

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

**The Village of Corrales, New Mexico, Needs Assistance  
to Ensure Compliance with FEMA  
Public Assistance Grant Requirements**






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September 16, 2014

MEMORANDUM FOR: George A. Robinson  
Regional Administrator, Region VI  
Federal Emergency Management Agency



FROM: John V. Kelly  
Assistant Inspector General  
Office of Emergency Management Oversight

SUBJECT: *The Village of Corrales, New Mexico, Needs Assistance to  
Ensure Compliance with FEMA Public Assistance Grant  
Requirements*  
FEMA Disaster Number 4148-DR-NM  
Audit Report Number OIG-14-143-D

We audited the capability of the Village of Corrales, New Mexico, (Village) to manage Public Assistance grant funds (Public Assistance Identification Number 043-17960-00). Our audit objective was to determine whether the Village's policies, procedures, and business practices are adequate to account for and expend Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines. We conducted this audit early in the Public Assistance process to identify areas where the Village may need additional technical assistance or monitoring to ensure compliance. In addition, by undergoing an audit early in the grant cycle, grant recipients have the opportunity to correct non-compliance with Federal regulations before they spend the majority of their funding. It also allows them the opportunity to supplement deficient documentation or locate missing documentation before too much time elapses.

Our audit covered the period July 23, 2013, through February 3, 2014. At the time of audit fieldwork, FEMA and the New Mexico State Department of Homeland Security and Emergency Management (New Mexico), a FEMA grantee, estimated \$2.1 million for damages (see exhibit) resulting from severe storms and flooding, which occurred July 23, through 28, 2013. The award will provide 75 percent funding to the Village for debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C–G) on both small and large projects.<sup>1</sup> At the time of our audit, FEMA had not obligated funds for any projects and the Village had not submitted any claims to

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<sup>1</sup> Federal regulations in effect at the time of the disaster set the large project threshold at \$67,500.



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New Mexico for reimbursement. However, the Village had begun work to repair disaster damages.

We conducted this performance audit between February 2014 and July 2014 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 objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA, New Mexico, and Village officials; gained an understanding of the Village's method of accounting for disaster-related costs and its procurement policies and procedures; reviewed judgmentally selected project costs and procurement transactions (generally based on type and dollar amount); reviewed the Village's contract documents; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our objective. As part of our standard audit procedures, we also notified the Recovery Accountability and Transparency Board of all contracts the subgrantee awarded under the grant to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. We did not perform a detailed assessment of the Village's internal controls over its grant activities because it was not necessary to accomplish our audit objective.

### BACKGROUND

The Village of Corrales, incorporated in 1971, is a rural municipality located in Sandoval County, New Mexico. The severe storms and flooding caused extensive damage throughout the Village, damaging flood ponds, washing out roads and culverts (see figure 1), and causing a power outage to the Village's police station.



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**Figure 1. Damage to Hollywood Road after flooding in DR-4148**



*Source: Village of Corrales.*

## **RESULTS OF AUDIT**

Except for procurement, the Village has adequate policies, procedures, and business practices in place to account for and expend FEMA grant funds according to Federal regulations and FEMA guidelines. The Village did not have adequate procurement policies and procedures in place to comply with all Federal procurement regulations when awarding contracts to repair disaster-related damages. As a result, the Village has improperly contracted for some disaster-related work and may improperly contract for approximately \$2.1 million of remaining disaster work.<sup>2</sup> Specifically, the Village did not: obtain cost estimates before receiving bids or proposals; determine that no other contract type was suitable when awarding time-and-material contracts; include a cost ceiling price in time-and-material contracts; or include all required provisions in its contracts. Village officials assured us that they would correct their procurement policies and procedures for disaster work. However, we cannot opine that the Village will follow these procedures for the duration of the projects. Therefore, FEMA should direct New Mexico to closely monitor the Village to ensure that it complies with Federal procurement regulations.

### **Accounting for Project Costs**

The Village has adequate policies, procedures, and business practices in place to ensure it accounts for disaster costs on a project-by-project basis as Federal regulations require.

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<sup>2</sup> At the time of our audit, Village officials could not estimate how much they would spend for contract costs. Therefore, we used FEMA's Preliminary Damage Assessment that estimated the Village would spend \$2.1 million in disaster costs.



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Although the Village has not documented specific procedures for tracking disaster costs, we reviewed its standard administrative procedures for tracking costs and they appear adequate. Village officials explained they track disaster costs in their accounting system with an identifying activity code. The Village creates budgets based on FEMA obligated amounts, and then identifies costs to transfer into the disaster accounting fund. We observed application of the accounting procedures to track disaster costs the Village intends to claim for damaged roads and culverts. Project records we reviewed, such as invoices and timesheets, clearly identified the incurred costs as disaster related. Therefore, the Village's administrative controls over project records provide reasonable assurance that the Village can track disaster costs on a project-by-project basis. As of the end of our audit cutoff date, the Village had not submitted any claims to New Mexico for reimbursement.

### **Procurement Practices**

The Village did not have adequate policies, procedures, and business practices in place to comply with all Federal procurement standards. Therefore, the Village may improperly contract for approximately \$2.1 million in disaster-related costs and has spent \$73,983 under two time-and-material contracts without following all Federal procurement standards. The Village did not (1) maintain evidence that it conducted cost or price analyses before receiving contract bids or proposals; (2) determine that no other type of contract is suitable when using time-and-material contracts; (3) include a contract ceiling in time-and-material contracts; or (4) include all Federally required provisions in its contracts.

