

Department of Homeland Security **Office of Inspector General**

Review of Costs Claimed by
Washington Township, MI, Fire Department Under
Fire Station Construction Grant Number
EMW-2009-FC-01152R



American Recovery and Reinvestment Act of 2009

OIG-12-90

June 2012



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

JUN 18 2012

MEMORANDUM FOR: Elizabeth M. Harman
Assistant Administrator, Grant Programs Directorate
Federal Emergency Management Agency

FROM: Anne L. Richards *for JhEMH*
Assistant Inspector General for Audits

SUBJECT: *Review of Costs Claimed by Washington Township, MI, Fire
Department Under Fire Station Construction Grant Number
EMW-2009-FC-01152R*

Attached for your action is our final letter report, *Review of Costs Claimed by Washington Township, MI, Fire Department Under Fire Station Construction Grant Number EMW-2009-FC-01152R*. We incorporated the formal comments from the Office of Policy and Program Analysis, Federal Emergency Management Agency (FEMA), in the final report.

The report contains one recommendation for FEMA to resolve \$78,020 of questionable costs that Washington Township claimed for reimbursement. The Office of Policy and Program Analysis concurred with the recommendation and said that it would direct Washington Township to return the \$78,020. As prescribed by the Department of Homeland Security Directive 077-1, Follow-Up and Resolutions for the Office of Inspector General Report Recommendations, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for the recommendation. Also, please include responsible parties and supporting documents needed to inform us on the status of the recommendation. Until your response is received and evaluated, the recommendation will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report are Roger LaRouche, Director of Recovery Act Audits; Matt Mongin, Auditor; and Ralleisha Dean, Report Referencer.

Should you have any questions, please call me, or your staff may contact John E. McCoy II, Deputy Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



Background

The *American Recovery and Reinvestment Act of 2009* (Recovery Act), as amended, appropriated \$210 million to the Federal Emergency Management Agency (FEMA) for competitive grants for modifying, upgrading, or constructing nonfederal fire stations. On September 25, 2009, FEMA awarded a grant of \$1,510,016 to the Washington Township, Michigan, Fire Department for constructing a new fire station.

The grant specified a period of performance from September 25, 2009, to September 24, 2012. As of September 30, 2011, Washington Township had completed the construction of the new fire station (see figure 1) and had received reimbursements of \$1,434,504 from FEMA for design, engineering, construction, and management of the project.

Figure 1: Washington Township New Fire Station



Source: Washington Township

Under the terms of the grant, Washington Township agreed to use the grant funds according to FEMA's fiscal year 2009 *A.R.R.A. Assistance to Firefighters, Fire Station Construction Grants, Guidance and Application Kit (Guidance and Application Kit)*, and to comply with Office of Management and Budget (OMB) Circular A-87, Revised, *Cost Principles for State, Local and Indian Tribal Governments*, and the *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* contained in the Code of Federal Regulations (44 CFR Part 13).

The grant also includes requirements for complying with OMB Circular A-133, Revised, *Audits of States, Local Governments, and Non-Profit Organizations*, and Recovery Act provisions for submitting quarterly recipient reports to the Federal Government on the use of Recovery Act funds; paying prevailing wages as determined by the Secretary of Labor; and using American-made iron, steel, and manufactured goods.



Results of Audit

Of the \$1,434,504 claimed for reimbursement by Washington Township, we questioned costs of \$78,020 for purchases of professional services that did not comply with procurement requirements. Also, we concluded that Washington Township complied with grant requirements for submitting quarterly Recovery Act reports to the Federal Government and for ensuring that contractors were paid prevailing wages and used American-made iron, steel, and manufactured goods in the construction of the new fire station.

Purchase Not in Compliance With Procurement Requirements

We questioned costs of \$78,020 claimed for the noncompetitive purchase of architectural services by Washington Township that were not in compliance with its Purchasing and Bid Policy and Federal procurement regulations.

Section 6 of the Washington Township Purchasing and Bid Policy requires that—

- 6.1 All purchases of goods and services and all contracts for recurring services must be competitively priced unless the purchase falls under the EMERGENCY PURCHASE GUIDELINES.
- 6.2 Informal bids (quotes) are required for all purchases of goods or services between \$0 and \$20,000.
- 6.3 Bids or proposals for recurring services or contracted labor, including professional services greater than \$10,000.00, must be solicited....

Section 7 of the Purchasing and Bid Policy says that normal purchasing procedures need not be followed in emergency situations “*only* when life, property or equipment are endangered through unexpected circumstances, or when normal operation of a department would be severely hampered by a long delay.” In such cases, the township supervisor, or in the supervisor’s absence, the clerk or treasurer with the concurrence of the department head, can authorize immediate purchase of any materials, supplies, or services necessary to end the emergency situation.

FEMA’s *Guidance and Application Kit* stresses the need for competitive procurements, summarizes Federal requirements for procurement documentation and use of specifications, and cautions against personal and organizational conflicts of interest. The kit warns that grantees “who fail to adhere to their own procurement policy or otherwise fail to fully ‘compete’ any purchase involving Federal funds, may find their expenditures questioned and subsequently disallowed.” The *Uniform Administrative*



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Requirements for Grants and Cooperative Agreements to State and Local Governments, 44 CFR Part 13.36, requires that a cost or price analysis be performed in connection with every procurement action, including contract modifications, to determine the reasonableness of proposed price. 44 CFR Part 13.36 also says that noncompetitive purchases can be used, but only when a contract award under small purchase procedures, sealed bids, or competitive proposals is infeasible, and the item or service is available from a single source; a public emergency precludes normal competition; the awarding agency authorizes the noncompetitive proposal; or after solicitation of a number of sources, competition is determined to be inadequate.

