
Office of Inspector General
Audit Report

**INITIAL ASSESSMENT OF FTA'S OVERSIGHT
OF THE EMERGENCY RELIEF PROGRAM
AND HURRICANE SANDY RELIEF FUNDS**

Federal Transit Administration

Report Number: MH-2014-008

Date Issued: December 3, 2013






Memorandum

U.S. Department of
Transportation

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION**: Initial Assessment of FTA's Oversight
of the Emergency Relief Program and Hurricane
Sandy Relief Funds
Federal Transit Administration
Report No. MH-2014-008

Date: December 3, 2013

From: Lou E. Dixon 
Principal Assistant Inspector General
for Auditing and Evaluation

Reply to
Attn. of: JA-1

To: Federal Transit Administrator

In October 2012, Hurricane Sandy caused widespread damage in the mid-Atlantic and northeastern sections of the United States,¹ particularly to the transportation infrastructure in New York and New Jersey. In response to the damage, Congress passed, and the President signed into law, the Disaster Relief Appropriations Act, 2013 (DRAA) in January 2013.² The law's appropriations totaled \$50.7 billion, of which approximately \$13 billion was for the Department of Transportation (DOT)—mostly allocated to the Federal Transit Administration's (FTA) new Public Transportation Emergency Relief Program (ERP).³ DRAA also directed our office to support oversight of FTA's Hurricane Sandy relief funds. Accordingly, our initial assessment focused on FTA's early efforts in response to Hurricane Sandy.

Our objective was to provide an early assessment of FTA's readiness, processes, and procedures to meet DRAA's legislative and regulatory requirements, including FTA's planning efforts to implement its new ERP. Specifically, we are reporting on (1) whether FTA met DRAA requirements to date and developed plans and procedures, (2) whether FTA's plans and procedures fully addressed key challenges in overseeing Hurricane Sandy funds, and (3) lessons learned for FTA to consider as it finalizes its ERP and related guidance.

¹ By February 6, 2013, the President declared a major disaster in 12 States and the District of Columbia.

² Pub. L. No. 113-2 (2013).

³ The ERP was established by the Moving Ahead for Progress in the 21st Century Act, Pub. L. No. 112-141 (2012). FTA had yet to establish procedures governing the program at the time that Hurricane Sandy struck.

To conduct our work, we established a Hurricane Sandy Oversight team comprised of various Office of Inspector General (OIG) entities. Team members toured damaged transit locations in Lower Manhattan. The team also analyzed documents and interviewed staff from the Office of the Secretary of Transportation (OST), FTA Headquarters, and FTA's Regional and Hurricane Sandy Recovery Offices in New York City to assess FTA's emergency relief efforts for compliance with DRAA requirements and to determine potential challenges, risks, and opportunities for mid-course corrections. We conducted our work between March 2013 and September 2013 in accordance with generally accepted Government auditing standards. Exhibit A provides more details on our scope and methodology.

RESULTS IN BRIEF

FTA complied with DRAA's requirements through March 2013 and has made significant progress in developing its ERP and allocating DRAA funds. For example, FTA met DRAA's requirement to make no more than \$2 billion available within 60 days of enactment. FTA also met DRAA's requirements to sign a memorandum of agreement with the Federal Emergency Management Agency (FEMA) and publish interim ERP regulations before providing additional ERP funds. By complying with these requirements, FTA was able to allocate significant relief funds (almost \$5.7 billion) within 4 months of DRAA's enactment, and awarded approximately \$577 million of those funds within 5 months of enactment to reimburse affected transit agencies for their storm response and recovery costs. FTA also went beyond DRAA's requirements in developing additional plans and procedures to implement its Hurricane Sandy relief efforts, such as a Hurricane Sandy Disaster Relief Oversight Plan (Oversight Plan) to supplement its existing oversight procedures.

While FTA's initial response to Hurricane Sandy is noteworthy, opportunities to more effectively allocate, obligate, and oversee relief funds remain. FTA has yet to fully address these challenges in its oversight plans and procedures. Specifically, FTA stated that it will rely on the results of Grantee and Project Risk Assessments of Hurricane Sandy fund recipients to determine the type and amount of oversight those grantees will receive. However, FTA has not finished them or specified a completion date,⁴ even though it has already awarded approximately \$577 million to 13 grantees for storm response and recovery costs. Timely completion of the Grantee and Project Risk Assessments would enhance FTA's ability to identify high-risk areas and allocate oversight resources accordingly. Some potential risks are evident based on grantees' past performance in managing Federal funds. For example, our review of the 13 grantees found that 4 of the

⁴ In response to our work, FTA agreed to include timeframes for completing both the Grantee and Project Risk Assessments in the next version of the Oversight Plan.

largest recipients of relief funds—the Metropolitan Transportation Authority (MTA) and its subsidiaries,⁵ the Port Authority of New York and New Jersey (Port Authority),⁶ New Jersey Transit Corporation (NJT), and New York City DOT (NYCDOT)—had 76 open findings from prior FTA oversight reviews as of August 1, 2013, resulting from non-compliance with Federal requirements, indicating potential risks for relief funds. Further, FTA’s Oversight Plan did not include sufficient steps to mitigate risks of improper payments, even though DRAA stipulated that all relief funds should be considered susceptible to improper payments.⁷ For example, the Oversight Plan states that FTA would determine whether grantees have complied with a requirement to repay the Federal share of insurance proceeds received, but the Plan does not lay out specific steps to ensure that FTA receives complete and accurate information to verify grantee compliance. Finally, while FTA allocated \$1.3 billion for locally prioritized resiliency projects,⁸ FTA has yet to finalize its competitive process to identify and support larger, stand-alone resiliency projects.

In finalizing the ERP and developing related guidance, FTA has an opportunity to consider lessons learned from Federal emergency responses and best practices for recipients’ acquisitions based on Departmental and other Federal resources. For example, FTA can take specific steps to mitigate risks of overpayment for services that we and the Department of Homeland Security (DHS) OIG previously identified. Such measures include ensuring competition and requiring independent cost estimates. Sound contracting practices are especially critical during emergencies and represent unique challenges given the increase in services required and the need to provide them quickly. By incorporating lessons learned and best practices into the ERP, FTA can more effectively coordinate with other Federal agencies, address future emergencies, and manage Federal relief funds.

We are making recommendations to improve FTA’s oversight of the relief funds and for FTA to consider as it finalizes the ERP and related guidance.

BACKGROUND

The Moving Ahead for Progress in the 21st Century Act (MAP-21) established the ERP in July 2012, and it took effect on October 1, 2012. The ERP’s purpose is to help States and public transportation systems pay for protecting, repairing, or

⁵ MTA operates as MTA New York City Transit (NYCT); MTA Bus Company (MTA Bus); MTA Metro-North Railroad (MNR); MTA Long Island Railroad (LIRR); and MTA Capital Construction Division (MTACC).

