




Homeland Security

April 24, 2006

MEMORANDUM FOR: John E. Pennington
Regional Director
FEMA Region X

FROM: 
Robert J. Lastrico
Director, Grants Program Management Audit Division

SUBJECT: *Audit of the State of Washington's Department of Corrections
Olympia, Washington
Public Assistance Identification Number 000-UTLYX-00
FEMA Disaster Number 1361-DR-WA
Audit Report Number DS-04-06*

We audited public assistance grant funds awarded to the State of Washington's Department of Corrections, Olympia, Washington (DOC). The objective of the audit was to determine whether the DOC expended and accounted for Federal Emergency Management Agency (FEMA) funds according to federal regulations and FEMA guidelines. In addition to questioning costs incurred, this report discusses FEMA's need to develop guidance for identifying and evaluating the eligibility of disaster repairs and the funding of related costs that could have been mitigated if a subgrantee adequately maintained or repaired its facilities prior to a disaster.

DOC received an award of \$2.0 million from the State of Washington Emergency Management Division (EMD), a FEMA grantee, for emergency protective measures and permanent repairs to state prison facilities damaged as a result of the Nisqually earthquake. The incident period was from February 28, 2001, to March 16, 2001. The award provided 75 percent FEMA funding for 2 large projects and 25 small projects.¹ The audit covered the period from February 28, 2001, to October 31, 2003, and included a review of the two large projects at the Washington State Penitentiary (WSP) in Walla Walla, Washington. As of October 31, 2003, DOC claimed \$1.9 million and FEMA obligated \$1.8 million for these two projects (see Exhibit A).

We performed the audit under the authority of the Inspector General Act of 1978, as amended, and according to *Government Auditing Standards* issued by the Comptroller General of the United States. The audit included a review of FEMA, EMD, and DOC records, and other auditing procedures considered necessary under the circumstances.

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$50,600.

RESULTS OF AUDIT

DOC generally expended and accounted for public assistance funds according to federal regulations and FEMA guidelines. However, as noted in Finding A, the audit identified that federal regulations and FEMA guidelines for determining project eligibility do not include guidance to differentiate disaster damage from damage attributable to the lack of maintenance to a damaged facility. In addition, DOC claimed \$2,122 in ineligible costs (FEMA's share – \$1,592).

Finding A – Lack of Maintenance Not Considered in Project Eligibility

DOC claimed \$1,798,760 on Project Worksheet (PW) 1558 for the replacement of two walls of the Education Building at WSP Walla Walla (facility). In reviewing project files, we identified documents showing that for years prior to the disaster, DOC officials were aware that the facility had serious structural deficiencies and that they took action to monitor the structural damage. However, DOC did not initiate any major repairs to the facility. In addition, FEMA and EMD records on the project did not include evidence showing that the facility's pre-disaster conditions and lack of maintenance was considered in determining project (damage) eligibility. We attributed this lack of consideration to the fact that FEMA regulations, policies, and guidelines do not sufficiently address the eligibility of disaster repairs that could have been mitigated if a subgrantee adequately maintained or repaired its facilities prior to a disaster.

Following are highlights of key events relevant to the project:

- November 30, 1999: WSP Master Plan Facilities Assessment identified unstable conditions in the Education Building, including (1) cracks at the center core of the roof, (2) consistent sagging between beams on floors that would not accommodate additional loads necessary to make the floors serviceable, (3) several cracks (possible hydro-consolidation) at various locations on un-reinforced masonry walls, some of which were being monitored with measuring devices, and (4) an unreliable lateral shear system due to poor conditions of the un-reinforced masonry walls.'

February 28, 2001: A 6.8 magnitude earthquake struck Western Washington with the epicenter located near Olympia, the State capital. Walla Walla is located about 300 miles from the earthquake's epicenter.

April 16, 2001: DOC requested emergency funding from the State's General Services Department to shore the Education Building walls.

- April 16, 2001 (Effective Date): The FEMA-State Agreement was amended to include Walla Walla County for Public Assistance Program funding.

² While over 100 years old, the Education Building was the only un-reinforced masonry structure at WSP Walla Walla to sustain earthquake damage. Further, there were no other public assistance subgrantees in Walla Walla County.

- October 10, 2001: Architectural engineers under contract with DOC noted that the Education Building had gone through many renovations over the years, including demolition of walls, new wall construction, and infilling of openings that re-distributed forces and added additional stresses to the walls.
- February 5, 2002: FEMA initially obligated \$1,626,906 on PW 1558 for portions of the Education Building's south and east walls, their foundations, and associated necessary work. The PW was subsequently increased by \$54,475 for a total obligated funding of \$1,681,381.
- August 2002: Construction work on the primary contract began and was completed on February 25, 2003.

According to 44 CFR § 206.223(a), to be eligible under the Public Assistance Program, work must be required as the result of the major disaster event. In addition, FEMA's Public Assistance Guide (FEMA 322), Page 23 states "Damage that results from a cause other than the designated event, or from pre-disaster damage, is not eligible." Lastly, 44 CFR § 206.223(e) states, "No assistance will be provided to an applicant for damages caused by its own negligence." It is clear from project documentation that some damage occurred as a result of the earthquake and that some damage was pre-existing. However, we could find no criteria that require FEMA inspectors to consider the eligibility of disaster repairs and costs that could have been mitigated if a subgrantee adequately maintained or repaired its facilities prior to a disaster.