SDA Architects

In June 2009, Washington Township awarded a contract to SDA Architects following a competitive bid procedure to replace a roof on an existing fire station. In August 2009, after FEMA announced the Fire Station Construction grant competition, Washington Township expanded SDA's effort to include preparing a set of building plans and specifications that could be used to procure the new fire station. Washington Township claimed \$78,020 of fees paid to SDA Architects in its requests for reimbursement to FEMA.

We questioned the \$78,020 because Washington Township noncompetitively procured these professional services for the fire station construction project and did not perform a cost and price analysis to confirm that the price was fair and reasonable. Also, Washington Township did not prepare a sole-source procurement justification or obtain FEMA approval for the purchase. Washington Township officials said that they engaged SDA without competition for the fire station construction project because of time constraints. The FEMA Fire Station Construction Grant placed a premium on "shovel-ready" projects that were ready to build. Township officials believed that, to be competitive, the township needed to submit building plans with its application. Finally, Washington Township officials said that they were not aware of the Federal requirement to prepare a cost and price analysis or seek FEMA approval for a noncompetitive procurement.

Compliance With Requirements for Reporting, Buying American, and Paying Prevailing Wages

The Recovery Act requires recipients to submit quarterly reports on project activities to the Federal Government; to ensure that projects are accomplished with American-made iron, steel, and manufactured goods; and to ensure that laborers and mechanics are paid, at a minimum, prevailing wages as determined by the Secretary of Labor under 40 U.S.C. Chapter 31, Subchapter IV. We verified that Washington Township submitted the required quarterly reports. Also, Washington Township included "Buy



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American” and prevailing wage provisions in the construction contracts for the fire station and instituted sufficient controls to ensure that these provisions were honored. Controls included written requirements for subcontractors to comply with the requirements; review and certification of all invoices by the architect; daily oversight by the general contractor; and a requirement for vendors/contractors to submit pay vouchers showing payment of prevailing wages.

Recommendation

We recommend that the Assistant Administrator, Grant Programs Directorate:

Recommendation #1:

Resolve the questioned costs of \$78,020 pertaining to the contract that was noncompetitively awarded.

Management Comments and OIG Analysis

FEMA Comments to Recommendation #1

FEMA concurs: FEMA said that “Within 30 days of receipt of the final report, the Grant Program Directorate will request that FEMA’s Finance Center notify the grantee that \$78,020 is due to the Federal Government and inform the grantee about FEMA’s debt collection procedures.”

OIG Analysis:

The FEMA response sufficiently responds to the recommendation. The recommendation, however, will remain unresolved and open until FEMA provides a target completion date or evidence that the grantee has repaid the \$78,020.



Appendix A

Objectives, Scope, and Methodology

The 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 audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

The objective of this audit was to determine whether costs claimed by Washington Township were allowable, allocable, and reasonable according to the grant and applicable Federal regulations.

This audit covered costs of \$1,434,504 claimed by Washington Township from September 2009 to September 2011 and reimbursed by FEMA.

In conducting our audit, we did the following:

- Obtained and reviewed the Recovery Act, the grant application and award, the grant *Guidance and Application Kit*, and Federal cost principles and grant administrative requirements.
- Interviewed Washington Township personnel to gain an understanding of their accounting system and the applicable internal controls.
- Reviewed the fiscal year 2010 single audit report and interviewed the responsible auditor to identify issues and other conditions that could affect our examination.
- Reviewed the recipient's internal controls specifically related to our objectives.
- Examined vendor invoices and other evidence supporting 100 percent of costs incurred and claimed for FEMA reimbursement.
- Reviewed contract files and supporting documentation for primary contractors and professional service providers for the fire station construction project.
- Reviewed accounting transactions related to purchases, payments, and receipt of FEMA reimbursements.
- Used the grant provisions and applicable Federal requirements to determine whether amounts claimed were eligible for reimbursement.



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- Performed fraud detection procedures.
- Inspected the new fire station and surrounding property.

We conducted this performance audit between August 22, 2011 and November 30, 2011, pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B Management Comments to the Draft Report


U.S. Department of Homeland Security
Washington, DC 20472



FEMA

MAY 09 2012

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Audits
Office of Inspector General

FROM: David J. Kaufman 
Director
FEMA Office of Policy and Program Analysis

SUBJECT: Comments to OIG Draft Report, *Costs Invoiced by the Washington Township, MI Fire Department under Fire Station Construction Grant No. EMW-2009-FC-01152R Awarded by FEMA*

Thank you for the opportunity to comment on the subject draft report. The findings in the report will be used to strengthen the effectiveness and efficiency of how we execute and measure our programs. We recognize the need to continue to improve the process, including addressing the recommendation raised in this report. Our response to the recommendation is as follows:

Recommendation #1: Resolve the questioned costs of \$78,020 pertaining to the contracts that were noncompetitively awarded.

FEMA Response: FEMA concurs with this recommendation to resolve the questioned costs of \$78,020. Based upon our review and discussion of the OIG's draft report, FEMA staff will request Washington Township to return the \$78,020 spent on the SDA Architects. In accordance with *44 CFR 13.36(d)(4)* Washington Township failed to meet any of the conditions necessary to justify sole source procurement of the SDA Architects for their Fire Station Construction Grant.

Within 30 days of receipt of the final report, the Grant Programs Directorate will request that FEMA's Finance Center notify the grantee that \$78,020 is due to the federal government and inform the grantee about FEMA's debt collection procedures.

FEMA requests this recommendation be resolved and open pending implementation of the stated corrective actions.

Again, we thank you for the opportunity to review your report. If you have further questions, please do not hesitate to call Brad Shefka, FEMA Audit Liaison Office, 202-646-1308.



Appendix C

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