⁶ The Port Authority operates the Port Authority Trans Hudson (PATH) rail service and is rebuilding the World Trade Center Transportation Hub and site.

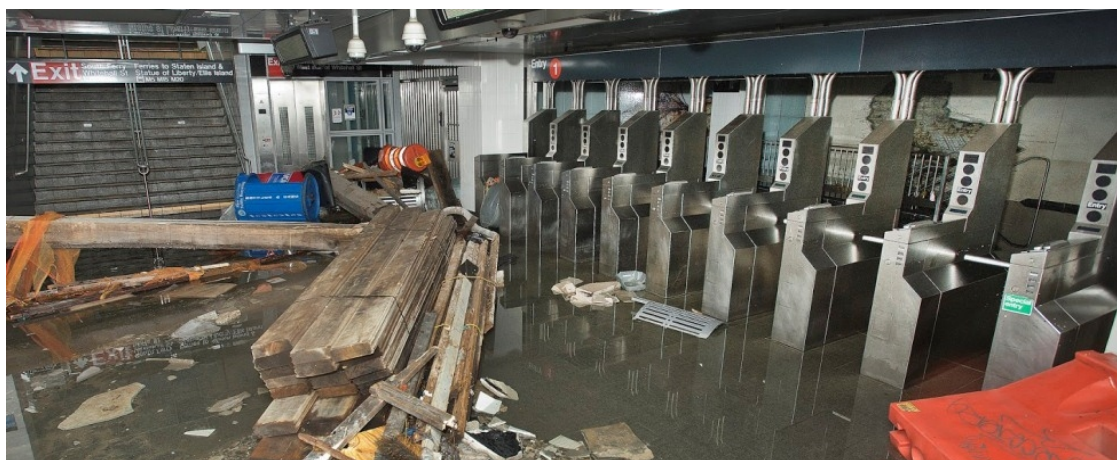
⁷ An improper payment is any payment that should not have been made, was made in an incorrect amount, or lacks sufficient supporting documentation for the agency to determine whether it is proper or improper.

⁸ FTA has defined a resiliency project as one designed and built to address future vulnerabilities to a public transportation facility or system due to future recurrence of emergencies or major disasters that are likely to occur again in the geographic area in which the public transportation system is located.

replacing equipment and facilities that may suffer or have suffered serious damage because of an emergency,⁹ including natural disasters. The ERP is also intended to improve coordination between DOT and DHS to expedite assistance to public transit providers in times of disasters and emergencies.

On October 29, 2012—28 days after the ERP took effect—Hurricane Sandy hit the Northeast section of the United States. Transit agencies experienced substantial damage to their infrastructure and incurred significant costs to restore service after the storm. For example, MTA estimated its storm-related repair and restoration costs to be over \$4 billion. Figure 1 shows flooding at MTA’s South Ferry Subway Station located in Lower Manhattan, which opened in 2009 at a cost of approximately \$527 million and was destroyed by the storm.

Figure 1. MTA’s South Ferry Subway Station Destroyed by Hurricane Sandy



Source: MTA Photo from FTA’s Superstorm Sandy Public Transit Projects - Review of Cost Estimate Draft Final Report.

DRAA provided the first funds for ERP—\$10.9 billion¹⁰—and up to .75 percent of the ERP funds retained¹¹ were for FTA administrative expenses and program management oversight. Nonetheless, FTA faced time and resource constraints in developing its ERP while also immediately addressing the allocation and obligation of relief funds. FTA carries out its ERP responsibilities through its Headquarters and regional offices. FTA’s regional offices in New York, NY;

⁹ Emergencies are defined as natural disasters affecting a wide area or as catastrophic failures resulting from an external cause, and as a result, the governor of a State has declared an emergency and the Secretary of Transportation has concurred, or the President has declared a major disaster.

¹⁰ As a result of the Budget Control Act of 2011 (Pub. L. 112-25), \$545 million (5 percent) was cut through sequestration.

¹¹ DRAA allowed the Secretary to transfer up to \$5.383 billion to other DOT agencies to carry out projects related to reducing risk of damage from future disasters in areas impacted by Hurricane Sandy. DRAA also transferred \$6 million (\$5.7 million after sequestration) of FTA’s ERP funds to our office for oversight.

Boston, MA; and Philadelphia, PA, cover the areas most affected by Hurricane Sandy and will primarily be responsible for local oversight of DRAA funds. FTA also utilizes contractors to conduct project and program oversight.

FTA contracted with five Project Management Oversight Contractors (PMOC) to perform a 60-day damage assessment and provide a report. The report—dated January 31, 2013, and released in May 2013—reviewed the cost estimate processes that affected transit agencies used to determine the reasonableness of the recovery, restoration, and resiliency cost estimates. The PMOCs undertook additional work during February 2013 and released a supplemental report on July 29, 2013. This supplemental report provided an update on the status of the storm-related projects, including current incurred or estimated capital costs and project schedules, many of which were completed as part of the service recovery effort. The report also noted that resiliency projects would require further scope development and cost validation.

Also in response to Hurricane Sandy, the President signed an Executive Order on December 7, 2012, creating the Hurricane Sandy Rebuilding Task Force chaired by the Secretary of Housing and Urban Development. The President charged the Task Force with identifying and working to remove obstacles to resilient rebuilding while taking into account existing and future risks and promoting the long-term sustainability of communities and ecosystems in the Sandy-affected region. The Task Force released its final report, *Hurricane Sandy Rebuilding Strategy: Stronger Communities, A Resilient Region*, in August 2013 containing recommendations for Federal and local agencies to consider in rebuilding and improving resiliency.

FTA MET DRAA REQUIREMENTS TO DATE, ALLOCATED SIGNIFICANT FUNDS, AND DEVELOPED PLANS AND PROCEDURES TO CONDUCT OVERSIGHT

FTA complied with DRAA's requirements to date, made significant progress in developing its ERP, allocated almost \$5.7 billion in relief funds, and awarded approximately \$577 million of those funds to reimburse affected transit agencies. FTA also developed plans and procedures beyond those required by DRAA to implement its Hurricane Sandy Relief efforts, such as a Hurricane Sandy Recovery Staffing Plan, DRAA Grant Making and Grants Management Toolkit (Toolkit), and Oversight Plan.