DOC stated that, prior to the earthquake of February 2001, measures were not taken to correct the damages noted in the Facilities Assessment report of November 30, 1999. DOC explained that repairs were not initiated due to the age and physical make up of the facility (masonry walls), lack of available funding, and that the damage was not considered sufficiently serious to interrupt operations. Except for verbal representations, DOC did not provide us with documented evidence showing that claimed disaster costs pertained only to damage caused by the disaster and not to pre-disaster conditions.

FEMA and EMD officials agreed that project documentation indicated that the facility suffered from pre-disaster conditions, but believed that documentation was lacking to determine the exact damage caused by the disaster. These officials explained that, in determining damage eligibility, project inspections were limited to physical observations and did not include a thorough review of the maintenance history of this facility. They also noted that FEMA procedures for determining damage eligibility do not provide direction for evaluating projects when lack of maintenance and repairs may be a contributing factor to the gravity of the damage. FEMA officials noted their inspections identified and reported isolated instances of pre-disaster damage.

FEMA needs to develop guidance and procedures for evaluating and making eligibility determinations for disaster damage aggravated by the lack of pre-disaster maintenance or repairs. As stated above, FEMA and EMD project records and other documents provided by DOC do not provide conclusive evidence of damage caused by unmitigated pre-existing conditions and/or damage that was directly related to the earthquake. Therefore, to ensure that public assistance funds

are provided only for eligible disaster damage, FEMA needs to develop guidance for identifying and evaluating disaster damage associated with the lack of maintenance or repairs and for funding disaster damage costs that reasonably would have been incurred if the facility had been adequately maintained. FEMA's guidance should include procedures that identify disaster repair costs that could have been mitigated if a subgrantee adequately maintained or repaired its facilities prior to a disaster.

On March 2, 2005, we held a phone exit conference on Finding A with officials from FEMA's Recovery Division. Those officials stated that training courses for disaster inspectors included procedures for visually evaluating indications of pre-disaster damage. FEMA officials also stated they would revisit training materials and, during such training, would continue to stress the need for adequate evaluations of disaster damage. In this respect, we believe that training should also include procedures for assessing and evaluating available documentation³ for a damaged facility, where a physical inspection of the facility uncovers conditions normally not identified with adequately maintained property.

On April 18, 2005, we issued the draft audit report and requested that FEMA's Recovery Division provide written comments on Finding A. We did not receive responses from the Recovery Division; therefore, we asked the Acting FEMA Director to provide written comments to Finding A by separate correspondence.

Finding;B – Ineligible Project Costs

DOC claimed \$2,122 for project 1558 for costs that were not disaster related. The claimed amount pertained to repairs to a fire hydrant that was damaged by construction workers performing disaster work at the WSP. According to 44 CFR§ 206.223(a)(1), an item of work must be required as the result of the major disaster event to be eligible for financial assistance. Since DOC's claim was not supported with documentation showing the costs were disaster related, we questioned \$2,122. On November 12, 2004, we discussed this finding with FEMA Region X, EMD, and DOC officials. Those officials concurred that the claimed costs were not disaster related. On May 10, 2005, we received written response from FEMA Region X to our draft report wherein it concurred with the report but offered no additional comments. In order to close this finding, FEMA Region X should provide us with copies of the documents that disallowed the costs questioned in the finding.

RECOMMENDATION

We recommend that the Regional Director, FEMA Region X, in coordination with EMD disallow \$2,122 in costs claimed by the DOC.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the results of this audit with DOC, EMD, and FEMA Region X officials on November 12, 2004. For Finding A, those officials explained that project documentation indicated that the facility suffered from pre-disaster conditions, but believed that documentation was lacking to

³ Maintenance records, and documents detailing completed and/or planned facility repairs and upgrades.

determine the exact damage caused by the disaster. The attendees at our exit conference agreed with Finding B and Recommendation 2 since the repair costs we questioned were the result of damage caused by construction workers and not by the disaster. Our March 2, 2005, discussion with FEMA's Recovery Division is summarized in Finding A.

As indicated above, we request that FEMA Region X advise this office by June 23, 2006 of specific actions taken to disallow the costs questioned in Finding B. Should you have any questions concerning this review, please call me, at (510) 637-1461. Key contributors to this report were Humberto Melara, Jack Lankford, Jeff Flynn, and James Kane.

Schedule of Projects Audited
State of Washington Department of Corrections
Public Assistance Identification Number 000-UTLYX-00
FEMA Disaster Number 1361-DR-WA

<u>Project Number</u>	<u>Amount Obligated</u>	<u>DOC Claim</u>	<u>Questioned Costs</u>	<u>Finding Reference</u>
1558	\$1,681,381	\$1,798,760	\$2,122	B
1428	<u>87,854</u>	<u>87,295</u>	<u>0</u>	
Totals	<u>\$1,769,235</u>	<u>\$1,886,055</u>	<u>\$2,122</u>	

Finding Legend

B - Ineligible Project Costs