for improper contracts in FY 2011.

Although FEMA has remedies available when a grantee or subgrantee does not comply with applicable statutes or regulations, FEMA does not hold grantees and subgrantees adequately accountable for noncompliance with procurement regulations. FEMA seldom disallows improper contract costs, citing that it has the authority to reimburse PA applicants for the reasonable cost of eligible work. Consequently, there is little incentive for grantees or subgrantees to follow procurement regulations. Proper contracting and full and open competition provide an environment for obtaining reasonable pricing from the most qualified contractors and help discourage favoritism, collusion, fraud, waste, and abuse.

2. **Contract monitoring.** We reported nine instances of inadequate subgrantee contract monitoring relating to \$11.2 million in contract costs, and we questioned \$11 million of those costs (six instances). Subgrantees claimed costs when their contractors (1) billed at rates higher than those specified in the contracts, (2) did not perform work specified in contracts, (3) performed and billed work not specified in contracts, (4) included billing errors and duplicate charges in their invoices, and (5) charged unreasonable contract costs. For example, in Audit Report DA-10-19, *City of Fort Lauderdale, Florida*, we reported that the prime contractor billed the city at a higher rate than allowable according to applicable statutes and regulations, resulting in \$2.1 million in excessive contract costs.

Inadequate contract monitoring by subgrantees can result in FEMA disbursements that are not fair and reasonable. Without increased emphasis on contract monitoring, these conditions will continue. Also, grantees should determine the reasonableness of contractor costs claimed by subgrantees before seeking reimbursement from FEMA on behalf of those subgrantees.

3. **Other ineligible work or project charges.** The table below lists other ineligible work we reported and project charges we questioned in FY 2010.

Findings/reportable conditions by subtype	Number of resulting recommendations	Amounts questioned in our reports
Ineligible work and project charges	27	\$43,161,875
Other federal agency funding available	4	935,616
Ineligible force account equipment rates	5	196,368
Ineligible force account labor and fringe benefits	<u>11</u>	<u>1,595,106</u>
Totals	<u>47</u>	<u>\$45,888,965</u>

We reported instances of (1) ineligible debris removal activities and other ineligible charges, (2) work that was not the legal responsibility of the subgrantee, (3) work performed and costs incurred outside the scope of various FEMA-approved projects, and (4) work performed and costs claimed (or to be claimed) that were not disaster related. We also identified instances when other federal agencies were responsible for disaster work and instances when force account equipment and labor charges were ineligible for FEMA reimbursement. These findings and reportable conditions were generally caused by the subgrantees' inadequate knowledge or disregard of federal regulations and FEMA's policies and guidelines.

4. **Miscellaneous ineligible costs.** The table below lists miscellaneous ineligible costs we questioned in FY 2010.

Findings/reportable conditions by subtype	Number of resulting recommendations	Amounts questioned in our reports
Excessive or unreasonable costs	16	\$11,054,054
Insurance proceeds not applied	3	1,257,875
Duplicate charges	10	2,251,481
Administrative allowance/overhead	2	1,202,641
Salvage proceeds/credits	<u>2</u>	<u>75,465</u>
Totals	<u>33</u>	<u>\$15,841,516</u>

We reported instances of (1) costs that were excessive or unreasonable when compared with the limitations placed on the work by regulation or policy or when compared with the FEMA-approved scope of work, (2) FEMA-approved work that was covered by insurance, (3) the same costs being claimed more than once, (4) administrative costs claimed as direct project costs, and (5) salvage proceeds or credits that were not netted against project costs. For example, in Audit Report DA-10-18, *Florida Department of Military Affairs*, we reported that administrative allowance costs totaling \$1.2 million were improperly claimed as direct project costs. This type of charge was contrary to federal regulations and was therefore ineligible for FEMA reimbursement.

B. Unsupported Costs

Our FY 2010 audits reported 14 instances where costs claimed or to be claimed by subgrantees were not adequately supported. Questioned costs totaled \$30.95 million. For example, in Audit Report

DD-10-16, *Lamar University, Beaumont, Texas*, we reported that university officials could not provide a complete and reliable listing of costs for its large Hurricane Rita projects; therefore, we questioned \$22.8 million as unsupported costs.