FTA Complied With DRAA's Requirements to Date

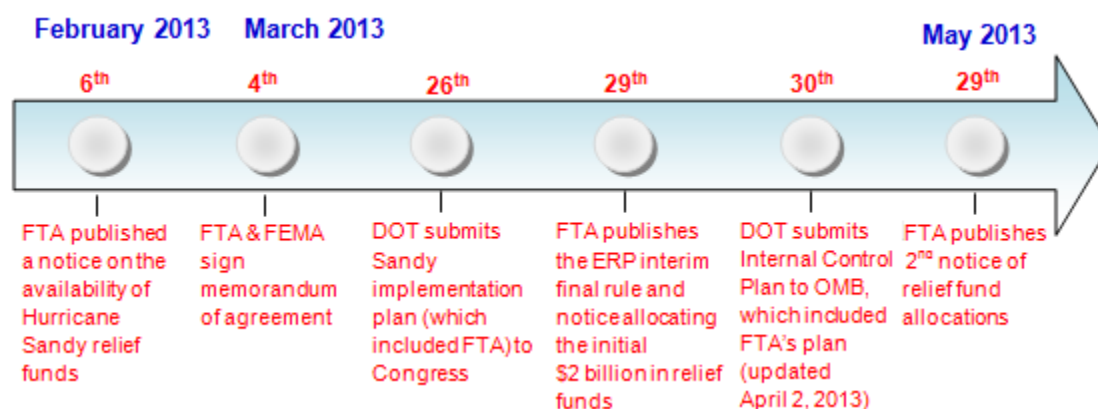
Given the timing of ERP's establishment, FTA had not yet instituted procedures governing the ERP when Hurricane Sandy struck in late October 2012. Therefore,

after the hurricane, FTA had to establish procedures for the ERP, allocate DRAA funds, and comply with DRAA's additional requirements. For example,

- FTA made no more than \$2 billion available within 60 days of DRAA's enactment.
- FTA signed a memorandum of agreement with FEMA covering each agency's roles and responsibilities and published interim regulations for its ERP before providing additional funds.
- DOT met the deadline for submitting an internal control plan no later than March 31, 2013, for its funds in accordance with Office of Management and Budget (OMB) criteria.¹² DOT's plan summarized FTA's internal control plans for its DRAA funds.

Figure 2 summarizes the steps FTA had taken at the time of our audit to allocate its DRAA funds and comply with DRAA's requirements.

Figure 2. Timeline of DRAA Compliance and Allocation of FTA's ERP Relief Funds, February Through May 2013



Source: OIG developed based on FTA and DOT documents.

Within 4 months of DRAA's enactment, FTA made almost \$5.7 billion of relief funds available for recipients through two allocation notices published in March and May of 2013. This amount includes \$1.3 billion for locally prioritized resiliency projects. FTA is still working with the recipients to identify the specific resiliency projects that will be funded. FTA awarded \$576.6 million to 13 grantees for response and recovery costs.¹³ See exhibit B for additional information about the allocations and awards, including descriptions of the projects funded.

¹² OMB Memorandum: M-13-07, Accountability for Funds Provided by the Disaster Relief Appropriations Act, Mar. 12, 2013.

¹³ FTA awarded all of these funds by the end of June 2013, within 5 months of DRAA's enactment.

FTA Developed Hurricane Sandy Plans and Procedures Beyond DRAA Requirements

FTA went beyond DRAA requirements in developing a Hurricane Sandy Recovery Staffing Plan and establishing the Hurricane Sandy Recovery Office in its regional office in New York City. The staffing plan identifies the need for 40 FTA Hurricane Sandy Recovery positions across 3 regional offices and several Headquarters offices. FTA started the Sandy Recovery Office with existing staff from the New York City regional office and detailees from an internal competitive announcement. FTA plans to increase staffing incrementally as it obtains a clearer picture of its workload. FTA said that it had filled 6 Hurricane Sandy positions and that 22 positions were in various stages of the hiring process as of August 20, 2013.

In addition, FTA issued a Toolkit, dated April 12, 2013, to provide a reference for FTA staff as they work to ensure successful obligation and expenditure of relief funds. The Toolkit included FTA's Oversight Plan, in which FTA outlined a risk-based oversight framework to provide additional oversight tools for projects and grantees beyond the Agency's typical oversight process and allocate its oversight resources. The Oversight Plan contains a list of oversight goals to guide FTA as it delivers oversight of relief funds, including deploying oversight resources in a proactive, risk-based, and efficient manner, ensuring FTA has adequate internal controls to prevent and detect improper payments, and ensuring every effort is made to deter, detect, and report waste, fraud, and abuse.

FURTHER FTA ACTIONS ARE NEEDED TO MORE EFFECTIVELY OVERSEE RELIEF FUNDS

FTA faces specific challenges in effectively allocating, obligating, and overseeing relief funds and has yet to fully address them in its oversight plans and procedures. Specifically, FTA's Oversight Plan relies on the results of Grantee and Project Risk Assessments of Hurricane Sandy fund recipients to determine the type and amount of oversight those grantees will receive, but it does not require a timeframe for their completion. In addition, FTA's Oversight Plan did not include sufficient steps to mitigate risks of improper payments that FTA and others identified from previous infusions of significant Federal dollars into programs. Finally, while FTA allocated \$1.3 billion for locally prioritized resiliency projects, it is still developing a process for allocating the remaining resiliency funds on a competitive basis.

FTA Has Not Completed Grantee and Project Risk Assessments

FTA's Oversight Plan states that FTA will rely on the results of Grantee and Project Risk Assessments to determine the type and amount of oversight Sandy

grantees will receive, but FTA has not specified a timeframe for completing the assessments. FTA did not complete any Grantee or Project Risk Assessments prior to awarding approximately \$577 million to 13 grantees for storm response and recovery costs.¹⁴ According to FTA, it will include timeframes for completing both in the next version of the Oversight Plan. In the current Oversight Plan, FTA committed to considering the following when conducting the Grantee Risk Assessment: the most recent annual Grantee Oversight Assessment;¹⁵ all triennial, State management, procurement systems, financial management, and civil rights reviews in the past 5 years; and A-133 Single Audits over the past 3 years. For Project Risk Assessments, FTA plans to consider the results of the Grantee Risk Assessment and to evaluate project risk in terms of complexity and other factors, resulting in the assignment of a project risk rating and development of individualized oversight plans.

The lack of Grantee and Project Risk Assessments is concerning, because it hinders FTA's ability to allocate oversight resources to high-risk areas. Our review of the 13 grantees found that 4 of the largest recipients of relief funds—MTA and its subsidiaries, Port Authority, NJT, and NYCDOT—had 76 open findings from prior FTA oversight reviews dating as far back as fiscal year 2001 in FTA's oversight tracking system¹⁶ as of August 1, 2013. These open findings indicate potential risks for the efficient and effective use of relief funds. For example, NYCDOT had two findings in its fiscal year 2011 Triennial Review that repeated unresolved findings from its fiscal year 2008 review. The open, repeat findings are related to excessive delays in project implementation and inactive grants or untimely grant closeouts. Completion of the assessments will assist FTA in determining whether these findings are still relevant and the degree to which enhanced oversight activities may be needed.

Furthermore, while FTA has taken proactive steps, FTA cannot fully address the potential for fraud until its Risk Assessments are complete. For example, our work has shown that fraud risk increases with substantial infusions of funding, and our investigations have repeatedly found significant Disadvantaged Business Enterprise (DBE) fraud, including on MTA and Port Authority projects. In addition, we recently reported on weaknesses in DOT's DBE program and found that DBE fraud and abuse cases have increased significantly,¹⁷ which indicates this is a potential risk for Sandy relief contracts. In the Oversight Plan, FTA

¹⁴ In August 2013, FTA provided us with completed Grantee Risk Assessments for 4 of the 13 grantees—Port Authority, PATH, Westchester County DOT, and the City of Long Beach (NY).