The Village had not spent a significant amount of disaster-related costs at the time of our audit. However, the Village may award additional contracts for the estimated \$2.1 million in disaster damages without following Federal procurement standards, thereby putting the reimbursements at risk.

Federal procurement standards at 44 Code of Federal Regulations (CFR) 13.36 require subgrantees to, among other actions—

- conduct a cost or price analysis in connection with every procurement action, including contract modifications (44 CFR 13.36(f)(1)),
- use time-and-material contracts only after determining that no other type of contract is suitable and including a ceiling price that the contractor exceeds at its own risk (44 CFR 13.36(b)(10)), and
- include in all contracts applicable provisions listed in 44 CFR 13.36(i), such as those for records retention, legal remedies, and termination for cause.





### **Cost or Price Analysis**

The Village issued task and purchase orders against two pre-existing, on-call, time-and-material contracts without performing a cost or price analysis. The absence of a cost or price analysis increases the likelihood of unreasonable contract costs and misinterpretations or errors in pricing. Village officials said their engineer reviewed the estimates. They also said that they compared the contract rates against rates they had received on similar projects from the Department of Transportation and examined the consumer price index for increases in costs. However, Village officials could not provide evidence or documentation of their actions. Furthermore, the Village does not normally require cost or price analyses for all its procurements. As a result of our audit, Village officials stated they have included a FEMA section in their new procurement code and will add corrective procedures to prevent this issue for future disaster contracts.

### **Time-and-Material Contracts**

The Village did not determine that no other contract types were suitable before using the two time-and-material contracts, and did not include cost ceilings in the contracts. Village officials stated that time-and-material is their standard type of construction contract, so they did not consider any other types of contracts. Also, Village officials were not aware the contracts did not contain a not-to-exceed ceiling price and were not aware of the Federal requirement. Without proper terms and conditions or spending limits, time-and-material contract costs could increase excessively. In response to our audit, the Village included a section for FEMA work in its new procurement code and will add procedures to prevent this issue for future disaster contracts.

### **Contract Provisions**

The Village did not include all required provisions in the two disaster contracts. Federal regulations require specific provisions for contracts and subcontracts, such as Equal Employment Opportunity compliance, compliance with labor laws, and prohibition of “kickbacks.” These standard contract provisions document the rights and responsibilities of the parties and minimize the risk of contract misinterpretations and disputes. Village officials said they were unaware of this requirement. They plan to include the required provisions in all future contracts and will add the requirement to the Village’s new procurement code to comply with Federal regulations.

We asked Village officials whether they were aware of Federal procurement standards. Village officials said they were aware of the basic requirements, but they were unaware their procurement policies and procedures did not conform to all Federal procurement regulations. They said that New Mexico and FEMA officials told them that they could



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follow their own procurement policies. We discussed these issues with New Mexico and FEMA officials. New Mexico officials said that they do not have the staffing resources to provide detailed assistance on Federal regulations. However, they said they are updating New Mexico's Public Assistance subgrant agreement and moving towards an early monitoring system. We also informed FEMA and New Mexico officials that the procurement guidance they provided the Village to use its own procurement practices was not complete and accurate. We recently reported that, during early disaster response, FEMA has not provided complete and accurate information to Public Assistance applicants regarding Federal procurement standards.<sup>3</sup> FEMA is taking steps to correct this condition.

Village officials said they plan to follow Federal regulations for all future disaster contracts. Because the Village may contract for approximately \$2.1 million in disaster work, FEMA should direct New Mexico to provide the Village with technical assistance and carefully monitor the Village to ensure it complies with Federal procurement standards for all contract disaster work.

### RECOMMENDATION

We recommend that the Regional Administrator, FEMA Region VI, direct the New Mexico State Department of Homeland Security and Emergency Management to work with Village officials to ensure they comply with Federal procurement regulations and to prevent the improper spending of approximately \$2.1 million in disaster damages.

### DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with Village officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, New Mexico, and Village officials and discussed it at exit conferences with FEMA and Village officials on July 16, 2014, and with New Mexico officials on July 10, 2014. FEMA, New Mexico, and Village officials generally agreed with our findings and 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 each recommendation. Also, please include the contact information for responsible parties and any other supporting

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<sup>3</sup> Report Number OIG-14-46-D, *FEMA's Dissemination of Procurement Advice Early in Disaster Response Periods*, February 28, 2014.



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documentation necessary to inform us about the current status of the recommendation. Until we receive and evaluate your response, we will consider the recommendations open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate 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 Christopher Dodd, Acting Director; Paige Hamrick, Audit Manager; Lori L. Smith, Auditor-in-Charge; Chiquita Washington, Senior Auditor; and Christina Sbong, Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Christopher Dodd, Acting Director, Central Regional Office, at (214) 436-5200.





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**Exhibit**

**Schedule of Estimated Costs**

<b>Project Category*</b>	<b>FEMA Estimated Damage</b>
B	\$ 216,800
C	<u>1,845,100</u>
<b>Totals</b>	<b><u>\$2,061,900</u></b>

Source: FEMA projects and Region VI preliminary damage estimates as of January 15, 2014.

\*FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).



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Mayor, Village of Corrales

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