Unsupported costs resulted because subgrantees (1) had not established fiscal and accounting procedures that would allow us to trace expenditures to confirm that funds were used according to applicable laws, regulations, and FEMA policy or (2) did not maintain accounting records that were supported by source documents such as canceled checks, paid bills, and contracts. Further, the grantee did not always verify that costs claimed by its subgrantees met the standards for financial management or ensure that its subgrantees were aware of and followed the retention and access requirements for records.

C. Funds Put to Better Use

We reported 17 instances where \$60.77 million in FEMA funding could be put to better use if unneeded project funding was deobligated (\$59.72 million) and interest earned on FEMA funds (\$1.05 million) was collected.

Three audits noted that FEMA should collect a total of \$1.05 million in interest earned by subgrantees on FEMA funds. Interest accruing on federal funds belongs to the federal government and, as such, must be remitted to FEMA. Fourteen audits reported instances where project funding was no longer needed by subgrantees and recommended that a total of \$59.72 million in unneeded funding be deobligated.

Deobligating unneeded funds sooner would (1) free up funding to cover cost overruns on other projects associated with the disaster, (2) aid in closing out the subgrantee's PA application, since projects would be settled throughout the life of the application rather than after all work is completed, (3) provide a more accurate status of PA program costs for a disaster, and (4) be consistent with appropriation law that requires obligations in FEMA's accounting system to be supported by bona fide needs. Grantees can improve their monitoring efforts by ensuring that unneeded funds are identified and returned to FEMA as soon as practicable after projects are completed.⁴

D. Grants Management and Administrative Issues

Our reports included 37 grants management and administrative recommendations covering project accounting, general grants management, contracting practices, contract billings, and project costs. We reported 13 instances of improper project accounting in which subgrantees did not account for disaster expenditures on a project-by-project basis. Failure to perform project-by-project accounting increased the risk of duplicating disaster expenditures between projects.

We reported six instances in which grantee management could be improved. For example, grantees (1) did not have procedures in place to ensure that cash advances to subgrantees were expended timely and excess funds were recovered promptly, (2) did not have a documented or standard payment-processing policy or needed to strengthen controls to prevent overpayments, (3) had no

⁴ *OIG Management Report OIG 10-49, Opportunities to Improve FEMA's Disaster Closeout Process*, discusses several reasons for delays in the disaster closeout process. Grantee delays were attributed to staff shortages, inexperienced staff, conflicting priorities, and a need for closure incentives, which, among other things, result in not performing final inspections and reconciliations of individual subgrantee projects when they are completed.

procedures in place to follow up on material deficiencies reported in Single Audits, (4) were unaware of significant budget and scope increases, or (5) did not adequately monitor and report subgrantee program performance.

Federal regulations establish uniform administrative rules for grants and procedures for PA project administration. These rules and procedures require that grantees and subgrantees have fiscal control, accounting procedures, and project administration procedures that give FEMA assurance that (1) grant and subgrant financial and project status reports are accurately reported, (2) expenditures can be traced to a level that ensures that funds have not been used in violation of applicable statutes, and (3) grantee and subgrantees adhere to *Stafford Act* requirements and the specific provisions of applicable federal regulations when administering public assistance grants.

CONCLUSION

Grantees and subgrantees did not always properly expend and account for FEMA PA program funds. Federal regulations regarding PA grant administration require states, as grantees, to oversee subgrant activities and ensure that subgrantees are aware of and follow federal regulations designed to ensure that financially assisted activities are accomplished according to applicable laws and regulations. However, many of our findings and reportable conditions indicate that states should do a better job of educating subgrantees and enforcing federal regulations.

It is FEMA's responsibility to hold states accountable for proper grant administration, especially with regard to contracting practices. Although FEMA has the authority to waive certain administrative requirements, it should not be standard practice to allow noncompetitive and cost-plus-percentage-of-cost contracts even when the costs are reasonable. For eligible work, FEMA should use the remedies specified in federal regulations as (1) a means to hold grantees and subgrantees accountable for material noncompliance with federal statutes and regulations and (2) an incentive to properly account for and expend FEMA funds. In addition, FEMA should consider requesting states to (1) evaluate their capabilities to effectively administer FEMA PA grants, (2) identify gaps inhibiting effective grant and subgrant management and program and project execution, and (3) identify opportunities for FEMA technical assistance, such as training and project monitoring. Further, PA projects often take years to complete; and constant grantee monitoring is critical to ensure that applicable laws, regulations, and policies are followed throughout the projects.