¹⁵ FTA conducts Grantee Oversight Assessments annually to determine its allocation of program oversight resources across its 10 regions for the upcoming fiscal year.

¹⁶ OTrak is the official record keeping system for FTA's oversight program. It provides FTA regional and headquarters staff and FTA oversight contractors with a central repository for all program oversight activities and review documents conducted at the grantee level.

¹⁷ OIG Report Number ZA-2013-072, *Weaknesses in the Department's Disadvantaged Business Enterprise Program Limit Achievement of Its Objectives*, Apr. 23, 2013.

indicated that it would use technical assistance and records sampling and review procedures to address the fraud risk and has taken some of these steps. For example, FTA provided tips from our past work on identifying waste, fraud, and abuse to its regional staff and grantees. Furthermore, FTA is requiring recipients receiving over \$100 million to hire and use independent Integrity Monitors,¹⁸ a practice that has prevented and detected fraud.¹⁹ Integrity Monitors can also help to mitigate the risk of overpayment for services by conducting forensic reviews of payment requisitions and supporting documentation, payments, change orders, and by conducting reviews for indications of bid rigging and overcharging. However, the results of the Grantee and Project Risk Assessments are important for overseeing recipients that will receive less than \$100 million, as those assessments can focus the scope of FTA's sampling and review procedures to help identify potential waste, fraud, and abuse.

FTA's Hurricane Sandy Oversight Plan Did Not Include Sufficient Steps To Mitigate Risks of Improper Payments

DRAA identifies all relief funds as "susceptible to significant improper payments" under the Improper Payments Information Act of 2002, and FTA's Oversight Plan identified the susceptibility of Hurricane Sandy relief funds to improper payments as an oversight challenge. Accordingly, the Oversight Plan mentions that FTA will review random samplings of payments made under the ERP grants as one way to identify and recover improper payments. However, the plan does not include sufficient steps to mitigate risks of improper payments in the following areas:

- **Change Orders:** FTA's Oversight Plan describes the review of change orders over \$200,000 as a strong oversight tool based on lessons learned, but it does not specify review requirements for relief funds. According to the Oversight Plan, FTA will use the outcome of the Risk Assessment process to determine if some review of change orders is warranted. Without specific procedures requiring FTA to review change orders, using a dollar threshold or risk-based criteria, FTA lacks assurance that this identified risk will be addressed.
- **Duplicate Payments:** FTA and FEMA are not fully implementing the controls described in the memorandum of agreement and Oversight Plan to prevent duplicate payments. According to the Oversight Plan, under the terms of their memorandum of agreement, FTA and FEMA are to notify each other of all requests for public transit-related assistance of any kind, establish a joint tracking system for such requests, and manage requests so that the two agencies do not reimburse an entity for the same activity. According to FTA,

¹⁸ Integrity Monitors are independent organizations that bring together various disciplines of expertise, including but not limited to legal, auditing/accounting, investigative, engineering, and environmental.

¹⁹ OIG Report Number MH-2010-066, *Actions Needed to Mitigate Risks Associated With the Access to the Region's Core Project*, May 17, 2010.

FTA and FEMA are communicating on grant awards, and FEMA zeroed out a funding request for a grantee we identified in our draft report after FTA funding became available. However, the two agencies have not implemented a joint tracking system that (1) systematically identifies all requests that either FTA or FEMA receive for public transit-related assistance and (2) collects information about how each agency addresses those requests, including any awards they make to grantees. While we have not identified duplicate payments at this time, and recognize that ongoing interagency communication is important, informal interaction between FTA and FEMA is no substitute for a formal mechanism to track and manage the disposition of any public transit-related assistance requests made to either agency. Without a formal tracking system, FTA lacks a key internal control for preventing duplicate payments as the volume of grants and expenditures increase. Implementing such a system would also better address DRAA's designation of all programs receiving relief funds as susceptible to improper payments.

- **Insurance Proceeds:** In its Oversight Plan, FTA states that it will determine whether grantees have complied with a requirement to repay FTA for the Federal share of insurance proceeds received. However, the Plan does not lay out specific steps to ensure that FTA receives complete and accurate information. FTA is relying on grantees to self-report information on the status of insurance claims made and proceeds received on a monthly basis. Yet, the Oversight Plan does not describe procedures to verify the accuracy of this information, heightening FTA's risk of providing duplicate compensation for a grantee's losses.
- **Asset Insurance:** FTA has not developed procedures to determine whether the assets damaged by Hurricane Sandy were adequately insured in accordance with FTA Circular 5010.1D. The Circular requires grantees to carry flood insurance for all assets with an insurable value greater than \$10,000 and located in a special flood hazard area. As such, FTA could provide funds to replace damaged assets that were required to be insured in accordance with the Circular. According to FTA officials, FTA has obtained contractor expertise in this area and is discussing these insurance issues with the recipients and FEMA but has not determined how it will address them.
- **Disposition of Damaged or Destroyed Assets:** FTA's Oversight Plan does not contain specific steps to ensure that grantees comply with FTA requirements in terms of the disposition of damaged or destroyed assets. Although FTA determined that federally funded assets seriously damaged or destroyed by Hurricane Sandy have no remaining useful life, recipients may have a financial obligation to FTA for assets that have a fair market value in excess of \$5,000 at the time of disposition. Our review of open findings in

FTA's oversight tracking system indicates that some grantees may lack information to enable FTA to accurately assess their compliance with these requirements. For example, MTA had four open findings related to a lack of an updated biennial inventory for its federally funded assets. If MTA's inventory is incomplete or inaccurate, it may have trouble identifying federally funded assets and determining the fair market value.

- **Force Account Plans:** FTA has not established plans to conduct oversight of grantees' force account plans. FTA requires recipients to maintain a force account plan²⁰ detailing the use of their own labor forces to carry out ERP-funded projects before incurring costs, unless waived. However, FTA did not require prior approval of force account plans for emergency response and recovery work. FTA said it could randomly select for review the force account plan of any project and intends to do some checks to determine whether grantees have force account plans. However, FTA did not articulate in its Oversight Plan whether it had a methodology for sampling grantee force account plans, whether it would determine that the plans meet FTA requirements, or when it would complete such reviews.

FTA Has Yet To Finalize Its Process for Providing Resiliency Funds on a Competitive Basis

FTA decided to allocate \$1.3 billion on a prorated basis for locally prioritized resiliency projects in its May 29, 2013, notice but it is still finalizing its criteria for allocating the remaining resiliency funds on a competitive basis. FTA plans to issue a future notice to specify appropriate eligibility and evaluation criteria for those funds. This notice will need to include clear criteria for allocating and obligating the funds and documenting the decisions made.

FTA allocated the first \$1.3 billion in resiliency funds to provide funds for lower cost, stand-alone resiliency improvements that can be implemented relatively quickly and that would prove cost effective when implemented in tandem with recovery and rebuilding projects. FTA made decisions for allocating the funds on a prorated basis using the damage assessments for *recovery* projects, not the preliminary estimated costs for *resiliency* projects—both of which were included in FTA's 60-day damage assessment report and updated in the supplemental report. FTA said it did not make the allocations using the resiliency estimates, because they did not include all possible resiliency projects. However, the initial allocation of recovery funds was not intended to be all-inclusive, as evidenced by the forthcoming notice on competitively allocated resiliency funds. Further, FTA

²⁰ Force account work is the grantee's use of its own labor forces to carry out projects. Any one of the following four conditions may warrant the use of a recipient's own labor force: (1) cost savings, (2) exclusive expertise, (3) safety and efficiency of operations, and (4) union agreement.

did not provide a rationale for how the recovery damage assessments served as a more reasonable basis for allocating funds for the resiliency projects.

Finally, FTA is still developing definitions and procedures it will apply in evaluating grantees' requests for future resiliency funds. FTA's ERP interim final rule requested public comment on the definitions for "resilience" and a "resiliency project." Many different possible definitions exist that FTA will need to consider. Four organizations commented on the definition of "resiliency project," demonstrating the wide range of opinions. Their comments provide insight into the challenges FTA must work through in finalizing standard definitions. Two suggested that FTA delete the phrase "likely to occur" from the definition, while another suggested deleting the definition entirely. In addition, MTA recommended that planning activities be included in the definition, along with design and construction. NYCDOT recommended that the eligibility requirements for resiliency projects allow projects that enhance network resiliency and network redundancy—not just those that narrowly target the physical protection of a specific piece of infrastructure. In addition, the Hurricane Sandy Rebuilding Task Force Report contained recommendations based on a broader definition of resilience than FTA proposed. The report recommends applying "Infrastructure Resilience Guidelines"—such as adhering to resilience performance standards that could include criteria on how strong of a storm a system should be able to withstand—to all Federal infrastructure investments and Sandy recovery projects. This report's definition creates a challenge in resiliency project cost estimation and award selection at a time when resilience performance standards for infrastructure are still under development. FTA stated that it does not plan to issue its final definitions for "resilience" and a "resiliency project" until the fall of 2013.

APPLYING LESSONS LEARNED FROM FEDERAL EMERGENCY RESPONSES WILL HELP FTA TO EFFECTIVELY FINALIZE ITS ERP AND RELATED GUIDANCE

In establishing its ERP and related guidance, FTA has opportunities to consider lessons learned from Federal emergency responses, as well as best practices for recipients' acquisitions based on Departmental and other Federal resources. In doing so, FTA will be more effective in coordinating with other Federal agencies, dealing with future emergency responses, and managing Federal relief funds. Specifically, FTA can consider:

- **Mitigating the risk of overpayment for some services in emergencies.** Sound contracting practices are especially critical during emergencies and represent a challenge given the increase in services required and the need to provide them quickly. FTA could incorporate measures to mitigate

procurement risks that our office²¹ and DHS OIG²² have identified from prior disasters. For example, in our audit of the Mississippi Department of Transportation's (MDOT) award of selected Hurricane Katrina emergency repair contracts, we found that MDOT did not include in its negotiated, cost-plus contracts a commonly used alternative pricing methodology, resulting in about \$1.4 million in additional charges. In response, the Federal Highway Administration (FHWA) agreed to take actions that FTA could consider in its ERP guidance. Specifically, FHWA agreed to revise and strengthen its Emergency Relief Manual and related Federal regulations by (1) prioritizing the specific types of emergency repair contracts, (2) advising States to conduct cost/price analysis before awarding negotiated contracts, (3) providing alternative methods for computing equipment usage rates, (4) advising States on the procurement procedures for Federal reimbursements and FHWA's right to minimize its participation, and (5) encouraging pre-established emergency repair contracts.

- **Establishing timeframes to limit requests for funds years after events occur.** The Government Accountability Office (GAO) recommended this step for FHWA's ERP²³—specifically, that FHWA establish timeframes for its ERP to limit States' requests for emergency relief funds and to close completed projects. FTA has not established such limitations because, according to FTA staff, it was more appropriate to consider time limitations on a case-by-case basis.
- **Establishing a minimum amount for providing emergency relief funds.** Similar emergency relief programs have minimum thresholds for eligible emergency expenses, which FTA's ERP lacks. For example, FHWA established that a site must have at least \$5,000 of repair costs to be eligible for emergency relief funds. According to GAO, a minimum threshold is intended to distinguish unusually large expenses eligible for emergency relief funding from costs that should be covered by normal maintenance funding. Yet, FTA provided a \$1,179 Hurricane Sandy grant to one transit agency, the size of which suggests that it could have been covered out of regular funds. FTA noted that it wanted to obtain stakeholders' input through the ERP rule-making process before deciding whether to establish a minimum threshold.

²¹ OIG Report Number FI-2007-030, *Emergency Transportation Services Contract: Lessons Learned From the 2005 Gulf Coast Hurricanes*, Feb. 5, 2007; OIG Report Number MH-2006-065, *Audit of the Mississippi Department of Transportation's Award of Selected Hurricane Katrina Emergency Repair Contracts*, Sept. 6, 2006.

²² DHS OIG Report OIG-11-30, *The State of New York's Management of State Homeland Security Program and Urban Areas Security Initiative Grants Awarded During Fiscal Years 2006 through 2008*, Jan. 13, 2011; DHS OIG Report DS-11-01, *Capping Report: FY 2009 Public Assistance Grant and Subgrant Audits*, Dec. 2, 2010.

²³ GAO-12-45, *Highway Emergency Relief: Strengthened Oversight of Project Eligibility Decisions Needed*, Nov. 8, 2011.