This report provides a means for FEMA to (1) examine its regulations, policies, and procedures and assess the need for changes based on the recurring nature of our findings and reportable conditions and (2) inform state emergency management officials (i.e., PA program grantees) of grant and subgrant activities that should be avoided or implemented. Providing this report to PA program grantees will enable them to better ensure that all laws, regulations, policies, and procedures are followed and that FEMA funds are properly accounted for and expended.

DISCUSSION WITH MANAGEMENT AND FOLLOWUP

In last year's Capping Report we recommended that FEMA emphasize to all FEMA personnel the importance of (1) vigorously enforcing regulatory policies to ensure that grantees and subgrantees are held accountable for spending disaster assistance funds, (2) using available remedies to deal with material instances of noncompliance, and (3) engaging grantees in ongoing proactive working relationships. In an April 2011 memorandum responding to the report, FEMA's Director, Office of Policy and Program Analysis, concurred with this recommendation.

We discussed the results of our review with representatives from FEMA's Office of the Associate Administrator, Response and Recovery, on July 8, 2011. Because this report contains no recommendations, we consider it closed, and no further actions are required from FEMA.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. To promote transparency, this report will be posted to our website, with the exception of sensitive information identified by your office. Significant contributors to this report were Tonda Hadley, Christopher Dodd, and Brandon Landry. Should you have questions concerning this report, please call me at (202) 254-4100, or your staff may contact Tonda Hadley at (214) 436-5200.

cc: Audit Liaison, FEMA (Job Code: 11-015-EMO-FEMA)
Audit Liaison, DHS

**Capping Report: FY 2010 Public Assistance Grant and Subgrant Audits
Schedule of Public Assistance Grant and Subgrant Audits Issued in FY 2010**

	Report Number	Disaster Number(s)	Date Issued	Report Title
1	DA-10-01	1539, 1545, 1551, 1561	10/7/2009	Florida Department of Juvenile Justice
2	DA-10-02	1482	11/18/2009	City of Memphis, Tennessee
3	DA-10-03	1604	12/15/2009	City of Biloxi, Mississippi
4	DA-10-04	1604	1/5/2010	City of Moss Point, Mississippi
5	DA-10-05	1501, 1552, 1613	2/2/2010	Municipality of Utuado, Puerto Rico
6	DA-10-06	3201	2/3/2010	Commonwealth of Massachusetts Highway Department
7	DA-10-07	1547	2/10/2010	South Carolina Public Service Authority
8	DA-10-08	1604	2/18/2010	Mississippi Emergency Management Agency
9	DA-10-09	1602, 1609	3/18/2010	Miami-Dade County Department of Parks and Recreation
10	DA-10-10	1665	5/26/2010	City of Buffalo, New York
11	DA-10-11	1604	6/2/2010	City of Pass Christian, Mississippi
12	DA-10-12	1609	6/3/2010	City of Hialeah, Florida
13	DA-10-13	1807	7/8/2010	Virgin Islands Water and Power Authority
14	DA-10-14	1604	7/12/2010	Hancock County School District, Mississippi
15	DA-10-15	1604	7/27/2010	South Mississippi Electric Power Association
16	DA-10-16	1604	8/13/2010	Mississippi Coast Coliseum Commission
17	DA-10-17	1625	8/24/2010	City of Greenville, South Carolina
18	DA-10-18	1539,1545, 1561	9/13/2010	Florida Department of Military Affairs
19	DA-10-19	1602, 1609	9/21/2010	City of Fort Lauderdale, Florida
20	DD-10-01	1675	11/19/2009	Pioneer Electric Cooperative, Inc., Ulysses, Kansas
21	DD-10-02	1603	11/20/2009	Ernest N. Morial Exhibition Hall Authority
22	DD-10-03	1514	1/6/2010	City of Albuquerque, New Mexico
23	DD-10-04	1633	1/13/2010	City of Springfield, Illinois
24	DD-10-05	1603	2/10/2010	Roman Catholic Archdiocese of New Orleans, Bidding Process
25	DD-10-06	1607	3/24/2010	Town of Vinton, Louisiana
26	DD-10-08	1603	3/31/2010	Orleans Parish Criminal Sheriff's Office
27	DD-10-10	1674	6/18/2010	Nebraska Public Power District, Columbus, Nebraska
28	DD-10-12	1603	7/7/2010	Orleans Levee District
29	DD-10-13	1676	7/7/2010	Greene County, Missouri
30	DD-10-14	1603	7/20/2010	Recovery School District - Abramson High School
31	DD-10-15	1603	7/27/2010	Louisiana State University Health Sciences Center
32	DD-10-16	1606	8/31/2010	Lamar University, Beaumont, Texas
33	DD-10-17	1603	9/15/2010	Louisiana Department Health and Hospitals
34	DD-10-18	1603	9/20/2010	Roman Catholic Church of the Archdiocese of New Orleans
35	DD-10-19	1603	9/24/2010	Xavier University of Louisiana, Contracting
36	DS-10-01	1628	1/29/2010	County of Santa Cruz, California
37	DS-10-02	1540	1/29/2010	Nevada Division of Forestry
38	DS-10-03	1577	2/11/2010	City of Los Angeles, Department of Public Works
39	DS-10-04	1663	2/17/2010	Chugach Electric Association, Inc.
40	DS-10-05	1577	2/24/2010	Rubidoux Community Services District
41	DS-10-06	1628	3/31/2010	County of Mendocino, California
42	DS-10-07	1585	4/23/2010	County of Los Angeles, California
43	DS-10-09	1628	7/16/2010	City of Napa, California