- **Incorporating procedures to review results from a sample of emergency acquisitions.** Even though FTA does not typically review recipients' procurements, OMB's Office of Federal Procurement Policy's Emergency Acquisitions Guide recommends that agencies develop assessment plans to review results from a sample of emergency acquisitions. FTA could focus attention on riskier emergency relief awards, such as those that employed acquisition flexibilities, high-dollar sole-source awards, and those involving complex technical requirements. As illustrated by our audit of MDOT's award of selected Hurricane Katrina emergency repair contracts, such reviews can identify cost-saving procurement methods.
- **Including recommended procedures for recipients' procurements.** The Department has multiple resources that FTA can utilize in developing ERP procurement guidance. For example, FHWA's Emergency Relief Manual provides for alternative methods for contracting to expedite emergency construction projects, such as using a short list of qualified contractors that could bid on emergency relief projects. According to FHWA's manual, at a minimum, three bidders may be selected to be on the short list based on the following: early willingness to respond, type of work, prior demonstrated ability to move swiftly, availability, staff and equipment, and previous work in the area.
- **Reviewing large recipients' emergency preparedness plans for federally funded rolling stock.** FTA regularly provides significant funding for rolling stock (e.g., locomotives, rail cars, and buses). It is therefore critical for FTA to ensure that recipients' planning is sufficient to safeguard such assets against emergencies. For example, NJT experienced damage to 343 pieces of equipment, including 70 locomotives, which were in areas that flooded during Hurricane Sandy. FTA stated that DHS and its Transportation Security Agency (TSA) are responsible for overseeing recipients' emergency management. However, DHS OIG has reported that TSA, FTA, and other agencies share responsibilities and programs for mass transit emergencies, and that TSA has focused on security efforts while providing limited staff and resources to emergency response.²⁴ Further, MAP-21 mandated that the Department, through FTA, provide technical assistance to recipients on transit asset management²⁵ and require recipients to develop transit asset management plans and report on the condition of their systems.²⁶ Incorporating periodic reviews of recipients' emergency plans and practices for rolling stock assets in the ERP

²⁴ DHS OIG Report OIG-10-68, *TSA's Preparedness for Mass Transit and Passenger Rail Emergencies*, Mar. 15, 2010.

²⁵ P.L. 112-114 Sec. 20019 § 5326 (b).

²⁶ This would be accomplished through a transit asset management system, defined in P.L. 112-114, Sec. 20019 § 5326 (a) as a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

or transit asset management program guidance for major or high-risk recipients (to be defined by FTA) could help enhance stewardship of Federal investments in assets.

CONCLUSION

Recognizing the urgency and amount of work required to alleviate Hurricane Sandy's effect on transit operations and facilities, FTA responded quickly and effectively by assessing the damage, assisting impacted transit agencies, and developing oversight plans. Yet, FTA's Oversight Plan lacked specificity in key areas, and more actions are needed to achieve its oversight goals. Moving forward, FTA needs to put into practice its Oversight Plan's risk-based framework and institute additional measures to mitigate known risks and ensure that relief funds are properly distributed and spent. At the same time, FTA must continue working toward developing a robust ERP program that is well positioned to deal with future transit emergency responses, provides guidance consistent with other Government emergency programs, effectively mitigates the impact of future disasters, and maximizes stewardship of Federal funds.

RECOMMENDATIONS

To address relief fund risks, we recommend that the Federal Transit Administrator develop and implement procedures to:

1. Specify required timeframes to complete Grantee and Project Risk Assessments for all grantees that have received or will receive emergency relief grants.
2. Review change orders over an identified threshold or using risk-based criteria.
3. Establish a joint tracking system with FEMA, as described in the memorandum of agreement.
4. Check the accuracy of grantees' reported insurance proceeds information.
5. Determine whether the assets damaged by Hurricane Sandy were adequately insured in accordance with requirements in FTA Circular 5010.1D and ensure that Federal funds are not used for items that should have been insured.
6. Confirm grantee compliance with FTA's disposition of damaged or destroyed assets requirement.
7. Review a random selection of force account plans.

We also recommend that the Federal Transit Administrator:

8. Finalize criteria to allocate and obligate competitive resiliency funds.
9. Finalize ERP guidance that incorporates, as appropriate, lessons learned from emergencies and best practices from Departmental and other Federal emergency relief guidance.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided FTA with our draft report on September 26, 2013. On October 28, 2013, FTA provided its technical comments, which we incorporated as appropriate. We received FTA's formal management response on November 20, 2013, which is included in its entirety as an appendix to this report. FTA concurred with 8 of our 9 recommendations and partially concurred with 1.

For recommendations 1, 2, 4, 5, 6, 7, 8, and 9, FTA provided appropriate planned actions and timeframes for completion. Accordingly, we consider these recommendations resolved but open pending completion of FTA's planned actions.

For recommendation 3, FTA concurred and requested that we close the recommendation, which calls for a joint tracking system with FEMA. FTA asserted that it has sufficient controls in place, as it communicates regularly with FEMA on grant awards. However, this action is not fully responsive to our recommendation because it does not comply with the memorandum of agreement, which stipulates that FTA and FEMA will notify each other of all *requests* for public transit-related assistance of any kind and establish a joint tracking system for such requests. Accordingly, we request that FTA either provide additional information on the steps it has taken to implement a formal joint tracking system with FEMA or work with FEMA to revise the memorandum of agreement. Until then, we consider recommendation 3 open and unresolved.

ACTIONS REQUIRED

FTA's planned actions for recommendations 1, 2, 4, 5, 6, 7, 8, and 9 are responsive. In accordance with Department of Transportation Order 8000.1C, we request that FTA provide us with information demonstrating completion of its planned actions. These recommendations will remain resolved but open pending receipt of this information.

For recommendation 3, we request that FTA either provide additional information on the steps it has taken to implement a formal joint tracking system with FEMA

or work with FEMA to revise the memorandum of agreement to reflect FTA's current position, as described in its response. We request that FTA provide us with this information within 30 days of issuance of this report.

We appreciate the courtesies and cooperation of FTA representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-1427 or Joseph W. Com , Assistant Inspector General for Highway and Transit Audits, at (202) 366-5630.

#

cc: FTA Audit Liaison (TBP-30)
DOT Audit Liaison (M-1)

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted this performance audit from March 2013 through September 2013 in accordance with 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 on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To meet our DRAA oversight responsibilities, our objective was to provide an early assessment of FTA's readiness, processes, and procedures to meet DRAA's legislative and regulatory requirements, including FTA's planning efforts to implement its new ERP. Specifically, we are reporting on (1) whether FTA met DRAA requirements to date and developed plans and procedures, (2) whether FTA's plans and procedures fully addressed key challenges in overseeing Hurricane Sandy funds, and (3) lessons learned for FTA to consider as it finalizes its ERP and related guidance.

To support our work on these objectives, we established a Hurricane Sandy Oversight team comprised of various OIG entities. Team members toured damaged transit locations in Lower Manhattan. We also coordinated with GAO regarding its ongoing Hurricane Sandy work and with DHS OIG regarding relief provided by FEMA.

To assess whether FTA met DRAA requirements to date and developed plans and procedures, we identified DRAA's key requirements. We then obtained and reviewed key documents, such as DOT's plan for implementing DRAA, DOT's Sandy Internal Control Plan, the FTA/FEMA MOA, and FTA's ERP Interim Final Rule and Notices of Availability of Emergency Relief Funds. We compared the documents to the requirements and determined whether they met the requirements. We also reviewed FTA's Hurricane Sandy Recovery Staffing Plan, Toolkit, and Oversight Plan and interviewed OST and FTA Headquarters and Hurricane Sandy Recovery Office staff, located in FTA's regional office in New York City, regarding the status of FTA's efforts.

We analyzed FTA's Oversight Plan to determine if it addressed key challenges in overseeing Hurricane Sandy funds, such as risks that FTA identified therein. We reviewed open findings in OTrak from prior FTA oversight reviews for the 13 grantees awarded approximately \$577 million in Sandy funds. We also reviewed FTA's procedures identified in the ERP Interim Final Rule, Notice of Availability of Emergency Relief Funds, Notices Allocating Emergency Relief Funds, and Toolkit, as well as the *Superstorm Sandy Public Transit Projects* –

Review of Cost Estimates Draft Final Report, Superstorm Sandy Public Transit Projects – Review of Priority Projects Draft Supplemental Report, and Hurricane Sandy Rebuilding Task Force report, Hurricane Sandy Rebuilding Strategy: Stronger Communities, A Resilient Region. Further, we interviewed FTA Headquarters and Hurricane Sandy Recovery Office staff.

We also identified lessons learned from reports on past disasters and other Emergency Relief Programs from DHS OIG, GAO, and our office. We reviewed procurement guidance, such as OMB’s Office of Federal Procurement Policy’s Emergency Acquisitions Guide, DOT’s Emergency Contracting Toolkit, FTA Circular 4220.1F, “Third Party Contracting Guidance,” FTA’s Best Practices Procurement Manual, and FTA’s Oversight Plan, and interviewed OST and FTA procurement staff.

EXHIBIT B. FTA'S ERP HURRICANE SANDY RELIEF FUNDS

FTA allocated over \$5.6 billion of its ERP relief funds to 12 recipients, as shown in table B-1. FTA also reserved about \$28 million for agencies that have additional costs that were not allocated under the initial allocations and have not received an allocation based on their currently estimated cost of recovery.

Table B-1. FTA's ERP Hurricane Sandy Relief Fund Allocations

Agency, State	Response, Recovery, and Restoration Allocation	Resiliency Allocation	Total Allocation
MTA, NY	\$2,896,771,774	\$897,848,194	\$3,794,619,968
Port Authority, NY/NJ	1,073,024,652	287,391,637	1,360,416,289
NJT, NJ	341,990,757	106,199,045	448,189,802
NYCDOT, NY	36,752,941	8,561,124	45,314,065
Southeastern Pennsylvania Transportation Authority (SEPTA), PA	1,192,568	-	1,192,568
City of Long Beach, NY	518,364	-	518,364
Massachusetts Bay Transportation Authority (MBTA), MA	344,311	-	344,311
Westchester County DOT (WCDOT), NY	317,200	-	317,200
Connecticut DOT (ConnDOT), CT	55,622	-	55,622
Greater Bridgeport Transit District (GBT), CT	21,783	-	21,783
Milford Transit District (MTD), CT	5,352	-	5,352
Rhode Island Public Transit Authority (RIPTA), RI	1,179	-	1,179
Reserved for other agencies	28,048,497	-	28,048,497
Total	\$4,379,045,000	\$1,300,000,000	\$5,679,045,000

Source: OIG developed from FTA's Allocation of Emergency Relief Funds, March 29, 2013, and FTA's Second Allocation of Public Transportation Emergency Relief Funds in Response to Hurricane Sandy: Response, Recovery & Resiliency, May 29, 2013.

FTA obligated \$576.6 million of the allocated funds to 13 grantees through August 2013—all of these funds were awarded by the end of June 2013, within 5 months of DRAA's enactment. The funds FTA awarded were for response and recovery costs as detailed in table B-2.

Table B-2. FTA's ERP Hurricane Sandy Relief Fund Obligations

Agency	Description	Award Date	Amount Awarded
MTA	Pre-storm preparations, initial recovery work, and repair of damaged elements of MTA's subway, bus, and commuter rail systems in the New York metropolitan area	4/05/2013	\$193,893,898
PATH	Setting up alternative commuter service between New York and New Jersey; repairing electric substations and signal infrastructure; replacing and repairing rolling stock; and repairing maintenance facilities	6/14/2013	\$159,720,171
NJT	Repairing extensive flood damage to facilities, rail infrastructure, and equipment; restoring bus service; and operating emergency bus and special ferry service	5/02/2013	\$144,416,559
Port Authority	Recovery efforts, including pumping; debris clean up; and repairing or replacing damaged and destroyed equipment, such as electrical switchgear and substation equipment for the World Trade Center Hub project	6/14/2013	\$54,243,826
NYCDOT	Protecting the Staten Island Ferry, East River Ferry, and Governors Island; removing debris; and reestablishing public transportation service	6/14/2013	\$21,889,326
SEPTA	Activities prior to, during, and after the storm to secure, protect, and resume transit service serving Philadelphia and Bucks, Chester, Delaware, and Montgomery counties and to enhance customer service	4/09/2013	\$1,192,568
City of Long Beach	Taking emergency protective measures, repairing damaged maintenance facility and buses, and creating additional transit routes to compensate for the LIRR shutdown	4/26/2013	\$518,364
MBTA	Monitoring routes for damage, removing downed tree limbs, activating temporary shuttle bus, and repairing signal system	4/25/2013	\$344,311
WCDOT	Emergency protective measures and restoring service on the Bee-Line bus system	4/18/2013	\$317,200
ConnDOT	Extraordinary labor and material costs incurred in storm preparation	4/25/2013	\$53,073
GBT	Supervision and evacuation assistance for the Region's Emergency Operations Center and evacuations and storm clean-up	5/02/2013	\$21,738
MTD	Operating expenses for evacuations, transporting residents without power, and debris removal	6/24/2013	\$5,352
RIPTA	Buses and personnel brought in to support evacuations of residents in Washington County	5/14/2013	\$1,179

Source: OIG developed from FTA's Transportation Electronic Award Management (TEAM) System.

Exhibit B. FTA's ERP Hurricane Sandy Relief Funds

EXHIBIT C. MAJOR CONTRIBUTORS TO THIS REPORT


Name	Title
Anthony Zakel	Program Director
George Lavanco	Project Manager
Tiffany Mostert	Senior Analyst
Michael Dzandza	Auditor
Rosa Scalice	Auditor
Joseph Tschurilow	Auditor
Terry Letko	Program Director
Rachel Miller	Acting Project Manager
Diane Brattain	Senior Auditor
Kathryn Novicky	Analyst
Curtis Dow	Analyst
Joann Adam	Program Director
Dory Dillard-Christian	Project Manager
Cordelia Bostic	Auditor
Rodolfo Pérez	Engineer Advisor
Aron Wedekind	Engineer
Amy Berks	Senior Counsel
Andrea Nossaman	Senior Writer-Editor

APPENDIX. AGENCY COMMENTS

U.S. Department
of Transportation
**Federal Transit
Administration**

Memorandum

Subject: INFORMATION: Management Response to the Office of Inspector General Draft Report on FTA's Oversight of Hurricane Sandy Relief Funds Date: November 20, 2013

From: Peter Rogoff Administrator  Reply to Attn. of: Lauren Tuzikow (202) 366-2059

To: Lou E. Dixon
Principal Assistant Inspector General for Audits and Evaluation

FTA'S TIMELY RESPONSE TO THE DISASTER RELIEF APPROPRIATION ACT (DRAA) OF 2013

Following Hurricane Sandy, the Federal Transit Administration (FTA) achieved significant progress in developing its new Public Transportation Emergency Relief Program and allocating almost \$5.7 billion to affected transit agencies. Additionally, FTA established a robust risk-based oversight approach designed to prevent fraud, waste, and abuse that builds upon FTA's existing and well-established grant oversight programs.