**Capping Report: FY 2010 Public Assistance Grant and Subgrant Audits
Schedule of Public Assistance Grant and Subgrant Audits Issued in FY 2010**

	Report Number	Disaster Number(s)	Date Issued	Report Title
44	DS-10-10	1577	9/7/2010	City of Glendale, California
45	DS-10-11	1577	9/21/2010	City of Rancho Palos Verdes, California

Note: The following audits did not relate to the Public Assistance program and were excluded from this report:

DD-10-07 *City of North Royalton, Ohio*
 DD-10-09 *City of Bucyrus, Ohio*
 DD-10-11 *Management Issues Identified During Hazard Mitigation Grant Audits in the State of Ohio*
 DS-10-08 *FEMA's Practices for Evaluating Insurance Coverage for Disaster Damage and Determining Project Eligibility and Costs*

Copies of the audit reports issued in FY 2010 are available at
http://www.dhs.gov/xoig/rpts/audit/oig_10grantsrpts.shtm

**Capping Report: FY 2010 Public Assistance Grant and Subgrant Audits
Findings and Reportable Conditions by Type and Subtype**

Findings/Reportable Conditions by Type	No.	Amount Reported
Ineligible Work or Costs		
Contracting practices	1	\$ 746,473
Contract billings	1	3,851
Unreasonable contract costs	3	10,835,892
Contract work not performed or not in contract	2	205,013
Ineligible work and project charges	27	43,161,875
Other federal agency funding available	4	935,616
Ineligible force account equipment rates	5	196,368
Ineligible force account labor and fringe benefits	11	1,595,106
Excessive/unreasonable charges	16	11,054,054
Insurance proceeds not applied	3	1,257,875
Duplicate charges	10	2,251,481
Administrative allowance/overhead	2	1,202,641
Salvage proceeds/credits	2	75,465
Subtotal	87	\$ 73,521,710
Unsupported Costs		
	14	\$ 30,954,510
Funds Put to Better Use		
Interest earned on advances	3	\$ 1,049,024
Unneeded funding	14	59,722,977
Subtotal	17	\$ 60,772,001
Grants Management and Administrative Issues		
	37	\$ 0
Grants management	6	0
Project accounting	13	0
Contracting practices	9	0
Contract billings	2	0
Ineligible project costs	7	0
Subtotal	37	\$ 0
Total	155	\$165,248,221