EFFECTIVE COORDINATION WITH FEMA DEFINES RESPONSIBILITIES AND AVOIDS DUPLICATIVE PAYMENTS

Contrary to the report's assertion, FTA and the Federal Emergency Management Agency (FEMA) are fully implementing the controls outlined in the memorandum of agreement. In fact – almost immediately after Hurricane Sandy hit, FTA and FEMA began closely coordinating our efforts and have shared information to ensure duplicate payments did not occur. An example of this, although reported inaccurately by the OIG, was the over \$15 million identified as being provided to the Long Island Rail Road (LIRR). After close FTA-FEMA coordination, FEMA zeroed out funding for LIRR after FTA funding became available. There is no evidence that any FTA recipient has received funding from FEMA for activities that FTA funded.

RESILIENCY FUNDING BASED ON A SOUND RATIONALE

FTA's initial allocation of resiliency funding was based on a sound rationale as published in the Federal Register on May 29, 2013. This \$1.3 billion in resiliency funding was allocated to the four agencies with the most damage, proportionally to their total damage, to assist them with projects intended to increase their systems' resiliency to future disasters. These funds were intended for lower-cost, stand-alone resiliency improvements that could be implemented quickly, as well as for resiliency improvements made in tandem with recovery projects for which funds were already allocated.

Additionally, FTA did not allocate more resiliency funding to the New York City Department of Transportation (NYCDOT) than the grantee identified it needed. This report finding is possibly based on the OIG's misunderstanding of work FTA had undertaken to develop assessments of recovery expenses. Although the damage assessment reports also identified potential resiliency projects, they were not meant to include all resiliency projects, which is why FTA used recovery expense totals as a proxy to allocate a portion of the resiliency funding. In fact, NYCDOT has discussed more than \$1.2 billion in potential resiliency funding with FTA, far exceeding the \$8.5 million currently allocated to it.

FTA's HURRICANE SANDY DISASTER RELIEF OVERSIGHT PLAN ENHANCES IT'S PROVEN OVERSIGHT PROGRAMS

FTA already has proven and well-established oversight programs, such as top-to-bottom triennial reviews of grantees, procurement reviews, financial management reviews and project management oversight. When addressing the additional oversight-related needs associated with Hurricane Sandy relief, our guiding principle is to deploy oversight resources in a proactive, risk-based and efficient manner; conducting detailed risk assessments for each grantee, and for every grant and all projects receiving over \$100 million in Federal funds. Based on those assessments, projects and grantees that pose additional risks in key oversight areas will be monitored more closely. Examples of this additional oversight include:

- Random sampling of payments to examine eligibility of costs and proper documentation.
- Closely monitoring the use of insurance proceeds.
- Construction Grant Agreements will be required for all projects over \$500 million and will be considered for all projects over \$100 million to ensure timely and efficient management of the project by the grantee.
- Requiring independent Integrity Monitors for any recipient receiving over \$100 million in Disaster Relief Appropriations Act funds to review existing procedures and processes for susceptibility to fraud, corruption and cost abuse.

Although FTA does not necessarily concur with all of the findings or recommendations in the report, FTA will consider them as we move forward. We will continue to work closely with FEMA and other Federal agency partners, while implementing common-sense requirements and ensuring our oversight is focused on high-risk areas.

Recommendations and Responses

Recommendation 1: Specify required timeframes to complete grantee and project risk assessments for all grantees that have received or will receive emergency relief grants.

Response: Concur. Although many grantee assessments are now complete, FTA intends to include specific timeframes for completing assessments, in general, in an updated Oversight Plan. FTA plans to issue the updated Oversight Plan by January 31, 2014.

Appendix. Agency Comments

Recommendation 2: Review change orders over an identified threshold or using risk-based criteria.

Response: Concur. Reviews are currently underway to be identified as part of the project risk assessment and will clarify thresholds or risk-based criteria in the updated Oversight Plan. FTA plans to issue the updated Oversight Plan by January 31, 2014.

Recommendation 3: Establish a joint tracking system with FEMA, as described in the memorandum of agreement (MOA).

Response: Concur. FTA has a joint tracking system, whereby FTA and FEMA notify each other of grants to transit agencies, to prevent the risk of duplicate payments. Request that this recommendation be closed as implemented.

Recommendation 4: Check the accuracy of grantees' reported insurance proceeds information.

Response: Concur. FTA will include additional risk-based procedures on oversight of grantee insurance proceeds in its updated Oversight Plan. FTA plans to issue the updated Oversight Plan by January 31, 2014.

Recommendation 5: Determine whether the assets damaged by Hurricane Sandy were adequately insured in accordance with requirements in FTA Circular 5010.1D and ensure that Federal funds are not used for items that should have been insured.

Response: Concur in Part. FTA has reviewed the insurance policies of recipients of its Emergency Relief (ER) program funds, and is developing policies to determine when or whether ER funding will not be available for assets in special flood hazard areas that should have been insured. These policies will be in place by January 31, 2014.

Recommendation 6: Check grantee compliance with FTA's disposition of damaged or destroyed asset requirements.

Response: Concur. FTA will include additional risk-based procedures assessing compliance with disposition requirements in its updated Oversight Plan. FTA plans to issue the updated Oversight Plan by January 31, 2014.

Recommendation 7: Review a random selection of force account plans.

Response: Concur. FTA will include additional risk-based procedures for review of force account plans in its updated Oversight Plan. FTA plans to complete the updated Oversight Plan by January 31, 2014.

Recommendation 8: Finalize criteria to allocate and obligate competitive resiliency funds.

Response: Concur. FTA will publish a Notice of Funding Availability (NOFA) in the Federal Register for competitive resiliency funds by December 31, 2013.

Recommendation 9: Finalize ERP guidance that incorporates, as appropriate, lessons learned from emergencies and best practices from Departmental and other Federal emergency relief guidance.

Response: Concur. After completing the final ERP rule, FTA will develop guidance on its ERP program for transit agencies that incorporates lessons learned and best practices from other programs. FTA plans to publish this guidance in the Federal Register for notice and comment by September 30, 2014.

We appreciate this opportunity to offer additional perspective on the OIG draft report. We also appreciate the courtesies of the OIG staff in conducting this review. Please contact Lauren Tuzikow at (202) 366-2059 with any questions or requests for additional assistance.